



GENERAL SERVICE AGREEMENT

Consulting Services	REQUISITION #R0066253
AGREEMENT # 66253	SUPPLIER #7000279196

BETWEEN:	AND
Vancouver Community College	Pre-think Strategic Negotiation Inc.
(“VCC”) at the following address	(the “Contractor”) at the following address:
1155 West Broadway Vancouver, BC V5T 4V5	2061 East 4 th Avenue Vancouver, BC V5N 1K5
Attention: Linda Sanderson, Executive Director, Human Resources	Attention: Neil Patton eMail: admin@pre-think.com Website: www.prethink.com

THE PARTIES HAVE REVIEWED AND AGREE TO THE AGREEMENT AS SET OUT BELOW AND IN THE REFERENCED SCHEDULES AND ANY ATTACHMENTS AND APPENDICES TO SCHEDULES (THE “AGREEMENT”)

TERM OF THE AGREEMENT:

Start Date: July 24, 2015 End Date: December 31, 2015

SCHEDULE A – Services

Services to be provided by Contractor are summarized as follows.

Consulting services for the purposes of planning and conducting collective bargaining with CUPE Local 4627

Refer to Schedule A – Services

SCHEDULE B – Fees and Expenses

Fees \$1,200 per day (pro-rated if less than half day)
Maximum Amount \$30,000

Expenses not applicable

Refer to Schedule B and Schedule C for Fees and Expenses

THE FOLLOWING IS ATTACHED AND FORMS PART OF THE AGREEMENT:

Schedule A – Services

Schedule D – Terms of General Service Agreement

Schedule G – Security Schedule

Schedule B – Fees and Expenses

Schedule E – Privacy Protection Schedule

Appendix G1 – Security Screening Requirements

Schedule C – Additional Terms

Schedule F – Insurance

Note that any Schedules or Appendices that are not attached are incorporated by reference from the VCC website, as of the Effective Date of this Agreement, at <http://vcc.ca/about-vcc/procurement.cfm> under the heading “VCC General Services Agreement”

SIGNED AND DELIVERED

on this 17 day of JULY, 2015 on behalf of
Vancouver Community College, by its authorized signatory

Signature 

Print Name SHARON M. CAREFOOT

SIGNED AND DELIVERED

on this 17 day of JULY, 2015 by or on behalf
of **Pre-think Inc.** or by its authorized signatory or signatories if Contractor
is a corporation

Signature(s) 

Print name(s) Neil Patton.

SCHEDULE A

SERVICES

PART 1. TERM:

1. The term of this Agreement commences on July 24, 2015 and ends on December 31, 2015.

PART 2. SERVICES:

To provide consulting services for the purposes of planning and conducting collective bargaining with CUPE Local 4627.

Outputs

Deliverables:

- Develop management bargaining proposals with input from various stakeholder group representatives
- Develop bargaining strategy with management bargaining team
- Provide directions to the bargaining team roles and responsibilities, protocols, etc.
- Serve as the College Spokesperson for the bargaining sessions with CUPE
- Provide strategies for responding to union proposals and provide direction on potential areas requiring further research, costing, changes
- Develop a communications plan strategy pre, during and post bargaining

Inputs

The contractor must attend at each pre-scheduled collective bargaining session with CUPE Local 4627 and be prepared to stay for the entire session

Outcomes

Outcomes expected include successful completion of contract negotiations with CUPE Local 4627.

Through the delivery of the Services VCC wishes to realize the following outcomes and, without limiting the obligation of the Contractor to comply with other provisions of this Part, the Contractor must use commercially reasonable efforts to achieve them:

- PSEC approval of the terms negotiated

The parties acknowledge that the Contractor does not warrant that these outcomes will be achieved.

PART 3. RELATED DOCUMENTATION:

Not applicable

PART 4. KEY PERSONNEL:

1. The Key Personnel of the Contractor are as follows.
 - (a) Neil Patton

PART 5. APPROVED SUBCONTRACTOR(S):

Not applicable

SCHEDULE B

FEES AND EXPENSES

1 **MAXIMUM AMOUNT PAYABLE:**

Maximum Amount. Despite sections 2 and 3 of this Schedule, \$1,200 per day is the maximum amount which VCC is obliged to pay to the Contractor for fees and expenses under this Agreement (exclusive of any applicable taxes described in section 3 1(c) of this Agreement)

2. **FEES** **Daily Rate**

Fees. at a rate of \$1,200 per day (prorated if less than half day) for those days during the Term when the Contractor provides the Services. If the Contractor provides the Services for less than the required hours on any day, then fees for that day will be reduced proportionally

3 **EXPENSES**

None

4. **STATEMENTS OF ACCOUNT.**

Statements of Account. In order to obtain payment of any fees and expenses under this Agreement monthly billing (each a "Billing Period"), the Contractor must deliver to VCC on a date after the Billing Period (each a "Billing Date"), a written statement of account in a form satisfactory to VCC containing.

