

# RESEARCH RELATIONSHIPS

Between the  
Province of British Columbia  
and British Columbia's Universities

Tool Kit

VERSION 1.1 APRIL 2008  
[www.researchrelationships.bc.ca](http://www.researchrelationships.bc.ca)



This toolkit forms an integral part of the Research Relationships Between the Province of British Columbia and Universities: Final Report (January 2008).

The toolkit consists of a set of sample agreements and reference documents that should help you to use and understand research agreements with universities. The toolkit was prepared by the Province-University Research Agreements Working Group.

The objectives of the toolkit are to:

- facilitate negotiations between the Province's ministries and its public universities;
- reduce the time and effort required to secure an agreement; and
- provide educational material and examples of best practice.

This document and its associated resources address those situations where the Province of British Columbia enters into an agreement directly with a university (or universities) to have research conducted in an area directly related to government priorities, policies or individual Ministry mandates. More specifically,

- Research services, investigation, testing, analysis and evaluation to
  - > Increase generalized knowledge or understanding, or
  - > recommend advice or solutions for a particular subject matter/issue for overall benefit to the Province of BC; or
- A defined research project with specific objectives and deliverables that is for the direct benefit or implementation in ministry programs or operations.

These documents and tool do not address:

- Research funding provided by independent research funding agencies such as the Michael Smith Foundation for Health Research, Genome BC;
- The Forest Investment Account and the British Columbia Knowledge Development Fund;
- Staffing, secondments or hiring of co-op students;
- Purchase of finished research papers, reports, or products;
- Websites or training delivery programs;
- Personal consulting arrangements between individual faculty members and the Province, and;
- Educational Services contracts (e.g., for the development of curriculum).

Feedback regarding the Tool Kit may be directed to the contacts below.

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## Sample Grant Letter

[Ministry Letterhead]

Date

Recipient/Dept.  
University Name  
and Address

Dear Recipient Name:

We are pleased to inform you that you have been awarded the sum of \$\_\_\_\_\_ for the <name of project, or describe program target or activity> (the "Project"), as outlined in your proposal dated <date>. A cheque will be issued shortly <or, "is attached">.

As a condition of assistance, please provide a copy of the research report generated by the Project upon completion. In addition, please acknowledge the Ministry's assistance on all written materials relating to the Project, by using the following acknowledgment:

"We gratefully acknowledge the financial support of the  
Province of British Columbia through the Ministry of < >."

We trust that you will use your best efforts to ensure a successful outcome as a result of this undertaking.

Yours truly,

<name>  
Deputy Minister <or Minister of Education/Advanced Education>

## Sample Sponsored Research Agreement

Contract #

Province of British Columbia  
Ministry of \_\_\_\_\_

### Transfer Under Agreement for Research at a B.C. Public University

THIS AGREEMENT dated for reference the \_\_\_ day of \_\_\_\_\_, 200\_\_

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
represented by the Minister of \_\_\_\_\_

(the "Province")

OF THE FIRST PART

AND:

<NAME OF UNIVERSITY HERE>

(the "University")

OF THE SECOND PART

The parties to this Agreement agree as follows:

### SECTION 1—DEFINITIONS

1.01 Where used in this Agreement:

- (a) "Commercial" means being able to yield or make a profit, prepared, done, or acting with sole or chief emphasis on saleability, profit, or success;
- (b) "Financial Contribution" means the total aggregate funding value stipulated in Schedule B;
- (c) "Intellectual Property" means intangible (non-physical) property which includes scientific or scholarly discoveries, copyright, computer software, moral rights related to copyrighted materials, trademarks, official marks, domain names, patents, industrial designs, literary, artistic, musical or visual works and know-how;
- (d) "Material" means all findings, data, reports, documents, records and material, (both printed and electronic, including but not limited to, on hard disk or diskettes), whether complete or otherwise, that have been produced, received, compiled or acquired by the University, or provided by or on behalf of the Province to, the University as a direct result of this Agreement, but does not include property owned by the University;

- (e) “Non-Commercial” means not being able to profit financially at any time from the Material under this Agreement between the Province and University, in the use of the Material by the following non-commercial users and their employees: government ministries, agencies, boards and commissions; educational institutions (such as public school boards, public post-secondary institutions, community and technical institutes); and non-profit organizations (such as public libraries, charities, and other organizations created for the promotion of educational, health or social services purposes);
- (f) “Personal Information” means recorded information, not including business contact information, about an identifiable individual;
- (g) “Principal Investigator” means the individual identified by the University as the person primarily responsible for the Research Project;
- (g) “Rebate” means a rebate of 67% on Federal Goods and Services Tax applicable to the University;
- (h) “Research Project” means the research project described in Schedule A; and
- (i) “Term” means the period commencing on the start date and expiring on the end date of the Agreement stipulated in the Schedule A.

## SECTION 2—APPOINTMENT

- 2.01 The Province retains the University to conduct the Research Project during the Term, both described in Schedule “A”.

## SECTION 3—PAYMENT OF A FINANCIAL CONTRIBUTION

- 3.01 Subject to the provisions of this Agreement, the Province will pay the University, in the amount and manner, and at the times set out in Schedule “B” attached to this Agreement.
- 3.02 Notwithstanding any other provision of this Agreement the payment of the Financial Contribution by the Province to the University pursuant to this Agreement is subject to:
- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act* (“FAA”), to enable the Province, in any fiscal year when any payment of money by the Province to the University falls due pursuant to this Agreement, to make that payment; and
  - (b) Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.
- 3.03 The University is entitled to a Rebate from the Federal Government and will, therefore, charge to the Province only the non-refundable portion of Goods and Services Tax, as applicable to the Research Project, and as provided for within the Financial Contribution.

## SECTION 4—REPRESENTATIONS AND WARRANTIES

- 4.01 Subject to paragraph 4.04 (Disclaimer), the University represents and warrants to the Province with the intent that the Province will rely thereon in entering into this Agreement that:
- (a) all information, statements, documents and reports furnished or submitted by it to the Province in connection with this Agreement are true and correct;

- (b) it has no knowledge of any fact that materially adversely affects, or so far as it can foresee, might materially adversely affect, its properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement; and
  - (c) it is not in breach of, or in default under, any law, statute or regulation of Canada or of the Province of British Columbia applicable to or binding on it or its operations.
- 4.02 All statements contained in any certificate, application, proposal or other document delivered by or on behalf of the University to the Province under this Agreement or in connection with any of the transactions contemplated hereby will be deemed to be representations and warranties by the University under this Agreement.
- 4.03 All representations, warranties, covenants and agreements made herein and all certificates, applications or other documents delivered by or on behalf of the University are material and will have been relied upon by the Province and will continue in full force and effect during the continuation of this Agreement.
- 4.04 **Disclaimer.** The University makes no representations or warranties, either express or implied, regarding data or other results arising from the Research Project. The University specifically disclaims any implied warranty of non-infringement or merchantability or fitness for a particular purpose and the University will, in no event, be liable for any loss of profits, be they direct, consequential, incidental, or special or other similar damages arising from any defect, error or failure to perform, even if the University has been advised of the possibility of such damages. The Province acknowledges that the Research Project is of an experimental and exploratory nature, that no particular results can be guaranteed, and that the Province has been advised by the University to undertake its own due diligence with respect to all matters arising from this Agreement.

## SECTION 5—RELATIONSHIP

- 5.01 No partnership, joint venture, agency or other legal entity will be created by or will be deemed to be created by this Agreement or any actions of the parties pursuant to this Agreement.
- 5.02 Each party will be an independent contractor and not the servant, employee or agent of the other party.
- 5.03 The University will not in any manner whatsoever commit or purport to commit the Province to the payment of money to any person, firm or corporation.
- 5.04 The Province may, from time to time, give reasonable instructions to the University in relation to the carrying out of the Research Project, and the University will comply with those instructions but will not be subject to the control of the Province regarding the manner in which those instructions are carried out except as specified in this Agreement. Notwithstanding the foregoing, all changes to the scope and direction of the Agreement will be made with mutual agreement between the parties.

## SECTION 6—UNIVERSITY'S OBLIGATIONS

- 6.01 The University will:
- (a) carry out the Research Project in accordance with the terms of this Agreement during the Term stated in Schedule "A" of this Agreement;
  - (b) comply with the payment requirements set out in Schedule "B", including all requirements concerning the use, application and expenditure of the payments provided under this Agreement;
  - (c) comply with all applicable laws;
  - (d) hire and retain only qualified staff;

*Drafter to choose one of the following options:*

### **Option 1**

- (e) unless agreed otherwise supply, at its own cost, all labour, materials and approvals necessary to carry out the Research Project;
- (f) co-operate with the Province in making such public announcements regarding the Research Project and the details of this Agreement as the Province requests; and
- (g) acknowledge the financial contribution made by the Province to the University for the Research Project in any Materials, by printing on each of the Materials the following statement:  
“We gratefully acknowledge the financial support of the Province of British Columbia through the Ministry of \_\_\_\_\_.”

### **Option 2**

- (e) unless agreed otherwise supply, at its own cost, all labour, materials and approvals necessary to carry out the Research Project; and
- (f) subject to obtaining the prior written approval of the Province concerning form, content and location, the University may post signs acknowledging the Province’s participation in the Research Project.

## **SECTION 7—RECORDS**

7.01 The University will:

- (a) establish and maintain accounting and administrative records to be used as the basis for the calculation of the Financial Contribution;
- (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred; and
- (c) permit the Province, for contract monitoring and audit purposes, at all reasonable times, upon reasonable notice, to enter any premises used by the University to conduct the Research Project or keep any documents or records pertaining to the Research Project, in order for the Province to inspect, audit, examine, review and copy any findings, data, specifications, drawings, working papers, reports, surveys, spread sheets, evaluations, documents, databases and other Material, (both printed and electronic, including, but not limited to, on hard disk or diskettes), whether complete or not, that are produced, received or otherwise acquired by the University as a result of this Agreement.

