



General Conditions For Goods



MUSÉE
CANADIEN
DE L'HISTOIRE
-
CANADIAN
MUSEUM
OF HISTORY



CANADIAN
WAR
MUSEUM
-
MUSÉE
CANADIEN
DE LA GUERRE

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1 INTERPRETATION

- 1.1 The term “**Contractor**” means the person, entity or entities named in the **Contract** to complete the **Work** or to supply **Goods** to the **Museum**.
- 1.2 The term “**Goods**” means the goods to be supplied by the **Contractor** pursuant to the issuance of the **Contract**.
- 1.3 The term “**Work**” means all the services, activities, **Goods**, equipment, matters and things required to be done, delivered or performed by the **Contractor** under the **Contract**.
- 1.4 The term “**Party**” means the **Museum**, the **Contractor**, or any other signatory to the **Contract** and “**Parties**” means all of them.
- 1.5 The term “**Museum**” means the Canadian Museum of History and/or the Canadian War Museum as the case may be.
- 1.6 The term “**Contract**” means the Purchase Order sent to the **Contractor** or a written agreement executed by the **Museum** and the selected **Contractor** in accordance with the documents issued by the **Museum**, including all issued Amendments, the General Conditions, any negotiation and/or changes (as the **Museum** may in its sole discretion approve), annexes or other document specified or referred to as forming part of the **Contract**.
- 1.7 In the **Contract**, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

2 THE MUSEUM’S CONTRACTING AUTHORITY

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

3 THE MUSEUM’S PROJECT AUTHORITY

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

4 ASSIGNMENT AND SUBCONTRACTING

- 4.1 The **Contractor** shall not assign the **Contract** or subcontract any portion of the **Work** without the prior written consent of the **Museum**, which consent may not be unreasonably withheld. No subcontract, if permitted by the **Museum**, shall relieve the **Contractor** from any of its obligations under the **Contract** or impose any liability upon the **Museum**. In any subcontract, the **Contractor** agrees to bind the

subconsultant and subcontractor by the same conditions by which the **Contractor** is bound under the **Contract**.

5 ADMINISTRATORS AND ASSIGNS

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

6 MEMBERS OF THE HOUSE OF COMMONS

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

7 BRIBERY AND CONFLICT OF INTEREST

- 7.1 The **Contractor** represents and warrants that:
- .1 no bribe, gift or other inducement has been paid, given, promised or offered to any person for, or with a view to the obtaining of the **Contract** by the **Contractor**;
 - .2 has not employed any person to solicit or secure the **Contract** for a commission, percentage, brokerage or contingent fee; and
 - .3 has no pecuniary interest in the business of any third party that would affect its objectivity in carrying out the **Work**.
- 7.2 No individual for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders or the Conflict of Interest and Post-Employment Code for the Public Service apply, shall derive any direct benefit from the **Contract** unless that individual is in compliance with the applicable post-employment provisions.
- 7.3 Throughout the application of the conditions of the contracts, any persons engaged for their application shall act in compliance with the principles of the *Conflict of Interest and Post-Employment Code* for Public Office Holders, (which are the same as those in the *Conflict of Interest and Post-Employment Code for the Public Service*). Should an interest be acquired during the life of any the **Museum Contract** that would cause a conflict of interest or seem to cause a departure from the principles, the **Contractor** shall declare it immediately to the **Contracting Authority**.

8 STATUS OF THE CONTRACTOR

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

9 COMMENCEMENT AND PERFORMANCE OF THE CONTRACTOR'S WORK

- 9.1 The **Contractor** shall not commence **Work** until a written **Contract** has been executed by both **Parties** or unless the **Contracting Authority** provides the **Contractor** with written authorization to proceed with the **Work** at an earlier time.
- 9.2 The **Contractor** agrees to carry out the **Work** promptly and efficiently in accordance with the terms and conditions of the **Contract** and in accordance with the standards of quality acceptable to the industry.

10 WASTE DATA REPORTING

- 10.1 If the **Contractor** is responsible for waste removal from the **Museum** buildings and grounds, the **Contractor** must maintain accurate records of waste disposal methods, including the amount of waste reused, recycled, composted, and sent to landfill. The **Contractor** must provide to the **Museum** the following data for the **Work**:
1. At the end of each fiscal year (ending March 31st), and within thirty (30) days of the fiscal year end:
 - a) The total amount of waste collected during the fiscal year, measured in metric tons.
 - b) The diversion rate for the fiscal year, calculated as the amount of waste diverted from landfill during the fiscal year (including reused, recycled, and composted waste) divided by the total amount of waste collected during the fiscal year.
 2. Within thirty (30) days of the completion of the **Work**:
 - a) The total amount of waste collected during the **Contract** period, measured in metric tons.
 - b) The diversion rate for the **Contract**, calculated as the total amount of waste diverted from landfill (including reused, recycled, and composted waste) divided by the total amount of waste collected.

11 ENVIRONMENTAL PERFORMANCE

- 11.1 Environmental sustainability is a critical consideration for the **Museum**, given its pivotal role in preserving cultural heritage and educating the public. The objective of the **Museum's** Environmental Sustainability Policy is to advance environmental protection and support sustainable development by integrating environmental performance considerations into the procurement decision-making process. This section supports that policy by promoting environmental sustainability and climate adaptation through responsible sourcing, energy and material efficiency, and life-cycle environmental stewardship. The **Contractor** is required to contribute to these objectives as part of its obligations under the **Contract**.
- 11.2 The **Contractor** must identify the environmental attributes of their **Work** and demonstrate efforts to reduce its environmental impact. These obligations include, but are not limited to:
- .1 Identifying environmental performance attributes of the **Work**, including embodied carbon, energy efficiency, materials used, recycled content, recyclability, and local sourcing, as applicable;
 - .2 Minimizing environmental impacts of the **Work**, including efforts to reduce greenhouse (GHG) emissions and increase waste diversion associated with the **Contract**;
 - .3 Where applicable, proposing end-of-life take-back, reuse, or recycling programs for the **Goods** supplied. -back
- 11.3 The **Contractor** must comply with all applicable environmental laws, regulations, and standards in jurisdictions where the **Goods** are sourced, produced, and supplied.
- 11.4 The **Museum** reserves the right to assess, monitor, and verify the **Contractor's** environmental claims and performance associated with the **Contract**. In support of this, the **Contractor** must:
- .1 Support all environmental claims and data with appropriate documentation and evidence, substantiated using internationally recognized methodologies (e.g., the GHG Protocol).
 - .2 Promptly address any environmental non-conformance identified by the **Museum** and implement corrective actions as required;
 - .3 Where applicable, provide data on GHG emissions associated with the **Work**, including Scope 1 and 2 emissions and, if available, Scope 3 emissions.

