**CONTRACT FOR SERVICES**

## [date]

## B E T W E E N:

## McMaster University (the “University”)

## 1280 Main St. W.,

## Hamilton, ON

## L8S 4L8

## AND

## [Name] (the “Contractor”)

## [Address]

**WHEREAS** the University wishes to engage the services of the Contractor;

**AND WHEREAS** Contractor warrants that that he/she possesses the unique ability, knowledge, skills, and license(s) as may be necessary, to perform the services provided for in this Contract for Services;

**NOW THEREFORE** in consideration of their respective benefits, duties and obligations hereunder the University and the Contractor (collectively the “Parties”) do hereby agree as follows:

# APPOINTMENT OF CONTRACTOR

* 1. The Contractor agrees to provide services specified in the attached Schedule A (the “Services”). The Contractor shall also provide the University with the deliverables specified in Schedule B (the “Deliverables”).
  2. The Parties agree that the Contractor’s mandate under the terms of this Contract for Services shall be as specified in the attached Schedule A, including timelines for completing the Deliverables as specified in Schedule B.
  3. The Parties understand and agree that the Contractor will provide the Services to the University on a non-exclusive basis.
  4. The Contractor's methods of meeting the obligations pursuant to this Contract for Services shall be determined by the Contractor in its sole discretion and judgment, subject to the provisions and requirements of this Contract for Services and subject to the understanding that the Contractor will provide the Services in the best interests of the University and to use best efforts to protect the interests and goodwill of the University.
  5. The Parties understand and agree that the Contractor does not have the authority to create any binding obligations on behalf of the University.
  6. The Contractor shall liaise with [X] at the University.

# FEE FOR SERVICE & TERMS OF RELATIONSHIP

* 1. The University shall pay the Contractor a fee of $ [X] PER HOUR/MONTH/ETC., exclusive of HSTif applicable, payable following receipt of the Contractor’s invoice(s). I n v o i c e s m u s t c l e a r l y d i s p l a y H o u r l y R a t e s , w h e r e a p p l i c a b l e . Receipts for expenses payable by the University must be provided with each invoice. Each invoice must also specify any applicable HST amount and the Contractor’s HST Registration number. The Parties understand and agree that expenses must be approved by [X] prior to being incurred by the Contractor.
  2. Expenses other than those listed on Schedule A or pre-approved as required thereunder shall be and remain the sole responsibility of the Contractor and such expenses will not be reimbursed by the University.
  3. If, upon receipt of the Contractor’s invoice, the University has reason to question any specific item or charge on the invoice, it shall promptly bring the matter to the Contractor’s attention and in any event within two (2) weeks of its receipt of the invoice. In the event that the Parties are not able to immediately rectify the questions or concerns brought to the Contractor’s attention, the University will pay the undisputed portion of the Contractor’s invoice, and the Parties will undertake good faith best efforts to reach a resolution with respect to the disputed portion of the invoice.
  4. Apart from meetings and/or consultation with University personnel at the University’s premises, the University will not provide the Contractor with equipment, facilities or materials in connection with the provision of the Services, all of which remain the sole responsibility of the Contractor.
  5. It is expressly understood that the Contractor is an independent contractor and that: this Contract for Services shall not make the Contractor an agent, employee, partner or joint venture of or with the University; no such relationship shall arise or exist between the Contractor and the University during the Term of this Contract for Services including any extension or renewal hereof; and, the Contractor will not make any representations, public or otherwise, to the contrary.
  6. The Parties agree that as an independent, self-employed professional, the Contractor will not receive any fringe benefits, sick leave, vacation leave, health or life insurance coverage nor shall the Contractor be eligible to participate in any McMaster University benefit or pension plans. The Contractor acknowledges that the University will not deduct or remit income tax, *Canada Pension Plan* contributions, *Employment Insurance Act*, *1997* contributions or any other similar deductions and remittances. The Contractor expressly acknowledges sole responsibility for all required taxes, withholdings and remittances or other similar obligations under any federal or provincial legislation that applies or may apply to any amount paid by the University pursuant to this Contract for Services. The Contractor agrees to indemnify the University and save it harmless from any claims or demands for amounts that are assessed against the University for which the Contractor was responsible.
  7. The Contractor understands and acknowledges that, as an independent professional contractor, the Contractor is not eligible for coverage under McMaster’s *Workplace Safety and Insurance Act* insurance coverage in respect of injuries the Contractor may sustain on the University premises, and the University will be making no deductions or remissions under the *Workplace Safety and Insurance Act* on the Contractor’s behalf. The Contractor hereby warrants that he/she will not make any claim under the *Workplace Safety and Insurance Act* in connection with the provision of Services hereunder.
  8. The Contractor warrants to the University that the Contractor has and will maintain sufficient Professional Liability Insurance and/or Comprehensive General Liability Insurance coverage in respect of the Services to be provided hereunder. The Contractor shall, upon request, furnish to the University a true copy of the Certificate(s) of Insurance maintained in compliance with this section 2.8. The Contractor agrees to give the University thirty (30) days' prior written notice of cancellation of, material alteration in, or lapse of, such policy and does hereby assure the University that such policy will not be invalidated with respect to the interest of the University by reason of any breach or violation by the Contractor of any warranties, declarations, or conditions contained in the policy. The University retains the right at any time to require the Contractor to provide it with a copy of the insurance certificate or similar substantiating documentation.
  9. The University reserves the right in its sole discretion to make changes to the scope of Services, as