7.02 The parties agree that the Province does not have control, for the purpose of the *Freedom of Information and Protection of Privacy Act*, of the records held by the University.

## **SECTION 8—STATEMENTS AND ACCOUNTING**

8.01 Within 3 months of being requested to do so by the Province in writing, the University will provide to the Province a financial statement documenting the expenditure of the Financial Contribution under this Agreement.

8.02 At the sole option of the Province, any portion of the Financial Contribution provided to the University under this Agreement and not expended at the end of the Agreement shall be:

*Drafter to choose one of the following options:*

### **Option 1**

returned by the University to the Minister of Finance as requested by the Province.

### **Option 2**

retained by the University for supplemental research activities related to the Research Project.

### **Option 3**

deducted by the Province from any future funding requests submitted by the University on behalf of the same Principal Investigator involved in performing the Research Project within [a defined time period] and approved by the Province.

### **Option 4**

used to conduct additional research at the discretion of the University.

## **SECTION 9—CONFLICT OF INTEREST**

9.01 The University must not knowingly allow its research personnel involved in performing the Research Project, to provide any services to any person in circumstances that could give rise to a conflict of interest between their duties to that person and their duties to the Province under this Agreement.

## **SECTION 10—CONFIDENTIALITY**

10.01 The University will treat as confidential all information or material which are clearly marked as confidential or proprietary when first disclosed (“Confidential Information”) by the Province and supplied to or obtained by the University, or any subcontractor, under this Agreement and will not, without the prior written consent of the Province, except as required by applicable law, permit its disclosure except to the extent that such disclosure is necessary to enable the University to fulfill its obligations under this Agreement. Confidential Information may also include information furnished during discussions or oral presentations if it is conspicuously identified as proprietary at the time and then transcribed or confirmed in writing within thirty (30) days, specifically describing what portions of such information is considered to be proprietary or confidential. However, the University is under no obligation to maintain the confidentiality of Confidential Information which the University can show:

- (a) is or subsequently becomes generally available to the public through no act or fault of the University;
- (b) was in the possession of the University prior to its disclosure by the Province to the University;
- (c) was lawfully acquired by the University from a third party who was not under an obligation of confidentiality to the Province; or
- (d) is required by an order of a legal process to disclose, provided that the University gives the Province prompt and reasonable notification of such requirement prior to disclosure; or
- (e) was independently developed by employees, agents or consultants of the University who had no knowledge of or access to the Province’s information as evidenced by the University’s records.

10.02 The University will ensure that the Principle Investigator of the Research Project acknowledges the confidentiality provisions in this Agreement and it is the responsibility of the Principle Investigators to ensure that all other employees engaged in the Research Project are aware of the confidentiality provisions in this Agreement.

## **SECTION 11—DEFAULT**

- 11.01 Any of the following events will constitute an Event of Default, namely:
- (a) the University fails to comply with any material provision of this Agreement;
  - (b) subject to paragraph 4.04, any representation or warranty made by the University in accepting this Agreement is untrue or incorrect; or
  - (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the University pursuant to or as a result of this Agreement is untrue or incorrect.

## **SECTION 12—TERMINATION**

- 12.01 Either party may terminate this Agreement for any reason by giving at least thirty (30) days prior written notice to the other.
- 12.02 Upon the occurrence of any Event of Default and at any time thereafter the Province may, notwithstanding any other provision of this Agreement, at its option, elect to do any one or more of the following:
- (a) terminate this Agreement, in which case the payment of the amount required under paragraph 12.04 of this Agreement will discharge the Province of all liability to the University under this Agreement;
  - (b) require the Event of Default be remedied within a time period specified by the Province;
  - (c) suspend any instalment of the Financial Contribution or any amount that is due to the University while the Event of Default continues;
  - (d) waive the Event of Default; and
  - (e) pursue any other remedy available at law or in equity.
- 12.03 The Province may also, at its option, terminate this Agreement immediately if the Province determines that the University's failure to comply places the health or safety of any person conducting the Research Project at immediate risk, and the payment of the amount required under paragraph 12.04 of this Agreement will discharge the Province of all liability to the University under this Agreement.
- 12.04 Where this Agreement is terminated before 100% completion of the Research Project, the Province will pay to the University all costs and liabilities, including uncancellable commitments, relating to the Research Project up to but no more than the Financial Contribution which have been incurred by the University as of the date of receipt of notice of termination or the date of termination, whichever is later.

## **SECTION 13—DISPUTE RESOLUTION**

*Drafter to choose one of the following options:*

### **Option 1**

- 13.01 In the event of a controversy or dispute between the parties arising out of or in connection with this Agreement, or regarding its interpretation or operation, the parties will use reasonable efforts to resolve the dispute amicably but if the parties, acting reasonably, are unable to resolve their dispute within thirty (30) days after the beginning of the consultation process, then:
- (a) either party may serve written notice on the other party requiring that they submit the dispute to non-binding mediation;

- (b) the parties will select a single mediator to mediate the dispute in accordance the *Commercial Arbitration Act* of British Columbia;
- (c) the language of the mediation proceeding will be English and the place of mediation will be Vancouver, British Columbia;
- (d) the parties will use reasonable efforts to participate in the mediation process and to resolve their dispute;
- (e) each party will pay its own costs and an equal share of all other costs of the mediation; and
- (f) should no amicable settlement be reached by the parties within sixty (60) days from the commencement of the mediation, either party may initiate judicial proceedings to resolve the dispute.

## Option 2

- 13.01 All disputes arising out of or in connection with this Agreement or in respect of any defined legal relationship associated with it or derived from it must, unless the parties otherwise agree, be referred to and finally resolved by arbitration under the *Commercial Arbitration Act*.

## SECTION 14—INDEMNITY

- 14.01 The Province will indemnify and save harmless the University, its Board of Governors, directors, officers, employees, faculty, students and agents from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the University, its Board of Governors, directors, officers, employees, students and agents may sustain, incur, suffer or put to at any time either before or after the expiration or termination of this Agreement, 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 of the Province, or of any agent, employee, officer or director of the Province pursuant to this Agreement.
- 14.02 The University will indemnify and save harmless the Province, its officers, directors, employees and agents from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Province may sustain, incur, suffer, or be put to at any time, either before or after the expiration or termination of this Agreement, where the same are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the University or its Board of Governors, directors, officers, employees, faculty, contractors, students or agents pursuant to this Agreement.

## SECTION 15—ASSIGNMENT AND SUBCONTRACTING

- 15.01 The University will not, without the prior, written consent of the Province:
- (a) assign, either directly or indirectly, this Agreement or any right of the University under this Agreement; or
  - (b) subcontract any obligation of the University under this Agreement.
- 15.02 No subcontract entered into by the University will relieve the University from any of its obligations under this Agreement or impose upon the Province any obligation or liability arising from any such subcontract.
- 15.03 This Agreement will be binding upon the Province and its assigns and the University, the University's successors and permitted assigns.

## SECTION 16—OWNERSHIP AND PUBLICATION OF RESULTS AND INTELLECTUAL PROPERTY

- 16.01 Any equipment, machinery or other property, provided by the Province to the University for the conduct of the Research Project under this Agreement will:

- (a) be the exclusive property of the Province; and
  - (b) forthwith be delivered by the University to the Province on written notice to the University requesting delivery of the same at the Province's costs, whether such a notice is given before, upon, or after the expiration or sooner termination of this Agreement.
- 16.02 The University will retain title to any equipment purchased with funds provided by the Province under this Agreement and the Province acknowledges that the University's insurance is applicable only to such equipment owned by the University.
- 16.03 The Province acknowledges and agrees that the University owns all right, title and interest in the Material produced under this Agreement and Intellectual Property arising from the Research Project under this Agreement.
- 16.04 The University hereby grants the Province a perpetual non-exclusive, irrevocable, world-wide, fully paid up and royalty-free license to use, make, copy, distribute, translate, practice, and reproduce the Material produced under this Agreement and Intellectual Property arising under this Agreement for scientific, educational, public good and other Non-Commercial uses. In addition, the University grants the Province the additional rights to incorporate all or portions of the Material produced under this Agreement in any reports created by the Province and to further develop the Research Project reports provided that the content of the Research Project reports is not materially modified without the written approval of the University. Upon the Province's request, the University will deliver documents satisfactory to the Province that waive in the Province's favour any moral rights to Research Project reports, as defined in "Schedule A", which the University's employees or contractors may have in said Research Project reports.
- 16.05 The University and its employees will not be restricted from presenting publications at symposia, national or regional professional meetings, or from publishing in journals or other publications, accounts of the work pertaining to this Agreement. Publications, conference presentations, symposia and all other dissemination of material pertaining to the work of this Agreement will recognize the Ministry of \_\_\_\_\_.

## SECTION 17—OTHER FUNDING

- 17.01 The University will ensure that if the University's research personnel, involved in performing the Research Project, receives funding for or in respect of the Research Project from any person, firm, corporation or other government or government body, then the University will immediately provide the Province with details thereof.

## SECTION 18—NOTICES

- 18.01 Any written communication from the University to the Province must be mailed, personally delivered, faxed, or electronically transmitted to the following address:
- (Specify mailing address, fax number and/or other electronic means for the Province, and name and title of contract manager)*
- 18.02 Any written communication from the Province to the University must be mailed, personally delivered, faxed or electronically transmitted to the following address:
- (Specify name and mailing address including fax number and/or other electronic means for the University, and name and title of contact.)*
- 18.03 Any written communication from either party will be deemed to have been received by the other party on the fifth business day after mailing in British Columbia; on the date of personal delivery if personally delivered or on the date of transmission if faxed *(or sent by email if applicable)*.

- 18.04 Either party may, from time to time, notify the other party in writing of a change of address and, following the receipt of such notice, the new address will, for the purposes of paragraph 18.01 or 18.02 of this Agreement, be deemed to be the mailing address of the party giving notice.

