

THE UNIVERSITY OF BRITISH COLUMBIA
SECURITY AND CONFIDENTIALITY AGREEMENT
Supplementary (for use in conjunction with a Services Agreement)

Summary:

The Contractor has entered into an agreement with UBC to perform certain services that require one or both of the following:

- temporary access to one or more of UBC's systems that may contain confidential and personal information belonging to UBC and/or others; and/or
- access to confidential and personal information belonging to UBC and/or others.

By signing this agreement, the Contractor agrees to protect the confidential and personal information they may access and to comply with B.C.'s privacy legislation.

THIS AGREEMENT between The University of British Columbia ("UBC") and the Contractor witnesses that in consideration of the terms, covenants and conditions hereinafter set out, and pursuant to the Services Agreement, the parties agree as follows:

1. DEFINITIONS

In this Agreement:

- (a) "UBC's Mailing Address" means Information Technology, 6356 Agricultural Road, Vancouver, BC, V6T 1Z2, Fax :604.822.2222, Phone: 604.822.2211. Attn: John Smith;
- (b) "Contractor" means Annex Consulting Inc.;
- (c) "Contractor's Mailing Address" means 1234 Main Street, Surrey, BC, V6X 1T3, Fax: 604-222-2222, Phone: 604-222-2211. Attn: Jenny Le;
- (d) "Services Agreement" means the agreement entered into by the Contractor and UBC, dated April 15, 2014 and, if applicable, identified in UBC's records under No. 1234567XX;
- (e) "Provided Services" means PHP software development enhancements to UBC Online Management System (OAMS);
- (f) "UBC Systems" means OAMS;
- (g) "Term of Access" means the period of time during which the Contractor will have access to the UBC Systems, namely from April 30, 2014 to May 15, 2014;

2. TERMS AND CONDITIONS

The Contractor acknowledges that it is an express or implied term of the Services Agreement that access to the UBC Systems will only be provided on reasonable terms and conditions to protect the personal and confidential information contained therein, and therefore the Contractor agrees to be bound by the terms and conditions outlined in Schedule A of this Agreement.

IN WITNESS WHEREOF the Contractor has executed this Agreement, this ____ day of _____, 20____.

Use where Contractor is a Corporation:

Use where Contractor **is not** a Corporation:

Annex Consulting Inc.

[Name of Individual]

Per: _____

Signature: _____

Print Name: _____

Title: _____

Comment [ic1]: Use this version where UBC and the Contractor have entered into a Services Agreement.

Comment [ic2]: Insert the UBC unit engaging the Contractor for the Provided Services.

Comment [ic3]:

Corporation:

- Where the Contractor is a corporation or other entity, insert the entity's full legal name. For example:

- o Smith Consulting Services Ltd.
- o E-forensic Services Inc.
- o KMPG LLP

- An authorized signatory of the corporation then signs this Agreement.
- The corporation's employees or any subcontractors that will be performing any part of the Provided Services on behalf of the corporation must sign a copy of the Employee/Subcontractor Acknowledgment and Agreement attached to this Agreement as Appendix 1.

Individual:

- Where the Contractor is an individual, providing the services in their personal capacity and not as an employee of a corporation or other entity, insert the full legal name of the Contractor that will be providing the Provided Services.

Comment [ic4]: Insert the effective date of the Services Agreement between UBC and the Contractor for the Provided Services.

Comment [ic5]: If the Services Agreement has an internal UBC reference number (e.g., a Purchase Order Number) insert that here. If there is no such number, leave it blank or indicate 'N/A'.

Comment [ic6]: If the description of services to be provided by the Contractor is brief, insert the description here.

Alternatively, insert a reference to where in the Services Agreement the services are described. For example:

- "the services described in Schedule B of the Services Agreement."; or
- "the services described in section 4 of the Services Agreement."

Comment [ic7]: Insert the UBC System(s) to which the Contractor will be granted access (e.g., Student Information System (SIS), Financial Management System (FMS), etc.).