- .4 Provide any environmental certifications relevant to the **Work** (e.g., ISO 14001, ENERGY STAR, ECOLOGO, FSC, or equivalents).

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

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

12.3 Force Majeure

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

12.4 Compliance with health standards

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

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

13 COMPLIANCE WITH APPLICABLE LAWS

- 13.1 To fulfill its obligation under the **Contract**, the **Contractor** hereby undertakes to comply with all laws, regulations, ordinances and codes established from time to time by any federal, provincial, municipal or other governmental authority relating to the **Work**. The **Contractor** must comply with the federal, provincial (or territorial) employment standards, occupational health and safety rules, and human rights legislation and legislation against force labour and child labour. The **Contractor** shall ensure that all his employees or subconsultant and subcontractor shall be paid fair wages.
- 13.2 The **Contractor** must provide evidence of compliance with such laws to the **Museum** at such times as the **Museum** may reasonably request.
- 13.3 The **Contractor** must obtain and maintain at its own cost all permits, licenses, regulatory approvals and certificates required to perform the **Work**. If requested by the **Contracting Authority**, the **Contractor** must provide a copy of any required permit, license, regulatory approvals or certificate.

14 INTERNATIONAL SANCTIONS

- 14.1 Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the **Museum** cannot accept delivery of **Goods** or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.
- 14.2 The **Contractor** must not supply to the **Museum** any **Goods** or services which are subject to economic sanctions.
- 14.3 The **Contractor** must comply with changes to the regulations imposed by Canada during the period of the **Contract**. The **Contractor** must immediately advise the **Museum** if it is unable to perform the **Contract** as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned **Goods** or services. If the **Parties** cannot agree on a work around plan, the **Contract** will be terminated for the convenience in accordance with section 48.

15 CONFIDENTIALITY AND CONFIDENTIAL INFORMATION

- 15.1 With the exception of the **Museum's** information which is in the public domain, the **Contractor** acknowledges that the present **Contract** and all information issued, used or disclosed to the **Contractor** in connection with the **Work** or while carrying out the **Work**, including any personal information as defined in the Personal Information Protection and Electronic Documents Act ("PIPEDA"), and the Privacy Act (hereinafter referred to as Personal Information), are private and the **Contractor** will classify such information such that it receives the highest degree of safeguards. All the information, including any Personal Information, is defined as being Confidential Information.
- 15.2 The **Contractor** shall at all times take all measures necessary, including those set out in any instructions issued by the **Museum**, for the protection of the Confidential Information against espionage, sabotage, fire, theft, unauthorized access and other risk of loss or damage.
- 15.3 The **Contractor** further agrees that it will use such confidential information solely on behalf of the **Museum** and for the **Museum's** purposes of fulfilling the **Contract** and not on its own behalf or for its own purposes.
- 15.4 The **Contractor** agrees to comply completely with the **Contract** in such manner as to ensure that its acts or omissions do not result in the **Museum** being in violation of any applicable laws governing the collection, use, disclosure or storage of information about individuals, including PIPEDA and the Privacy Act.

16 CONFIDENTIAL INFORMATION PROTECTION AND SECURITY

- 16.1 To perform the **Work**, the **Contractor** will be provided with and/or will be collecting Confidential Information from third parties. The **Contractor** acknowledges that it has no rights in the Confidential Information and the **Museum** owns the Confidential Information.
- 16.2 On request, the **Contractor** must immediately make all Confidential Information available to the **Museum** in a format acceptable to the **Museum**.
- 16.3 If the **Contractor** is required to collect Personal Information as part of its obligations to collect Confidential Information to perform the **Work**, the **Contractor** must only collect the minimal amount of Personal Information required to perform the **Work**. The Personal Information elements and the purposes of collection must be described in Appendix A below.
- 16.4 The **Contractor** must collect the Personal Information from the individual to whom it relates and the **Contractor** must inform that individual (at or before the time when it collects the Personal Information) of the following:

- .1 that the Personal Information is being collected on behalf of, and will be provided to, the **Museum**;
 - .2 the ways the Personal Information will be used;
 - .3 that it is voluntary to provide the **Contractor** with the requested Personal Information or, if there is a legal requirement that the individual provide the **Contractor** with the Personal Information, the basis of that legal requirement;
 - .4 the consequences, if any, of refusing to provide the Personal Information;
 - .5 that the individual has a right to access and correct their own Personal Information; and
 - .6 that the Personal Information will form part of a specific personal information bank (within the meaning of the Privacy Act), and also provide the individual with information about which government institution controls that personal information bank.
- 16.5 If the **Contractor** requires additional information to provide the required notice, they will request it from the **Contracting Authority**.
- 16.6 If the **Contractor** must collect Personal Information from a third party to perform the **Work**, the **Contractor**, its subcontractors, and their respective employees must identify themselves to the individuals from whom they are collecting Personal Information and must provide those individuals with a way to prove that they are authorized to collect the Personal Information under a **Contract** with the **Museum**.
- 16.7 If requested by the **Contracting Authority**, the **Contractor** must develop a request for consent form to be used when collecting Personal Information, or a script for collecting the Personal Information by telephone. The **Contractor** must not use a form or script unless the **Contracting Authority** first approves it in writing. The **Contractor** must also obtain the **Contracting Authority's** approval before making any changes to a form or script.
- 16.8 At the time it requests Personal Information from any individual, if the **Contractor** doubts that the individual has the capacity to provide consent to the disclosure and use of their Personal Information, the **Contractor** must ask the **Contracting Authority** for instructions.
- 16.9 The **Contractor** must ensure that the Personal Information is as accurate, complete, and up to date as possible.
- 16.10 The **Contractor** must never disclose any Confidential Information unless it is required to perform the **Work**, and has verified with the **Contracting Authority** that the disclosure is lawful.
- 16.11 The **Contractor** will implement and maintain all reasonable security measures designed to protect the Confidential Information against loss, theft or unauthorized access, communication, reproduction, use or modification. These security measures must include, but are not limited to, physical, administrative and technical measures deemed reasonable in taking into account the sensitivity of the information.
- 16.12 For added clarity, the **Contractor**, will, at a minimum, implement the following security measures:
- .1 restrict access to the Confidential Information to people who require access to perform the Work.
 - .2 implement modern and industry standard authentication processes.
 - .3 not use any personal identifiers (e.g.: social insurance number) to link multiple databases containing Confidential Information.
 - .4 segregate all Confidential Information from the **Contractor's** own information and/or the information of the **Contractor's** other clients.

