**AGREEMENT TERMS**

## **Contractor's Obligations**

### The Contractor must provide the Services during the Term in accordance with this Agreement to the satisfaction of the VCCC Alliance.

### The Contractor must:

#### perform the Services and deliver the Deliverables in a proper, timely and efficient manner using due care, skill and diligence and at all times in accordance with the reasonable directions of the VCCC Alliance and the standards reasonably to be expected from a prudent, expert, ethical and experienced provider of services such as the Services;

#### ensure that any person employed or subcontracted by the Contractor to perform any work under this Agreement possesses adequate levels of skill and experience to perform that work to the satisfaction of the VCCC Alliance;

#### at all times identify and take all necessary precautions for the health and safety of all persons who may be affected by the performance of the Services and Deliverables (to the extent within the Contractor’s control) and accept responsibility for the control and oversight of the Contractor’s Resources, equipment and any persons engaged or employed by the Contractor, for the purposes of applicable occupational health and safety laws;

#### ensure that the Deliverables and provision of the Services complies with all applicable laws, regulations and standards, as current from time to time and if a Funder has provided funding toward all or part of the Services, applicable funding conditions (as notified); and

#### whilst on the VCCC Alliance's premises, comply with the VCCC Alliance's lawful directions and policies.

## **Deliverables and Rectification**

### The Contractor warrants to the VCCC Alliance that:

#### the provision of the Deliverables and Services does not and will not infringe any right of any third party (including any Intellectual Property right), law, regulation or rule;

#### the Deliverables will be of merchantable quality, fit for the purpose for which they are sold, free of defects in material, workmanship and design, new and free from liens and encumbrances; and

#### the Deliverables will be the subject of a manufacturer’s warranty of no less than 90 days from the date of acceptance, against defects in materials or workmanship.

### If despite clause 2.1 all or part of the Deliverables are found by the VCCC Alliance to be Defective, the VCCC Alliance may accept the Deliverables at an agreed price, or reject all or part of the Deliverables. If Deliverables are rejected, without limiting any other rights the VCCC Alliance may have under this Agreement:

#### the VCCC Alliance will not be required to make any payment in connection with the rejected Deliverables;

#### the Contractor must immediately collect the relevant Deliverables. Any Deliverables not collected will be held at the Contractor’s sole risk and expense meaning, without limitation, that the VCCC Alliance will not be responsible or liable for any loss, damage or destruction of the Deliverables; and

#### the VCCC Alliance may (at the Contractor’s cost and expense) sell, use, destroy or dispose of any Deliverables that are rejected and not collected within 5 days of the date of rejection.

### The Contractor must ensure its Representative or Key Personnel oversee the provision of the Deliverables and Services and in doing so is available for all reasonably required consultations with the VCCC Alliance.

### The VCCC Alliance may elect to inspect all or part of the Deliverables and/or Services from time to time (although it is not obliged to do so). Inspection of the Deliverables and/or Services will not relieve the Contractor of any of its responsibilities or liabilities under this Agreement and without limitation, actions by the VCCC Alliance in connection with the inspection of Deliverables and/or Services, including a decision not to comment on observed practices, is not an endorsement of the practices observed or an acknowledgement that the Contractor is complying with its obligations under this Agreement.

### The Contractor’s Representative will be the agent of the Contractor, with authority to bind it regarding all matters relating to the Goods and Services. The authority of the VCCC Alliance Representative will be as prescribed by the VCCC Alliance from time to time, but such Representative may not have the authority to vary or authorise the payment of any money beyond the Maximum Amount.

## **Payment**

### All amounts payable under this Agreement are in Australian dollars and are GST exclusive unless otherwise stated.

### The Contractor must:

#### submit invoices for payment of the Fees monthly in arrears, or as agreed in writing between the parties; and

#### provide information in support of the value of any invoice if requested by the VCCC Alliance.

### Subject to receipt of funds from a Funder related to the Services and this clause 3, the VCCC Alliance will pay the invoiced amount of the Fees less any amounts deducted or withheld or paid to a third party to the Contractor within 30 days of receiving a valid invoice.

### Subject to any other clause in this Agreement, the Fees stated are a final amount, inclusive of all costs, levies and taxes payable by the VCCC Alliance associated with this Agreement, unless otherwise agreed in writing.

