

**NOTE: SERVICE AGREEMENTS WILL BE DRAFTED BY RISK SERVICES**

**SERVICE AGREEMENT**

Between:

**XXXXXX**  
(the "Contractor")

And:

**Langara College**  
100 West 49<sup>th</sup> Avenue  
Vancouver, BC V5Y 2Z6  
(the "College")

The College wishes to retain the Contractor to provide the services specified in Schedule A and in consideration for the fees set out in Schedule B, the Contractor has agreed to provide those services, subject to the following terms and conditions:

**1. Agreement**

"Agreement" means this document when executed on behalf of the Contractor and the College and includes all attachments or any other documents referred to in this Agreement as forming part of this Agreement.

**2. College Representative**

For the purposes of administration of this Agreement "College Representative" means:

XXXXXXXXXXXX

**3. Services**

- 3.1. The Contractor agrees to carry out the full range of services (the "Services") set out in Schedule A.
- 3.2. The Contractor shall provide the Services as an independent contractor and not as an employee, servant, agent, partner, or joint venture. It is understood and agreed that the Contractor is not entitled to any other benefits or payments whatsoever beyond those provided for in this Agreement.
- 3.3. Any changes to the Services and fees must be agreed to in writing by both parties.
- 3.4. In the performance of the Contractor's obligations under this Agreement, the Contractor must comply with all applicable laws and with all applicable College policies and procedures as published on the website.

**4. Term**

This Agreement will be in effect from the date it is signed by parties to XXXXXXXX unless terminated earlier in accordance with Section 23 of this Agreement.

**5. Terms of Payment**

- 5.1. The fees for the Services detailed in Schedule A, are set out in Schedule B.
- 5.2. Payments are subject to receipt of the Contractor's itemized account, subject to verification by the College Representative, that the services have been satisfactorily performed. The Contractor's itemized account shall show the following minimum information:
  - a. This Agreement # XXXXXXXXXX
  - b. The period the billing pertains to and the services provided.
  - c. The number of hours worked per period (if applicable).
- 5.3. Unless otherwise specified in this Agreement, all references to money are Canadian dollars.

5.4. If the Contractor is not a resident in Canada, the Contractor acknowledges that the College may be required by law to withhold taxes from the fees described in Schedule B and then to remit that tax to the Receiver General of Canada on the Contractor's behalf.

**6. Contractor's Liability**

The Contractor assumes all risk and liability for personal injury or damages to personal property in carrying out of this Agreement, unless caused by the negligence of the College, or any of its officers, employees or agents.

**7. Contractor's Obligations**

7.1. The Contractor will make any applications, reports, payments, or contributions with respect to Income Tax, GST, PST, Canada Pension Plan, Employment Insurance, WorkSafe BC, or any similar or other applications, reports, contributions, or payments which may be required by law to be made by the Contractor in connection with the services to be performed under this Agreement.

7.2. The Contractor will be solely responsible for any employees employed by the Contractor (the "Contractor's Employees") to carry out the Services, including remuneration, discipline, assessment and withholding of income tax, employment insurance, Worker's Compensation and Canada Pension Plan; leave, vacation, overtime and any other payments or incurred liability which may be assessed against the Contractor in relation to the Contractor's Employees.

7.3. It is clearly understood and agreed that the costs to the Contractor by complying with the preceding paragraph are not subject to additional reimbursement over and above the amount provided for under the Terms of Payment and specified Schedule B of this Agreement.

7.4. The Contractor will be solely responsible for ensuring that the Contractor is a WorkSafe BC registered employer and will provide the College with the registration number upon request.

7.5. The Contractor must ensure that all persons employed or retained to perform the Services are qualified and competent to perform them and are properly, trained, instructed and supervised.

**8. Subcontracting**

The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without the College's prior written approval. No subcontract, whether consented or not, relieves the Contractor from any obligations under this Agreement.

**9. Inspection**

The services rendered under this Agreement are subject to acceptance by the College Representative.

**10. Confidentiality and Privacy**

10.1. The Contractor recognizes and acknowledges that this Agreement creates a confidential relationship between the Contractor and the College and that oral or written information of a proprietary non-public nature concerning the business, economic or financial interests of the College or its stakeholders, or the personal information of individuals, is confidential in nature.

10.2. The Contractor has read and agrees to be bound by the College's Privacy Protection Schedule, attached as Schedule C, which forms an integral part of this Agreement. The Contractor agrees to protect and keep secure confidential or personal information and to collect, access, use, disclose, store and dispose of the information only for purposes necessary and authorized by the College.