- .5 provide training to anyone to whom the **Contractor** will provide access to the Confidential Information regarding the obligation to keep it confidential and use it only to perform the **Work**. The **Contractor** must provide this training before giving an individual access to any Personal Information and the **Contractor** must keep a record of the training and make it available to the **Contracting Authority** if requested.
 - .6 if requested by the **Contracting Authority**, before providing anyone with access to the Confidential Information, require anyone to whom the **Contractor** provides access to the Confidential Information to acknowledge in writing (in a form approved by the **Contracting Authority**) their responsibilities to protect the Confidential Information.
 - .7 maintain an audit log that electronically records all instances and attempts to access, use, disclose or modify any Confidential Information stored electronically. The audit log must be in a format that can be reviewed by the **Contractor** and the **Museum** at any time.
 - .8 secure and control access to any hard copies of any Confidential Information, and, despite section 16.21, when the Confidential Information is no longer required to be in hard copy, to use industry best standards to securely destroy it.
 - .9 maintain an industry best practice document management system when storing Confidential Information.
- 16.13 The **Contractor** shall ensure that all databases that contains information related to the **Work** are located in Canada or, if the **Contracting authority** has given their prior written consent in another country where;
- .1 the Confidential Information is protected in a manner that is equivalent to what is required by the Privacy Act and PIPEDA and any applicable policy from the Government of Canada; and,
 - .2 the laws of the jurisdiction where the databases will be stored offer similar protections as that required by the Privacy Act and PIPEDA
- 16.14 To provide consent to establish a database in another country, the **Contracting authority** can, at their choice, request the **Contractor** to provide legal advice (from a qualified lawyer in the foreign jurisdiction) to the effect that the laws of this jurisdiction meet the requirements described above. The **Museum** has the right to reject any request to store their data in another country. The **Museum** can also request that the data transmitted or processed outside of Canada be encrypted using the **Museum** approved cryptography, which reflects the level of sensitivity of Confidential Information and that the private key required to decrypt the data be kept in Canada, in accordance with the key management and conservation process approved by the **Museum**.
- 16.15 The **Contractor** must ensure that all data related to the **Contract** is processed only in Canada or in another jurisdiction approved by the **Contracting Authority** in accordance with section 16.14.
- 16.16 The **Contractor** must ensure that traffic on the national network (which means traffic from one part of Canada to a destination located in another part of Canada) takes place exclusively in Canada, unless the **Contracting Authority** has previously approved another route in writing. The **Contracting Authority** will only consider a route to another country for the transmission of the data, if that country meets the requirements described in section 16.14.
- 16.17 Despite any disposition of the General Conditions related to subcontracting, the **Contractor** cannot entrust to a subcontractor (including an affiliated company) any function which allows access to any Confidential Information without the prior written consent of the **Contracting Authority**.
- 16.18 The **Contractor** must inform the **Contracting Authority** immediately if an individual makes a request for access to their own Personal Information.

- 16.19 The **Contractor** must keep a record of all requests made by individuals to access their Personal Information, and any requests to correct errors or omissions in the Personal Information (whether those requests are made directly by an individual or by the **Museum** on behalf of an individual).
- 16.20 The **Contractor** must include a notation on any Record(s) that an individual has requested a correction if the **Contractor** has decided not to make the correction for any reason. Whenever this occurs, the **Contractor** must immediately advise the **Contracting Authority** of the details of the requested correction and the reasons for the **Contractor's** decision not to make it. If directed by the **Contracting Authority** to make the correction, the **Contractor** must do so.
- 16.21 The **Contractor** must not dispose of any Confidential Information, except as instructed by the **Contracting Authority**. On request by the **Contracting Authority**, or once the **Work** involving any Confidential Information is complete, the **Contract** is complete, or the **Contract** is terminated, whichever comes first, the **Contractor** must return all Confidential Information to the **Contracting Authority**.
- 16.22 The **Contractor** must report immediately any breach of security measures by sending a notice to the **Contracting Authority**. The notice must include sufficient information to permit the **Museum** to understand the significance of the breach, and to take steps, if necessary, to reduce the risk of harm to people affected. The notice must contain at least:
- .1 the date or estimated date of the breach;
 - .2 the general description of the circumstances by the breach;
 - .3 the nature of the information affected by the breach; and
 - .4 any other relevant information.
- 16.23 The **Contractor** will cooperate and aid the **Museum** in the investigation, mitigation and, if necessary, the reporting of the incident to any relevant regulator.
- 16.24 The **Museum** may audit the **Contractor's** compliance with these obligations set in sections 15 and 16 at any time. If requested by the **Contracting Authority**, the **Contractor** must provide the **Museum's** authorized representative with access to its premises and to the Confidential Information at all reasonable times. If the **Museum** identifies any deficiencies during an audit, the **Contractor** must immediately correct the deficiencies at its own expense.

17 INTELLECTUAL PROPERTY AND COPYRIGHT

- 17.1 The **Contractor** warrants that it has the right to use, sell, license, supply, install or otherwise allow the exploitation of the **Goods** by the **Museum**. The **Contractor** agrees to indemnify and hold harmless the **Museum** against any claims for royalties, fees or other claims or demands in relation to the use of **Goods** by the **Museum**.

18 TITLE

- 18.1 Notwithstanding any terms of the **Contractor's** invoice to the contrary, title to the **Goods** shall be vested in the **Museum** at the time of delivery of the **Goods** in good condition and the **Contractor** waives any right to any lien, charge or other restriction on title implied by law.

19 OWNERSHIP

- 19.1 Unless provided otherwise in the **Contract**, the **Work** or any part of the **Work** belongs to the **Museum** after delivery and acceptance by or on behalf of the **Museum**.
- 19.2 However, if any payment is made to the **Contractor** for or on account of any **Work**, either by way of

progress or milestone payments that **Work** paid for by the **Museum** belongs to the **Museum** upon such payment being made. This transfer of ownership does not constitute acceptance by the **Museum** of the **Work** or any part of the **Work** and does not relieve the **Contractor** of its obligation to perform the **Work** in accordance with the **Contract**.

- 19.3 Despite any transfer of ownership, the **Contractor** is responsible for any loss or damage to the **Work** or any part of the **Work** until it is delivered to the **Museum** in accordance with the **Contract**. Even after delivery, the **Contractor** remains responsible for any loss or damage to any part of the **Work** caused by the **Contractor** or any subcontractor.
- 19.4 Upon transfer of ownership to the **Work** or any part of the **Work** to the **Museum**, the **Contractor** must, if requested by the **Museum**, establish to the **Museum's** satisfaction that the title is free and clear of all claims, liens, attachments, charges or encumbrances. The **Contractor** must execute any conveyances and other instruments necessary to perfect the title that the **Museum** may require.