## **SECTION 19—NON-WAIVER**

- 19.01 No term or condition of this Agreement and no breach by the University of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the Province and the University.
- 19.02 The written waiver by the Province or any breach by the University of any term or condition of this Agreement will not be deemed to be a waiver of any other provision of any subsequent breach of the same or any other provision of this Agreement.

## **SECTION 20—ENTIRE AGREEMENT**

- 20.01 This Agreement including the Schedules constitutes the entire agreement between the parties with respect to the subject matter of this Agreement.

## **SECTION 21—SURVIVAL OF PROVISIONS**

- 21.01 All of the provisions of this Agreement in favour of the Province including, without limitation, paragraphs 3.02, 4.04, 7.01, 7.02, 8.02, 10.01, 12.04, 13.01, 14.01, 14.02, 16.01, 16.02, 16.03, 16.04, and all of the rights and remedies of the parties, either at law or in equity, will survive any expiration or sooner termination of this Agreement.

## **SECTION 22—MISCELLANEOUS**

- 22.01 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
- 22.02 The Schedules to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.
- 22.03 No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties.
- 22.04 If any provision of this Agreement or the application 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 thereby and will be enforceable to the extent permitted by law.
- 22.05 Nothing in this Agreement operates as a consent, permit, approval or authorization by the Government of the Province of British Columbia or any Ministry or Branch thereof to or for anything related to the Research Project that by statute, the University is required to obtain unless it is expressly stated herein to be such a consent, permit, approval or authorization.
- 22.06 This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts may be delivered by facsimile transmission and such transmission shall be considered an original.
- 22.07 Time is of the essence of this Agreement.
- 22.08 For the purpose of paragraphs 22.09 and 22.10, an “Event of Force Majeure” includes, but is not limited to, acts of God, changes in the laws of Canada, governmental restrictions or control on imports, exports or for-

eign exchange, wars (declared or undeclared), fires, floods, storms, strikes (including illegal work stoppages or slowdowns), lockouts, labour shortages, freight embargoes and power failures or other cause beyond the reasonable control of a party, provided always that lack of money, financing or credit will not be and will not be deemed to be an "Event of Force Majeure".

- 22.09 Neither party will be liable to the other for any delay, interruption or failure in the performance of their respective obligations if caused by an Event of Force Majeure, in which case the time period for the performance or completion of any such obligation will be automatically extended for the duration of the Event of Force Majeure.
- 22.10 If an Event of Force Majeure occurs or is likely to occur, then the party directly affected will notify the other party forthwith, and will use its reasonable efforts to remove, curtail or contain the cause of the delay, interruption or failure and to resume with the least possible delay compliance with its obligations under this Agreement.

The parties hereto have executed this Agreement the day and year as set out above.

SIGNED AND DELIVERED by the University or  
an Authorized Representative of the University

SIGNED AND DELIVERED on behalf of the Province  
by an Authorized Representative of the Province

\_\_\_\_\_  
Print Name of University Authorized Representative)

\_\_\_\_\_  
Print Name of Authorized Representative)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

## SCHEDULE A—RESEARCH PROJECT AND TERM

1. Notwithstanding the date of execution of this Agreement, the term of this Agreement will start on \_\_\_\_\_ and end on \_\_\_\_\_.
2. *[Research Project Details]*

## SAMPLE SCHEDULE B—FINANCIAL CONTRIBUTION

1. The Province agrees to provide to the University the amount of \$\_\_\_\_\_ during the Term of the Agreement.
2. Payments will be made as follows:

*[The payment schedule is often linked to project reporting, deliverables or milestones.]*

- (a) an initial payment of \$\_\_\_\_\_ *[small percentage of total contribution, to help with start up costs, if applicable]* within *[30 or 60]* days of the start date of this Agreement;
- (b) upon receipt by the Province of *[specify a particular phase, service, result, deliverable or status report]*, a payment amount of \$\_\_\_\_\_;
- (c) upon receipt by the Province of *[specify a particular phase, service, result, deliverable or status report]*, a payment amount of \$\_\_\_\_\_; and
- (d) on completion of the Research Project and upon receipt by the Province of the final *[specify by name— a deliverable(s) or written report(s)]*, a final payment not to exceed \$\_\_\_\_\_.

# General Service Agreement Template with Sample Schedule F



**BRITISH COLUMBIA**

The Best Place on Earth

Also available at, including optional schedules, at:  
[http://www.pc.gov.bc.ca/psb/GSA/GSA\\_index.htm](http://www.pc.gov.bc.ca/psb/GSA/GSA_index.htm)

## GENERAL SERVICE AGREEMENT

Ministry Contract No.

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by  (the "Province", "we", "us", or "our" as applicable) at the following address:  Postal Code: _____ Fax Number: _____	AND  (the "Contractor", "you", or "your" as applicable) at the following address:  Postal Code: _____ Fax Number: _____
--	---

**THE PARTIES AGREE TO THE TERMS OF THE AGREEMENT SET OUT ON THE ATTACHED PAGES OF THIS DOCUMENT AND IN THE SCHEDULES OUTLINED BELOW (THIS "AGREEMENT"):**

<b>SCHEDULE A—Services</b> Services:  Term _____ Start Date: _____ End Date: _____		
<b>SCHEDULE B—Fees and Expenses</b> Fees:  Maximum Amount: _____	Expenses:	

THE FOLLOWING ARE SCHEDULES TO THIS AGREEMENT, IF ATTACHED:

- |                                      |                               |                     |
|--------------------------------------|-------------------------------|---------------------|
| SCHEDULE C—Approved Subcontractor(s) | SCHEDULE E—Privacy Protection | SCHEDULE G—Security |
| SCHEDULE D—Insurance                 | SCHEDULE F—Additional Terms   |                     |

SIGNED AND DELIVERED on the _____ day of _____, 20____ on behalf of the Province by its duly authorized representative  Signature: _____ Print name: _____	SIGNED AND DELIVERED on the _____ day of _____, 20____ by or on behalf of the Contractor (or by its authorized signatory or signatories if the Contractor is a corporation)  Signature(s): _____ Print name(s): _____
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READ TERMS ON THE ATTACHED PAGES OF THIS DOCUMENT AND IN THE SCHEDULES OUTLINED ABOVE

**FOR ADMINISTRATIVE PURPOSES ONLY**

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MINISTRY CONTRACT NO.	REQUISITION NO	COMMODITY CODE
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CLIENT	RESP CENTRE	SERVICE LINE	STOB	PROJECT
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CONTRACTOR INFORMATION

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WCB NO.	SUPPLIER NO.	TEL. NO.	E-MAIL ADDRESS
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Revised 2005/6

## TERMS OF GENERAL SERVICE AGREEMENT

### Contractor's Obligations

1. You must provide the services described in Schedule A (the "Services") in accordance with this Agreement. You must provide the Services during the term described in Schedule A (the "Term"), regardless of the date of execution or delivery of this Agreement.
2. Unless the parties otherwise agree in writing, you must supply and pay for all labour, materials, facilities, approvals and licenses necessary or advisable to perform your obligations under this Agreement, including the license under section 14.
3. Unless otherwise specified in this Agreement, you 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.
4. You must ensure that all persons you employ or retain to perform the Services are competent to perform them and are properly trained, instructed and supervised.
5. We may from time to time give you reasonable instructions (in writing or otherwise) as to the performance of the Services. You must comply with those instructions but, unless otherwise specified in this Agreement, you may determine the manner in which the instructions are carried out.
6. You must, upon our request, fully inform us of all work done by you or a subcontractor in connection with providing the Services.
7. You must maintain time records and books of account, invoices, receipts, and vouchers of all expenses incurred in relation to this Agreement, in form and content and for a period satisfactory to us.
8. You must permit us at all reasonable times to inspect and copy all accounting records, findings, software, data, specifications, drawings, reports, documents and other material, whether complete or not, that, as a result of this Agreement, are
  - (a) produced by you or a subcontractor (the "Produced Material", which includes 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 you or a subcontractor (the "Incorporated Material")), or
  - (b) received by you or a subcontractor from us or any other person (the "Received Material").In this Agreement, the Produced Material and the Received Material is collectively referred to as the "Material".
9. You must treat as confidential all information in the Material and all other information accessed or obtained by you or a subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure without our prior written consent except
  - (a) as required to perform your obligations under this Agreement or to comply with applicable law,
  - (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.
10. You must
  - (a) make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure or disposal, and
  - (b) comply with the Security Schedule, if attached as Schedule G.
11. If you receive a request for access to any of the Material from a person other than us, and this Agreement does not require or authorize you to provide that access, you must advise the person to make the request to us.
12. We exclusively own all property rights in the Material which are not intellectual property rights. You must deliver any Material to us immediately upon our request.
13. We exclusively own all intellectual property rights, including copyright, in
  - (a) Received Material that you receive from us, and
  - (b) Produced Material, other than any Incorporated Material.Upon our request, you must deliver to us documents satisfactory to us waiving in our favour any moral rights which you (or your employees) or a subcontractor (or its employees) may have in the Produced Material, and confirming the vesting in us of the copyright in the Produced Material, other than any Incorporated Material.
14. Upon any Incorporated Material being embedded or incorporated in the Produced Material, you grant us a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, modify and distribute that Incorporated Material to the extent it remains embedded or incorporated in the Produced Material.
15. You must comply with the Privacy Protection Schedule, if attached as Schedule E.
16. You must maintain and pay for insurance on the terms, including form, amounts, and deductibles, outlined in Schedule D, if attached, as those terms may be modified from time to time in accordance with our directions.
17. You must apply for and, immediately on receipt, remit to us any available refund, rebate or remission of federal or provincial tax or duty that we have paid you for or agreed to pay you for under this Agreement.
18. You must comply with all applicable laws.
19. You must indemnify and save harmless us and our employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that we or any of our employees or agents may sustain, incur, suffer or be put to at any time, either before or after this Agreement ends, which are based upon, arise out of or occur, directly or indirectly, by reason of, any act or omission by you or by any of your agents, employees, officers, directors, or subcontractors in providing the Services.
20. You must not assign any of your rights under this Agreement without our prior written consent.
21. You must not subcontract any of your obligations under this Agreement without our prior written consent other than to persons listed in Schedule C, if that Schedule is attached. No subcontract, whether consented to or not, relieves you from any obligations under this Agreement. You must ensure that any subcontractor you retain fully complies with this Agreement in performing the subcontracted obligations.
22. You must not provide any services to any person in circumstances which, in our reasonable opinion, could give rise to a conflict of interest between your duties to that person and your duties to us under this Agreement.
23. You must not do anything that would result in personnel hired by you or a subcontractor being considered our employees.
24. You must not commit or purport to commit us to pay any money unless specifically authorized by this Agreement.