- (a) the Contractor's legal name and address,
- (b) the date of the statement, and the Billing Period to which the statement pertains;
- (c) the Contractor's calculation of all fees claimed for that Billing Period, including a declaration by the Contractor of
 - "all hours worked on each day during the Billing Period, together with reasonable detail of the Services performed",for which the Contractor claims fees and a description of the applicable fee rates;
- (d) the Contractor's calculation of any applicable taxes payable by VCC in relation to the Services for the Billing Period;
- (e) a description of this Agreement;
- (f) a statement number for identification, and
- (g) any other billing information reasonably requested by VCC.

5 **PAYMENTS DUE**

Payments Due. Within 30 days of VCC's receipt of the Contractor's written statement of account delivered in accordance with this Schedule, VCC must pay the Contractor the fees and expenses (plus all applicable taxes) claimed in the statement if they are in accordance with this Schedule. Statements of account or contract invoices offering an early payment discount may be paid by VCC as required to obtain the discount

VCC may require that payments to the Contractor be made by direct bank deposit, in which case, VCC will require the Contractor provide details of its banking arrangements under section 4 (h) above.

SCHEDULE C
ADDITIONAL TERMS

Not applicable.

SCHEDULE D

TERMS OF GENERAL SERVICE AGREEMENT

1. DEFINITIONS

General

1.1 In this Agreement, unless the context otherwise requires:

- (a) “Business Day” means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia,
- (b) “Incorporated Material” means any material in existence prior to the start of the Term or developed independently of this Agreement, and that is incorporated or embedded in the Produced Material by the Contractor or a Subcontractor;
- (c) “Material” means the Produced Material and the Received Material;
- (d) “Produced Material” means records, software and other material, whether complete or not, that, as a result of this Agreement, are produced by the Contractor or a Subcontractor and includes the Incorporated Material,
- (e) “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 VCC or any other person;
- (f) “Services” means the services described in Part 2 of Schedule A,
- (g) “Subcontractor” means a person described in paragraph (a) or (b) of section 13.4, and
- (h) “Term” means the term of the Agreement described in Part 1 of Schedule A subject to that term ending earlier in accordance with this Agreement

Meaning of “record”

1.2 The definition of “record” in the *Interpretation Act* is incorporated into this Agreement and “records” will bear a corresponding meaning.

2. SERVICES

Provision of services

2.1 The Contractor must provide the Services in accordance with this Agreement

Term

2.2 Regardless of the date of execution or delivery of this Agreement, the Contractor must provide the Services during the Term

Supply of various items

2.3 Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor’s obligations under this Agreement, including the license under section 6.4.

Standard of care

2.4 Unless otherwise specified in this Agreement, the Contractor must perform the Services to a standard of care, skill and diligence maintained by persons providing, on a commercial basis, services similar to the Services

Standards in relation to persons performing Services

2.5 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.

Instructions by VCC

- 2.6 VCC may from time to time give the Contractor reasonable instructions (in writing or otherwise) as to the performance of the Services. The Contractor must comply with those instructions but, unless otherwise specified in this Agreement, the Contractor may determine the manner in which the instructions are carried out

Confirmation of non-written instructions

- 2.7 If VCC provides an instruction under section 2.6 other than in writing, the Contractor may request that the instruction be confirmed by VCC in writing, which request VCC must comply with as soon as it is reasonably practicable to do so.

Effectiveness of non-written instructions

- 2.8 Requesting written confirmation of an instruction under section 2.7 does not relieve the Contractor from complying with the instruction at the time the instruction was given.

Applicable laws

- 2.9 In the performance of the Contractor's obligations under this Agreement, the Contractor must comply with all applicable laws

3. PAYMENT

Fees and expenses

- 3.1 If the Contractor complies with this Agreement, then VCC must pay to the Contractor at the times and on the conditions set out in Schedule B:

- (a) the fees described in that Schedule;
- (b) the expenses, if any, described in that Schedule if they are supported, where applicable, by proper receipts and, in VCC's opinion, are necessarily incurred by the Contractor in providing the Services; and
- (c) any applicable taxes payable by VCC under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (a) and (b).

VCC is not obliged to pay to the Contractor more than the "Maximum Amount" specified in Schedule B on account of fees and expenses.

Statements of accounts

- 3.2 In order to obtain payment of any fees and expenses under this Agreement, the Contractor must submit to VCC a written statement of account in a form satisfactory to VCC upon completion of the Services or at other times described in Schedule B.

