

GECD SB Privacy and Cyber Security Schedule (“Privacy Schedule”)

This Privacy Schedule forms part of the CCDC 2- 2008 Stipulated Price Contract (the “Contract”) dated [DATE] between Greater Essex County District School Board (the “Board”) and [insert name] (the “Contractor”) respecting the delivery of specified construction services (the “Services”) identified in the Contract.

Definitions

1. In this Schedule,
 - (a) “**Act**” means the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*, as amended from time to time;
 - (b) “**personal information**” means all verbal, written, or electronically transmitted and/or machine-reproduced information, documents, and/or recorded information about an identifiable individual, provided to or collected or created by Contractor as a result of the Contract with the Board;
 - (c) “**privacy breach**” shall mean the unauthorized collection, access, use or disclosure of personal information in a manner not permitted under the Contract or the Act and which compromises the security or privacy of such information.
 - (d) “**Schedule**” or “**Privacy Schedule**” shall mean this GECD SB Privacy and Cyber Security Schedule.
 - (e) “**in writing**” means direction, notification or information that is written either in paper form or in electronic form.

Purpose

2. The purpose of this Schedule is to:
 - (a) enable the Board to comply with its statutory obligations under the Act with respect to personal information; and
 - (b) ensure that, as a service provider, the Contractor securely collects, uses, discloses, stores, returns and destroys personal information provided by the Board in accordance with the Act.

Ownership

3. The Board shall own all personal information submitted to or created by the Contractor under this Schedule.
4. This Schedule shall not be construed to grant any interest to the Contractor in any personal information disclosed to it pursuant to this Schedule. The Contractor agrees that it shall not claim to have any rights, title or ownership in the personal information or any discoveries or inventions based on or derived from the personal information. Nothing contained herein shall be deemed or construed to create an agency relationship, partnership or joint venture between the Board and the Contractor. The Contractor acknowledges and agrees that any and all disclosures of personal information to it pursuant to this Schedule are on a non-exclusive basis and the Board is free to make similar or other disclosures to third parties. Further, nothing herein and nothing said or written in connection with the disclosure of the personal information constitutes a promise or undertaking to enter into further agreements.

Handling of personal information

5. Unless the Contract otherwise specifies or the Board otherwise directs in writing, the Contractor shall not directly or indirectly use, publish, make available, collect or disclose any personal information for any purposes not authorized in writing by the Board.
6. Unless the Contract otherwise specifies or the Board otherwise directs in writing, any access to or use of personal information that is not necessary for the performance of the Contractor’s contractual obligations with the Board is strictly prohibited.

7. Only those subcontractors, suppliers, agents, employees, or other persons performing any portion of the Services on the behalf of the Contractor and approved by the Board who require access to personal information (collectively, the “Agents”), on a need to know basis, to fulfill the Contractor’s obligations under the Contract or under this Schedule, shall have access to such information, provided that all such Agents shall have entered into a confidentiality agreement with the Contractor acknowledging that it or they are bound by the terms of this Schedule and are informed that the personal information is subject to the terms of this Schedule. Any breaches of the obligations of confidentiality contained in this Schedule by such Agents shall be treated as a breach of such obligations by the Contractor.
8. The Contractor shall not disclose any personal information to a third party unless authorized by the Board or compelled by law or court or court order. If the Contractor receives a request or order for access to personal information from a third party (the “Requester”), the Contractor must promptly advise the Requester to make the request to the Board . If the Contractor is legally compelled to disclose any personal information to a Requester, the Contractor must provide prompt notice to the Board before any disclosure to allow the Board to seek a protective order or other appropriate remedy to prevent or limit such disclosure, unless the Contractor is legally prohibited from doing so. The Contractor shall only disclose that portion of the personal information which the Contractor is legally compelled to disclose.
9. The obligations of confidentiality, non-disclosure and non-use hereunder shall indefinitely survive the expiration or sooner termination of this Schedule.

Subcontracting and Assignment

10. This Schedule shall not be assigned by the Contractor without the prior written consent of the Board. The transfer or issuance of shares of the Contractor sufficient to give control of the Contractor to anyone other than the present shareholder or shareholders shall, for the purpose of this Schedule, be deemed to be an assignment of this Schedule requiring the consent of the Board. The Contractor shall, at the request of the Board from time to time, provide the Board with a statutory declaration in a form satisfactory to the Board acting reasonably, wherein an officer of the Contractor discloses whether or not there has been any change in control of the Contractor.

Except as provided in this section, none of the rights or obligations hereunder shall be assignable or transferable by the Board without the prior written consent of Contractor. The Board shall be entitled, upon giving notice to Contractor, to assign this Schedule to another board of education (the “Permitted Assignee”), and upon such assignment and assumption of this Schedule by the Permitted Assignee and notice thereof being given to Contractor, the Board shall be relieved of any and all liability hereunder.

Storage

11. The Contractor shall store all personal information provided, collected or created under this Schedule only at its/its data host’s designated target servers located in [Insert Location]. The Contractor shall not process or transfer personal information to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Contractor’s designated backup and recovery processes and is encrypted.