20 CANADIAN LABOR AND MATERIAL EMPLOYMENTS

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

21 MUSEUM PROPERTY

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

22 NON-PAYMENT IN CASE OF ERRORS OR OMISSIONS

- 22.1 The **Contractor** is not entitled to payment of costs incurred in order to rectify error and omissions related to the **Work** and which are attributable to himself, his employees or agents or to persons for whom he has assumed all responsibility under this **Contract**.

23 FRAUD

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

24 FURTHER DOCUMENTS

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

25 INDEMNITY AGAINST CLAIMS

- 25.1 The **Contractor** shall at all times indemnify and hold harmless the **Museum**, and its directors, officers, employees and others for whom it may be responsible in law, from and against all losses, claims (including claims made by the **Contractor's** personnel under Worker's Compensation or workplace insurance Legislation), demands, awards, judgments, actions and proceedings by whomsoever made, brought or prosecuted in respect of loss of, damage to or destruction of property (including loss or damage sustained by the **Contractor**) or personal injury including death, expenses and costs suffered or incurred by the **Museum** arising out of the errors, omissions or negligent acts of the **Contractor**, its

employees, subconsultants, subcontractors and agents, in the performance of the **Work** under the **Contract** or in any way connected with the **Contract**.

25.2 The **Contractor's** liability to indemnify or reimburse the **Museum** under the **Contract** shall not affect or prejudice the **Museum** from exercising any other rights under law.

25.3 This clause shall survive suspension, termination or completion of the **Contract**.

26 REPRESENTATION BY THE CONTRACTOR

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

- .1 it has the necessary qualifications, including licenses, permits, knowledge, skill and the ability to use them effectively to perform the **Work**.
- .2 it has everything necessary to perform the **Work**, including the resources, facilities, labour, technology, equipment, and materials.

26.2 The **Contractor** must:

- .1 provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices and procedures developed by professional bodies in the performance of similar **Work** at the time when and at the location in which the **Work** is provided;
- .2 supply everything necessary to perform the **Work**;
- .3 use, as a minimum, quality assurance procedures, inspections and controls generally used and recognized by the industry to ensure the degree of quality required by the **Contract**;
- .4 select and employ a sufficient number of qualified people;
- .5 perform the **Work** in accordance with quality standards deemed acceptable by the **Museum** and in full conformity with the scope of work and all the requirements of the **Contract**;
- .6 submit in a timely manner to the **Museum**, for approval, a time schedule for the **Work** to be performed, in detail appropriate to the size and complexity of the **Contract**, and in the prescribed format.
- .7 adhere to the approved time schedule and, if changes in the approved time schedule become necessary, indicate the extent of, and the reasons for such changes, and obtain the approval of the **Museum**.
- .8 provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements of the **Contract**.

26.3 Codes, By Laws, Licences, Permits

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

27 TRANSPORTATION COSTS

27.1 The prices are F.O.B. at the named destination and include all charges for packing, loading, unloading and transportation unless otherwise specified herein. Should the **Contractor** prepay transportation charges which are payable by the **Museum** under the terms of the **Contract**, these charges are to be shown as a separate item on the invoice. If there is carload shipment, shipping notices must be sent immediately to the **Museum** showing car number, initial and routing. Car service will be deducted for all cars that reach the **Museum** without shipping notice.

27.2 If transportation costs are payable by the **Museum** under the **Contract** and the **Contractor** makes the transportation arrangements, shipments must be made by the most direct and economical means

consistent with normal shipping practice. The costs must be shown as a separate item on the invoice.

28 SHIPPING DOCUMENTS

28.1 For the shipment of **Goods**, the bill of lading must accompany the original invoice, except in the case of « payable on delivery » shipments (if and when stipulated), in which case it must accompany the shipment. In addition, a packing slip must accompany each shipment and clearly indicate the name of the articles, the quantity of articles, the part or reference numbers, the description of the **Goods** and the **Contract** number, including the NRC and the NEA. If the **Goods** have been inspected in the **Contractor's** premises, a signed inspection certificate must be attached to the packing slip normally included in the envelope provided for this purpose.

29 WARRANTY

29.1 The **Contractor** warrants that for a period of twelve (12) months from the date of completion of the **Work**, the **Work** shall be free from all defects in material or workmanship and conform to the requirements of any **Contract** between the parties.

29.2 In the event of a breach of the **Contractor's** warranty set out in section 29.1, the **Contractor** shall at his expense, redo, correct or make good the **Work** found to be defective or in non-conformity with the terms of any agreement with the **Museum**.

29.3 If the **Work** or any part thereof is found to be defective or non-conforming, the **Museum** may, but is not obliged to, require that the repair or replacement take place at the **Contractor's** plant or place of business and not at the work site and the **Contractor** shall be responsible for any costs incurred during moving and correcting the defective or non-conforming **Work**.

29.4 If the **Contractor** fails to correct the defect or deficiency within seven (7) calendar days upon receipt of written notification from the **Museum**, the **Museum** may correct the defect or deficiency and the costs incurred shall be deducted from any money owing to the **Contractor** under this **Contract** or any other contract between the parties.

29.5 The **Contractor** shall warrant all equipment supplied against defects in manufacturing and installation for a period of twelve (12) months after final acceptance of the **Work** by the **Museum's Project Authority**, or for any other longer period stated in the technical specifications. These manufacturer's product warranties shall be issued by the **Contractor** to the **Museum**.

29.6 The **Contractor** expressly warrants that the **Goods** will conform to the specifications, drawings, samples or descriptions furnished to or by **Museum** and will be of marketable quality, of good material and workmanship and free from defect. In addition, the **Contractor** acknowledges that they know of **Museum's** intended use of the **Goods** and expressly warrants that the **Goods** will be fit and sufficient for the purposes intended by the **Museum**. In supplement of, and not by way of substitution for, the terms of the specifications or any warranty stipulated or implied by law, and notwithstanding prior acceptance of the **Goods** by the **Museum**, the **Contractor** shall at any time within its standard warranty period, at its own expense replace any **Goods** which are or become defective as a result of faulty or inefficient manufacture, materials or workmanship. The **Contractor** shall state its standard warranty period and related terms and conditions at the time of delivery.