Withholding of amounts

- 3.3 Without limiting section 9.1, VCC may withhold from any payment due to the Contractor an amount sufficient to indemnify, in whole or in part, VCC and its employees and agents against any liens or other third-party claims that have arisen or could arise in connection with the provision of the Services. An amount withheld under this section must be promptly paid by VCC to the Contractor upon the basis for withholding the amount having been fully resolved to the satisfaction of VCC.

Appropriation

- 3.4 VCC's obligation to pay money to the Contractor is subject to the Financial Administration Act, which makes that obligation subject to an appropriation being available in the fiscal year of VCC during which payment becomes due.

Currency

- 3.5 Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.

Non-resident income tax

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

Prohibition against committing money

- 3.7 Without limiting section 13 10(a), the Contractor must not in relation to performing the Contractor's obligations under this Agreement commit or purport to commit VCC to pay any money except as may be expressly provided for in this Agreement.

Refunds of taxes

- 3.8 The Contractor must:

- (a) apply for, and use reasonable efforts to obtain, any available refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on the Contractor as a result of this Agreement that VCC has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Agreement, and
- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to VCC

4. REPRESENTATIONS AND WARRANTIES

- 4.1 As at the date this Agreement is executed and delivered by, or on behalf of, the parties, the Contractor represents and warrants to VCC as follows:

- (a) except to the extent the Contractor has previously disclosed otherwise in writing to VCC,
 - (i) all information, statements, documents and reports furnished or submitted by the Contractor to VCC in connection with this Agreement (including as part of any competitive process resulting in this Agreement being entered into) are in all material respects true and correct,
 - (ii) the Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual agreements in place and available to enable the Contractor to fully perform the Services, and
 - (iii) the Contractor holds all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of the Contractor's obligations under this Agreement; and
- (b) if the Contractor is not an individual,
 - (i) the Contractor has the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this Agreement by, or on behalf of, the Contractor, and
 - (ii) this Agreement has been legally and properly executed by, or on behalf of, the Contractor and is legally binding upon and enforceable against the Contractor in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction

5. PRIVACY, SECURITY AND CONFIDENTIALITY

Privacy

- 5.1 The Contractor must comply with the Privacy Protection Schedule attached as Schedule E.

Security

- 5.2 The Contractor must:

- (a) make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, alteration or disposal, and

- (b) comply with the Security Schedule attached as Schedule G.

Confidentiality

- 5.3 The Contractor must treat as confidential all information in the Material and all other information accessed or obtained by the Contractor or a Subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure or use without VCC's prior written consent except.
- (a) as required to perform the Contractor's obligations under this Agreement or to comply with applicable laws,
 - (b) if it is information that is generally known to the public other than as result of a breach of this Agreement; or
 - (c) if it is information in any Incorporated Material.

Public announcements

- 5.4 Any public announcement relating to this Agreement will be arranged by VCC and, if such consultation is reasonably practicable, after consultation with the Contractor.

Restrictions on promotion

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

6. MATERIAL AND INTELLECTUAL PROPERTY

Access to Material

- 6.1 If the Contractor receives a request for access to any of the Material from a person other than VCC, and this Agreement does not require or authorize the Contractor to provide that access, the Contractor must promptly advise the person to make the request to VCC.

Ownership and delivery of Material

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

Matters respecting intellectual property

- 6.3 VCC exclusively owns all intellectual property rights, including copyright, in.
- (a) Received Material that the Contractor receives from VCC; and
 - (b) Produced Material, other than any Incorporated Material.

Upon VCC's request, the Contractor must deliver to VCC documents satisfactory to VCC that irrevocably waive in VCC'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 VCC of the copyright in the Produced Material, other than any Incorporated Material.

Rights in relation to Incorporated Material

- 6.4 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 VCC
- (a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, modify and distribute that Incorporated Material, and
 - (b) the right to sublicense to third-parties the right to use, reproduce, modify and distribute that Incorporated Material.

7. RECORDS AND REPORTS

Work reporting

- 7 1 Upon VCC's request, the Contractor must fully inform VCC of all work done by the Contractor or a Subcontractor in connection with providing the Services.

Time and expense records

- 7 2 If Schedule B provides for the Contractor to be paid fees at a daily or hourly rate or for the Contractor to be paid or reimbursed for expenses, the Contractor must maintain time records and books of account, invoices, receipts and vouchers of expenses in support of those payments, in form and content satisfactory to VCC. Unless otherwise specified in this Agreement, the Contractor must retain such documents for a period of not less than seven years after this Agreement ends.

8. AUDIT

- 8 1 VCC may at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at VCC's discretion, copy any of the Material and the Contractor must permit, and provide reasonable assistance to, the exercise by VCC of VCC's rights under this section.