detailed in Schedule A, at any time during the performance of the Services, by written notice to the Contractor. The Contractor shall make any claim for adjustment within thirty (30) days of notification of the changes from the University.

# CONFIDENTIALITY

* 1. "Confidential Information" shall include any and all information of a confidential or proprietary nature that relates to the business of the University and all of its affiliated, related and subsidiary entities, including, without limitation, administrative practices; analyses; business plans and policies and future business plans and policies; business records; business relationships including those with suppliers and others; correspondence; creations; customer lists including identities of customers and

prospective customers, and their respective preferences, businesses or habits; data; designs; developments; drawings and sketches; financing and financial information; formulae; ideas; inventions; marketing notes and strategies; Personal Information, pricing and sales information; methods; processes; reports; results; systems and computer software programs; techniques; technology used by the University; trade and business secrets. Confidential Information does not include information that: (a) is or becomes generally known to the public through no act on the part of the Contractor; (b) is furnished or made known to the Contractor on a non-confidential basis by a third party who has a lawful right to disclose such information; or (c) is required by law or court order to be disclosed, but only to the extent of such required disclosure and provided that the University is first given notice of such required disclosure and an opportunity to contest such required disclosure.

* 1. “Personal Information” means any information that identifies or can identify an individual that is an agent, contractor, employee or student of the University.
  2. During the Term of this Contract for Services, the Contractor may have access to Confidential Information, as well as Personal Information. The Contractor shall use the Confidential Information or Personal Information solely for the purpose of fulfilling the Contractor’s obligations hereunder. During the term of this Contract for Services and thereafter neither the Contractor, nor any person acting on behalf of the Contractor shall disclose any Confidential Information or Personal Information to any third party, including any governmental authority, without the express written consent of the University, unless otherwise required by law. The Contractor shall restrict access to Confidential Information and Personal Information to those individuals who need to have access in order to fulfill the obligations under this Contract for Services. The Contractor agrees that upon the conclusion of this Contract for Services, or earlier if requested by the University, the Contractor will promptly return to the University all Confidential Information or Personal Information in the Contractor’s possession whether it be in paper, electronic, digital or other form and that the Contractor shall purge all such information from all of its electronic, digital or similar document storage systems. The Contractor agrees to notify the University in the event of any actual, potential or threatened breach of any obligations under this Section and will take all necessary and appropriate actions to restrain any and all use or further continuing use or disclosure of such Confidential Information or Personal Information.
  3. The Contractor will promptly notify the University, unless otherwise prohibited by law, if he/she receives any request with respect to the Personal Information, including data access, data rectification and all similar requests, and shall not respond to any such requests unless expressly authorized to do so by the University.

# TERM AND TERMINATION OF CONTRACT

* 1. The Contractor will provide the Services commencing on [X] and end on [X] (the “Term”).
  2. Notwithstanding Section 4.1 above, the Term may not exceed [X] year(s) from and expires on the first anniversary of the date first written above.
  3. Either Party hereto may elect to terminate this Contract for Services for any reason and at any time prior to the conclusion of the Term, without further liability or obligation to the other Party, upon giving thirty (30) days’ advance written notice to the other Party of its intention to do so. In such case, the University will pay the Contractor for Services rendered and invoiced up to and including the effective date of termination.
  4. This Contract for Services may also be terminated by either Party, without notice and without further liability to the other Party, in the event that the other Party is in material breach of any term and/or condition of this Contract for Services, after the breaching Party has received written notice of said breach from the other Party, and the breaching Party has failed to remedy the breach, if remediable, within seven (7) calendar days of its receipt of such notice. The right to terminate this Contract for Services in such circumstances does not in any way restrict or limit the terminating

Party’s recourse to legal and/or equitable remedies available to it pursuant to statute, common law or otherwise, for damages incurred by it as a result of the said breach. In the event of termination by the University pursuant to this section 4.4, the University shall pay the Contractor for such Services as have been rendered and invoiced by the Contractor, which are not the subject of dispute, to and including the effective date of termination.

