

- ii. Pay Staff Members' wages and provide them with the benefits that the Contractor offers to them;
- iii. Pay, withhold, and transmit payroll taxes; provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving Staff Members;
- iv. Require Staff Members to sign confidentiality agreements (in the form of Exhibit B) before they begin their assignments to BPS.
- v. Ensure that all Staff Members have current and up to date First Aid, CPR, AED, basic Use of Force Training, and any other training deemed mandatory by the Contractor or BPS.
- vi. Ensure both required shifts are filled with a minimum of two (2) Staff Members every day for twenty-four (24) hours a day, in either eight (8) or twelve (12) hour shifts.
- vii. Have a spare pool of Staff Members available to ensure all shifts are filled with Staff Members as required by BPS.
- viii. Contractor represents and warrants that the Contractor and its' employees and contract personnel will comply with all federal, provincial, and City by-laws that require drivers and other licenses, business permits, and certificates required to carry out the services to be performed under this Agreement.

3.0 BPS's Duties and Responsibilities

3.1 BPS will:

- i. Properly supervise Staff Members performing its work and be responsible for its business operations, and services;
- ii. Properly supervise, control, and safeguard its premises, processes, or systems, and not permit Staff Members to operate any vehicle or mobile equipment, or entrust them with unattended premises, keys, confidential or other valuables without Contractor's express prior written approval or as strictly required by the job description provided to Contractor;
- iii. Provide Staff Members with a safe work site and provide appropriate information, and safety equipment with respect to any hazardous substances or conditions to which they may be exposed at the work site;

- iv. Not change Staff Members' job duties without Contractor's express prior written approval; and
- v. Exclude Staff Members from BPS's benefit plans, policies, and practices, and not make any offer or promise relating to Staff Members' compensation or benefits.
- vi. Conduct background checks on all Staff Members provided by the Contractor.
- vii. Provide all additional force training for Staff Members if required.
- viii. Reserve the right to exclude any Staff Member supplied by the Contractor.

4.0 Term

- 4.1 This Agreement is for a Term of two (2) years commencing on the _____ day of _____, 2020 ("Commencement Date") and expires on the _____ day of _____, 2021 ("Expiration Date"), unless terminated earlier pursuant to Clause 12 of this Agreement.
- 4.2 This Agreement can only be renewed by mutual written consent between BPS and the Contractor for an additional two (2) year term.

5.0 Payment Terms, Bill Rates, and Fees

- 5.1 BPS will pay the Contractor for its performance at the rates set forth on Exhibit C and will also pay any additional costs or fees set forth in this Agreement. The Contractor will invoice BPS for services provided under this Agreement on a monthly basis. Payment is due on receipt of invoice. Invoices will be supported by the pertinent time sheets or other agreed system for documenting time worked by the Staff Members. BPS's signature or other agreed method of approval of the work time submitted for Staff Members certifies that the documented hours are correct and authorizes the Contractor to bill BPS for those hours. If a portion of any invoice is disputed, BPS will pay the undisputed portion.

6.0 Independent Contractor Status

- 6.1 Contractor is an independent contractor, and neither Contractor nor Contractor's employees or contract personnel are, or shall be deemed, Client's employees. In its capacity as an independent contractor.

7.0 Confidential Information

7.1 Both parties may receive information that is proprietary to or confidential to the other party or its affiliated companies and the BPS. Both parties agree to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever other than performing under this Agreement or as required by law. No knowledge, possession, or use of BPS's confidential information will be imputed to the Contractor as a result of Staff Members' access to such information.

8.0 Cooperation

8.1 The parties agree to cooperate fully and to provide assistance to the other party in the investigation and resolution of any complaints, claims, actions, or proceedings that may be brought by or that may involve Staff Members.

9.0 Health and Safety

9.1 Workplace Safety and Health Act

The Contractor shall ensure compliance on its part and on the part of its employees, agents, or sub-contractors, with all of the provisions of *The Workplace Safety and Health Act* of Manitoba and regulations thereunder. The Contractor shall be solely responsible for any fees, expenses, damages, etc., resulting from the breach of any of the provisions of the Act or Regulations, and the Contractor shall indemnify the BPS for any costs incurred by the BPS for such breach.