29.7 Despite inspection and acceptance of the **Work** by or on behalf of the **Museum** and without restricting any provisions of the **Contract** or any condition, warranty or provision imposed by law, the **Contractor**, if requested by the **Museum** to do so, must replace, repair or correct, at its own option and expense any **Work** that becomes defective or fails to conform to the requirements of the **Contract**, where applicable. The warranty period will be 12 months after delivery and acceptance of the **Work** or the length of the **Contractor's** or manufacturer's standard warranty period, whichever is longer.

29.8 The warranty period is automatically extended by the duration of any period or periods where the **Work** is unavailable for use or cannot be used because of a defect or non-conformance during the original warranty period. The warranty applies to any part of the **Work** replaced, repaired or corrected pursuant to subsection 29.1, for the greater of:

- .1 the warranty period remaining, including the extension, or
- .2 ninety (90) days or such other period as may be specified for that purpose by agreement between the **Parties**.

30 INSPECTION AND ACCEPTANCE OF THE WORK

30.1 All the **Work** is subject to inspection and acceptance by the **Museum**. Inspection and acceptance of the partial or final **Work** by the **Museum** do not relieve the **Contractor** of its responsibility for defects or other failures to meet the requirements of the **Contract**. The **Museum** will have the right to reject any **Work** that is not in accordance with the requirements of the **Contract** and require its correction or replacement at the **Contractor**'s expense.

30.2 The **Contractor** remains responsible for the loss of the **Work** caused by a case of force majeure until the **Museum** has accepted the **Work**.

31 RISK

31.1 The **Goods** shall be at the risk of the **Contractor**, who shall bear all loss or damage, from whatsoever cause arising, which may occur to the **Goods**, or any part thereof, until delivered to the **Museum**. The **Museum** reserves the right to change the place of delivery at any time prior to actual shipment, provided that the **Contractor** shall be entitled to be reimbursed for any actual increased cost or shall reduce the prices to the extent of any decreased cost, arising out of such change.

32 CONDITION OF GOODS

32.1 **Goods** must be new and unused unless specified otherwise herein and delivered strictly in accordance with the quantities, specifications and terms and conditions of the **Contract**.

33 TERMINATION FOR CAUSE

33.1 The **Contractor** will be in default under the terms of the **Contract** in the following circumstances:

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

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

33.2 In the event of **Contract** termination, the **Museum** may:

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

33.3 In the event of **Contract** termination, the **Museum**:

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

34 ANTI-FORCED LABOUR REQUIREMENTS

- 34.1 The **Contractor** represents and warrants that the **Work** is not mined, manufactured or produced wholly or in part by forced labour. Regardless of who acts as an importer, the **Contractor** must not during the performance of the **Contract**, directly or indirectly, deliver **Work** to the **Museum** or import **Work** into Canada the importation of which is prohibited from entry pursuant to ss. 136(1) of the *Customs Tariff Act*, and tariff item No. 9897.00.00 of the *Customs Tariff Act* – Schedule (as amended from time to time), because it is mined, manufactured or produced wholly or in part by forced labour.
- 34.2 If a tariff classification determination is made under the *Customs Act* and the importation of the **Work**, or any part of the **Work**, is prohibited, the **Contractor** must immediately inform the **Contracting Authority** in writing. The **Museum** may terminate the **Contract** for default in accordance with section 33 if the **Work** or any part of the **Work** is classified under tariff item no. 9897.00.00 of the *Customs Tariff Act* – Schedule as mined, manufactured or produced wholly or in part by forced labour. If the **Contractor** is aware that the **Work**, or any part of the **Work**, is being or has been investigated regarding whether it is prohibited from entry pursuant to tariff item No. 9897.00.00, the **Contractor** must immediately inform the **Contracting Authority** in writing of that investigation.
- 34.3 The **Museum** may terminate the **Contract**, in accordance with section 33, if it has reasonable grounds to believe the **Work** was mined, manufactured or produced in whole or in part by forced labour or linked to human trafficking. Reasonable grounds for making such a determination may include:
 - .1 Findings or Withhold Release Orders issued by the United States Customs and Border Protection, under the US *Trade Facilitation and Trade Enforcement Act* (TFTEA) of 2015; or
 - .2 Credible evidence from a reliable source, including but not limited to non-governmental organizations.
- 34.4 The **Museum** may terminate the **Contract**, in accordance with section 33, if the **Contractor** has, in the past three years, been convicted of specified offences under the following offences under the *Criminal Code* or the *Immigration and Refugee Protection Act*.

Criminal Code

 - .1 section 279.01 (Trafficking in persons);
 - .2 section 279.011 (Trafficking of a person under the age of eighteen years);
 - .3 subsection 279.02(1) (Material benefit — trafficking);
 - .4 subsection 279.02(2) (trafficking of person under 18 years);
 - .5 subsection 279.03(1) (Withholding or destroying documents — trafficking);
 - .6 subsection 279.03(2) (Withholding or destroying documents — trafficking of person under 18 years);

or

Immigration and Refugee Protection Act

 - .7 section 118 (Trafficking in persons)

- 34.5 The **Museum** may terminate the **Contract** if the **Contractor** has, in the past three years, been convicted of an offence in a jurisdiction other than Canada that, in the **Museum's** opinion, is similar to any of the offences identified in section 34.4 (1) to (7).
- 34.6 If the **Museum** intends to terminate the **Contract** under this section, the **Museum** will inform the **Contractor** and provide the **Contractor** an opportunity to make written representations before making a final decision. Written representations must be submitted within thirty (30) days from receiving a notice of concern unless the **Museum** establishes a different deadline.

35 HARASSMENT IN THE WORKPLACE

- 35.1 The **Contractor** acknowledges the responsibility of the **Museum** to ensure, for its employees, a healthy work environment, free of harassment. In this sense, the **Contractor** must collaborate with the **Museum**.
- 35.2 The **Contractor** must not, either as an individual, or as a corporate or unincorporated entity, through its employees, subconsultants or subcontractors, harass, abuse, threaten, intimidate, discriminate against any employee, **Contractor** or other individual employed by, or under contract with the **Museum**.
- 35.3 The **Contractor** will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the **Contractor's** response, the **Contracting Authority** will, at its entire discretion, determine if the complaint is founded and decide on any action to be taken.