9. INDEMNITY AND INSURANCE

Indemnity

- 9 1 The Contractor must indemnify and save harmless VCC and VCC's employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that VCC or any of VCC's employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, including any claim of infringement of third-party intellectual property rights, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of 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, excepting always liability arising out of the independent acts or omissions of VCC and VCC's employees and agents.

Insurance

- 9 2 The Contractor must comply with the Insurance Schedule attached as Schedule F.

Workers compensation

- 9.3 Without limiting the generality of section 2.9, the Contractor must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Agreement, including the Workers Compensation Act in British Columbia or similar laws in other jurisdictions.

Personal optional protection

- 9 4 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 WorkSafeBC or other sources.

Evidence of coverage

- 9 5 Within 10 Business Days of being requested to do so by VCC, the Contractor must provide VCC with evidence of the Contractor's compliance with sections 9.3 and 9 4.

10. FORCE MAJEURE

Definitions relating to force majeure

- 10 1 In this section and sections 10 2 and 10.3.

- (a) "Event of Force Majeure" means one of the following events.

- (i) a natural disaster, fire, flood, storm, epidemic or power failure,
- (ii) a war (declared and undeclared), insurrection or act of terrorism or piracy,
- (iii) a strike (including illegal work stoppage or slowdown) or lockout, or
- (iv) a freight embargo

if the event prevents a party from performing the party's obligations in accordance with this Agreement and is beyond the reasonable control of that party, and

- (b) "Affected Party" means a party prevented from performing the party's obligations in accordance with this Agreement by an Event of Force Majeure.

Consequence of Event of Force Majeure

10.2 An Affected Party is not liable to the other party for any failure or delay in the performance of the Affected Party's obligations under this Agreement resulting from an Event of Force Majeure and any time periods for the performance of such obligations are automatically extended for the duration of the Event of Force Majeure provided that the Affected Party complies with the requirements of section 10.3.

Duties of Affected Party

10.3 An Affected Party must promptly notify the other party in writing upon the occurrence of the Event of Force Majeure and make all reasonable efforts to prevent, control or limit the effect of the Event of Force Majeure so as to resume compliance with the Affected Party's obligations under this Agreement as soon as possible.

11. DEFAULT AND TERMINATION

Definitions relating to default and termination

11.1 In this section and sections 11.2 to 11.4:

- (a) "Event of Default" means any of the following:
 - (i) an Insolvency Event,
 - (ii) the Contractor fails to perform any of the Contractor's obligations under this Agreement, or
 - (iii) any representation or warranty made by the Contractor in this Agreement is untrue or incorrect; and
- (b) "Insolvency Event" means any of the following:
 - (i) an order is made, a resolution is passed or a petition is filed, for the Contractor's liquidation or winding up,
 - (ii) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of the Contractor's creditors or otherwise acknowledges the Contractor's insolvency,
 - (iii) a bankruptcy petition is filed or presented against the Contractor or a proposal under the Bankruptcy and *Insolvency Act* (Canada) is made by the Contractor,
 - (iv) a compromise or arrangement is proposed in respect of the Contractor under the *Companies' Creditors Arrangement Act* (Canada),
 - (v) a receiver or receiver-manager is appointed for any of the Contractor's property, or
 - (vi) the Contractor ceases, in VCC's reasonable opinion, to carry on business as a going concern.

VCC's options on default

- 11.2 On the happening of an Event of Default, or at any time thereafter, VCC may, at its option, elect to do any one or more of the following:
- (a) by written notice to the Contractor, require that the Event of Default be remedied within a time period specified in the notice,
 - (b) pursue any remedy or take any other action available to it at law or in equity, or
 - (c) by written notice to the Contractor, terminate this Agreement with immediate effect or on a future date specified in the notice, subject to the expiration of any time period specified under section 11.2(a).

Delay not a waiver

- 11.3 No failure or delay on the part of VCC to exercise its rights in relation to an Event of Default will constitute a waiver by VCC of such rights

VCC's right to terminate other than for default

- 11.4 In addition to VCC's right to terminate this Agreement under section 11.2(c) on the happening of an Event of Default, VCC may terminate this Agreement for any reason by giving at least 10 days' written notice of termination to the Contractor.

Payment consequences of termination

- 11.5 Unless Schedule B otherwise provides, if VCC terminates this Agreement under section 11.4:

- (a) VCC must, within 30 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that was completed to VCC's satisfaction before termination of this Agreement, and
- (b) the Contractor must, within 30 days of such termination, repay to VCC any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that VCC has notified the Contractor in writing was not completed to VCC's satisfaction before termination of this Agreement.

Discharge of liability

- 11.6 The payment by VCC of the amount described in section 11.5(a) discharges VCC from all liability to make payments to the Contractor under this Agreement.