### Payment by the VCCC Alliance is not evidence of the value of the Deliverables and/or Services or that Deliverables and Services have been satisfactorily carried out in accordance with the Agreement, but payment on account.

### Any amount that the VCCC Alliance questions or disputes, or which is due to the VCCC Alliance from the Contractor for any reason may be withheld or set off against any amount payable by the VCCC Alliance under this Agreement. If the parties are unable to agree on the amount to be paid, the dispute will be referred for resolution in accordance with clause 10. If the amount due to the VCCC Alliance is not ascertainable at the time that payment would otherwise be due to the Contractor under this Agreement, the VCCC Alliance may retain such amount as the VCCC Alliance reasonably estimates will become due to it until the actual amount has been determined.

### The Contractor may only claim expenses or amounts in addition to the Fees on the basis of actual expenses incurred (less any input tax credit or equivalent claimed or claimable by the Contractor), in accordance with the limits specified in Item 5, as evidenced to the satisfaction of the VCCC Alliance, and only if the VCCC Alliance agrees in writing before the expense is incurred. Any additional expenses must be agreed in writing with the VCCC Alliance prior to incurring the expense.

### Unless otherwise stated, in respect of any taxable supply by the Contractor, the VCCC Alliance is not required to pay to the Contractor any additional amount (for the GST or otherwise) beyond the amount specified in this Agreement as being payable. Words in italics have the meanings given to them in the GST Act.

### Payment of the Fees under this clause is inclusive of all amounts the VCCC Alliance must pay pursuant to law less an amount equal to any necessary superannuation contribution or workers compensation premium.

### The Contractor must repay to the VCCC Alliance on demand:

#### any amount which, in the VCCC Alliance or a Funder’s opinion, has been used, spent or Committed by the Contractor other than in accordance with this Agreement; and

#### any portion of the Fees incorrectly paid to the Contractor or which in the VCCC Alliance’s opinion should have been deducted or withheld by VCCC Alliance and/or accounted to a third party.

## **Key Personnel and Subcontracting**

### If applicable (as indicated in the Agreement Details), the Contractor must use the Key Personnel to provide the Deliverables and perform the Services, and may only replace that person with a person of similar qualifications, skill and experience who is approved by the VCCC Alliance in advance.

### The Contractor must not subcontract the performance of any part of the Services without prior written approval of the VCCC Alliance, such approval not be unreasonably withheld. In giving written approval, the VCCC Alliance may impose such terms and conditions as it thinks fit. Subcontractors specified in Item 8 are deemed approved. The VCCC Alliance reserves the right to revoke its approval at any time.

### Despite any approval given by the VCCC Alliance, the Contractor will be fully responsible for the performance of the Services and its obligations under this Agreement notwithstanding that the Contractor has subcontracted all or any part of those Services.

## **Confidentiality, Privacy and Access to Records**

### Each party must keep the Confidential Information of the other party absolutely confidential and must not communicate, publish or release, or permit the communication, publication or release of any Confidential Information except:

#### as is necessary for the parties to perform their obligations under this Agreement;

#### to their legal advisers for the purposes of obtaining advice in relation to their rights or obligations under or in connection with this Agreement;

#### in the case of the VCCC Alliance, to the extent that the Contractor’s Confidential Information forms part of a Deliverable or the Services; or

#### as required by law.

### The Contractor must not collect, use or disclose Personal Information in connection with this Agreement except to the extent reasonably necessary for the performance of its obligations and then in accordance with all applicable laws, including the Privacy Laws and any direction under clause 1.2.

### The Contractor must itself, and must cause its officers, employees, contractors and agents, to comply with the Privacy Laws with respect to any obligation or Deliverable by the Contractor for the purposes of this Agreement, including in the same way and to the same extent as the VCCC Alliance would have been bound by them in respect of that conduct had it been engaged in by the VCCC Alliance.

### The Contractor must:

#### procure from each person employed or engaged by it for this Agreement an undertaking that is consistent with the Contractor’s obligations under clause 5.1 before giving them access to any Confidential Information; and

#### on being informed, or otherwise becoming aware, of any breach or anticipated breach of the undertaking given under clause 5.4(a) take such action as may be necessary to enforce that undertaking, including all reasonable actions directed by the VCCC Alliance (and authorises the VCCC Alliance to enforce that undertaking if the Contractor fails to do so).

