

Services Requisition Terms and Conditions - Document #SR01042010

Definitions: For the purpose of these Services Requisition Terms and Conditions, the following expressions have the following meanings:

- (a) "Basic Terms" means the Services Requisition Form entitled "Contract for Services with an Individual or Small Business" and signed by the University and the Contractor;
- (b) "Confidential Information" means concepts, ideas, plans, data, trade secrets, methods, processes or procedures, or any other financial or business information marked as confidential by either party, except information that:
 - becomes available in the public domain;
 - is disclosed in good faith by a third party having legitimate possession and the right to make such disclosures;
 - was already known without any obligation of confidence prior to disclosure;
 - was developed independently prior to disclosure of any Confidential Information, or by employees who have not had access to the Confidential Information;The University's Confidential Information also includes all Personal Information.
- (c) "Contract" means the Basic Terms along with these Services Requisition Terms and Conditions agreed upon between the University and the Contractor;
- (d) "Contractor" means the sole proprietor, partnership or individual which is a party to the Contract with the University;
- (e) "Fees" means the fees referred to in the Basic Terms;
- (f) "FOIP" means the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25, as amended from time to time;
- (g) "Personal Information" means recorded information about an identifiable individual, as defined in more detail in FOIP; that is disclosed to the Contractor or collected, created, maintained, or stored by the Contractor in the performance of its duties under the terms of this Agreement, excluding the Contractor's own accounting and human resources records;
- (h) "Services" means the activities and deliverables to be performed by the Contractor, as specified in the Basic Terms;
- (i) "Term" means the period commencing on the Commencement Date and ending on the End Date as specified in the Basic Terms;
- (j) "University" means The Governors of the University of Alberta.

Services: The University hereby retains the Contractor, as an independent contractor, for the purpose of performing the Services during the Term and the Contractor hereby accepts the retainer. The Contractor will perform the Services during the Term in a timely and competent manner in accordance with the terms and conditions of the Contract and in accordance with applicable professional and industry standards for the Services.

Fees: As payment for the Services, the University will pay to the Contractor the Fees as set out on the Services Requisition. Except as otherwise specified, no amount in addition to the Fees will be payable by the University on account of expenses or disbursements of the Contractor.

Payment Terms: The Contractor will render invoices for the Fees to the University monthly, unless otherwise agreed, and the University will pay to the Contractor the Fees or such portion thereof as is properly due, together with GST (if applicable). Invoices shall contain such information and details as the University may reasonably require. Payment terms are net 30 days from receipt of invoice by the University; PROVIDED THAT the University may withhold payment of any portion of the invoice which is in dispute and the University and the Contractor shall act reasonably to resolve such dispute in a timely manner.

Contractor to Provide: The Contractor shall provide all personnel, labour, materials, supplies, equipment, tools, transportation and other requirements for the timely and proper performance of the Services, except as otherwise expressly set forth in the Contract.

Applicable Laws: The Contractor will comply with all applicable policies of the University and all statutes, laws and regulations relating to the performance of the Services, including FOIP, the *Lobbying Act*, and any applicable worker's compensation, employment standards and occupational health and safety laws. If the Services require the Contractor to lobby any level of government, the Contractor shall notify the University's Government and Stakeholder Relations office by email to government.relations@ualberta.ca prior to commencing the Services in order to register with that office.

Confidentiality: Except as required by law, neither the University nor the Contractor shall disclose, nor permit any person employed or engaged by it to disclose (except in the proper performance of the Services) Confidential Information gained by it as a result of the performance of the Services. The Contractor shall bear the costs of records management practices required by the FOIP in relation to Confidential Information of the University under the care of the Contractor in performance of the Services. All such Confidential Information and records shall be returned to the University by the Contractor upon the expiry or earlier termination of the Term or alternatively, upon the request of the University, deleted or destroyed. The Contractor shall immediately give written notice to the University, and will cooperate if the University uses any remedies available at law to protect the Confidential Information from such disclosure.

Insurance: The Contractor will carry comprehensive general liability insurance with minimum limits of \$2,000,000 and professional liability insurance with minimum limits of \$1,000,000 and will supply the University with proof of such insurance in the form of a Certificate of Insurance upon request by the University.

Audit and Records Retention: The Contractor shall maintain, at its cost, complete and accurate records of the Services performed for the University and all Fees charged to the University, for a period of Two (2) years after

performance of the Services or early termination of the Term. During the Term, the University and any person designated by the University, shall have access to the Contractor's records and documentation relating to the Services, at all reasonable times, for the purpose of auditing and verifying the performance and cost of the Services.