Notice in relation to Events of Default

- 11.7 If the Contractor becomes aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, the Contractor must promptly notify VCC of the particulars of the Event of Default or anticipated Event of Default. A notice under this section as to the occurrence of an Event of Default must also specify the steps the Contractor proposes to take to address, or prevent recurrence of, the Event of Default. A notice under this section as to an anticipated Event of Default must specify the steps the Contractor proposes to take to prevent the occurrence of the anticipated Event of Default.

12. DISPUTE RESOLUTION

Dispute resolution process

- 12.1 In the event of any dispute between the parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the parties otherwise agree in writing:
- (a) the parties must initially attempt to resolve the dispute through collaborative negotiation,
 - (b) if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society, and
 - (c) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the Commercial Arbitration Act.

Location of arbitration or mediation

12.2 Unless the parties otherwise agree in writing, an arbitration or mediation under section 12.1 will be held in Vancouver, British Columbia.

Costs of mediation or arbitration

12.3 Unless the parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the parties must share equally the costs of a mediation or arbitration under section 12.1 other than those costs relating to the production of expert evidence or representation by counsel

13. MISCELLANEOUS

Delivery of notices

13.1 Any notice contemplated by this Agreement, to be effective, must be in writing and delivered as follows:

- (a) by fax to the addressee's fax number specified on the first page of this Agreement, in which case it will be deemed to be received on the day of transmittal unless transmitted after the normal business hours of the addressee or on a day that is not a Business Day, in which cases it will be deemed to be received on the next following Business Day,
- (b) by hand to the addressee's address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of its delivery; or
- (c) by prepaid post to the addressee's address specified on the first page of this Agreement, in which case if mailed during any period when normal postal services prevail, it will be deemed to be received on the fifth Business Day after its mailing.

Change of address or fax number

13.2 Either party may from time to time give notice to the other party of a substitute address or fax number, which from the date such notice is given will supersede for purposes of section 13.1 any previous address or fax number specified for the party giving the notice.

Assignment

13.3 The Contractor must not assign any of the Contractor's rights under this Agreement without VCC's prior written consent.

Subcontracting

13.4 The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without VCC's prior written consent, excepting persons listed in Part 5 of Schedule A. No subcontract, whether consented to or not, relieves the Contractor from any obligations under this Agreement. The Contractor must ensure that:

- (a) any person retained by the Contractor to perform obligations under this Agreement, and
- (b) any person retained by a person described in paragraph (a) to perform those obligations

fully complies with this Agreement in performing the subcontracted obligations

Waiver

13.5 A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, the waiving party and is not a waiver of any other term or breach.

Modifications

13.6 No modification of this Agreement is effective unless it is in writing and signed by, or on behalf of, the parties.

Entire agreement

13.7 This Agreement (including any modification of it) constitutes the entire agreement between the parties as to performance of the Services.

Survival of certain provisions

- 13.8 Sections 2.9, 3.1 to 3.4, 3.7, 3.8, 5.1 to 5.5, 6.1 to 6.4, 7.1, 7.2, 8.1, 9.1, 9.2, 9.5, 10.1 to 10.3, 11.2, 11.3, 11.5, 11.6, 12.1 to 12.3, 13.1, 13.2, 13.8, and 13.10, any accrued but unpaid payment obligations, and any other sections of this Agreement (including schedules) which, by their terms or nature, are intended to survive the completion of the Services or termination of this Agreement, will continue in force indefinitely, even after this Agreement ends.

Schedules

- 13.9 The schedules to this Agreement (including any appendices or other documents attached to, or incorporated by reference into, those schedules) are part of this Agreement.

Independent contractor

- 13.10 In relation to the performance of the Contractor's obligations under this Agreement, the Contractor is an independent contractor and not

- (a) an employee or partner of VCC; or
- (b) an agent of VCC except as may be expressly provided for in this Agreement.

The Contractor must not act or purport to act contrary to this section.

Personnel not to be employees of VCC

- 13.11 The Contractor must not do anything that would result in personnel hired or used by the Contractor or a Subcontractor in relation to providing the Services being considered employees of VCC.

Key Personnel

- 13.12 If one or more individuals are specified as "Key Personnel" of the Contractor in Part 4 of Schedule A, the Contractor must cause those individuals to perform the Services on the Contractor's behalf, unless VCC otherwise approves in writing, which approval must not be unreasonably withheld.

Pertinent information

- 13.13 VCC must make available to the Contractor all information in VCC's possession which VCC considers pertinent to the performance of the Services.

Conflict of interest

- 13.14 The Contractor must not provide any services to any person in circumstances which, in VCC's reasonable opinion, could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's duties to VCC under this Agreement.

Time

- 13.15 Time is of the essence in this Agreement and, without limitation, will remain of the essence after any modification or extension of this Agreement, whether or not expressly restated in the document effecting the modification or extension.