36 SECURITY CLEARANCES

- 36.1 The **Contractor** must comply to a security screening before gaining access to the **Museum's** buildings.
- 36.2 The **Contractor** shall submit to the **Museum**, before commencement of the **Work**, the names of all persons who will be present at the place of work, whether inside or outside the area of work and who are involved with the **Work**, whether they are employees of the **Contractor**, subconsultants or subcontractor.
- 36.3 The **Contractor** and all subconsultants and subcontractors shall agree to submit to the **Museum**, required by the **Museum**, the security screening forms in a duly completed manner, for themselves and for any other persons who will be assigned to work on their behalf on this project, before commencing the **Work**: Declaration Regarding Criminal Convictions, Consent to Disclosure of Personal Information parts (1) Reliability, (2) Criminal record, (3) Credit and (4) any other security clearance form reasonably required by the **Museum**.
- 36.4 The **Contractor** agrees to only allow authorized screened personnel on the work site in accordance with criteria established by the **Museum**.

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

- 37.1 The **Contractor** must provide safe and healthy workplace and comply with relevant health and safety laws and standards. The **Contractor** must provide to all their employees adequate information and instructions on health and safety concerns. The **Contractor** must allow their employees to meet their responsibilities to ensure a safe and healthy workplace.
- 37.2 COVID, Pandemic or Health Restriction Particularities

The **Contractor** must ensure:

- .1 To comply with and apply the latest health and safety standards;
- .2 to apply the basic hygiene measures of the General Directorate of Public Health;
- .3 to verify the state of health of workers arriving on site;
- .4 to plan the **Work** to respect physical distancing for the applicable period;

- .5 to use specific personal protective equipment, as applicable; and
- .6 to follow the protocols, policies and directives of the **Museum**.

38 LABOUR DISPUTE AT THE WORK SITE/POST EMPLOYMENT CODE

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

39 ALCOHOL AND DRUGS

- 39.1 The **Contractor** must ensure that their employees, all their sub-contractors and their personnel are fit when reporting to work and remain fit throughout their work day, free from the **influence of alcohol or drugs**, including **cannabis products**, that may impair their ability to perform their duty in a safe and productive manner.
- 39.2 The **Contractor**, its superintendent and/or its supervisor must ensure that all their personnel, subcontractor(s) and the subcontractor personnel adhere to all aspects of the following policy in effect at the **Museum**:
1. For the safety and security of all Persons, the consumption of alcohol and drugs, including **cannabis products**, on all the **Museum's premises** is strictly forbidden.
 2. Any employee who arrives at work and determines that they may be **under the influence of alcohol or drugs**, including **cannabis products** and/or **prescription drugs**, must notify their supervisor. The **Contractor** shall relieve the employee of their duty and confidentiality shall be respected and maintained when possible.
 3. Any employee who suspects that a co-worker is working under the **influence of alcohol or drugs**, **cannabis products**, **prescription drugs** or **illegal drugs** must immediately notify a supervisor. Every measure should be taken to keep such reports confidential.
 4. It is strictly forbidden for any employee to traffic, provide, produce, sell, trade, manufacture, distribute, or offer for sale any alcohol, drugs, including **cannabis products**, or otherwise engage in the use of **illegal drugs** or the improper use of drugs, including **prescription drugs**, while on the **Museum's premises** at all times.
 5. Where an employee believes they have or may have an alcohol or drug addiction that interferes or may interfere with their ability to **Work** safely and productively, and to comply with all **Museum's** policies, the employee must notify their supervisor immediately.
 6. Personnel in breach of these rules will be escorted at the **Contractor's** expense out of the **Museum's premises**.

A violation of section 39 will result in consequences up to and including **Contract** termination.

40 SMOKE-FREE WORKPLACE

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

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

A violation of section 40 will result in consequences up to and including **Contract** termination.

Definitions related to sections 39 and 40:

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

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

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

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

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

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

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

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

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

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

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

41 SCENT-FREE WORKPLACE

41.1 The **Contractor** must ensure that their employees, all their sub-contractors and their personnel adhere to all aspects of the following directive in effect at the **Museum**:

1. Use environmentally friendly and fragrance-free or **Unscented Products**.
2. Avoid wearing or use any **Scented Products** while working at the **Museum**. Any scent should not be detectable at more than an arm's length from the source.

41.2 Exceptions can be made for the **Museum's** workplace that require the use of specialized industrial products, such as solvents, fuels, lubricants, and asphalt mixes. In those types of **Work** environments, substances such as chemical vapours, volatile organic compounds, infectious agents and other hazardous materials should be addressed through the application of engineering controls, administrative controls, infection control policies and relevant legislation and regulations

Definitions related to this section:

Scented Product: Products that have, or may have, a detrimental effect upon the health of other persons and may include, but are not limited to, cosmetic products (perfumes, aftershaves, colognes, shampoos and conditioners, soaps, body lotions and deodorants) and other products (air fresheners and deodorizers, candles, potpourri, essential oils, some laundry detergents, fabric softeners and cleaning products).

Unscented Product: Products that contain no fragrances or masking agents that hide the scents of other ingredients.

42 COOPERATION WITH OTHER CONSULTANTS AND CONTRACTORS

42.1 The **Museum** reserves the right to let separate contracts to other contractors in connection with any on-going project, for the purpose of carrying out a **Work** which may form a part of the **Contractor's** project or that of the **Museum's** own work forces.

42.2 If it is necessary that other persons be sent onto the site of the **Work**, the **Contractor** shall, in accordance with the **Museum's** instructions, allow them access to the **Work** and shall cooperate with them in carrying out of their duties and obligations. The **Museum** agrees to take all reasonable precautions to avoid labour disputes or other disputes on the project arising from the **Work** of other contractors working on the same project.

42.3 When separate contracts are awarded for different parts of the project, or part of the **Work** is performed by the **Museum's** own work forces, the **Museum** shall:

- .1 provide for the co-ordination of the **Work** of its own forces and of each separate contract or with the **Work** in its **Contract**, and
- .2 ensure that insurance coverage is provided to the same requirements, if required, or any subsequent General Terms and Conditions which may change the existing section to comply with the **Work** situation in the **Contractor's Contract**.

42.4 It may be a requirement that the **Contractor** may have to co-ordinate its **Work** with that of other consultants or contractor, hired by the **Museum** or other workers who are part of the **Museum**. The **Contractor's Work** may need to connect with the subsequent **Work** as indicated in the **Contract**. Should there be a change in the scope of **Work** required for the planning and performance of this co-ordination and connection, the **Contractor** must obtain authorization to that effect from the **Contracting Authority**.

42.5 The **Contractor** shall report any deficiencies in the other consultants' or contractors' **Work** to the **Museum's Project Authority** in writing and, where applicable, to the consultants or contractors. Failure of the **Contractor** to report any deficiencies shall invalidate any claims against the **Museum** by reason of the deficiencies of other consultants' or contractors' **Work** except to those of which the **Contractor** was not made reasonably aware.