## Payment

25. If you comply with this Agreement, we must pay you
- the fees described in Schedule B, and
  - the expenses, if any, described in Schedule B if they are supported, where applicable, by proper receipts and, in our opinion, are necessarily incurred by you in providing the Services.
- We are not obliged to pay you more than the “Maximum Amount” specified in Schedule B on account of fees and expenses.
26. In order to obtain payment of any fees and expenses under this Agreement, you must submit to us a written statement of account in a form satisfactory to us upon completion of the Services or at other times described in Schedule B.
27. We may withhold from any payment due to you an amount sufficient to indemnify us against any liens or other third party claims that have arisen or could arise in connection with the provision of the Services.
28. Our obligation to pay money to you is subject to the *Financial Administration Act*, which makes that obligation subject to an appropriation being available in the fiscal year of the Province during which payment becomes due.
29. Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.
30. We certify to you that the Services purchased under this Agreement are for our use and are being purchased by us with Crown funds and are therefore not subject to the Goods and Services Tax.
31. If you are not a resident in Canada, we 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 your behalf.

## Termination

32. We may terminate this Agreement
- for your failure to comply with this Agreement, immediately on giving written notice of termination to you, and
  - for any other reason, on giving at least 10 days’ written notice of termination to you.
- If we terminate this Agreement under paragraph (b), we must pay you that portion of the fees and expenses described in Schedule B which equals the portion of the Services that was completed to our satisfaction before termination. That payment discharges us from all liability to you under this Agreement.
33. If you fail to comply with this Agreement, we may terminate it and pursue other remedies as well.

## General

34. You are an independent contractor and not our employee, agent, or partner.
35. If you are a corporation, you represent and warrant to us that you have authorized the signatory or signatories who have signed this Agreement on your behalf to enter into and execute this Agreement on your behalf without affixing your common seal.
36. We must make available to you all information in our possession which we consider pertinent to your performance of the Services.

37. This Agreement is governed by and is to be construed in accordance with the laws of British Columbia.
38. Time is of the essence in this Agreement.
39. Any notice contemplated by this Agreement, to be effective, must be in writing and either
- sent by fax to the addressee’s fax number specified in this Agreement,
  - delivered by hand to the addressee’s address specified in this Agreement, or
  - mailed by prepaid registered mail to the addressee’s address specified in this Agreement.
- Any notice mailed in accordance with paragraph (c) is deemed to be received 96 hours after mailing. Either of the parties may give notice to the other of a substitute address or fax number from time to time.
40. A waiver of any term of this Agreement or of any breach by you of this Agreement is effective only if it is in writing and signed by us and is not a waiver of any other term or any other breach.
41. No modification of this Agreement is effective unless it is in writing and signed by the parties.
42. This Agreement and any modification of it constitute the entire agreement between the parties as to performance of the Services.
43. All disputes arising out of or in connection with this Agreement or in respect of any defined legal relationship associated with it or derived from it must, unless the parties otherwise agree, be referred to and finally resolved by arbitration under the Commercial Arbitration Act.
44. Sections 6 to 15, 17, 19, 27, 28, 31 to 33 and 43 continue in force indefinitely, even after this Agreement ends.
45. The schedules to this Agreement are part of this Agreement.
46. If there is a conflict between a provision in a schedule to this Agreement and any other provision of this Agreement, the provision in the schedule is inoperative to the extent of the conflict unless it states that it operates despite a conflicting provision of this Agreement.
47. This Agreement does not operate as a permit, license, approval or other statutory authority which you may be required to obtain from the Province or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with the exercise by the Province or its agencies of any statutory power or duty.
48. The Agreement may be entered into by each party signing a separate copy of this Agreement (including a photocopy or faxed copy) and delivering it to the other party by fax.
49. In this Agreement,
- “includes” and “including” are not intended to be limiting,
  - unless the context otherwise requires, references to sections by number are to sections of this Agreement,
  - “we”, “us”, and “our” refer to the Province alone and not to the combination of the Contractor and the Province which is referred to as “the parties”, and
  - “attached” means attached to this Agreement when used in relation to a schedule.
50. If Schedule F is attached, the additional terms set out in that schedule apply to this Agreement.

## GENERAL SERVICE AGREEMENT SCHEDULE F—ADDITIONAL TERMS

Contract #

(Version for use with General Service Agreement, between the Province and B.C.'s Public Universities: UBC, SFU, UNBC, TRU, RRU, UVIC)

1. Despite Section 46 of this Agreement, the Contractor and the Province agree that Sections 9, 17, 22, 31, (optional 43 if section 15 of this Schedule is used) and 32 of the Agreement are deleted.
2. The Province will indemnify and save harmless the Contractor, its Board of Governors, directors, officers, employees, faculty, students and agents from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Contractor, its Board of Governors, directors, officers, employees, faculty, students and agents may sustain, incur, suffer or put to at any time either before or after the expiration or termination of this Agreement, 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 of the Province, or of any agent, employee, officer, or director of the Province pursuant to this Agreement.
3. The Contractor will treat as confidential all information or material which are clearly marked as confidential or proprietary when first disclosed ("Confidential Information") by the Province and supplied to or obtained by the Contractor, or any sub-contractor, under this Agreement and will not, without the prior written consent of the Province, except as required by applicable law, permit its disclosure except to the extent that such disclosure is necessary to enable the Contractor to fulfill its obligations under this Agreement. Confidential Information may also include information furnished during discussions or oral presentations if it is conspicuously identified as proprietary at the time and then transcribed or confirmed in writing within thirty (30) days, specifically describing what portions of such information is considered to be proprietary or confidential. However, the Contractor is under no obligation to maintain the confidentiality of Confidential Information which the Contractor can show:
  - (a) is or subsequently becomes generally available to the public through no act or fault of the Contractor;
  - (b) was in the Contractor's possession prior to its disclosure by the Province to the Contractor;
  - (c) was lawfully acquired by the Contractor from a third party who was not under an obligation of confidentiality to the Province;
- (d) is required by an order of a legal process to disclose, provided that the Contractor gives the Province prompt and reasonable notification of such requirement prior to disclosure; or
- (e) was independently developed by the Contractor's employees, agents or consultants who had no knowledge of or access to the Province's information as evidenced by the Contractor's records.
4. The Contractor is entitled to a Goods and Services Tax rebate from the Federal Government and will, therefore, charge to the Province only the non-refundable portion of the Goods and Services Tax, as applicable to the Services, and as provided for within the Maximum Amount specified in Schedule B.
5. The Contractor must not knowingly allow its research personnel involved in performing the Services, to provide any services to any person in circumstances that could give rise to a conflict of interest between their duties to that person and their duties to the Province under this Agreement.
6. Any of the following events will constitute an Event of Default, namely:
  - (a) the University fails to comply with any material provision of this Agreement;
  - (b) any representation or warranty made by the University in accepting this Agreement is untrue or incorrect; or
  - (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the University pursuant to or as a result of this Agreement is untrue or incorrect.
7. Either party may terminate this Agreement for any reason by giving at least thirty (30) days written notice to the other party.
8. Upon the occurrence of any Event of Default and at any time thereafter the Province may, notwithstanding any other provision of this Agreement,

at its option, elect to do any one or more of the following:

- (a) terminate this Agreement, in which case the payment of the amount required under Section 10 (iv) of this Schedule will discharge the Province of all liability to the Contractor under this Agreement;
  - (b) require the Event of Default be remedied within a time period specified by the Province;
  - (c) suspend any instalment of the payments under Schedule B or any amount that is due to the Contractor while the Event of Default continues;
  - (d) waive the Event of Default; and
  - (e) pursue any other remedy available at law or in equity.
9. The Province may also, at its option, terminate this Agreement immediately if the Province determines that the Contractor's failure to comply places the health or safety of any person conducting the Services at immediate risk, and the payment of the amount required under Section 10 of this Schedule will discharge the Province of all liability to the Contractor under this Agreement.
10. Where this Agreement is terminated before 100% completion of the Services, the Province will pay to the Contractor all costs and liabilities, including uncancellable commitments, relating to the Services which have been incurred by the Contractor, not to exceed the Maximum Amount specified in Schedule B, as of the date of receipt of notice of termination or the date of termination, whichever is later.
11. The Province hereby grants the Contractor a perpetual non-exclusive, irrevocable, world-wide, fully paid up and royalty-free license to use, make, copy, translate, practice, produce, distribute, or further develop the Produced Material for scientific, educational, public good and other non-commercial uses.
12. In addition to Section 11, with the prior approval of the Province, which will not be unreasonably withheld, the Contractor may present publications at symposia, national or regional professional meetings, or publish in journals or other publications, accounts of the work pertaining to this Agreement. Publications, conference presentations, symposia and all other dissemination of material pertaining to the Services will recognize the Ministry of <fill in ministry name>.
13. At the expiry or earlier termination of this Agreement, the Province may, at its sole discretion, negotiate with the Contractor to provide to the Contractor a license (which may be exclusive or non-exclusive) for the Contractor to use, reproduce, modify or distribute some or all of the Produced Material for commercial purposes.
14. In addition to Section 44 of this Agreement, the provisions contained in this Schedule continue in force indefinitely even after this Agreement ends.
15. *[Optional. If this clause not included, Section 43 of the Agreement remains in effect.]*
- In the event of a controversy or dispute between the parties arising out of or in connection with this Agreement, or regarding its interpretation or operation, the parties will use reasonable efforts to resolve the dispute amicably but if the parties, acting reasonably, are unable to resolve their dispute within thirty (30) days after the beginning the consultation process, then:
- (a) either party may serve written notice on the other party requiring that they submit the dispute to non-binding mediation;
  - (b) the parties will select a single mediator to mediate the dispute in accordance the *Commercial Arbitration Act of British Columbia*;
  - (c) the language of the mediation proceeding will be English and the place of mediation will be Vancouver, British Columbia;
  - (d) the parties will use reasonable efforts to participate in the mediation process and to resolve their dispute;
  - (e) each party will pay its own costs and an equal share of all other costs of the mediation; and
  - (f) should no amicable settlement be reached by the parties within sixty (60) days from the commencement of the mediation, either party may initiate judicial proceedings to resolve the dispute.