Conflicts among provisions

- 13.16 Conflicts among provisions of this Agreement will be resolved as follows
- (a) a provision in the body of this Agreement will prevail over any conflicting provision in, attached to or incorporated by reference into a schedule, unless that conflicting provision expressly states otherwise, and
 - (b) a provision in a schedule will prevail over any conflicting provision in a document attached to or incorporated by reference into a schedule, unless the schedule expressly states otherwise.

Agreement not permit nor fetter

- 13.17 This Agreement does not operate as a permit, license, approval or other statutory authority which the Contractor may be required to obtain from VCC or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by VCC or its agencies of any statutory, prerogative, executive or legislative power or duty.

Remainder not affected by invalidity

13.18 If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.

Further assurances

13.19 Each party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement

Additional terms

13.20 Any additional terms set out in the attached Schedule C apply to this Agreement.

Governing law

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

14. INTERPRETATION

14.1 In this Agreement.

- (a) “includes” and “including” are not intended to be limiting;
- (b) unless the context otherwise requires, references to sections by number are to sections of this Agreement;
- (c) the Contractor and VCC are referred to as “the parties” and each of them as a “party”;
- (d) “attached” means attached to this Agreement when used in relation to a schedule;
- (e) unless otherwise specified, a reference to a statute by name means the statute of British Columbia by that name, as amended or replaced from time to time;
- (f) the headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
- (g) “person” includes an individual, partnership, corporation or legal entity of any nature, and
- (h) unless the context otherwise requires, words expressed in the singular include the plural and vice versa.

15. EXECUTION AND DELIVERY OF AGREEMENT

15.1 This Agreement may be entered into by a separate copy of this Agreement being executed by, or on behalf of, each party and that executed copy being delivered to the other party by a method provided for in section 13.1 or any other method agreed to by the parties.

SCHEDULE E

PRIVACY PROTECTION SCHEDULE

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);
 - (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 VCC 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 VCC to comply with VCC’s 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 the Contractor’s statutory obligations under the Act with respect to personal information

Collection of personal information

- 3 Unless the Agreement otherwise specifies or VCC 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 VCC 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 VCC 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 VCC 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 VCC 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 VCC, the Contractor must promptly advise the person to make the request to VCC unless the Agreement expressly requires the Contractor to provide such access and, if VCC has advised the Contractor of the name or title and contact information of an official of VCC 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 VCC to correct or annotate any personal information, the Contractor must correct or annotate the information in accordance with the direction
9. When issuing a written direction under section 8, VCC must advise the Contractor of the date the correction request to which the direction relates was received by VCC 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 VCC, 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 VCC, the Contractor must promptly advise the person to make the request to VCC and, if VCC has advised the Contractor of the name or title and contact information of an official of VCC 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 VCC 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 VCC in writing to dispose of it or deliver it as specified in the direction.

Use of personal information

15. Unless VCC 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 VCC otherwise directs in writing, the Contractor may only disclose personal information inside Canada to any person other than VCC 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 VCC 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 the custody or under the control of the Contractor, 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 disclosure

the Contractor must immediately notify VCC 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 the custody or under the control of the Contractor, the Contractor must immediately notify VCC. 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 VCC may have under the Agreement or under statute, VCC 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 the Contractor’s management of personal information or the Contractor’s 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 VCC 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 VCC 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 VCC may have under the Agreement or otherwise at law, VCC 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 VCC 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.

SCHEDULE F

INSURANCE

- 1 The Contractor must, without limiting the Contractor's obligations or liabilities and at the Contractor's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to VCC.
 - (a) Commercial General Liability in an amount not less than \$2,000,000.00 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this Agreement and this insurance must
 - (i) include VCC as an additional insured,
 - (ii) be endorsed to provide VCC with 30 days advance written notice of cancellation or material change, and
 - (iii) include a cross liability clause;
2. All insurance described in section 1 of this Schedule must.
 - (a) be primary, and
 - (b) not require the sharing of any loss by any insurer of VCC
3. The Contractor must provide VCC with evidence of all required insurance as follows:
 - (a) within 10 Business Days of commencement of the Services, the Contractor must provide to VCC evidence of all required insurance in the form of a completed Certificate of Insurance,
 - (b) if any required insurance policy expires before the end of the Term, the Contractor must provide to VCC within 10 Business Days of the policy's expiration, evidence of a new or renewal policy meeting the requirements of the expired insurance in the form of a completed Certificate of Insurance, and
 - (c) despite paragraph (a) or (b) above, if requested by VCC at any time, the Contractor must provide to VCC certified copies of the required insurance policies
4. The Contractor must obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in the Contractor's sole discretion