10.3. If the Contractor retains any employees or contractors of its own who will perform services hereunder, the Contractor shall ensure that such employees or contractors execute an agreement no less protective of the College's confidential information and individuals' personal information than the attached agreement.

## 11, **Material and Intellectual Property**

### 11.1. Definitions:

- a. "Incorporated Material" means any material in existence prior to the start of the Term of this Agreement or developed independently of this Agreement, and that is incorporated or embedded in the Produced Material by the Contractor or a Subcontractor.
- b. "Material" means the Produced Material and the Received Material.
- c. "Produced Material" means records, software and other material, whether complete or not, that, as a result of this Agreement, are produced or provided by the Contractor or a subcontractor and includes the Incorporated Material.
- d. "Received Material" means records, software and other material, whether complete or not, that, as a result of this Agreement, are received by the Contractor or a subcontractor from the College or any other person.

11.2. This Agreement does not authorize the Contractor to give access to any of the Material to any party other than the College. The Contractor must refer any third party request for access to the Material, to the College.

11.3. The College exclusively owns all property rights in the Material which are not intellectual property rights. The Contractor must deliver any Material to the College immediately upon the College's request.

11.4. The College exclusively owns all intellectual property rights, including copyright, in:  
a. Received Material that the Contractor receives from the College; and  
b. Produced Material, other than any Incorporated Material.

Upon the College's request, the Contractor must deliver to the College documents satisfactory to the College that irrevocably waive in the College's favour any moral rights which the Contractor (or employees of the Contractor) or a subcontractor (or employees of a subcontractor) may have in the Produced Material and that confirm the vesting in the College of the copyright in the Produced Material, other than any Incorporated Material.

11.5. Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, the Contractor grants to the College:

- a. non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to exercise, in respect of that Incorporated Material, the rights set out in the *Copyright Act (Canada)*, including the right to use, reproduce, modify, publish and distribute that Incorporated Material; and
- b. the right to sublicense or assign to third-parties any or all of the rights granted to the College under section 11.5.a.

## 12. **Publicity**

No publicity shall be given to the contents of this Agreement or to the design, development, production, or use of any of the material, equipment, or processes used in connection with this Agreement without the prior written approval of the College.

## 13. **Restrictions on Promotion**

The Contractor must not, without the prior written approval of the College, refer for promotional purposes to the College being a customer of the Contractor or the College having entered into this Agreement.

#### 14. Indemnity

The Contractor must indemnify and save harmless the College and the College's employees and agents from any loss, claim (including any claim of infringement of third-party intellectual property rights), damage award, action, cause of action, cost or expense that the College or any of the College's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, (each a "Loss") to the extent the Loss is directly or indirectly caused or contributed to by:

- a. any act or omission by the Contractor or by any of the Contractor's agents, employees, officers, directors or Subcontractors in connection with this Agreement; or
- b. any representation or warranty of the Contractor being or becoming untrue or incorrect.

#### 15. Insurance

15.1 The Contractor shall, without limiting the Contractor's obligation or liabilities and at the Contractor's own expense, purchase and maintain throughout the term of the Agreement, the following insurance with insurers licensed in Canada in forms and amounts acceptable to the College:

Commercial General Liability coverage in an amount not less than \$2,000,000.00 (two million dollars) inclusive per occurrence against bodily injury and property damage and including liability assumed under this Agreement and such insurance must:

- a. Include the College as an Additional Insured;
- b. Be endorsed to provide the College with 30 days advance written notice of cancellation or material change; and
- c. Include a cross liability clause.

15.2. The Contractor will provide the College with a Certificate of coverage evidencing the requirements of 15.1.

15.3. The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the term at the Contractor's expense if:

- a. The Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and
- b. such personal optional protection insurance is available for the Contractor from WorkSafe BC or other sources.

#### 16. Dispute Resolution

16.1. The parties agree to attempt to resolve all disputes arising out of or in connection with this Agreement, including its validity or its breach or termination by either party, by structured negotiation with the assistance of a mediator selected by the parties. If the parties are unable to agree upon a mediator within ten (10) days of the delivery of a request for mediator by either party to the other, a request for the appointment of a mediator may be made to the Executive Director of the British Columbia International Commercial Arbitration Centre.

16.2. If a dispute cannot be settled within thirty (30) days after a mediator has been appointed, or such longer period agreed to by the parties, the dispute shall be referred to and finally resolved by arbitration pursuant to the *Commercial Arbitration Act*. The arbitral tribunal shall be composed of a single arbitrator agreed upon by the parties. If the parties are unable to agree to the appointment of an arbitrator within fifteen (15) days of delivery of a request for arbitration by either party to the other, a request for appointment of the arbitrator may be made to the Executive Director of the British Columbia International Commercial Arbitration Centre.

