

PO No. XXXXXX

THIS AGREEMENT, made in quadruplicate this _____ day of _____, 20XX

BETWEEN: _____

hereinafter called the "Contractor"

OF THE FIRST PART

-and-

THE CORPORATION OF THE TOWN OF AJAX,

hereinafter called the "Town"

OF THE SECOND PART

WHEREAS the Town called a Request for Bid No. _____, for _____ (Hereinafter referred to as "the Contract Work") and the Contractor submitted a Bid therefore dated the _____ day of _____, 20XX; a copy of which Bid is hereto annexed to this Agreement and constitutes and is hereinafter referred to as the "Bid";

AND WHEREAS the Town awarded to the Contractor, a Contract for the Contract Work at the price therefore mentioned and set forth and marked "Accepted" in the Bid and in accordance with all the terms and conditions of the **Request for Bid**; and of the **Specifications** and of the **General Conditions of Contract**; and of the **Instructions to Bidders**; and of the **Special Provisions**; and any **Addenda**, hereto annexed or referred to, and of the **Drawings and Plans** referred to and listed in such Specifications, and for the prices submitted in the **Schedule of Prices**, all of which being hereinafter referred to as the "**Contract Documents**."

NOW THEREFORE, the Contractor and the Town hereby mutually covenant and agree as follows:

- 1 That the Contractor will execute and perform the whole of the Contract Work in a thorough manner in all respects in strict accordance with all of the terms and conditions of the Contract Documents, and will maintain and guarantee the Contract Work as provided for in the Contract Documents, all to the entire satisfaction of the Contract Administrator and his/her successor, and of the Town, and that in the execution and performance of the Contract Work the Contractor will carry out, perform, observe, fulfill and abide by all the covenants, agreements, stipulations, provisos and conditions mentioned and contained in the Contract Documents, on the part of the Contractor to be carried out, performed, observed and fulfilled.
- 2 That the Contractor will complete all of the Contract Work by _____ as specified by the Town in the Contract Documents, subject to potential adjustments as agreed to by both parties.
- 3 That the Contractor will complete the portion of Works labeled (_____) by _____ as specified by the Town in the Contract Documents, subject to potential adjustments as agreed to by both parties. *Remove if not applicable.*
- 4 That the Contract Price is _____ dollars (\$ _____), in Canadian funds (inclusive of all taxes), which price shall be subject to adjustments as may be required in accordance with the provisions of the Contract Documents.

That the Contractor agrees to pay Liquidated Damages, the amount per day for liquidated damages is \$ _____, plus inspection costs. *Remove if not applicable.*

- 5 The Contractor acknowledges that this Agreement is being entered into during the course of a declared public health emergency in the Province of Ontario related to COVID-19 (the "**COVID-19 Circumstance**"). The Contractor shall take all required health and safety steps, including shutting down the site, if required, without a claim for additional costs against the Town.
- 6 The Contractor acknowledges that the COVID-19 Circumstance, may require the delay of the work to be provided under the terms of this Agreement, including as a result of Provincial regulations. The Town, in its sole discretion, shall determine if the work shall proceed. In the event of a delay caused by the COVID-19 Circumstance, the Town shall provide the Contractor with written notice of the delay and the amended schedule. In the event that the Town determines it is necessary to move the work to a later date, the Town shall pay for the increase or decrease of the unit prices will be adjusted according to the annual rate of change in the Consumer Price Index (C.P.I.), All Items, Ontario as published ninety (90) days prior to the new work commencement start date. The period of delay, shall be determined and calculated on a monthly basis.
- 7 In addition to the obligations contained herein and in the Contract Documents, the Contractor shall follow all health and safety requirements and guidelines from the Province, including the Ministry of Labour, with respect to safety in performing work or delivering goods or services to the Town. This includes, but is not limited to, any Ministry of Labour guidelines with respect to the COVID-19 Circumstance. Any costs associated with complying with the above health and safety requirements, including additional requirements imposed or higher staffing costs are solely at the expense of the Contractor and no claim for additional costs or delay shall be made by the Contractor to the Town.
- 8 In addition to the indemnification rights contained herein, In the event of a Ministry of Labour investigation and prosecution for a failure to follow health and safety guidelines, including COVID-19 guidelines, the Contractor indemnifies the Town , its Council members, employees, successors and assigns for the cost of participating in any legal proceeding, including negotiations, on a full indemnity basis. In the event that an award is made against the Town, substantially resulting from the Contractor's conduct, the Contractor indemnifies the Town for the full cost of the award.
- 9 In addition to the termination rights contained herein and in the Contract Documents, the Town shall have the express right to either progressively warn the Contractor of its failure to follow health and safety guidelines or to immediately terminate this Agreement if the Contractor fails, in the Town's sole discretion, to follow any health and safety guidelines, protocols or policies whether imposed by the Town or published by the Province and its applicable Ministries. In the event of termination for cause under this provision, the Contractor shall have no claim beyond work completed to the date of termination, including no claim for anticipated profits, loss of opportunity or consequential damages.
- 10 The Contractor shall defend, indemnify and save harmless the Town and its Council, elected officials, officers, employees and agents from and against all claims of any nature, actions, causes of action, losses, expenses, fines, costs, interest or damages of every nature and kind whatsoever, arising out of or allegedly attributable to the negligent acts, errors, omissions, misfeasance, nonfeasance, fraud or wilful misconduct of the Contractor, its directors, officers, employees, agents, and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this Contract. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the Contractor in accordance with this Agreement, and shall survive this Agreement.
- 11 That if the Contractor has duly and properly executed and performed the Contract Work and has carried out, performed, observed, fulfilled, kept and abided by all the covenants, agreements, stipulations, provisos, terms and conditions herein and in the Contract Documents contained; the Town will pay the Contractor for the Contract Work, in Canadian funds, the price mentioned and set forth and marked "Accepted" in the Bid and for such extra or additional work at the unit rates or the amounts, as the case may be, stipulated in the written orders, authorizing the extra or additional work, such payments to be made in the manner and subject to the forfeitures and deductions mentioned in the Contract Documents, upon progress estimates or certificates signed by the Contract Administrator and subject to the provisions of all applicable legislation, statutory regulations respecting holdback percentages, and By-Laws of the Town;