Exclusion of Liability: Notwithstanding anything to the contrary expressed or implied in the Contract, the University shall not be liable to the Contractor for any general, indirect or consequential damages or any economic losses of any kind, regardless of whether the liability to which such damages relate arises in contract, tort or otherwise in law, or for any bodily injury, loss or damage sustained by the Contractor, its employees, agents or sub-contractors arising from any cause whatsoever.

Indemnity: The Contractor shall indemnify and hold harmless the University, its officers, directors, employees and agents from any and all claims, demands, actions and costs whatsoever that may arise, directly or indirectly, out of the Contract or the performance by the Contractor, its employees and agents, of the Services or any act or omission of the Contractor, its employees and agents. Such indemnification shall survive the expiry or termination of the Contract.

Termination: The University may terminate the Contract immediately if any of the following events occur, as determined by the University, in its sole discretion:

- (a) any material breach or non-performance by the Contractor of its obligations under the Contract, including failure of the Contractor to devote the necessary time, resources, staff and skill to the performance of the Services;
- (b) the Contractor becomes insolvent, is adjudged bankrupt or takes the benefits of any legislation relating to bankrupt or insolvent debtors;
- (c) the Contractor voluntarily or by court order is wound-up, dissolved or liquidated;
- (d) any adverse change in circumstance or conduct of the Contractor which may affect or harm the status or reputation of the University.

The University may, at any time, upon thirty (30) days prior written notice, terminate the Contract.

Consequences of Termination: As of the effective date of termination, the rights and obligations of the parties shall cease (except to the extent such rights and obligations apply to that portion of the Term occurring prior to the effective date of termination) and the parties shall co-operate in the return of records and information, payments and related matters.

Notice: Any notice to be given by either party hereto to the other pursuant to the Contract shall be in writing and delivered by hand during the University's normal business hours to the address specified on in the Basic Terms (or such other address as notified by a party by notice given under this clause).

Miscellaneous: General Covenants

(a) The Contract constitutes the entire understanding between the parties relating to the Services. There are no contracts, representations or warranties except as set forth in the Contract. No modification or amendment to the Contract shall be binding unless executed in writing by the parties.

(b) The rights and obligations of the parties hereunder shall not be assigned or assignable, in whole or in part, by either party. The terms of the Contract shall enure to the benefit and be binding upon the successors of each of the parties.

(c) Where, in any provision of the Contract there are words denoting inclusion (e.g. "including") followed by a list of specific matters or items, such lists will not restrict the generality of such provision.

(d) The Contract shall be interpreted under and governed by the laws in force in the Province of Alberta, the courts of the Province of Alberta have exclusive jurisdiction over any legal proceedings arising from the Contract and the parties attorn to the jurisdiction of such courts.

(e) Any intellectual property developed by the Contractor in the performance of the Services, including copyright to any materials produced by the Contractor, belongs to the University and the Contractor hereby waives in entirety its moral rights relating hereto and will obtain a similar waiver from its employees and other persons involved in the performance of the Services. This Agreement does not transfer to the Contractor any rights whatsoever (including ownership or usage rights) to any intellectual property developed by the Contractor in the delivery of the Services.

(f) Nothing in this Agreement shall make the relationship between the University and the Contractor one of partnership, joint venture or employment. The Contractor is an independent contractor. Nothing in this Agreement constitutes authority for the Contractor to make commitments which bind the University or to otherwise act on behalf of the University.

(g) The Contractor will not use, nor shall it permit any person employed by it to use, identifying marks of the University other than with the prior written consent of the University, which may be arbitrarily withheld.

(h) If any provision of the Contract or the application thereof is held invalid or unenforceable to any extent, the remainder of the Contract or the application thereof shall not be affected thereby.

(i) The Contractor represents and warrants that the Services contracted for are directly related to the business of the Contractor and that the Contractor is a resident of Canada. The Contractor acknowledges that the foregoing declaration has no binding effect on Canada Revenue Agency but will be relied on by the University in determining its obligations under the *Income Tax Act* (Canada) and regulations thereunder; OR the Contractor represents and warrants that the Services contracted for are directly related to the business of the Contractor and that the Contractor is a non-resident of Canada. In accordance with the provisions of the *Income Tax Act* (Canada), the University will withhold and submit 15% of the Fees charged on each invoice for services performed in Canada unless the Contractor obtains from Canada Revenue Agency a waiver or reduction in the amount to be withheld.

(j) Terms, provisions, covenants and conditions contained in the Contract which, by their nature or the terms thereof, require their performance by the parties after the expiration or termination of the Contract shall continue in full force and effect following such expiry or termination.