### Each party must keep all Confidential Information of the other party secure for so long as that Confidential Information is within its control, and in so doing must take reasonable steps to ensure that the Confidential Information is protected at all times from access, use or misuse, damage or destruction, by any person not authorised by this Agreement to have access to it.

### Subject to the rights of the VCCC Alliance in and to the Deliverables and Intellectual Property, each party must return all copies of the other party’s Confidential Information at the end of this Agreement other than a copy which may be retained for prescribed record-keeping obligations, and then, on a strictly confidential basis. On request, a party must detail the legal obligation to retain records and the extent of the information the party seeks to retain.

### Without limiting clause 4, the Contractor must not publicise or advertise that it provides or has previously provided the Deliverables and/or Services to the VCCC Alliance, without the express written approval of the VCCC Alliance (any such approval may be modified, withdrawn or varied). The Contractor is not authorised to use the business names, trade names or logos of the VCCC Alliance.

### On request, the Contractor must allow the VCCC Alliance and/or its nominee(s) to access, inspect, review and copy relevant registers and records of the Contractor relating to the Project for the purposes of ascertaining whether the parties have met and/or will continue to meet the parties’ obligations under this Agreement or a Funding Agreement.

### The VCCC Alliance may elect to audit and/or engage a third party to audit the Contractor’s compliance with all or part of this Agreement, with the method of audit being determined by the VCCC Alliance. The Contractor must promptly comply with the VCCC Alliance’s directions concerning the undertaking of a notified audit. If an audit identifies any material non-compliance, the Contractor must reimburse the VCCC Alliance for the cost of the audit, on demand, and rectify the non-compliance as soon as practicable.

### If requested by the Auditor-General or the Ombudsman of the State of Victoria in the course of performing their statutory duties, Confidential Information, the terms of this Agreement and/or material created for the purpose of or as a result of performing obligations under this Agreement must be made available to and may be disclosed to the Auditor-General or the Ombudsman as the case may be.

### The Contractor must promptly notify the VCCC Alliance if the Contractor becomes aware of a breach of security or data under this Agreement. The Contractor must take all reasonably necessary steps to contain a data breach. The VCCC Alliance will investigate the data breach and keep the Contractor reasonably informed in relation to the VCCC Alliance’s progress and outcomes of the investigation, as considered necessary by the VCCC Alliance.

### Where any remedial actions can be taken in relation to a data breach, to the extent permitted by law, the VCCC Alliance will notify the Contractor of the remedial actions to be taken by the Contractor and will liaise with the Contractor in relation to such remedial actions.

### The parties agrees that, except as otherwise required by law, the VCCC Alliance will determine who is responsible for the notification to the Privacy Commissioner and any individual affected by a data breach to the extent that a data breach affects Personal Information acquired from or disclosed under this Agreement.

## **Intellectual Property**

### The Contractor retains ownership of its Intellectual Property in materials created independently of this Agreement.

### Where the Deliverables or Services comprise any Intellectual Property referred to under clause 6.1 or of a third party, the Contractor grants or agrees to procure the grant, to the VCCC Alliance, of a non-exclusive, irrevocable, world-wide, payment-free licence (including the right of sub-license) to use, reproduce, publish, adapt and exploit that Intellectual Property to the extent necessary to enable the VCCC Alliance to enjoy the full benefit of the Deliverables and the Services.

### The Contractor assigns to the VCCC Alliance exclusive ownership of all Intellectual Property in materials created or acquired in the course of providing the Services or otherwise for the purposes of the Services (including in all documents, reports, charts, drawings, data bases, software, source codes, models, systems, slides, tapes and specifications).

### If the Contractor’s employees or contractors own the Intellectual Property in any materials created or acquired under this Agreement, the Contractor will procure that the owner of that Intellectual Property will assign those rights to the Contractor so that the Contractor can assign them to the VCCC Alliance as required under clause 6.3.