43 OBLIGATIONS JOINT AND SEVERAL

43.1 If two or more contractors are liable under the terms of the **Contract** to the **Museum**, their obligations shall be both joint and several.

43.2 If only one contractor is liable under the terms of the **Contract** to the **Museum**, his obligations shall be indivisible.

44 ACCOUNTS

44.1 The **Contractor** shall:

- .1 keep accounts and records of the cost of performing the **Contract**;
- .2 keep for a period of six (6) years from the end of the calendar year in which the **Contract** is terminated or completed, all documents relating to such costs (accounts, records and other documents), unless he obtains the prior written consent of the **Museum** to otherwise dispose of such accounts;
- .3 on demand, produce to the **Museum** the documents mentioned in section 44.1.2 and permit the **Museum** to examine, audit and take copies and extracts.

45 INVOICING

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

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

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

- .1 details of expenditures (such as item, quantity, unit of issue, unit price, hourly rates and level of effort, subcontracts, mark-up, as applicable) in accordance with the Basis of Payment, exclusive of Applicable Taxes;
- .2 deduction for holdback, if applicable;
- .3 the extension of the totals, if applicable; and

- .4 if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.
 - .5 All invoices shall set out applicable taxes separately. In addition, the **Contractor's** appropriate tax registration numbers shall be clearly displayed on every invoice.
- 45.3 The **Contractor** must, upon request by the **Museum**, provide a solemn declaration certifying that it has paid the corresponding requests for payment by the subconsultants or the subcontractors.
- 45.4 Payment of invoices submitted to the **Museum** shall be paid on the latter of the following two dates:
- 1. within thirty (30) days following the date on which all of the **Work** has been completed in accordance with the terms of the **Contract**;
 - 2. within thirty (30) days following the date on which an invoice and substantiating documentation are received according to the terms of the **Contract**.
- Note:** The payment period may be adjusted in consideration of any payment discount in the **Contractor's** Proposal.
- 45.5 The **Museum**, within thirty (30) days of its receipt, is to notify the **Contractor** of the nature of the objection to the content of the invoice or the substantiating documentation. The **Contractor** must provide clarifications as soon as reasonably possible after receipt of the objection from the **Museum**. The **Museum** may withhold payment until satisfactory explanation has been provided by the **Contractor**.

46 TAXES

- 46.1 All amounts payable are in addition to the provincial sales tax, goods and services tax and any other tax applicable to the **Work** to be performed.
- 46.2 Applicable taxes will be paid by the **Museum** in accordance with the Invoicing section in section 45. It is the sole responsibility of the **Contractor** to charge applicable taxes at the correct rate in accordance with applicable legislation. The **Contractor** agrees to remit to appropriate tax authorities any amounts of applicable taxes paid or due.
- 46.3 The **Contractor** is not entitled to use the **Museum's** exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The **Contractor** must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the **Contract** (in accordance with applicable legislation), including for material incorporated into real property.
- 46.4 Tax Withholding of 15 % – Canada Revenue Agency
- Pursuant to the Income Tax Act, 1985, c. 1 (5th Supp.) and the Income Tax Regulations, the **Museum** must withhold 15 % of the amount to be paid to the **Contractor** in respect of services provided in Canada if the **Contractor** is not a resident, unless the **Contractor** obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held in an account for the **Contractor** in respect to any tax liability which may be owed to Canada Revenue Agency.

47 RIGHT OF SET-OFF

- 47.1 Without restricting any right of set-off given by law, the **Museum** may set-off against any amount payable to the **Contractor** under the **Contract**, any amount payable to the **Museum** by the **Contractor** under the **Contract** or under any other current contract. The **Museum** may, when making a payment pursuant to the **Contract**, deduct from the amount payable to the **Contractor** any such amount payable to the **Museum** by the **Contractor** which, by virtue of the right of set-off, may be retained by the **Museum**.

48 TERMINATION WITH NOTICE

- 48.1 The **Museum** may, at any time and upon giving ten (10) days notice to the **Contractor**, terminate or suspend the **Contract** with respect to all or any part or parts of the **Work** not completed.
- 48.2 Provided the **Contractor** is not in breach of its **Contract**, all **Work** completed by the **Contractor** to the satisfaction of the **Museum**, before the giving of such notice, shall be paid for by the **Museum** in accordance with the provisions of the **Contract**. Where there are no provisions in the **Contract** with respect to the **Contractor's** cost, the **Museum** shall pay such sum as the **Museum** shall determine to be the **Contractor's** reasonable costs.
- 48.3 To be entitled to payment and reimbursement, the **Contractor** must demonstrate that the cost and expenses were actually incurred and that they are fair and reasonable and are properly attributable to the termination or suspension of the **Contract** or the part thereof so terminated.
- 48.4 The **Contractor** shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of or directly or indirectly arising out of any action taken or notice given by the **Museum** under the provisions of this section except as expressly provided in the **Contract**.

49 ALTERATIONS OF DRAWINGS AND/OR SPECIFICATIONS

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

50 SUSPENSION OF WORK AND CHANGE IN SPECIFICATIONS BY THE MUSEUM

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

51 EXECUTION OF DOCUMENT

- 51.1 A scanned or electronic executed copy of the **Contract** and associated documents shall be binding on the **Parties**.

52 COUNTERPARTS

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

53 ENTIRE CONTRACT

- 53.1 The **Contract** constitutes the entire agreement between the **Parties** and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings, negotiations and discussions between them, whether written or oral, relating to this subject matter. By signing the **Contract**, each

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

54 SEVERABILITY

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

55 LANGUAGE OF THE CONTRACT

55.1 The **Contract** will be drawn up in English or in French, depending on the language requested by all **Parties** hereto.

56 OFFICIAL LANGUAGES

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

57 POWERS OF THE MUSEUM

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

58 NON-PERFORMANCE - WAIVER

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

59 AMENDMENTS

59.1 No change or modification of the **Contract** shall be valid unless it be in writing and signed by each party.

60 NOTICES

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

To the Contractor: As determined in the **Contract**.

To the Museum:

To the **Project Authority** for **Work** related issues and as determined in the **Contract**.

To the **Contracting Authority** for all other related issues and as determined in the **Contract**.