Comment [ic8]: Insert the start and end date of the Contractor's access to the UBC System(s).

Comment [ic9]: see Comment ic3 above.

Comment [ic10]: See Comment ic3 above.

SCHEDULE A
Terms and Conditions

1. ACCESS TO UBC SYSTEMS

- 1.1. UBC hereby grants to the Contractor temporary access to the UBC Systems for the limited purpose of allowing the Contractor to provide the Provided Services subject to the terms of the Services Agreement and this Agreement.
- 1.2. Unless UBC otherwise directs in writing, the Contractor will only use the UBC Systems to provide the Provided Services during the Term of Access.
- 1.3. At UBC's option, any grant of access to the UBC Systems may be expanded, restricted or removed at any time.
- 1.4. Access to the UBC Systems is only permitted if any separate forms required by the UBC Systems' administrators or UBC's Internal Audit department are completed and submitted to UBC's satisfaction and any necessary approvals are granted. Without limitation, this may include the Employee/Subcontractor Acknowledgement and Agreement set out as Appendix 1 to this Schedule.
- 1.5. The Contractor agrees to immediately inform UBC if the Contractor's business and/or the terms of employment of its employees providing the Provided Services changes in any way that may, or may reasonably be anticipated to, negatively affect UBC or the Provided Services during the Term of Access.

2. COMPLIANCE WITH FIPPA AND DIRECTIONS

- 2.1. The Contractor acknowledges that as a service provider to UBC, the Contractor is subject to the British Columbia *Freedom of Information and Protection of Privacy Act* ("**FIPPA**"), and in particular with the provisions concerning the protection, use and disclosure of personal information, as defined by FIPPA ("**Personal Information**").
- 2.2. The Contractor agrees in relation to Personal Information to comply with:
 - (a) the requirements under FIPPA applicable to the Contractor as a service provider, including any applicable order of the commissioner under FIPPA; and
 - (b) any direction given by UBC under this Agreement.
- 2.3. The Contractor will ensure that all of its employees who are involved in providing the Provided Services are provided with appropriate training to ensure that they are aware of and comply with the confidentiality obligations under this Agreement and/or the requirements under FIPPA, as applicable.

3. USE OF CONFIDENTIAL INFORMATION

- 3.1. In this Agreement, "**Confidential Information**" means information disclosed by UBC to the Contractor, or obtained by the Contractor in the course of providing the Provided Services, by any means or media that a reasonable person would conclude are intended to remain confidential because of the nature of: the circumstances of disclosure, or the information itself, or because the information is expressly designated as confidential or proprietary, including such information disclosed prior to the date of this Agreement but which is related to the Provided Services. Without limiting the foregoing, the following is deemed to be Confidential Information:
 - (a) Personal Information;
 - (b) commercial, financial, technical (including test results), operational or other information which concerns the business and affairs of UBC, its employees or students;
 - (c) know-how, trade secrets, tools, products, procedures, methods, techniques, algorithms, designs, specifications, computer source code, or other proprietary technology or systems;
 - (d) unpublished patent applications and associated materials, including reports, notes, summaries, abstracts and drafts; and
 - (e) other information for which UBC has protection obligations under contract or UBC's rules, regulations, policies and procedures.
- 3.2. In this Agreement, Confidential Information excludes information that:
 - (a) is publicly known;
 - (b) is received by the Contractor from a third party that does not owe a duty of confidentiality to UBC;
 - (c) is voluntarily disclosed by UBC to a third party who is not under a duty of confidentiality;
 - (d) is independently developed or learned by the Contractor using proper means; or
 - (e) UBC provides prior written approval for the Contractor to disclose to a third party.