	Type of Research Relationship	Grant	Sponsored Research Agreements	Service Contracts
WHO & WHAT	Legal Instrument	Grant Letter (STOB 77)	Transfer Under Agreement (also known as Contribution Agreement – STOB 80)	General Service Agreement [under \$250,000] or Service Contract [over \$250,000] (STOB 60 or 61) with Schedule F to address issues specific to university research
	REFERENCES	Refer to Sample Grant Letter	Refer to Sample Sponsored Research Agreement (“Transfer Under Agreement for Research at a BC Public University”)	Refer to General Service Agreement (GSA) Template with Sample Schedule F (“General Service Agreement Schedule F—Additional Terms for Research Services provided by a Public University”)
		Reference Document 1—Core Policy Manual Chapter 4.3.14—Transfer Payments <a href="http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/04_Expense_Mgmt.htm#4314">http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/04_Expense_Mgmt.htm#4314</a>		Reference Document 2—Core Policy Manual Chapter 6—Procurement <a href="http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm">http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm</a>
	Parties	Province of British Columbia and the University (may include affiliated teaching hospitals as a third party).	Province of British Columbia and the University (may include affiliated teaching hospitals as a third party to the Agreement).	Province of British Columbia and the University (may include affiliated teaching hospitals as a third party to the Contract.) Note that these guidelines are not intended to cover personal consulting arrangements between individual university faculty members and the Province.
	REFERENCE			Reference Document 3—Fact sheet on personal consulting activities of academics
	Purpose	Performs investigator defined research, sometimes in response to a government-issued call for proposals or in accordance with government criteria.	Contribute to research project/ program as per project description.	Provision of research, advisory services or specific expertise for the direct use or benefit of the Province.
DELIVERABLES	Research Reporting	No specific result is specified. Researcher may be required to report, present or otherwise demonstrate the results of the grant.	Research conducted in accordance with the work plan and Researcher reports on research results as per research project description in Schedule A.	As per services described in Schedule A.
	Financial Reporting	None.	Financial reporting as defined in Section 8 of the Sample Agreement.	Usually none except on an “as requested” basis if defined in the contract.

	Type of Research Relationship	Grant	Sponsored Research Agreements	Service Contracts
FINANCIAL	Payment	Lump sum.	Payment schedule linked to reporting, deliverables or milestones as per Schedule B.	Typically fixed prices, but may vary as per negotiated Schedule B.
	REFERENCE		Refer to Sample Schedule B included as part of Sample Sponsored Research Agreement	Reference Document 4—Sample Schedule B for General Service Agreement <a href="http://www.pc.gov.bc.ca/psb/GSA/GSA_index.htm">http://www.pc.gov.bc.ca/psb/GSA/GSA_index.htm</a> .
	Overhead	Included in the lump sum.	Included in the pricing as per University policies or procedures.	Included in the price.
	Payment Timing	In advance. Funds provided along with or shortly after grant letter.	Upon invoice. May be timing- or milestone-based, as per Schedule B. An advance payment may be negotiated.	As per negotiated schedule outlined in Schedule B. An advance payment may be negotiated.
	REFERENCE		Reference Document 5—Government policy on advance payments: <a href="http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm#1636b">http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm#1636b</a>	
	Use of Funds	The Province issues no specific guidelines on use of funds. Universities are expected to apply internal financial control policies to ensure that funds are applied to expenses directly attributable to the project.	Funds applied as per Schedule B.	Funds applied as per Schedule B.
	Goods and Services Tax (GST)	Payment is all-inclusive. No separate provision for GST required.	The portion of GST not recoverable by the universities is reimbursable and is specified in the Sample Agreement in Section 3.	Applicable to time and materials contract. The portion of GST not recoverable by universities is reimbursable, as specified in Sample Schedule F, Section 4.
	REFERENCE		Reference Document 6—Government policy on reimbursable GST at <a href="http://www.min.fin.gov.bc.ca/OCG/i_and_r/Other_landR_Files/GST_Nonemployees.doc">http://www.min.fin.gov.bc.ca/OCG/i_and_r/Other_landR_Files/GST_Nonemployees.doc</a> (Government access only)	

	Type of Research Relationship	Grant	Sponsored Research Agreements	Service Contracts
RESEARCH OUTPUTS	Intellectual Property (IP)	Letter does not include IP provisions. The University or Researcher owns all results, data, inventions, improvements and other IP produced by the grant project in accordance with its policies.	In most cases, the University or Researcher owns all results, data, inventions, improvements and other IP produced by the project in accordance with its policies. The Province is allocated rights/license for non-commercial uses. However, arrangements for specific projects can vary and will depend on the particular circumstances.	Government owns the IP and will require assignment of the IP.
	REFERENCE	Reference Document 7—Fact Sheet on Research Materials and Intellectual Property		
	Right to Use and Commercialization	The Province may receive a report on research results but normally does not have rights to use research results, data or other IP. The Province may, in some circumstances, use the research results and data for internal purposes.	In most cases, the University or Researcher owns all results, data, inventions, improvements and other IP produced by the project in accordance with its policies. The Province is allocated rights/license for non-commercial uses. However, at a minimum, universities retain the right to use Research Materials for scholarly and academic purposes.	Province purchases rights to all new IP and therefore may use without restrictions. The Province may provide the university with a royalty-free perpetual license for academic and educational purposes.
	Indemnity	No indemnity provisions included.	Mutual indemnity.	Mutual indemnity.
	REFERENCE		Refer to Sample Sponsored Research Agreement, Section 14	Refer to GSA Template, Sample Schedule F, Section 2
	Insurance	No insurance provisions included.	Section 12 of the Sample Sponsored Research Agreement identifies insurance held by universities. No further provisions required.	Universities have sufficient liability insurance to cover research activities including those which the Province purchases. No Schedule D required.
	Waiver of Moral Rights	No waiver of moral rights required, as per IP provisions.	Waivers may be required by the Province for project reports. Waivers should be obtained prior to finalizing the agreement and do not extend beyond these project reports.	A waiver(s) may be required from individual researcher(s). Waivers should be obtained prior to finalizing the contract.

	Type of Research Relationship	Grant	Sponsored Research Agreements	Service Contracts
PUBLICATION & CONFIDENTIALITY	Release of Information & Public Acknowledgement	Universities are required to make publicly available basic information on the project.	Universities are required to make publicly available basic information on the project.	Universities are required to make publicly available basic information on the project.
		Researcher should acknowledge support of the Province.	Researcher should acknowledge support of the Province.	Government determines release of data and/or reports. Parties may negotiate government acknowledgement of the contribution of the university.
	Publication	The University has unrestricted rights.	University reserves the right to publish accounts of the research; certain terms may be subject to negotiation.	University reserves the right to publish accounts of the research; certain terms may be subject to negotiation.
	REFERENCE		Refer to Sample Sponsored Research Agreement, Section 16	Refer to GSA Template, Sample Schedule F, Section 12
	Confidentiality (Universities do not conduct secret research)	Normally, no confidentiality provisions included. If necessary, confidentiality provisions should be addressed in a separate agreement, such as a data-sharing or non-disclosure agreement.	The Province and the University must keep each other's confidential information confidential. Both the Province and BC's public universities are bound by the Freedom of Information and Protection of Privacy Act.	The Province and the University must keep each other's confidential information confidential. Both the Province and BC's public universities are bound by the Freedom of Information and Protection of Privacy Act.
REFERENCE	Reference Document 8—Sample employee/researcher confidentiality agreement			
PRIVACY & ACCESS TO INFORMATION	Privacy, Access to, and Use of Personal Information	If access to Ministry data is required, or, if exchange of personal or confidential information will occur, a separate agreement is required. Ministry officials should consult with their Ministry's Data Steward or Freedom of Information and Privacy Branch for assistance. Universities should consult with the office responsible for access to information and protection of privacy at their institution.		