9.2 The BPS agrees to observe the same precautions for the safety of the Contractor's employees at work as they are obliged to do for their own employees.

9.3 The Contractor's employees shall not possess or consume alcohol or cannabis, or possess or use any other illegal substance on the job. If a Staff Member is determined to be under the influence of alcohol, cannabis or illegal drugs while on duty, they will be promptly dismissed and will not be allowed to return to any security personnel position with the BPS.

10.0 Indemnification and Limitation of Liability

- 10.1 To the extent permitted by law, the Contractor will defend, indemnify, save and hold harmless the City, its directors, officers, agents, representatives, and employees from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by the Contractor's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in Clause one; or the negligence, gross negligence, or willful misconduct of the Contractor or the Contractor's officers, employees, or authorized agents in the discharge of those duties and responsibilities.
- 10.2 To the extent permitted by law, BPS will defend, indemnify, and hold the Contractor and its directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by the BPS's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in Clause 2; or the negligence, gross negligence, or willful misconduct of BPS or BPS's officers, employees, or authorized agents in the discharge of those duties and responsibilities.
- 10.3 Neither party shall be liable for or be required to indemnify the other party for any incidental, consequential, exemplary, special, punitive, or lost profit damages that arise in connection with this Agreement, regardless of the form of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party has been advised of the possibility of such damages.
- 10.4 As a condition precedent to indemnification, the party seeking indemnification will inform the other party within seven (7) business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification from the other party; and the party seeking indemnification will cooperate in the investigation and defense of any such matter.
- 10.5 The provisions in Clause 9 through to sub-clause 9.5 of this Agreement constitute the complete agreement between the parties with respect to indemnification, and each party waives its right to assert any common-law indemnification or contribution claim against the other party.

11.0 Insurance

- 11.1 The City, as represented by BPS, shall be listed as an additional named insured. Any deductibles or self-insured retentions must be declared to and approved by the City and conform to the requirements of the City policy.

Minimum Limits of Insurance. Contractor shall maintain limits no less than:

- i. Workers' Compensation, disability benefits and other similar employee benefit acts that are applicable to the type of work performed and in conformance with the statutory requirements of the Province of Manitoba. The Contractor's Worker's Compensation Number (_____) must be kept in good standing. Employer's Liability limits of one million (\$1,000,000.00) dollars per accident for bodily injury or disease.
- ii. Commercial General Liability insurance in the amount of five million (\$5,000,000.00) dollars per occurrence for bodily injury, personal injury and property damage, with an aggregate limit of five million (\$5,000,000.00) dollars. If Commercial General Liability insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit;
- iii. Commercial Automobile Liability insurance in the amount of five million (\$5,000,000.00) dollars per person and per occurrence for all owned, hired, leased, non-owned automobiles for claims or damages because of bodily injury or death of a person or property damage arising out of the ownership maintenance or use of any motor vehicle. The Contractor's automobile liability insurance policy must include coverage for contractual liability.
- iv. Professional Liability insurance against any wrongful acts, errors, or omissions on the part of the Contractor or its' supplied Staff Members for an amount not less than five million (\$5,000,000.00) dollars resulting from any action under this Agreement or in connection with the work being performed.

11.2 The insurance policies shall contain the following provisions, or the Contractor shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

- i. The General Liability insurance policy shall be endorsed to state that:
 - (a) The City, as represented by BPS, shall be covered as additional named insured with respect to liability arising out of the provision of the Services and for completed operations performed by or on behalf of the Contractor, including materials, parts or equipment furnished in connection with such work; and

(b) The insurance coverage shall be primary insurance as respects the City and its representatives, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City and its representatives shall be excess of the Contractor's insurance and shall not be called upon to contribute to it in anyway.

ii. Workers' Compensation and Employers Liability coverage. The insurer shall agree to waive all rights of subrogation against the City, and its representatives for losses paid under the terms of the insurance policy which arise from work performed by the Contractor or its' supplied Staff Members.