- 3.3. The Contractor acknowledges that in providing the Provided Services, the Contractor and/or its employees may have access to Confidential Information and that such information is subject to obligations of privacy and confidentiality in accordance with this Agreement and/or the provisions of FIPPA as applicable.
- 3.4. The Contractor acknowledges and agrees that, as between the Contractor and UBC, all Confidential Information is deemed to be the property of UBC and this Agreement does not grant the Contractor and/or its employees any authority to retain control of the Confidential Information.
- 3.5. Unless UBC otherwise directs in writing, the Contractor may only use the Confidential Information for the purpose of performing the Provided Services.
- 3.6. The Contractor will only permit those of the following who specifically require access to the Confidential Information for the Purposes to access the Confidential Information: the Contractor's employees, legal counsel, accountants and other financial advisors and other consultants and professional advisors.
- 3.7. Without limiting the generality of the foregoing, the Contractor will not use, copy, manufacture, sell, change or modify in any manner the Confidential Information or by any means incorporate any of the Confidential Information or use any of the Confidential Information as the basis for the creation of any other item that incorporates any of the Confidential Information in any medium or format except in connection with the performance of the Provided Services and in accordance with UBC's directions.

4. DISCLOSURE OF CONFIDENTIAL INFORMATION

- 4.1. The Contractor will not disclose the Confidential Information to any third parties without the prior written consent of UBC.

5. PROTECTION OF CONFIDENTIAL INFORMATION

- 5.1. The Contractor will protect the Confidential Information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal. These arrangements will include, but are not limited to, complying with any relevant UBC policies and standards relating to information security. The Contractor will, upon demand by UBC, provide details of these arrangements that are sufficient to demonstrate to UBC that it has complied with this requirement.
- 5.2. Upon demand by UBC, or termination of the Services Agreement, the Contractor will immediately return to an authorized UBC representative all of the following, and any copies thereof, that have been issued to the Contractor by UBC in connection with Provided Services:
 - (a) identity, security, and finance related cards; and
 - (b) keys or other security devices that provide access to UBC's facilities.
- 5.3. The Contractor will not subcontract any work related to the Provided Services that may contain any Confidential Information without the prior written consent of UBC (which may be granted pursuant to the Services Agreement). The Contractor will not disclose any Confidential Information to any such subcontractor until the Contractor has delivered to UBC a Security and Confidentiality Agreement in a form approved by UBC and executed by such subcontractor.
- 5.4. Where the Confidential Information is Personal Information, the Contractor will ensure that the Personal Information is:
 - (a) stored in Canada;
 - (b) not transferred outside of Canada; and
 - (c) not accessed physically or remotely from any location outside Canada,without the express written approval of UBC.

6. DESTRUCTION OF CONFIDENTIAL INFORMATION

- 6.1. The Contractor will destroy all electronic and hard copies of the Confidential Information in its possession within seven days of completion of the Provided Services and/or the termination of the Services Agreement or immediately upon demand of UBC, whichever first occurs.
- 6.2. The Contractor will destroy any Confidential Information that is in printed form and/or electronic form in compliance with the minimum standards adopted or implemented by UBC from time to time, as set out in Appendix 2 to this Schedule or as otherwise directed by UBC, in writing.
- 6.3. After destroying the Confidential Information, the Contractor will send UBC a confirmation of destruction in the form set out in Appendix 2 to this Schedule.

7. AUDIT

- 7.1. UBC may, at its sole discretion, at any time and from time to time, audit the Contractor's processes and records upon written notice from UBC to ensure protection of the Confidential Information and compliance with this Agreement.

8. NOTICE OF UNAUTHORIZED DISCLOSURE

- 8.1. If the Contractor knows or suspects that there has been an unauthorized disclosure of Confidential Information in its custody, the Contractor must immediately notify UBC.

9. INDEMNITY

- 9.1. The Contractor assumes full responsibility for any negligent or willful act or omission of any of its employees respecting access, use or disclosure of Confidential Information contrary to this Agreement. The Contractor will indemnify UBC for any liability UBC may incur as a result of access, use or disclosure of the Confidential Information contrary to this Agreement or any other breach of this Agreement by the Contractor, its employees, agents, subcontractors (whether or not approved by UBC) or any combination thereof.