	Type of Research Relationship	Grant	Sponsored Research Agreements	Service Contracts
ADMINISTRATION	Statement of Work	Researcher-generated proposal constitutes statement of work.	Required and constitutes Schedule A. Sufficient detail to ensure appropriate conduct and oversight.	Required and constitutes Schedule A. Sufficient detail to ensure appropriate conduct and oversight.
	Budget	Only if required as part of an application process.	Required in proposal. May be included in Schedule B, depending on terms of payment.	Not required. Budget is as per the price.
	Conflict of Interest	No conflict of interest provisions included.	Conflict of interest provisions apply to the research personnel involved in research project.	Conflict of interest provisions apply to the research personnel involved in providing the services.
	REFERENCE		Refer to Sample Sponsored Research Agreement, Section 9	Refer to GSA Template, Sample Schedule F, Section 5.
	Dispute Resolution	No dispute resolution mechanism required.	Parties can choose one of two options. (1) Any disputes will first be addressed through mediation. Should no amicable settlement be reached by the parties within 30 days, either party may initiate judicial proceedings. OR (2) Disputes will be resolved by arbitration. The preferred option can vary by university. One option should be selected before the agreement is finalized.	Parties can choose one of two options. The preferred option should be selected before the agreement is finalized. Note that different universities may have preferred options and/or institutional policies. (1) Any disputes will first be addressed through mediation. Should no amicable settlement be reached by the parties within 30 days, either party may initiate judicial proceedings. OR (2) Disputes will be resolved by arbitration.
REFERENCE		Refer to Sample Sponsored Research Agreement, Section 13	Refer to GSA Template, Schedule F, Section 15	

## Core Policy Manual Chapter 4.3.14–Transfer Payments

Also available at: [http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/04\\_Expense\\_Mgmt.htm#4314](http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/04_Expense_Mgmt.htm#4314)

### 4.3.14 TRANSFER PAYMENTS

Transfer payments are transfers of money from the Province to an individual, an organization or another government for which the Province does not receive any goods or services directly in return, does not expect to be repaid in the future, and does not expect a financial return. Transfer payments are distinct and separate in this respect from other acquisitions by government where it receives goods or services directly in exchange for a payment.

#### Accounting and Classification

1. Transfer payments must be defined in accordance with the criteria described in Appendix 1 as one of three payment categories:
  - Grant;
  - Entitlement; or
  - Transfer Under Agreement (including shared cost).
2. Transfer payments must be recorded and reported accurately, completely and on a timely basis to comply with government's accounting policy as described in Appendix 2.

#### General Payment Standards

3. Transfer payments must support approved ministry service plans and program objectives.
4. A transfer payment must be authorized by a ministry official who has been delegated expense authority for this purpose.
5. A transfer payment shall only be made:
  - for specified purposes in accordance with established eligibility criteria;
  - under a statutory authority, formula or regulation; or
  - in accordance with a formal agreement, or a shared-cost agreement for the purposes specified in an agreement.

#### Documentation and Payment Management

6. Written documentation between the Province and the recipient is required in support of a transfer payment. For Grants and Entitlements, the use of an application form or correspondence with the recipient may be sufficient. For a Transfer Under Agreement, a formal written agreement must be used that clearly identifies the terms and conditions (see Appendix 3 for guidance). Where it is necessary, ministries are to seek legal counsel in developing a transfer agreement.
7. Transfer payments must be managed in a manner that:
  - is open and transparent to the public;
  - provides for government independence and objectivity;
  - clearly identifies roles and responsibilities;
  - provides adequate administration and documentation; and
  - takes into consideration economy, efficiency and effectiveness.
8. The responsible ministry must undertake measures to conduct appropriate due diligence on a prospective transfer payment recipient, including, where applicable, credit and background checks on key signatories, verification of business references and other certifications.
9. The engagement of a Transfer Under Agreement must demonstrate accountability and economic efficiency. The choice of a service provider shall follow government's competitive selection process unless a direct award condition applies, or where
  - financial assistance is provided to a specified target group or population (e.g., a First Nation, or a direct beneficiary- individual or family or legal guardian of that individual under a community/social service program); or
  - it is a shared cost agreement or a public private partnership where a competitive selection is not appropriate.

10. Records of transfer payments, and an appropriate management information system and monitoring strategy must be maintained by the responsible ministry to ensure the terms and conditions for the transfer payment are met.
11. The performance review of a recipient must be carried out with independence and objectivity. An employee shall not take part in a performance review if he/she is exposed to an actual, perceived or potential conflict of interest in relation to a performance review.

### **Repayment of a Transfer Payment**

12. Where a transfer payment is paid
  - after the expiry of eligibility;
  - on the basis of fraudulent or inaccurate information;
  - in error; or
  - the recipient has not complied with the terms and conditions for the payment,

the ministry executive financial officer or other designated ministry official will determine the extent of repayment with reference to the nature and severity of the situation, and record the amounts owing as a debt receivable to the government.

13. Refund of an overpayment is required immediately or reasonable arrangements must be made to ensure repayment in due course.

## Core Policy Manual Chapter 6–Procurement

Full chapter available at [http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06\\_Procurement.htm](http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm)

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    - Repairs and Maintenance
    - Disposal of Surplus Assets
    - Crown Copyright
    - Disposal of Intellectual Property
  - 6.3.5 Information Management and Information
    - Technology Procurement
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    - Unsolicited Proposals
  - 6.3.6 Contract Administration and Monitoring
    - Receipt of Goods
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##### **Part II: Vendor Complaint Review Process For Government Procurement**

- 6.1 Objectives
- 6.2 General
  - 6.2.1 Definitions
  - 6.2.2 Scope of VCRP
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  - 6.4.3 Request for Proposals
  - 6.4.4 Agreement on Internal Trade
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  - 6.4.6 Risk Management Branch

## Fact Sheet on Personal Consulting Activities of Academics

Academics may engage in outside professional activities by way of personal consulting arrangements, which, by university policy, are personal to them and do not include the material use of university facilities, staff or students, or services.

When negotiating terms with academics for the conduct of research projects or for professional services, it is important to be aware of the distinction between:

- an individual acting in his or her personal capacity; and
- the same individual acting in his or her capacity as an academic employee of a university.

It is usual for universities to encourage faculty members to engage in outside professional activities, both paid and unpaid, that involve the application of special skills and knowledge within the researcher's particular academic competence. Universities recognise that outside professional activities, conducted with professional and academic responsibility, accrue indirect benefits to the university as well as enhancing the professional, scholarly and scientific strengths of the individual.

Faculty members may engage in outside professional activities under the following guidelines. The activities:

- do not impinge on employment duties at the university;
- do not give rise to conflicts of interest;
- do not make material use of university facilities, staff or students, services, or intellectual property;
- are covered under agreements which are personal arrangements between the faculty member and the third party; and,
- do not purport to represent the university in any manner.

Similar guidelines (contained in the Standards of Conduct for Public Service Employees, revised September 2003) govern employees of the Province of British Columbia in conducting outside remunerative and volunteer work.

**It is therefore essential, when discussing a project with a university researcher, to be clear on whether the professional services of the researcher are requested and offered in an external consultant or a university capacity.** If university facilities, employees or services are necessary to complete the contract or the reputation and endorsement of the university is a factor, then the activities are university activities and must be addressed through negotiation with the university, leading to an agreement to which the university is a party. If, however, the participation of the individual faculty member properly qualifies as his or her outside professional activities, then the Province and individual are free to develop their own contractual terms without recourse to the Reference Table, which does not apply.

## Sample Schedule B For General Service Agreement

Also available at: [http://www.pc.gov.bc.ca/psb/GSA/GSA\\_index.htm](http://www.pc.gov.bc.ca/psb/GSA/GSA_index.htm)

### Sample Schedule B

#### Fees and Expenses

#### 1. FEES

Choose one of the following

##### Daily Rate

Fees: at a rate of \$\_\_\_\_ per day (based on a day of \_\_\_\_ hours) for those days during the term of this Agreement when you provide the Services. If you provide the Services for less than the required hours on any day, your fees for that day will be reduced proportionally.

##### Hourly Rate

Fees: at a rate of \$\_\_\_\_ per hour for those hours during the term of this Agreement when you provide the Services.

##### Rate per Unit/Deliverable

Fees: at a rate of \$\_\_\_\_ for each [unit/deliverable] provided by you as Services during the term of this Agreement up to \_\_\_\_ [units/deliverables].

##### Flat Rate

Fees: \$\_\_ for performing the Services during the term of this Agreement.

#### 2. EXPENSES

##### Expenses

- a. travel, accommodation and meal expenses for travel greater than [32 kilometers] away from \_\_\_\_\_ on the same basis as we pay our [Group I/II?] employees when they are on travel status; and
- b. your actual long distance telephone, fax, postage and other identifiable communication expenses; and

- c. the non-refundable portion of the federal Goods and Services Tax; and
- d. [Describe here if any other type of expense to be permitted.]

#### 3. MAXIMUM AMOUNT PAYABLE

Maximum Amount: \$\_\_\_\_\_ is the maximum amount of fees and expenses which we must pay to you under sections 1 and 2 of this Schedule.

#### 4. INVOICING

Choose one of the following

##### Variable Fees and Expenses

In order to obtain payment of any fees and expenses under this agreement for [Describe billing periods. For example: "a period from and including the 1st day of a month to and including the last day of that month" OR "a period from and including the 15th day of a month to and including the 14th day of the next month"] (each a "Billing Period"), you must deliver to us on a date after the Billing Period (each a "Billing Date"), a written invoice in a form satisfactory to us containing:

- a. your legal name and address;
- b. the date of the invoice, and the Billing Period to which the invoice pertains;
- c. your calculation of all fees claimed for the period, including a declaration by you of [Choose one of the following:
  - For Daily Rate situations—"all hours worked on each day during the month";
  - For Hourly Rate situations—"all hours worked during the month";
  - For Rate per Unit/Deliverable situations—"all (units/deliverables) provided during the month"] for which you claim fees and a description of the applicable fee rates;
- d. a chronological listing, in reasonable detail, of any expenses claimed by you for the Billing Period with copies of original receipts, if applicable. Original receipts must be retained by the contractor for review by the Province as needed;

- e. a description of this agreement;
- f. an invoice number for identification; and
- g. any other billing information reasonably requested by us.