16.3. Each party shall bear its own costs of legal representation and presentation of its case. The other costs of the arbitration, including the fees and expenses of the arbitrator and administrative fees and charges, shall be shared equally by the parties.

**17. Assignment**

17.1. This agreement may not be assigned in whole or in part by the Contractor without prior written consent of the College.

17.2. If the services to be provided are provided by any other agreed upon qualified substitute, and/or if the Contractor requires clerical or other assistance in performing this Agreement, it is agreed that the Contractor is responsible for all payments to and in respect of any work performed by any qualified substitute and/or any assistant, including but not limited to any fees, remittances for Income Tax, GST, PST, Canada Pension Plan, Employment Insurance premiums, Workers' Compensation premiums, or any other payments required by law or by agreement between the Contractor and the substitute or assistant.

**18. Legal Advice**

The parties agree that they have had the opportunity to obtain legal advice in respect of this Agreement; in particular in respect of Article 6 and that they have availed themselves of this opportunity or have freely waived the opportunity to obtain legal advice before signing the Agreement.

**19. Force Majeure**

19.1. Neither party shall be responsible for any delay or failure to perform its obligations under this Agreement where such failure or delay is due to fire, flood, explosion, war, embargo, governmental action, terrorism, act of a public authority, Act of God or any other cause beyond its control, except labour disruption, without additional notice.

19.2. Should the Force Majeure event last for longer than thirty (30) days, either party may terminate this Agreement, in whole or in part, without further liability, expense or cost of any kind.

**20. Entire Agreement**

The parties agree that this is the entire agreement, and no agreement, oral or written exists outside of this Agreement.

**21. Governing Law**

This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

**22. Notices**

All notices to be given hereunder shall be in writing and shall be made or given by delivering the same by email or by registered mail addressed to:

Contractor:  
XXXXXXXXXXXXX

College Representative (name)  
Langara College at:  
100 West 49th Avenue  
Vancouver, British Columbia  
Attention: XXXXXXXXXXXXX  
Email: XXXX@langara.bc.ca

or to any such other addresses as either party may designate by notice as above provided. All notices shall be deemed to be received five (5) days after the date of mailing.

**23. Termination**

23.1 The College may terminate this Agreement without notice in the event of default by the Contractor. "Event of Default" means any of the following:

- a. An insolvency event;
- b. The Contractor fails to perform any of the Contractor's obligations under this Agreement; or
- c. Any representation or warranty made by the Contractor in this Agreement is untrue or incorrect.

23.2. In addition to the College's right to terminate in the "Event of Default" the College may terminate this Agreement for any reason by giving at least 10 days written notice to the Contractor (if applicable).

23.3. Unless Schedule B states otherwise the College must, within 30 days of termination pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds to the portion of the Services that was completed to the College Representative's satisfaction before termination of this Agreement.

23.4. Unless Schedule B states otherwise the Contractor must, within 30 days of termination repay to the College any paid portion of the fees and expenses described in Schedule B which corresponds to the portion of the Services that was not completed to the College Representative's satisfaction before termination of this Agreement.

*By their signatures, the parties agree to be bound by the terms and conditions of this Agreement, as set out above.*

**Contractor:**

**On behalf of Langara College:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**SCHEDULE A**  
**SERVICES**

SAMPLE

**SCHEDULE B**

**FEES**

SAMPLE

## SCHEDULE C

### PRIVACY PROTECTION SCHEDULE

This Schedule forms part of the Agreement

#### Definitions

1. In this Schedule,
  - (a) "access" means disclosure by the provision of access;
  - (b) "Act" means the *Freedom of Information and Protection of Privacy Act* (British Columbia), as amended from time to time;
  - (c) "contact information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;
  - (d) "personal information" means recorded information about an identifiable individual, other than contact information, collected or created by the Contractor as a result of the Agreement or any previous agreement between the Public Body and the Contractor dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the "control of a public body" within the meaning of the Act.

#### Purpose

2. The purpose of this Schedule is to:
  - (a) enable the Public Body to comply with its statutory obligations under the Act with respect to personal information; and
  - (b) ensure that, as a service provider, the Contractor is aware of and complies with its statutory obligations under the Act with respect to personal information.