In the event that the Contractor wishes to change its data host or the location of the servers hosting the personal information, the Contractor shall provide the Board sixty (60) days advance written notice of the proposed change. Should the Board not approve of the change, it shall notify the Contractor within thirty (30) days of its receipt of the Contractor’s notice. The Contractor shall then have ten (10) days to withdraw the change. If the Contractor fails or refuses to withdraw the change, the Board may immediately terminate this Schedule and any other contract between itself and the Contractor related thereto and, notwithstanding any term to the contrary in such contract, without

penalty, damages, costs or any other liability.

Security of personal information

12. The Contractor shall ensure the security and integrity of all personal information from and against all unauthorized collection, use, disclosure or destruction. The Contractor shall, in accordance with industry best practices, implement, use and maintain the most appropriate administrative, physical and technological security measures and procedures to fulfill its obligations with respect to ensuring the security and integrity of such personal information. These measures and procedures will be extended by contract to all Agents used by the Contractor.

Correction of personal information

13. The Contractor shall assist the Board in reviewing and/or correcting any personal information in the Contractor's custody or control.

Requests for access to personal information

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

Return and Disposal of personal information

15. At the expiry or termination of the Contract, or at such time as the Board may direct, the Contractor must do any or all of the following with respect to personal information as required by the Board:
 - (a) transfer to the Board all personal information transferred to or collected, created, maintained, or stored by the Contractor or its Agents in relation to this Schedule in a reasonably accessible format and within sixty (60) days; and/or securely and permanently destroy all copies, records, reproductions and derivatives (including back ups) of personal information transferred to or collected, created, copied, reproduced, maintained, or stored by the Contractor in relation to this Schedule within sixty (60) days and provide written confirmation of the secure and permanent destruction to the Board within thirty (30) days of such destruction.
 - (b) The obligations of the Contractor in this paragraph 15 to return and/or dispose of personal information shall indefinitely survive the expiration or sooner termination of this Schedule.

Inspection of personal information

16. In addition to any other rights of inspection the Board may have under the Contract or under statute, the Board may, at any reasonable time and on reasonable written notice to the Contractor, enter on the Contractor's premises to inspect any personal information in the possession of the Contractor or any of the Contractor's information management policies or practices relevant to its management of personal information or its compliance with this Schedule and the Contractor must permit, and provide reasonable assistance to, any such inspection. The Contractor shall also provide the Board with copies of any third-party audits of the Contractor's information and security systems at reasonable intervals.
17. The provision of any personal information hereunder shall not constitute any representation, warranty, assurance, guarantee or inducement by the Board to the Contractor with respect to any personal information, which information is provided on an "as is" basis. No warranty as to the accuracy or completeness of any personal information is provided herein.

Compliance with the Act and directions

18. The Contractor must in relation to personal information comply with:
 - (a) the requirements of the Act applicable to the Contractor as a service provider, including any

- applicable order of the commissioner under the Act; and
- (b) any commercially reasonable direction given by the Board under this Schedule, and any expense incurred in connection with such direction shall be reimbursed to the Contractor by Board.

Notice of privacy breach

19. If there is a privacy breach, the Contractor must immediately notify the Board in writing of the particulars of the breach and what steps it has taken or proposes to take to address, or prevent recurrence of, the breach, and take all reasonable steps to assist the Board, in attempting to minimize any potential or actual damages or losses resulting from such unauthorized disclosure. Thereafter, the Contractor shall provide the Board with information concerning the breach as reasonably requested by the Board.

Insurance

20. For the duration of the Contract, the Contractor shall maintain network security and privacy liability insurance with third party coverage in an amount not less than \$1,000,000.00 CDN, in addition to any other insurance required by the Board in the Contract. The Contractor shall provide the Board with a certificate of insurance evidencing such coverage within thirty (30) days of a written request by the Board.

Indemnification

21. The Contractor shall indemnify and save harmless the Board from:
- (i) any third-party claims resulting from a privacy breach caused by an act or omission of the Contractor or its Agents;
 - (ii) any costs incurred by the Board in responding to a privacy breach caused by the Contractor or its Agents; and
 - (iii) any damages incurred by the Board as a result of the Contractor's or its Agent's breach of the terms of this Schedule.

Despite anything to contrary, the foregoing indemnifications shall not be subject to any limitations of liability specified in the Contract. This indemnity shall survive the expiration or sooner termination of this Schedule.

The Contractor acknowledges that, in the event of any breach of the provisions of this Schedule, the Board might not be fully or adequately compensated by recovery of damages alone. Accordingly, the Contractor agrees that, in addition to any other relief to which the Board may become entitled, the Board will be entitled to seek temporary and/or permanent injunctive relief, and the Contractor agrees not to interfere with the Board doing so.

Termination of Contract

22. In addition to any other rights of termination which the Board may have under the Contract or otherwise at law, the Board may terminate the Contract by giving notice in writing with immediate effect of such termination to the Contractor (i) upon any failure of the Contractor or its Agents to materially comply with this Schedule or (ii) in the event of a material privacy breach.

Contract Documents

23. In the event of any conflict or discrepancy between the provisions of: (1) GECSB Privacy and Cyber Security Schedule ("Privacy Schedule") and (2) the Contract, the Contract shall govern the relationship between the Board and the Contractor.