OR for Flat Rate Situations [Can be a flat rate fee and expenses, or flat rate fee with variable expenses]

## **Invoicing**

You must deliver to us at the end of the term of this agreement or, if you complete the Services before that time, on the completion of the Services, a written invoice in a form satisfactory to us containing:

- a. your legal name and address;
- b. the date of the invoice;
- c. [For flat rate fees] your calculation of all fees claimed under this agreement, including a declaration that the Services for which you claim fees have been completed  
OR [for variable expenses] a chronological listing, in reasonable detail, of any expenses claimed by you for the Billing Period with copies of original receipts, if applicable. Original receipts must be retained by the contractor for review by the Province as needed;
- d. the amount and description of any expenses claimed by you;
- e. a description of this agreement to which the invoice relates;
- f. an invoice number for identification; and
- g. any other billing information reasonably requested by us.

## **5. PAYMENTS DUE**

### **Payments Due**

We will pay you within thirty-one days of our receipt of your invoice, or the date of receipt and acceptance of the deliverables, whichever is the later.

## Government Policy On Advance Payments

Also available at: [http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06\\_Procurement.htm#1636b](http://www.fin.gov.bc.ca/ocg/fmb/manuals/CPM/06_Procurement.htm#1636b)

### Core Policy Manual Chapter 6—Procurement

#### SECTION 6.3.6—CONTRACT ADMINISTRATION AND MONITORING

##### b. Payment

1. A contract summary record must be maintained for all service contracts, either by using a contract summary sheet, or equivalent electronic record.
2. A contract cannot include a cost overrun clause. If a cost overrun is unavoidable, ensure the costs are justified. Any overrun is to be authorized in advance using a modification agreement form. There may be additional approval requirements triggered by cost overruns.
3. Fees, Expenses, Maximum Amount, Statements of Account, and Payments Due, must be contained in Schedule B to contracts. This applies whether the contract is established on the basis of Daily Rate, Hourly Rate, Rate per Unit/Deliverable or Flat Rate. (For contractor travel, refer to Travel, Contractors.)
4. All contract quotations must exclude the GST. All contracts must include a GST Certification Clause (see clause 30 of the General Service Agreement).
5. Ministries must ensure that payments made to contractors who are non-residents of Canada comply with the withholding tax provisions of the federal *Income Tax Act*.
6. Payments made in advance must be specifically provided for in the contract or in accordance with a formal modification agreement. The contract or modification agreement must specify how the advances are:
  - to be deemed to be earned; or
  - if the services are not subsequently rendered, to be repaid; and
  - what interest rate, if any, must apply.

## Government Policy on Reimbursable GST

Also available at: [http://www.min.fin.gov.bc.ca/OCG/i\\_and\\_r/Other\\_landR\\_Files/GST\\_Nonemployees.doc](http://www.min.fin.gov.bc.ca/OCG/i_and_r/Other_landR_Files/GST_Nonemployees.doc)  
(BC Government employee access only)

### FEDERAL GOODS AND SERVICES TAX (GST)

#### Reimbursing GST to Non-Employees

As a general government practice, GST paid by a contractor on travel costs is not reimbursed. Suppliers of taxable goods and services should be registered with Canada Customs and Revenue Agency and can claim a recovery of GST paid as an input tax credit.

There are several exceptions to note:

#### Supplier of Exempt Services

GST is not payable on exempt services and suppliers of exempt services would not charge GST on their billings. As a result, these suppliers cannot claim as an input tax credit any GST paid in providing the related services. Examples of exempt services are health care services (e.g., sessional doctor services), some educational services, personal and child care services.

As a supplier of exempt services cannot recover the GST paid out, the government will reimburse the supplier for the GST paid on travel and other reimbursable expenses.

#### Volunteers

Volunteers are reimbursed for the GST paid on travel and other reimbursable expenses. Where possible (see section 5K Travel Charge Direct Billings), direct billings of travel expenses to the ministries will minimize the amount of GST to be reimbursed by the government.

#### Appointees to Agencies, Boards and Commissions

OIC appointees are eligible to have GST paid on their travel and other reimbursable expenses reimbursed as an input tax credit.

#### Small Suppliers

Small businesses or businesspersons with annual sales of less than \$30,000 are not required to register with

Canada Customs and Revenue Agency. If a ministry chooses to contract with a small supplier because it is cost effective, the ministry can, at its own discretion, reimburse the small supplier for minor amounts of GST paid in providing the service. This practice however is discouraged.

#### Non-Profit and Public Sector Organizations

Ministries might have contracts with non-profit organizations, municipalities, schools, hospitals or universities for the provision of goods or services to government or third parties. These types of organizations may ask the government to share their GST burden as part of the contract cost.

In cases where these types of organizations are contracting with government on a shared cost basis or a full-cost recovery basis, contract administrators may be asked to include GST costs in amounts eligible for reimbursement. This can be agreed to, but note that these organizations may be eligible for a rebate of part of their GST burden as follows:

- Municipalities—57.14%
- Universities/colleges—67%
- School authorities—68%
- Hospital authorities—83%
- Qualifying non-profit organizations—50%\*\*

\*\*Non-profit organizations must be at least 40% funded by government to qualify for this rebate.

If government were to share the cost of a municipal works project on a 50/50 basis, the government's 50% share should be calculated net of the 57.14% GST rebate that the municipality is eligible for. When contracting with the types of organizations listed above, ensure that all eligible GST rebates have been (or will be) claimed prior to final determination of the government's share.

If the provincial government provided a grant simply to assist toward the cost of a project, GST costs would not be added to this amount.

## Fact Sheet on Research Materials and Intellectual Property

### Research Materials and Intellectual Property

The conduct of academic research may result in the production of a range of research materials including:

1. Ideas, research findings, software, data, specifications, drawings, documents (“Research Materials”);
2. Interim and final project reports (“Project Reports”); and
3. Academic publications, academic presentations, and theses (“Academic Reports”).

Intellectual Property (“IP”) is defined in Appendix <6> (Glossary) of the Final Report as:

Intangible (non-physical) property which includes scientific or scholarly discoveries, copyright, computer software, moral rights related to copyrighted materials, trademarks, official marks, domain names, patents, industrial designs, literary, artistic, musical or visual works and know-how. Although intellectual property rights are associated with a wide range of products of the human intellect, such as training manuals, publications, map products, videos and computer software, they are distinct from the physical medium on which these products are produced. The intellectual property is the set of rights arising from the creation and development of these products. For example, if a physical book is produced, the author’s copyright in that book is the intellectual property.

Attributes of IP rights include:

1. Ownership—legal title to the IP, and subject to an agreement to the contrary, all of the following rights;
2. Rights to use:
  - for scholarly and academic purposes;
  - for public purposes (by the Province, its contractors, or the general public); and
  - for commercial purposes (by the private sector);
3. Control—the ability to decide where and when to file IP protection, if/how to develop IP into products/services, where to market products, etc.;
4. Economic—revenue and costs related to IP protection, development and marketing;
5. Attribution—who claims credit for inventing and/or developing IP; and
6. Risk—product liability, infringement claims, and regulatory compliance.

In general, under the terms of a Grant letter (STOB 77), ownership of Research Materials, Project Reports, Academic Reports and IP will vest with the recipient and the Province receives no rights. Under the terms of a General Services Agreement (STOB 60 or 61) the opposite is true and ownership of Project Reports and IP vests solely in the Province. With Sponsored Research Agreements (Contribution Agreements, STOB 80), ownership and rights to use Research Materials, Project Reports, Academic Reports and IP varies, and depends on the particular circumstances.

While the approach taken under a Sponsored Research Agreement/Contribution Agreement will vary, in general, the following general principles should be considered:

- The six attributes of IP rights (see above) will be determined at the project outset and will vary according to the class of material (Research Materials, Project Reports, and Academic Reports);
- Ownership of Research Materials, Project Reports, Academic Reports and IP vests, in the absence of an agreement to the contrary, in the creator/inventor or his/her employer;
- While the Sponsored Research Agreement may stipulate that ownership of Research Materials, Project Reports, Academic Reports and IP vest in either the Province or the recipient, academic institutions prefer to retain all ownership rights and may provide the Province with a royalty free, perpetual license to use Research Materials, Project Reports, and IP for public purposes. This

may include a waiver of moral rights by the authors of the Project Reports;

- In all research projects, it is essential to the academic institutions that, at a minimum, they retain the right to use Research Materials for scholarly and academic purposes and that they retain for the authors ownership of copyright of Academic Reports; and

The owner of the IP rights retains the authority to issue licences to third parties, including for-profit corporations, for academic, research, and/or commercial purposes. Academic institutions do not assume risk for commercial use of research results. IP is provided to companies on an “as is” basis, and the companies will be required to indemnify the academic institution for their use.

The parties may negotiate the transfer of all or some of the IP rights from one party to another on a case-by-case basis.

## Sample Employee/Researcher Confidentiality Agreement

### Employee/Researcher Confidentiality Agreement

*Sample provided for illustrative purposes only. For assistance, consult with your organization's office responsible for administration of the Freedom of Information and Protection of Privacy Act.*

I, \_\_\_\_\_, do solemnly swear/affirm that:

1. I am an employee/seconded/graduate research assistant employed by \_\_\_\_\_ and as such have access to student, teacher and school records and data as defined in the *School Act*, R.S.B.C. 1996, c. 412, and to data acquired by \_\_\_\_\_ and the Province of British Columbia. I understand and acknowledge that such data is subject to the provisions of the *Freedom of Information and Protection of Privacy Act* and/or the *Protection of Privacy Act*, of British Columbia.
2. I will not disclose to any organization, company or person any personal information from these records and data sets unless I am permitted or compelled to do so by legislation of British Columbia or Canada.
3. I will report any and all requests, demands or requirements by foreign entities made upon me or my employer for disclosure of personal information to which I may have access to \_\_\_\_\_ and the Office of the Information and Privacy Commissioner for British Columbia.
4. I acknowledge that I have read and will abide by the terms and conditions of the contractual agreement, instructions and/or policies of \_\_\_\_\_ with respect to the use, security and protection of the personally identifiable data.
5. I have read, acknowledge and understand the provisions of sections 30, 30.1, 30.2, 30.3 and 30.4 of the *Freedom of Information and Protection of Privacy Act* and, by signature, agree to adhere to these provisions. I also acknowledge that a breach by me of any of those sections could result in the penalties as outlined in section 74 being applied against myself or \_\_\_\_\_ as may be appropriate through process of law. I also acknowledge that a breach by me of these sections 30 through 30.4 will also be deemed a breach of the agreement under which either myself or my employer are engaged to the Ministry and may result in its immediate termination.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

A copy of the FOIPPA sections referred to above has been provided to me \_\_\_\_\_ (initials).