### In relation to any material in which the Contractor or a person employed or engaged by it has a moral right, the Contractor consents, and will procure the consent of any person employed or engaged by it, to the VCCC Alliance, doing or omitting to do anything that, but for this consent, would constitute an infringement of those moral rights. The Contractor must ensure that any such consents are genuinely given and not obtained by duress or by the making of any false or misleading statement.

## **Status of Contractor**

### The Contractor is engaged as an independent contractor and nothing in the Agreement will be deemed to constitute the Contractor nor any person employed or engaged by it as an agent or employee of the VCCC Alliance. For the avoidance of doubt, the VCCC Alliance is not required to pay out in addition to the Fees any notice period or redundancy costs under this Agreement unless required by law.

### Without limiting any other clause in this Agreement, the Contractor may provide services to, or perform work for, any other person if this does not interfere or conflict with their ability to provide the Services and Deliverables to VCCC Alliance as required by this Agreement.

## **Indemnity and insurance**

### The Contractor agrees to indemnify and keep indemnified the VCCC Alliance against all Liability (including legal costs on a full indemnity basis) the VCCC Alliance may incur in respect of any Claim, including:

#### any amount the VCCC Alliance is required to or elects to pay in connection with the Contractor being treated by or deemed or found to be a worker for under *Fair Work Act 2009* (Cth), *Superannuation Guarantee (Administration) Act 1992* (Cth), *Income Tax Assessment Act 1936* (Cth), *Income Tax Assessment Act 1997* (Cth) or any other relevant legislation; or

#### any Claims in respect of:

##### personal injury or the death of any person;

##### loss of or damage to any property;

##### breach of a person's Intellectual Property;

##### a contravention of the requirements of clause 4, 6 or the applicable Privacy Laws,

### arising in any manner out of a breach by the Contractor of its obligations under this Agreement, any negligent or unlawful act or omission or wilful misconduct of the Contractor or any personnel employed or retained by the Contractor in the course of providing the Services.

### For the purposes of clause 8.1, ‘VCCC Alliance’ includes the VCCC Alliance Board of Directors, the Executive Director and its participants, members, officers and employees.

### The Contractor’s liability under clause 8.1(b) will be reduced to the extent that Liability is caused or contributed to by the negligent or unlawful act or omission of the VCCC Alliance.

### The Contractor must on and from the date of this Agreement effect the insurance specified in Item 9 of the Agreement Details and any other insurances necessary for the Contractor to maintain appropriate registrations to perform the Services, or as reasonably required by the VCCC Alliance from time to time with a reputable insurer authorised under the *Insurance Act 1973* (Cth) and provide certificates of currency if the VCCC Alliance so requests. Any insurance policies that provide cover on a ‘claims made’ basis must be maintained for no less than seven years after the completion of the Services.

## **Termination**

### The VCCC Alliance may terminate this Agreement at any time and in its sole discretion by giving 30 days prior written notice to the Contractor, in which case the VCCC Alliance must pay the Contractor for the Services completed prior to the date of termination to the VCCC Alliance’s satisfaction in accordance with clause 2.2 and an amount equal to the extra costs necessarily incurred by the Contractor as a result of the termination (which the Contractor must keep to a minimum).

### The VCCC Alliance may immediately terminate this Agreement by notice to the Contractor if:

### it is directed to do so by a Funder;

### an agreement with a Funder is terminated;

### the Contractor is in breach of its obligations under this Agreement, and does not rectify that breach within 7 days after being requested to do so;

### the Contractor enters into any form of insolvency or external administration or bankruptcy;

### there is a change in control of the Contractor (namely a change in the power to direct or cause the direction of the management and policies of the Contractor, whether through ownership of voting securities, by contract or otherwise) from that as at the date of this Agreement without the prior approval of the VCCC Alliance; or

1. the Contractor engages in any conduct which brings the reputation of the Contractor into disrepute and as a consequence the VCCC Alliance believes that its continued association with the Contractor will be detrimental to the reputation of the VCCC Alliance, a Funder or the State.

### On termination, the Contractor must provide the VCCC Alliance with any documentation or other materials to complete the Services and any Deliverable, whether in the course of preparation or completed.

### On termination:

### the VCCC Alliance is not obliged to pay to the Contractor any outstanding amount of Fees, except to the extent that those monies have been legally Committed on the date the Contractor receives a notice of termination; and

### the Contractor must repay any amounts paid to it by the VCCC Alliance which are not spent or Committed as at the effective date of termination or expiration.