10. GENERAL

- 10.1. The obligations of the Contractor set out in this Agreement apply to all Confidential Information received from UBC or accessed by the Contractor whether or not the Confidential Information was received or accessed before or after the execution of this Agreement and whether or not the Confidential Information is related to or arises out of the Provided Services.
- 10.2. The obligations of the Contractor set out in this Agreement survive the termination of this Agreement, the Services Agreement, and any other agreement between the Contractor and UBC relating to the Provided Services.
- 10.3. The Contractor acknowledges that irreparable damage to UBC may occur if the Contractor breaches any provision of this Agreement and that monetary damages may not be a sufficient remedy. Accordingly, in addition to any other remedy to which UBC may be entitled at law or in equity, the Contractor hereby consents to and will not oppose any application of UBC for injunctive relief to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions hereof in any court of competent jurisdiction.
- 10.4. This Agreement and the Services Agreement (together with any change orders, addenda, revisions, amendments and supplementary agreements in effect from time to time) constitute the entire agreement between the parties with respect to Confidential Information. If there is any inconsistency or conflict between the terms of this Agreement, the Services Agreement and any other agreement between the parties relating to the Confidential Information, the terms of this Agreement govern.
- 10.5. UBC may, by notice in writing, immediately terminate any agreement between the parties relating to the Provided Services if the Contractor breaches any of the terms of this Agreement.
- 10.6. This Agreement is binding on and enures to the benefit of the parties hereto and to their respective successors and permitted assigns.
- 10.7. This Agreement is not assignable without the prior written consent of the other party.
- 10.8. This Agreement is governed by, and construed in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable therein. Each of the parties agree to bring any action arising out of or related to this Agreement in a court of British Columbia and the parties hereby submit to the exclusive jurisdiction of the courts of British Columbia.
- 10.9. Any notice required or permitted under this Agreement must be in writing and may be given by personal delivery, overnight courier, mail or facsimile transmission to the Contractor at the Contractor's Mailing Address, and to UBC at UBC's Mailing Address, both as set out on the first page of this Agreement. Notices given by personal delivery will be deemed to have been received on the date of the delivery. Notices given by overnight courier or facsimile transmission will be deemed to have been received on the day following the date of delivery. Notices delivered by mail will be deemed to have been received on the third day following the date of mailing.
- 10.10. This Agreement may be signed and delivered by the Contractor by electronic means. Upon receipt by UBC of an electronic image of this executed Agreement, the electronic image shall be considered authoritative and shall be legally binding on the parties.

Appendix 1

Employee / Subcontractor Acknowledgment and Agreement

By signing below, I, the undersigned, acknowledge that the Contractor has entered into a Security and Confidentiality Agreement with UBC, and that:

1. I have read and understood the obligations the Contractor has agreed to, and
2. I promise to comply with the terms of the Security and Confidentiality Agreement.

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Appendix 2

Data Destruction Confirmation Form

Instructions: After destroying the Confidential Information, the Contractor must complete and sign this document and return it to UBC.

Legal Name of Contractor: [Legal Name of Contractor]
Agreement: Security and Confidentiality Agreement, dated [insert date of agreement]
Provided Services: [Description of services provided by the Contractor / OR reference to the Services Agreement where services are described]

By signing below, I confirm that all Confidential Information (as defined in the Security and Confidentiality Agreement) in the custody of the Contractor was destroyed within seven days of completion of the Provided Services or immediately upon demand of UBC, whichever first occurred. This destruction was carried out as follows:

1. Confidential Information in electronic format was destroyed in compliance with the minimum standards set out in the Clearing and Declassifying Electronic Data Storage Devices (ITSG-06) guideline issued by the Government of Canada (<http://www.cse-cst.gc.ca/its-sti/publications/itsg-csti/itsg06-eng.html>).
2. Confidential Information in hardcopy or printed format was destroyed using a cross-cut shredder or an equivalent destruction method.

Use where Contractor is a Corporation:

[Name of Corporation]

Per: _____

Print Name: _____

Title: _____

*Use where Contractor **is not** a Corporation:*

[Name of Individual]

Signature: _____