I make this declaration knowing it is of the same legal force and effect as if I made it under oath.

Sworn before me (witness signature): \_\_\_\_\_

Witness Name: \_\_\_\_\_

Witness Position: \_\_\_\_\_

## Glossary

### Assignment of Intellectual Property Rights

Assignment means to transfer all or part of one's property, interest or rights to another party. Payment may be received up-front or at some later date.

### Audio-Visual and Computer Materials

These materials include, but are not limited to, audio and video tapes, films, slides and photographs, computer programs and computer-stored information.

### Background Intellectual Property

Background intellectual property is intellectual property that was created *prior* to a specific date and is normally relevant to the contract or agreement being entered into. Background intellectual property is normally owned by the person or entity that creates it and usually continues to be so owned, although cross-licensing may be necessary to support the use of intellectual property developed during the research project (Foreground Intellectual Property).

### Commercial

Being able to yield or make a profit; prepared, done, or acting with sole or chief emphasis on saleability, profit, or success: *a commercial product*. Source: commercial. Dictionary.com. *Dictionary.com Unabridged (v 1.1)*. Random House, Inc. <http://dictionary.reference.com/browse/commercial> (accessed: February 14, 2007)

Examples of Commercial use include, but are not limited to:

- use at or for a commercial enterprise;
- use for financial gain, personal or otherwise;
- use at home, for which an individual will be paid in connection with its use;
- use in connection with administering a commercial website;
- use in connection with the provision of services for which an individual or firm is compensated in excess of operating costs.

### Confidential Information

Confidential information is information that is disclosed by one party to another and is not intended for disclosure to any other party. It may include trade secrets, know-how, show-how, concepts, discoveries, inventions, research or technical data and other proprietary information or material (biological or otherwise). Confidential Information does not include information that:

- is or subsequently becomes generally available to the public through no act or fault of recipient;
- was in the possession of recipient prior to its disclosure by the provider to the recipient;
- was lawfully acquired by recipient from a third party who was not under an obligation of confidentiality to provider;
- is required by an order of a legal process to disclose, provided that recipient gives provider prompt and reasonable notification of such requirement prior to disclosure; or
- independently developed by employees, agents or consultants of the recipient who had no knowledge of or access to the discloser's information as evidenced by the recipient's records.

### Conflict of Commitment

A conflict of commitment is a situation where the external professional activities of a member are so substantial or demanding of the member's time and attention as to interfere or adversely affect the discharge of the member's responsibilities to the University, or where the non-University activities of a member involve the use of University resources.

### Conflict of Interest

Conflict of interest means a situation where a person is in a position to influence, either directly or indirectly, University business, research, or other decisions in ways that could advance the researcher's own interests or the interests of a related party, to the detriment of the University's interests, integrity or fundamental mission. In the research context, conflict of interest includes a situation where financial or other personal consider-

ations may compromise, or have the appearance of compromising, an investigator's professional judgment in conducting or reporting research. Conflicts of interest may be potential, actual or apparent.

The Provincial Government views Conflict of Interest occurring when an employee's private affairs or financial interests are in conflict, or could result in a perception of conflict, with the employee's duties or responsibilities in such a way that the employee's ability to act in the public interest could be impaired, or the employee's actions or conduct could undermine or compromise:

- the public's confidence in the employee's ability to discharge work responsibilities, or
- the trust that the public places in the public service.

## Copyright

The exclusive right of the creator, or subsequent copyright holder, to copy, produce, reproduce perform or publish a work. Copyright exists as soon as an artistic, literary or musical work or software is created; it arises automatically when an original work is created, and does not need to be granted by any authority. This differs from patents, for example, which must be applied for and issued by federal governments.

## Data

Representations of recorded information or concepts prepared in a form suitable for use. This includes, but is not limited to, technical data, computer software and computer databases. Data does not include data incidental to the administration of a contract such as financial, cost and pricing, administrative or management information.

## Financial Reporting

Refers to the production of unaudited financial reports by the University. These reports should be a full accounting of the receipt and expenditure of the Province's financial contribution. They should include project summary, budget variance, expenditure details, salary details, federal cost share, contributions in kind, and revenue details, if any.

## Foreground Intellectual Property

Foreground intellectual property is new intellectual property that is created *after* the start date or effective date of a contract or agreement.

## Freedom to Operate

Freedom to operate refers to the ability to commercially produce, market or use a product, process or service without infringing the intellectual property rights of others.

## Indemnification

Indemnification refers to protection from harm or cost. An indemnifying party guarantees to pay or take care of any debt, lawsuit or claim that may arise as a result of a contract or contract performance on behalf of the indemnified party.

## Indirect Costs

Indirect costs (or overhead) are those costs that cannot be identified readily and specifically, but are nonetheless associated with a particular activity. For example, indirect costs to universities of conducting research include heat, power, administration, library and computing facilities.

## Intellectual Property

Refers to intangible (non-physical) property which includes scientific or scholarly discoveries, copyright, computer software, moral rights related to copyrighted materials, trademarks, official marks, domain names, patents, industrial designs, literary, artistic, musical or visual works and know-how. Although intellectual property rights are associated with a wide range of products of the human intellect, such as training manuals, publications, map products, videos and computer software, they are distinct from the physical medium on which these products are produced. The intellectual property is the set of rights arising from the creation and development of these products. For example, if a physical book is produced, the author's copyright in that book is the intellectual property.

## Intellectual Property Rights Ownership

Intellectual Property rights vest with the creator(s) of that intellectual property. Those rights may be transferred to another party under contract or via university policy.

## Invention or Discovery

At the University, "invention or discovery" includes databases, audio and video tapes, films, slides and photographs, computer programs and computer-stored information or equivalent circuitry, biotechnology and

genetic engineering products and all other products of research which may be licensable. Inventions do not include traditional scholarly works such as books, lecture notes, laboratory manuals, artefacts, visual art and music.

### **Know-how**

Know-how is normally unwritten information that is needed to achieve a significant development, production, or use.

### **Matching Funds Programs**

Numerous government provincial and federal programs exist that contribute a certain amount of research funds to the University for every dollar contributed by an industry sponsor. The largest sources of these funds are administered federally by the Natural Sciences and Engineering Research Council of Canada, and the Canadian Institutes of Health Research.

### **Material**

All findings, data, reports, documents, records and material, (both printed and electronic, including but not limited to, hard disk or diskettes), whether complete or otherwise, that have been produced, received, compiled or acquired by, or provided by or on behalf of the Province to, the University as a direct result of this Agreement, but does not include:

- i. Client Case Files or Personal Information which could reasonably be expected to reveal the identity of clients;
- ii. Property owned by the University.

### **Non-Commercial**

Means not being able to profit financially at any time from materials, results and products (“outputs”), produced under contract between the Province and University, in the use of these outputs by the following non-commercial users and their employees: government ministries, agencies, boards and commissions; educational institutions (such as public school boards, public post-secondary institutions, community and technical institutes); and non-profit organizations (such as public libraries, charities, and other organizations created for the promotion of educational, health or social services purposes);

### **Overhead (see Indirect Costs)**

### **Patent**

A patent is a right granted by a national government, upon application and in exchange for a complete disclosure of an invention. The disclosure is initially a confidential disclosure to the patent office, which later becomes a non-confidential disclosure to the public at large. A patent gives the applicant the right to prevent others from making, using, or selling the claimed invention for a limited period of time. Subject to the payment of the prescribed annual fees, patents generally have a life of 20 years depending on the jurisdiction. In order to be patentable, an invention must be novel, useful and not obvious to a person skilled in the field of the invention.

### **Principal Investigator**

The individual identified by the University as the person primarily responsible for a research project.

### **Protected**

A security category assigned to documents, files or records series containing confidential and/or sensitive information.

### **Publication**

Publication is disclosure that gives the public or third parties knowledge or details of an item of information. Publication may be made by way of speech, written materials, tape, video recording or other electronic means, drawing, photograph, printed work, or any other disclosure given or distributed. Publication does not include disclosures of information made on a confidential basis. Depositing a thesis in a library constitutes publication and may prejudice the ability to obtain a patent unless appropriate measures are taken to limit access to the thesis during the critical patent application period. At the University, a public thesis defence is considered public disclosure and may also prejudice the ability to obtain a patent.

### **Secret Research**

University facilities may not be used for secret or classified research. Results of research undertaken at the University are ultimately publishable at the discretion of the principal investigator.

The University must be able to disclose the following five items related to research projects:

- Name of sponsor
- Title of project (non-confidential)
- Award amount
- Name of principle investigator
- Contract period

## **Scholarly Integrity**

At the University, the following policy applies as it relates to Scholarly Integrity:

1. Researchers are personally responsible for the intellectual and ethical quality of their work and must ensure that their scholarly activity (which includes teaching, research, scholarship or artistic/creative activity carried out in the course of a faculty, staff or student's work or studies at the University and includes activities that would be appropriate for inclusion on a curriculum vitae or in an annual report to a Department Head) meets University standards.
2. Researchers involved in scholarly activity must not commit scholarly misconduct.
3. The University will investigate allegations of scholarly misconduct in a timely, impartial and accountable manner and take appropriate action, including any necessary steps to preserve evidence, when it becomes aware of allegations of scholarly misconduct.

## **Sensitive Information**

Personal, confidential or protected information whose release is unauthorized i.e., information which is reasonably likely to be excepted or excluded from access under the Freedom of Information and Protection of Privacy Act.