### The Contractor must mitigate all costs once it receives a notice of termination.

### Any termination of the Contractor's appointment under this Agreement will not prejudice or affect the accrued rights, claims or liabilities of the VCCC Alliance under this Agreement.

## **Dispute Resolution**

### The VCCC Alliance and the Contractor must use all reasonable efforts, in good faith, to promptly resolve any dispute which arises in connection with this Agreement and for that purpose the dispute must be referred to or raised by the following personnel, in order of escalation should the dispute remain unresolved:

#### in the first instance, verbally with the Representative specified in this Agreement;

#### thereafter, in writing to the business manager, executive director or equivalent; and

#### the board chair or equivalent.

### At each stage specified in clause 10.1 the nominated representatives must hold discussions as soon as reasonably practicable and any agreed outcome in resolution of the dispute is final.

### If an outcome cannot be agreed, the dispute must be referred to mediation. A mediator is to either:

#### be appointed by agreement between the VCCC Alliance and the Contractor within three business days of either party seeking the appointment of a mediator for the purposes of this clause; or

#### failing agreement within that period, by the president or their nominees of the Institute of Arbitrators and Mediators Australia (or any successor to that institution), at the request of the VCCC Alliance or the Contractor.

### Mediation is to occur within 7 business days of a mediator being appointed at a venue agreed between the parties or, failing agreement, a venue nominated by the mediator and otherwise on the basis that:

#### complete confidentiality will be preserved in respect of the mediation and any documents and information used at or in relation to the mediation;

#### all discussion will be without prejudice and each party may be legally represented if they so wish;

#### the mediator may only co-opt other expert assistance with the agreement of the parties; and

#### each party must bear their respective costs of the mediation, provided that the mediator’s fee, fees for mediation rooms and costs of shared equipment facilities and services of the mediation must be shared equally.

### Subject to clause 10.6, the commencement of any litigation by a party concerning any dispute which arises in connection with this Agreement is conditional upon the issues arising in that dispute or difference having been the subject of a referral for mediation under clause 10.3.

### The dispute resolution procedures provided in clauses 10.1 to 10.4 do not:

#### deny a party the right to seek urgent injunctive or interlocutory relief from an appropriate court where failure to obtain such relief would cause irreparable damage to that party; or

#### apply to events giving rise to a determination under or termination of this Agreement, where such events are clearly specified in this Agreement and there is no legitimate dispute as to the interpretation of their meaning or factors giving rise to such events.

## **General**

### The laws of Victoria govern this Agreement, and each party submits to the jurisdiction of the courts of that state.

### All notices must be sent to the address listed in the Agreement Details.

### If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this Agreement without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses).

### This Agreement constitutes the entire agreement between the parties regarding the matters set out in it and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing, and whether made before the execution of this Agreement or during the provision of the Services.

### If the Contractor enters into this Agreement as a trustee, the Contractor is liable personally and as trustee.

### An obligation or warranty on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally.

### Except with the prior written consent of the VCCC Alliance, the Contractor may not assign the whole or any part of the Contractor's rights or assign or sub-contract the whole or any part of the Contractors obligations under this Agreement.

### This Agreement may only be varied with the written consent of each party.

### The Contractor confirms no conflict of interest exists in relation to this Agreement or is likely to arise during the Term. The Contractor must:

### notify the VCCC Alliance of the relevant events and circumstances and the actions the Contractor proposes to take to resolve or otherwise deal with the conflict; and

### comply with, and must ensure that the Contractor’s personnel comply with, any direction or request of the VCCC Alliance notified to the Contractor by the VCCC Alliance about resolving the conflict.

### In this Agreement:

### a reference to a party includes that party’s successors and permitted assigns;

1. including and includes are not words of limitation; and
2. a requirement to do anything includes a requirement to cause that thing to be done and a requirement not to do anything includes a requirement to prevent that thing being done.

### In performing this Agreement, both parties must act reasonably and in good faith.

### Despite anything contained in this Agreement, the obligations of clauses 4, 6, 8, and 11 are continuing obligations and will not cease on the completion, expiry or termination of this Agreement.