1. **INTELLECTUAL PROPERTY**
   1. The University owns all Intellectual Property arising from the creation of the Deliverables, whether or not completed. The Contractor shall provide the Deliverables to the University in accordance with the timeline as outlined in Schedule B. The Contractor hereby irrevocably assigns and agrees to assign to the extent necessary in the future, to the University all right, title and interest in and to the Deliverables and all intellectual property rights therein. The Contractor further hereby waives any and all moral rights that might otherwise accrue with respect to the Deliverables. The Contractor shall ensure that it has obtained all necessary rights, waivers and assignments from its employees and agents to give effect to this Section 5.1. The Contractor shall not do or cause to do anything which materially or adversely affects the University’s ownership of the Deliverables. For the purposes of this Contract for Services “Intellectual Property” means patents, trademarks, service marks, registered designs, copyrights, database rights, design rights, applications for any of the above, and any similar right recognized from time to time in any jurisdiction.
   2. To the extent that Contractor utilizes any Background Intellectual Property in the performance of the Services and/or creation of the Deliverables, the Contractor or its licensors retains all right, title and interest in and to such Background Intellectual Property and, except for the license expressly granted below, the University acquires no right, title or interest in or to the Background Intellectual Property. The Contractor shall identify in writing prior to the commencement of the Services all material Background Intellectual Property used in connection with the Services and the creation of the Deliverables. The Contractor grants to the University a perpetual, worldwide, non-exclusive, irrevocable, transferable, sublicensable, royalty free, fully paid up right and license: (i) to use, modify, reproduce and distribute, in any form, all Background Intellectual Property (including any Background Intellectual Property licensed to the University by third parties); and (ii) to authorize other persons, including but not limited to agents, contractors and licensees, to do any of the former on behalf of the University to the extent that such use is necessary for the University to enable use of the Deliverables. For the purposes of this Contract for Services “Background Intellectual Property” means Intellectual Property owned or licensed by the Contractor which existed prior to the date of this Contract for Services or was developed by the Contractor independently of the Services.
   3. The Contractor represents and warrants that the provision of the Services, including without limitation the Deliverables and the Background Intellectual Property, do not and shall not infringe or induce the infringement of any third-party intellectual property rights and the University shall have no obligation to pay royalties of any kind to anyone in connection with Services and/or Deliverables except as expressly identified in this Contract for Services.
   4. The Contractor may not use in any way the University’s name or any trade names, trademarks or other proprietary designations without the University’s prior written consent.

**6 REPRESENTATIONS AND WARRANTIES**

**6.1** The Contractor hereby represents and warrants to the University that:

(a) the Contractor has full power and authority to execute, deliver and perform this Contract for Services and is not subject to any contractual restrictions that would prevent performance hereunder;

(b) the Contractor has the expertise and qualifications necessary to perform the Services, or, at Contractor’s own expense, will utilize employees or agents who have the necessary expertise and qualifications;

(c) the Services will be performed in a good and workmanlike manner, in accordance with the generally accepted standards of care, skill, diligence and professional competence applicable to those engaged in providing similar services at the time when, and the place where, the Services are rendered;

(d) no third party has any claim of ownership with respect to the Services and/or the Deliverables;

(e) the Contractor represents and warrants that all workers are well trained, fully capable and fully competent to perform the Services; and

(f) the Contractor is responsible and liable for the services provided by all their employees, agents, and subcontractors. The Contractor shall make their employees, agents and subcontractors aware of their obligations under this Contract for Services and shall ensure their compliance with its applicable terms.