PROVIDED;

- .1 that no money shall become due or payable under this Agreement unless and until a progress estimate or certificate has been signed by the Contract Administrator as herein provided, the possession of which is hereby made a condition precedent to the right of the Contractor to be paid or to maintain any action for such money or for any part thereof;
 - .2 that the Town shall not be liable or compelled to pay for any such extra or additional work except only in a manner and as provided for herein and in the Contract Documents, or to grant or issue any progress estimate or certificate for any of the Contract Work rejected or condemned by the said Contract Administrator to pay any money therefore until the work so rejected or condemned has been replaced by new material and workmanship to the written satisfaction of the said Contract Administrator, and
 - .3 that the granting of any progress estimate or certificate or the payment of any moneys thereunder shall not be construed as an acceptance by the Town of any bad or defective work or material to which the same relates, or as an admission of liability by the Town to pay any money in respect thereof, and shall not in any manner lessen the liability of the Contractor to replace such work or material, although the condition of the same may not have been known to or discovered by the said Contract Administrator at the time such progress estimate or certificate was granted, or moneys paid thereon.
- 12 That any notices, requests, demands or other communications required or permitted to be given hereunder shall be in writing and delivered by email, facsimile or hand as follows:

The Owner at: The Corporation of the Town of Ajax, **Department**
65 Harwood Avenue South, Ajax, ON L1S 2H9
Email: **xxxxxxx.xxxxx@ajax.ca**

The Consultant at: **Remove if not applicable**

The Contractor at: _____

or at such other address as may from time to time be designated by notice given in the manner herein provided. Such notice shall be deemed to have been given when delivered, provided that if notice is delivered by email, facsimile or by hand on a day other than a Working Day or after 3:00 pm on a Working Day, then the same shall be deemed to have been given on the next Working Day.

- 13 That the Contract Documents shall be incorporated into and be made part of this Agreement to the same extent, effect and fully as if each of them was set out and specifically repeated in the Agreement.
- 14 That this Agreement and everything herein contained shall respectively ensure to the benefit of and be binding upon the Contractor and the Town, their successors and permitted assigns respectively.
- 15 References in this Agreement to any legislation (including but not limited to statutes, regulations and by-laws) or any provision thereof include such legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.
- 16 This Agreement may be executed in counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts shall be accepted in original or electronic form, and the parties to this Agreement adopt any signatures received by receiving electronic mail as original signature of such parties.

- 17 This Agreement shall be interpreted under and is governed by the laws of the Province of Ontario and the Parties to this Agreement, subject to any dispute resolution provisions in the Contract Documents, irrevocably submit to the jurisdiction of Ontario.

The Contractor and the Town have executed this Agreement by the signature of the duly authorized individual(s).

SIGNED AND DELIVERED

CONTRACTOR

Signing Officer Name/Title
(I/We have the authority to bid the Company)

Signature

Witness Name/Title

Signature

OWNER

The Corporation of the Town of Ajax

65 Harwood Avenue South, Ajax, ON L1S 2H9

Signing Officer Name/Title

Signature

Signing Officer Name/Title

Signature

General Services Template