## **Definitions**

### In this Agreement:

### **Additional Provisions** means the additional provisions specified in the Agreement Details.

### **Agreement** means the Agreement Details, Agreement Terms and the attached schedules, as well as any directions or material issued by the VCCC Alliance for the Services, including any Additional Provisions.

### **Agreement Details** means the details at the start of this Agreement.

### **Agreement Terms** means the general terms and conditions of this Agreement.

### **Claim** includes all demands, rights, actions, suits or proceedings of any kind.

**Committed** means, at a particular date, an amount that the Contractor is contractually and irrevocably obliged to pay to a third party contractor or subcontractor in respect of the Services provided under the Project from funds received by the Contractor under this Agreement and are identified in a written contractual arrangement, but excludes any amount in the nature of a fine, penalty or liquidated damages, that is calculated by reference to or triggered by the severance or termination of an employee or a contract or any amount which could have been reasonably avoided.

**Confidential Information** of a party means any information or data, including Personal Information, whether or not in a material form, which is confidential to the party, including confidential information created, acquired, collected or developed for the purpose of the Project or obtained during the Term, but not information in the public domain or which enters into a party’s possession from a third party other than as a result of breach of this Agreement or any other confidentiality undertaking.

**Contractor** means the contractor set out in in the Party Details and where the context permits, includes the officers, employees, contractors and agents of the Contractor.

**Deliverable** means the items to be delivered under this Agreement as agreed between the parties, including those items specified in in Item 4.

**Defective** includes any Deliverables which do not comply with this Agreement, are defective, damaged or contaminated, are in excess of ordered quantities or otherwise non-conforming with the specifications including in the Project Brief or Proposal, or which are alleged to violate a law, rule or regulation.

**End Date** means the date specified in Item 1 unless terminated earlier in accordance with clause 9.

**Fees** means the fees and expenses specified in Item 5 of the Agreement Details.

**Funder** means a government or other body that funds the VCCC Alliance, including the State.

**Deliverables** means the items to be supplied by the Contractor in the course of providing the Services as set out in Item 4.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Intellectual Property** means trademarks, patents, designs, circuit layouts, copyrights, know-how and all other rights as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation (including all statutory and other proprietary rights in respect of them).

**Item** means an item specified in the Agreement Details.

**Key Personnel** means the person(s) specified in Item 7 of the Schedule, if any, and includes any authorised replacement(s).

**Liability** includes all damages, costs, expenses or loss.

**Maximum Amount** means any amount specified as such in Item 5 of the Agreement Details.

**Party Details** means the details of each party specified at the start of this Agreement.

**Personal Information** means personal, sensitive or health information of or about an individual within the meaning of the Privacy Laws.

**Privacy Laws** means, to the extent applicable, the *Privacy Act 1988* (Cth), the *Privacy and Data Protection Act 2014* (Vic) and the *Health Records Act 2001* (Vic) and their respective Australian Privacy Principles, Information Privacy Principles and Health Privacy Principles, and includes any relevant direction, guideline, determination or recommendation made by a privacy commissioner, health services commissioner or any equivalent body or agency.

**Project** means the project to be undertaken by the Contractor, for which the Services are to be provided as set out in a Schedule.

**Proposal** means the proposal submitted by the Contractor in relation to the Project.

**Representative** means, for each party, the person specified as such in the party details (or a replacement approved by the other party).

**Resources** means any items or Intellectual Property set out in Item 6 of the Agreement Details.

**Schedule** means a schedule to this Agreement.

**Services** means the services to be provided by the Contractor as set out in Item 3 of the Agreement Details.

**Start Date** means the date specified in Item 1.

**State** means the State of Victoria.

**Subcontractor** means a person specified in Item 8.

**Term** means the period commencing on the Start Date and concluding on the End Date (except that where the Contractor fails to deliver Services to the satisfaction of the VCCC Alliance by the End Date the Term continues, at the option of the VCCC Alliance, until the Services are so provided or the VCCC Alliance otherwise notifies the Contractor).

**VCCC** **Alliance** means the Victorian Comprehensive Cancer Centre Limited ABN 84 140 233 790 or any assignee or successor notified to the Contractor.