**7 INSURANCE**

**7.1** The Contractor shall carry at all times during the performance of the Services, including any warranty period at its own cost and expense, the following

minimum insurance:

(a) Commercial general liability insurance against third party bodily injury (including death), personal injury and broad form property damage (including loss of use) and including products and completed operations liability and blanket contractual liability for an amount of not less than five million dollars ($5,000,000.00) per occurrence. Such insurance shall include a cross liability and severability of interests clause and an endorsement naming McMaster University, its governors, trustees, officers and employees as an Additional Insured;

(b) Standard automobile insurance for all vehicles owned, licensed or leased by the Contractor and non-owned automobile insurance, where required, for an amount of not less than two million dollars ($2,000,000.00), per occurrence for each type of coverage. Where the non-owned automobile insurance coverage is provided within a general liability policy, a separate policy is not required;

(c) Professional liability insurance for an amount of not less than two million dollars ($2,000,000.00) per occurrence, if applicable to the type of Services offered under this Contract for Services. This insurance policy is required to be maintained throughout the Term of this Contract for Services and for a period of twenty-four (24) months after the completion of the Services; and

(d) Such other types of insurance as would be carried by a prudent person or as the University may from time to time require, having regard for the nature of the Services and its location.

**7.2** All policies of insurance are to provide for thirty (30) days’ written notice to the University prior to any cancellation, material changes or amendments restricting coverage of any policy or policies.

**7.3** The Contractor shall provide a Certificate of Insurance to the University as set out and required in Sections 7.1 and 7.2 above.

**7.4** The Contractor and its workers shall at all times during performance of the Services:

(a) comply with all requirements of the Workplace Safety and Insurance Act and regulations;

(b) maintain their accounts with the Workplace Safety and Insurance Board

(WSIB) in good standing; and

(c) verify that such accounts are in good standing forthwith upon the request of the University.

Alternatively, the Contractor must provide proof of continuous Employer Liability Insurance coverage, equivalent to WSIB coverage, in the amount of not less than three million dollars ($3,000,000.00) for the same term and as described in the foregoing Insurance clause.

7.5 If, at any time, the University has reason to believe the account of the Contractor or any of its workers with the WSIB is not in good standing, in addition to any remedy or right at law or in equity, the University may:

(a) suspend payment dues to the Contractor until the Contractor has obtained a clearance letter from WSIB indicating the account in question is in good

standing; or

(b) pay the amount demanded by WSIB and thereafter deduct such amounts from monies due or becoming due to the Contractor under this Contract for Services or any other agreement with Contractor.

# 8 INDEMNITY AND LIMITATION OF LIABILITY

**8.1** The Contractor agrees to indemnify, defend and hold harmless the University, its officers, Board of Governors, employees, students and agents from and against any and all losses, liabilities, damages, liens, charges, claims, demands, payments, suits, actions, recoveries and judgments (including legal fees and expenses) of every nature and description howsoever arising that may result from (i) a breach of this Contract for Services by the Contractor, its officers, directors, workers, employees, agents, suppliers or licensees; (ii) any negligent acts or omissions of the Contractor, its officers, agents, employees, suppliers or licensees, in connection with this Contract for Services; and/or (iii) the University’s use of the Deliverables and/or reliance on the Services, including without limiting the generality of the foregoing, loss or damage to property, injury or death of any persons, negligence, alleged copyright, patent or other intellectual property rights infringement or interference, violation of any third party right, defective design, or damage to the environment.

**8.2** Unless caused by the negligent or willful act or omission of the University, the University is not liable to the Contractor for any damages, losses, injuries or costs, notwithstanding University’s notice of such, arising out of or caused by the performance of the Services and/or use the Deliverables. The University has no liability for any item distributed or sold by the Contractor, nor does the University assume any liability to the Contractor or third parties with respect to the quality or performance of the Services and/or the characteristic of the Deliverables.

# 9 MISCELLANEOUS

**9.1 Entire Agreement:** This Contract for Services constitutes the entire agreement and understanding between the Parties, and supersedes and cancels all prior and contemporaneous agreements, commitments, communications, and writings, whether oral or written. No amendment or modification of this Contract for Services shall be effective unless it is in writing and signed by the Parties.

**9.2 Force Majeure**: Neither Party to this Contract for Services is responsible for any delay or failure to perform its obligations under this Contract for Services where such delay or failure is due to fire, explosion, flood, war, embargo, governmental action, act or order of a public authority, strike, public health emergency or communicable disease outbreak or to any other cause beyond its control (“Force Majeure Event”). Should the Force Majeure Event last longer than thirty (30) days, the University reserves the right in its sole discretion to terminate this Contract for Services, in whole or in part, upon notice to the Contractor, without further liability, expense or cost of any kind.