11.3 The Contractor shall keep insurance policies in this Clause 10 maintained continuously during the Term of this Agreement, with the City, as represented by BPS named as an additional insured (with the exception of Workers' Compensation). Coverage afforded under the policies shall not be canceled, materially altered or be allowed to expire without being renewed until at least thirty (30) days written notice has been given to the City.

12.0 Termination of Agreement

12.1 BPS may at any time terminate this Agreement without cause upon sixty (60) days written notice to the Contractor, and in such event BPS shall pay to the Contractor in full settlement of all claims by it hereunder that proportion of the total compensation determined pursuant to Clause 5 which the then completed service bears the entire service to be performed under this Agreement as mutually determined by BPS and the Contractor less all payments previously made to the Contractor and less all amounts withheld by BPS or paid by BPS to third parties pursuant to the provisions of this Agreement.

i. The Contractor reserves the right to cancel this Agreement at any time upon sixty (60) days written notice to BPS.

13.0 Miscellaneous

- 13.1 Provisions of this Agreement, which by their terms extend beyond the termination or non-renewal of this Agreement, will remain effective after termination or non-renewal.
- 13.2 No provision of this Agreement may be amended or waived unless agreed to in a writing and signed by the Parties.
- 13.3 Each provision of this Agreement will be considered severable, such that if any one provision or clause conflicts with existing or future applicable law or may not be given full effect because of such law, no other provision that can operate without the conflicting provision or clause will be affected.
- 13.4 This Agreement and the Exhibits attached to it contain the entire understanding between the Parties and supersede all prior agreements and understandings relating to the subject matter of this Agreement.
- 13.5 The provisions of this Agreement will inure to the benefit of and be binding on the Parties and their respective representatives, successors, and assigns.
- 13.6 The failure of a party to enforce the provisions of this Agreement will not be a waiver of any provision or the right of such party thereafter to enforce each and every provision of this Agreement.
- 13.7 The Contractor shall not transfer or assign this Agreement without the BPS's written consent.
- 13.8 Any notice, report or other document that either party may be required or may wish to give to the other should be in writing, unless otherwise expressly provided for, and will be deemed to be validly given to and received by the addressee:
- i. By hand, on delivery;
 - ii. By facsimile, on transmission; or
 - iii. By mail, five (5) calendar days after posting.

The addressee for delivery will be as shown in the Quotation. In addition, BPS may give notice to the Contractor by email at the Contractor's email address as shown in the Quotation, which email will be deemed to be validly given and received by the Contractor on transmission. The Contractor may not give notice to BPS by email.

13.9 Neither party will be responsible for failure or delay in the performance of this Agreement if the failure or delay is due to labor disputes, strikes, fire, riot, war, terrorism, acts of God, or any other causes beyond the control of the non-performing party.

Authorized representatives of the parties have executed this Agreement below to express the parties' agreement to its terms.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and year first above written.

(Witness)

Name:
Title:
"I am authorized to bind the Corporation"

(Witness)

Wayne Balcaen
Chief of Brandon Police Service
"I am authorized to bind the Corporation"

Exhibit B

Confidentiality Agreement for Assigned Guards

As a condition of my assignment by _____ (“Contractor”) to BPS, I hereby agree as follows:

I will not use, disclose, or in any way reveal or disseminate to unauthorized parties any information I gain through contact with materials or documents that are made available through my assignment at _____ (insert location) or which I learn about during such assignment.

I will not disclose or in any way reveal or disseminate any information pertaining to BPS or its operating methods and procedures that come to my attention as a result of this assignment.

Under no circumstances will I remove physical or electronic documents or copies of documents from the premises of BPS or _____ (insert location).

I understand that I will be responsible for any direct or consequential damages resulting from any violation of this Agreement.

The obligations of this Agreement will survive my employment by the Contractor.

EMPLOYEE (Print Name)

WITNESS (Print Name)

Signature

Signature

Date

Date

EXHIBIT C

Rate Schedule

Job Title or Description	Shift	Location	Rate per 24 Hour Period	Hourly Bill Rate per Additional Staff Member

BPS (Print Name)

Title

Date

CONTRACTOR (Print Name)

Title

Date