#### Collection of personal information

3. Unless the Agreement otherwise specifies or the Public Body otherwise directs in writing, the Contractor may only collect or create personal information that is necessary for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
4. Unless the Agreement otherwise specifies or the Public Body otherwise directs in writing, the Contractor must collect personal information directly from the individual the information is about.
5. Unless the Agreement otherwise specifies or the Public Body otherwise directs in writing, the Contractor must tell an individual from whom the Contractor collects personal information:
  - (a) the purpose for collecting it;
  - (b) the legal authority for collecting it; and
  - (c) the title, business address and business telephone number of the person designated by the Public Body to answer questions about the Contractor's collection of personal information.

#### Accuracy of personal information

6. The Contractor must make every reasonable effort to ensure the accuracy and completeness of any personal information to be used by the Contractor or the Public Body to make a decision that directly affects the individual the information is about.

#### Requests for access to personal information

7. If the Contractor receives a request for access to personal information from a person other than the Public Body, the Contractor must promptly advise the person to make the request to the Public Body unless the Agreement expressly requires the Contractor to provide such access and, if the Public Body has advised the Contractor of the name or title and contact information of an official of the Public Body 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.

#### Correction of personal information

8. Within 5 business days of receiving a written direction from the Public Body to correct or annotate any personal information, the Contractor must annotate or correct the information in accordance with the direction.
9. When issuing a written direction under section 8, the Public Body must advise the Contractor of the date the correction request to which the direction relates was received by the Public Body in order that the Contractor may comply with section 10.
10. Within 5 business days of correcting or annotating any personal information under section 8, the Contractor must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was made to the Public Body, the Contractor disclosed the information being corrected or annotated.
11. If the Contractor receives a request for correction of personal information from a person other than the Public Body, the Contractor must promptly advise the person to make the request to the Public Body and, if the Public Body has advised the Contractor of the name or title and contact information of an official of the Public Body 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.

#### Protection of personal information

12. The Contractor must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the Agreement.

#### Storage and access to personal information

13. Unless the Public Body otherwise directs in writing, the Contractor must not store personal information outside Canada or permit access to personal information from outside Canada.

#### Retention of personal information

14. Unless the Agreement otherwise specifies, the Contractor must retain personal information until directed by the Public Body in writing to dispose of it or deliver it as specified in the direction.

#### Use of personal information

15. Unless the Public Body otherwise directs in writing, the Contractor may only use personal information if that use is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.

#### Disclosure of personal information

16. Unless the Public Body otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than the Public Body if the disclosure is for the performance of the Contractor's obligations, or the exercise of the Contractor's rights, under the Agreement.
17. Unless the Agreement otherwise specifies or the Public Body otherwise directs in writing, the Contractor must not disclose personal information outside Canada.

#### Notice of foreign demands for disclosure

18. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.2 of the Act, if in relation to personal information in its custody or under its control the Contractor:
  - (a) receives a foreign demand for disclosure;
  - (b) receives a request to disclose, produce or provide access that the Contractor knows or has reason to suspect is for the purpose of responding to a foreign demand for disclosure; or
  - (c) has reason to suspect that an unauthorized disclosure of personal information has occurred in response to a foreign demand for disclosurethe Contractor must immediately notify the Public Body and, in so doing, provide the information described in section 30.2(3) of the Act. In this section, the phrases "foreign demand for disclosure" and "unauthorized disclosure of personal information" will bear the same meanings as in section 30.2 of the Act.

#### Notice of unauthorized disclosure

19. In addition to any obligation the Contractor may have to provide the notification contemplated by section 30.5 of the Act, if the Contractor knows that there has been an unauthorized disclosure of personal information in its custody or under its control, the Contractor must immediately notify the Public Body. In this section, the phrase "unauthorized disclosure of personal information" will bear the same meaning as in section 30.5 of the Act.

#### Inspection of personal information

20. In addition to any other rights of inspection the Public Body may have under the Agreement or under statute, the Public Body may, at any reasonable time and on reasonable 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.

#### Compliance with the Act and directions

21. 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 direction given by the Public Body under this Schedule.
22. The Contractor acknowledges that it is familiar with the requirements of the Act governing personal information that are applicable to it as a service provider.

#### Notice of non-compliance

23. If for any reason the Contractor does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Contractor must promptly notify the Public Body of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

#### Termination of Agreement

24. In addition to any other rights of termination which the Public Body may have under the Agreement or otherwise at law, the Public Body may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

#### Interpretation

25. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.
26. Any reference to the "Contractor" in this Schedule includes any subcontractor or agent retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors and agents comply with this Schedule.
27. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.
28. If a provision of the Agreement (including any direction given by the Public Body under this Schedule) conflicts with a requirement of the Act or an applicable order of the commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.
29. The Contractor must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 30, the law of any jurisdiction outside Canada.
30. Nothing in this Schedule requires the Contractor to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.