**9.3 Delay:** In the event of any delay by the Contractor in the commencement, execution or completion of the Services, not caused by the University or by a Force Majeure Event, no claim for additional payment or any extension of time is made unless the University in its sole discretion authorizes otherwise. The Contractor further covenants to indemnify and reimburse the University for all costs, expenses, damages and losses of any kind whatsoever including consequential loses which the University may incur as a result, directly or indirectly, of such delay.

**9.4 No Waiver:** No failure on the part of either Party hereto to exercise, and no delay in exercising, any right, remedy, or power under this Contract for Services shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, remedy or power preclude any other or further exercise of any other right, remedy, or power. No waiver shall be valid unless it is in writing and signed by the Party to be bound thereby.

**9.5 Governing law:** This Contract for Services shall be governed by, and construed in accordance with, the laws of the Province of Ontario. If any provision or part thereof of this Contract for Services is determined by a Court of competent jurisdiction to be prohibited by, or invalid, illegal or unenforceable under, applicable law, then, such provision or part thereof shall be shall be deemed amended to conform to applicable laws so as to be valid or enforceable or, if it cannot be amended without materially altering the intention of the Parties, then such provision or part thereof shall be stricken without invalidating the remainder of such provision or the remaining provisions of this Contract for Services. The Contractor shall acquire and maintain in good standing all permits, licenses, and other entitlements necessary to the provision of the Services under this Contract for Services. All actions taken by the Contractor under this Contract for Services shall comply with all applicable statutes, ordinances, rules and regulations. The Contractor shall pay all taxes pertaining to the provision of Services under this Contract for Services.

**9.6 Assignment and Subcontracting**: Neither the rights nor obligations under this Contract for Services may be assigned otherwise disposed of without prior written consent of the non-assigning party. Notwithstanding the foregoing, the Contractor retains the right to sub-contract the Services provided that the Contractor shall remain responsible to the University for all obligations, responsibilities and liabilities outlined hereunder as if the Contractor had not subcontracted the Services.

**9.7 Legal Advice:** The Parties acknowledge that they have each had the opportunity to obtain independent legal advice in connection with the execution of this Contract for Services. Each Party acknowledges that it has have read, understood, and agrees with, all of the terms of this Contract for Services. Each Party acknowledges that it executes this Contract for Services voluntarily and in good faith.

**9.8 Counterparts:** The Parties agree that this Contract for Services shall be executed by the Parties on the dates, and at the places specified below, and shall be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one single agreement between the Parties.

**9.9 Interpretation**: The Parties acknowledge and agree that the language used in this Contract for Services shall be deemed to be the language chosen by the Parties to express their mutual intent, and this Contract for Services shall be interpreted without regard to any presumption or other rule requiring interpretation of this Contract for Services more strongly against the Party causing it to be drafted.

**9.10 Non-Exclusivity**: The University reserves the right in its sole discretion to purchase the goods or service from other sources and the Contractor acknowledges that this Contract for Services does not create any exclusive rights or privileges with respect to the procurement of the stated item(s). The Contractor may perform other services for third parties during the Term of this Contract for Services or any extension, provided that such activity does not interfere with the efficient and timely performance of the Services and does not give rise to a conflict of interest or otherwise interfere with the best interests of the University.

**9.11 Notice:** For purposes of providing notice under the terms of this Contract for Services, such notice shall be directed to:

For the University:

Name: [X]

Title: [X]

Address: [X]

Email/Telephone: [X]

For the Contractor:

Name: [X]

Title: [X]

Address: [X]

Email/Telephone: [X]

**9.12 Effective Date:** The Parties agree that the Effective Date of this Contract for Services shall be the date on which all Parties hereto have duly signed and executed this Contract for Services.

**9.13 Survival:** Sections 2, 3, 5, 6, 7, 8 and 9 will survive the termination or expiration of this Contract for Services.

**9.14** The Parties to these presents agree that this document be drafted in English; Les Parties aux présent sentes conviennent que le présent document soit rédigé en Englais.

**IN WITNESS WHEREO**F the University has caused this Contract for Services to be executed on its behalf, in the City of Hamilton, Ontario, this day of , 2023.

|  |  |  |
| --- | --- | --- |
| **For the University** |  | **For Contractor** |
| By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  | By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
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**SCHEDULE A**

**Description of the Services**

**SCHEDULE B**

**Description of Deliverables**

**Timeline for Completion and Delivery**