61 GOVERNING LAW

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

62 JUDICIAL DISTRICT

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

63 DISPUTES

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

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

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

64 INTEGRITY AGREEMENT

64.1 To ensure fairness, openness and transparency; by accepting a PO (or entering into a **Contract**), the **Contractor** agrees that they are eligible to do business with the **Museum** and certifies that they have not been convicted in any Federal or Provincial Court for the following:

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

- 64.2 The **Museum** will declare a **Contractor** non-conforming in respect of which the information herein requested is missing or inaccurate, or in respect of which the information contained in the certifications specified above is found to be untrue, in any respect, by the **Museum**.
- 64.3 The **Museum** will have the right to terminate the **Contract** for default if:
1. It is determined, after **Contract** award, that the **Contractor** made a false declaration, or
 2. During the **Contract**, the **Contractor** is convicted for any of the conducts stated above; in this case the **Contractor** will have the obligation to disclose promptly such circumstance.
- 64.4 By accepting a PO (or entering into a **Contract**), the **Contractor** agrees with this section and solemnly affirms that all individuals who directly or indirectly control the company, corporation, or sole ownership; including its organizations, corporate bodies, societies, companies, firms, partnerships, associations of persons, parent companies, and subsidiaries, whether partly or wholly-owned, as well as individuals, and directors are eligible to be awarded a **Contract** with the **Museum**, and that such persons can complete all of the certifications as noted above.

65 NON-DISCLOSURE AGREEMENT

- 65.1 THIS NON-DISCLOSURE AGREEMENT (hereinafter called "Agreement") is entered into between the **Museum** and the **Contractor** (hereinafter called "Company") accepting a PO or entering into a **Contract** with the **Museum**.
- 65.2 WHEREAS the **Museum** and the Company are willing to disclose to each other certain confidential and/or proprietary information (hereinafter called "Confidential Information") or the purpose of this solicitation hereinafter called "Project");

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

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

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

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

3. All Confidential Information disclosed pursuant to this Agreement and all documents relating thereto disclosed hereunder shall remain the property of the Disclosing **Party** and shall be returned promptly by the Receiving **Party** to the Disclosing **Party** together with any copies thereof upon receipt by the Receiving **Party** of a written request from the Disclosing **Party** therefor, which the Disclosing **Party** may make at any time and from time to time.
4. The foregoing obligations imposed upon the Receiving **Party** to keep all Confidential Information disclosed hereunder by the Disclosing **Party** in confidence and not use any thereof for any purpose other than for the Project, shall not apply to any such information which the Receiving **Party** can show:
 - a) is already in the possession of the Receiving **Party** at the time of receiving the same from the Disclosing **Party** without any obligation of confidentiality as shown by the prior records of the Receiving **Party**;
 - b) is published or becomes available within the public domain otherwise than as consequence of a breach by the Receiving **Party** of its obligation not to disclose any of the Disclosing **Party's** Confidential Information;
 - c) is lawfully received by the Receiving **Party** from any third party without restriction on disclosure or use, and without breach of this Agreement;
 - d) is independently developed without any breach of this Agreement by the Receiving **Party's** personnel who have not had access to any of Confidential Information; or
 - e) is approved in writing by the Disclosing **Party** for release or other use by the Receiving **Party** according to terms stipulated in such approval.
5. Except as otherwise expressly permitted hereunder, no license under any trade secret, patent, patent application, industrial design, trademark, copyright, mask work, confidential process, formula, plan, computer program, data or other valuable Confidential Information or know-how is granted to the Receiving **Party** or can be implied by disclosure to the Receiving **Party** by the Disclosing **Party** of any of Confidential Information hereunder. The Disclosing **Party** shall use all reasonable efforts to attempt to provide information hereunder to the Receiving **Party** that is accurate and sufficient for the purposes of the Project. The Disclosing **Party**, however, shall not assume any responsibility whatsoever with the respect to the accuracy or sufficiency of such information.
6. This Agreement shall continue for Perpetuity from its effective date, subject, however, to the proviso that either party may terminate this Agreement at any time during the period upon reasonable prior written notice to the other **Party**. Unless previously returned pursuant to section 3 above, upon the expiration or termination of this Agreement, the Receiving **Party** shall promptly return to the Disclosing **Party** all Confidential Information and all documents relating thereto disclosed to it hereunder together with any copies thereof. The obligations concerning disclosure and use of Confidential Information imposed hereunder shall survive the expiration or termination of this Agreement and shall continue to bind the Receiving **Party**, its successors, permitted assigns and their representatives for the balance of the period of time identified in section 1 above then outstanding from the date of first receipt of such Confidential Information hereunder or with respect to any applicable portion thereof, until the effective date of any of the events recited in sections 4 (b), (c), (d), or (e) above, whichever occurs first.
7. This Agreement contains the entire agreement of the **Parties** relating to the subject matter hereof and supersedes all proposals, negotiations, representations, warranties, conditions and agreements, collateral or otherwise, oral or written, made prior to the execution hereof and related to the subject matter hereof. Any modification or amendment to this Agreement must be in writing,

having direct reference to this Agreement and must be signed by authorized representatives of both **Parties**. The invalidity of any provisions hereof shall not affect any remaining provisions.

8. This Agreement and the rights and obligations granted to and undertaken by the **Parties** shall not be assignable or transferable, in whole or in part, by either party without the prior written consent of the other party.
9. This Agreement shall be governed and interpreted in accordance with the laws of Canada applicable therein. The **Parties** shall comply with the applicable laws relating to the import, export and re-export of Confidential Information disclosed pursuant to this Agreement.
10. All notices, requests and other communications and Confidential Information pursuant to this Agreement shall be addressed as follows:

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

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

Any notice, request or other communication forwarded hereunder shall be deemed to have been received: if delivered by hand, at the time of delivery; if emailed or sent by facsimile transmission, on the first business day (days other than Saturdays, Sundays and statutory holidays) of addressee after it has been transmitted; and if mailed, on the tenth business day (days other than Saturdays, Sundays and statutory holidays) of addressee after it has been mailed by certified or registered mail; except, however, in the event of an interruption in mail service in the country of domicile of either **Party** in which case receipt shall be deemed to occur when such notice is actually received. An address for service hereunder may be changed by either **Party** from time to time by written notice to the other **Party**.

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

Appendix 1



APPENDIX A

Pursuant to section 16.3, if the **Contractor** is required to collect Personal Information as part of its obligations to collect Confidential Information to perform the **Work**, the **Contractor** must only collect the minimal amount of Personal Information required to perform the **Work** and the Personal Information elements and the purposes of collection must be described in a table such as follows:

Personal Information Element	Personal Information Sub Element (if any)	Purpose of Collection
(e.g.) Contact Information	(e.g.) Name	Creation of account, communications, managing the relationship
	(e.g.) Physical and electronic addresses	Creation of account, communications, managing the relationship