SCHEDULE G
SECURITY SCHEDULE

Definitions

1. In this Schedule,
 - (a) "Equipment" means any equipment, including interconnected systems or subsystems of equipment, software and networks, used or to be used by the Contractor to provide the Services;
 - (b) "Facilities" means any facilities at which the Contractor provides or is to provide the Services;
 - (c) "Information" means information
 - (i) in the Material, or
 - (ii) accessed, produced or obtained by the Contractor (whether verbally, electronically or otherwise) as a result of the Agreement;
 - (d) "Record" means a "record" as defined in the Interpretation Act;
 - (e) "Sensitive Information" means
 - (i) Information that is "personal information" as defined in the Freedom of Information and Protection of Privacy Act, or
 - (ii) any other Information specified as "Sensitive Information" in Appendix G6, if attached, and
 - (f) "Services Worker" means an individual involved in providing the Services for or on behalf of the Contractor and, for greater certainty, may include
 - (i) the Contractor or a subcontractor if an individual, or
 - (ii) an employee or volunteer of the Contractor or of a subcontractor.

Schedule contains additional obligations

2. The obligations of the Contractor in this Schedule are in addition to any other obligations in the Agreement or the schedules attached to it relating to security including, without limitation, the obligations of the Contractor in the Privacy Protection Schedule, if attached.

Services Worker confidentiality agreements

3. The Contractor must not permit a Services Worker who is an employee or volunteer of the Contractor to have access to Sensitive Information unless the Services Worker has first entered into a confidentiality agreement with the Contractor to keep Sensitive Information confidential on substantially similar terms as those that apply to the Contractor under the Agreement.

Services Worker security screening

4. The Contractor may only permit a Services Worker who is an employee or a volunteer of the Contractor to have access to Sensitive Information or otherwise be involved in providing the Services if, after having subjected the Services Worker to the personnel security screening requirements set out in Appendix G1 and any additional requirements the Contractor may consider appropriate, the Contractor is satisfied that the Services Worker does not constitute an unreasonable security risk. The Contractor must create, obtain and retain Records documenting the Contractor's compliance with the security screening requirements set out in Appendix G1 in accordance with the provisions of that appendix.

Services Worker activity logging

- 5 Subject to section 6, the Contractor must create and maintain detailed Records logging the activities of all Service Workers in relation to.
 - (a) their access to Sensitive Information, and
 - (b) other matters specified by VCC in writing for the purposes of this section
6. The Records described in section 5 must be made and maintained in a manner, and contain information, specified in Appendix G2, if attached.

Facilities and Equipment protection and access control

7. The Contractor must create, maintain and follow a documented process to:
 - (a) protect Facilities and Equipment of the Contractor required by the Contractor to provide the Services from loss, damage or any other occurrence that may result in any of those Facilities and Equipment being unavailable when required to provide the Services, and
 - (b) limit access to Facilities and Equipment of the Contractor
 - (i) being used by the Contractor to provide the Services, or
 - (ii) that may be used by someone to access Information

to those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons
- 8 If VCC makes available to the Contractor any Facilities or Equipment of VCC for the use of the Contractor in providing the Services, the Contractor must comply with any policies and procedures provided to it by VCC on acceptable use, protection of, and access to, such Facilities or Equipment

Sensitive Information access control

9. The Contractor must.
 - (a) create, maintain and follow a documented process for limiting access to Sensitive Information to those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons; and
 - (b) comply with the information access control requirements set out in Appendix G3, if attached.

Integrity of Information

- 10 The Contractor must:
 - (a) create, maintain and follow a documented process for maintaining the integrity of Information while possessed or accessed by the Contractor, and
 - (b) comply with the information integrity requirements set out in Appendix G4, if attached.
- 11 For the purposes of section 10, maintaining the integrity of Information means that, except to the extent expressly authorized by the Agreement or approved in writing by VCC, the Information has
 - (a) remained as complete as when it was acquired or accessed by the Contractor; and
 - (b) not been altered in any material respect.

Documentation of changes to processes

12. The Contractor must create and maintain detailed Records logging any changes it makes to the processes described in sections 7, 9 and 10.

Notice of security breaches

13. If Contractor becomes aware that:

- (a) unauthorized access, collection, use, disclosure, alteration or disposal of Information or Records containing Information; or
- (b) unauthorized access to Facilities or Equipment

has occurred or is likely to occur (whether or not related to a failure by the Contractor to comply with this Schedule or the Agreement), the Contractor must immediately notify VCC of the particulars of that occurrence or likely occurrence. If the Contractor provides a notification under this section other than in writing, that notification must be confirmed in writing to VCC as soon as it is reasonably practicable for the Contractor to do so.

Review of security breaches

14. If VCC decides to conduct a review of a matter described in section 13 (whether or not the matter came to the attention of VCC as a result of a notification under section 13), the Contractor must, on the request of VCC, participate in the review to the extent that it is reasonably practicable for the Contractor to do so.

Retention of Records

15. Unless the Agreement otherwise specifies, the Contractor must retain all Records in the Contractor's possession that contain Information until directed by VCC in writing to dispose of them or deliver them as specified in the direction

Storage of Records

16. Until disposed of or delivered in accordance with section 15, the Contractor must store any Records in the Contractor's possession that contain Information in accordance with the provisions of Appendix G5, if attached.

Audit

17. In addition to any other rights of inspection VCC may have under the Agreement or under statute, VCC may, at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at VCC's discretion, copy.

- (a) any Records in the possession of the Contractor containing Information, or
- (b) any of the Contractor's Information management policies or processes (including the processes described in sections 7, 9 and 10 and the logs described in sections 5 and 12) relevant to the Contractor's compliance with this Schedule

and the Contractor must permit, and provide reasonable assistance to the exercise by VCC of VCC's rights under this section.

Termination of Agreement

18. In addition to any other rights of termination which VCC may have under the Agreement or otherwise at law, VCC 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

19. In this Schedule, unless otherwise specified.
- (a) references to sections are to sections of this Schedule, and
 - (b) references to appendices are to the appendices attached to this Schedule.
20. Any reference to the “Contractor” in this Schedule includes any subcontractor retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors comply with this Schedule
21. The appendices attached to this Schedule are part of this Schedule
22. If there is a conflict between a provision in an appendix attached to this Schedule and any other provision of this Schedule, the provision in the appendix is inoperative to the extent of the conflict unless the appendix states that it operates despite a conflicting provision of this Schedule.
23. If there is a conflict between.
- (a) a provision of the Agreement, this Schedule or an appendix attached to this Schedule, and
 - (b) a documented process required by this Schedule to be created or maintained by the Contractor
- the provision of the Agreement, Schedule or appendix will prevail to the extent of the conflict
24. The obligations of the Contractor in this Schedule will survive the termination of the Agreement

SCHEDULE G

APPENDIX G1 – SECURITY SCREENING REQUIREMENTS

The personnel security screening requirements set out in this Appendix G1 are for the purpose of assisting the Contractor determine whether or not a Services Worker constitutes an unreasonable security risk

Verification of name, date of birth and address

1. The Contractor must verify the name, date of birth and current address of a Services Worker by viewing at least one piece of “primary identification” of the Services Worker and at least one piece of “secondary identification” of the Services Worker,* as described in the table following this section. The Contractor must obtain or create, as applicable, Records of all such verifications and retain a copy of those Records. For a Services Worker from another province or jurisdiction, reasonably equivalent identification documents are acceptable

Primary Identification	Secondary Identification
<p>Issued by ICBC</p> <ul style="list-style-type: none"> • B C driver’s licence or learner’s licence (must have photo) • B C Identification (BCID) card <p>Issued by provincial or territorial government:</p> <ul style="list-style-type: none"> • Canadian birth certificate <p>Issued by Government of Canada:</p> <ul style="list-style-type: none"> • Canadian Citizenship Card • Permanent Resident Card • Canadian Record of Landing/Canadian Immigration Identification Record 	<ul style="list-style-type: none"> • School ID card (student card) • Bank card (only if holder’s name is on card) • Credit card (only if holder’s name is on card) • Passport • Foreign birth certificate (a baptismal certificate is not acceptable) • Canadian or U S driver’s licence • Naturalization certificate • Canadian Forces identification • Police identification • Foreign Affairs Canada or consular identification • Vehicle registration (only if owner’s signature is shown) • Picture employee ID card • Firearms Acquisition Certificate • Social Insurance Card (only if has signature strip) • B C CareCard • Native Status Card • Parole Certificate ID • Correctional Service Conditional Release Card

*It is not necessary that each piece of identification viewed by the Contractor contains the name, date of birth and current address of the Services Worker. It is sufficient that, in combination, the identification viewed contains that information.

Verification of education and professional qualifications

2. The Contractor must verify, by reasonable means, any relevant education and professional qualifications of a Services Worker, obtain or create, as applicable, Records of all such verifications, and retain a copy of those Records

Verification of employment history and reference checks

3. The Contractor must verify, by reasonable means, any relevant employment history of a Services Worker, which will generally consist of the Contractor requesting that a Services Worker provide employment references and the Contractor contacting those references. If a Services Worker has no relevant employment history, the Contractor must seek to verify the character or other relevant personal characteristics of the Services Worker by requesting the Services Worker to provide one or more personal references and contacting those references. The Contractor must obtain or create, as applicable, Records of all such verifications and retain a copy of those Records.

Security interview

- 4 The Contractor must allow VCC to conduct a security-focused interview with a Services Worker if VCC identifies a reasonable security concern and notifies the Contractor it wishes to do so