

DATE: March 24, 2021

FILE: 4900-01

TO: Chair and Directors
Regional District Board

FROM: Russell Dyson
Chief Administrative Officer

Supported by Russell Dyson
Chief Administrative Officer

R. Dyson

RE: Renewal of the Service Contract for the Comox Valley Community Health Network

Purpose

To seek Comox Valley Regional District (CVRD) Board approval to once again enter into a funding agreement with Vancouver Island Health Authority (Island Health) for the continued development and progress of the Comox Valley Community Health Network (CHN).

Recommendation from the Chief Administrative Officer:

THAT the draft Service Contract, Appendix A to this staff report dated March 24, 2021, between the Comox Valley Regional District and Vancouver Island Health Authority (Island Health) for a Community Health Network in the Comox Valley be approved;

AND FURTHER THAT the Chair and Corporate Legislative Officer be authorized to execute the agreement.

Executive Summary

- The Comox Valley Community Health Network was established in 2018 as a service agreement between the Island Health and the CVRD. Island Health establishes the terms of the contract and sets the amount that is payable.
- A sub-contractor was contracted as the Comox Valley Community Health Network Facilitator by a Request for Qualifications in September 2018.
- A presentation was received by the CVRD Board on March 9, 2021 highlighting the work of the Health Network over the past three years.
- The current sub-contractor is prepared to continue in the coordinator role: the CVRD is able to extend the coordinator's agreement for an additional two years (March 31, 2023) as per past procurement practice. In 2023, the CVRD can consider a direct award for the final year of the agreement between Island Health and the CVRD as it may make sense for contractor continuity and the completion of the funding agreement. Staff will need to look at the procurement process again, however for any procurement beyond 2024.
- Should this contract be approved by the board, an amendment to the 2021 – 2025 financial plan will be presented to the board at a future board meeting.

Prepared by:

A. Mullaly

Alana Mullaly, RPP, MCIP
General Manager of Planning
and Development Services

Government Partners and Stakeholder Distribution (Upon Agenda Publication)

Island Health	✓
Community Health Network Coordinator	✓

Attachments: Appendix A – Draft Service Contract between Vancouver Island Health Authority and the Comox Valley Regional District



Contract Number: 2505.09-PRO-38563
 Term: April 1, 2021 to March 31, 2024
 Max Amt To Be Paid (Incl Taxes): \$240,000.00
 Cost Centre & Expense Code: 82.71.350102000 8604000

SERVICE CONTRACT

BETWEEN

Vancouver Island Health Authority

AND

Comox Valley Regional District

(the "Island Health (VIHA)")

(the "Contractor/Service Provider")

At the following address:

1952 Bay Street
 Victoria, BC V8R 1J8

Fax: (250) 740-2663

At the following address:

770 Harmston Ave
 Courtenay, BC V9N 0G8

Tel: (250) 334-6000

Fax:

Island Health and the contractor agree to all Terms and Conditions contained in this agreement and to the following schedules (collectively, the "Agreement").

SCHEDULE A – SERVICES

The following services and/or deliverables (the "Services") will be provided by the Contractor for the term from April 1, 2021 to March 31, 2024 (the "Term"):

The purpose of this Agreement is to support the continued development and progress of the Comox Valley Community Health Network as it works in partnership with Island Health and other stakeholders to develop shared understanding, identify shared priorities and to take collective action to address the social determinants of health and modifiable risk factors in the area of the Comox Valley Regional District.

To support this work, the Contractor will subcontract with a coordinator who will support the efforts of the Community Health Network (CHN) to:

- Convene dialogue regarding social determinants of health and modifiable risk factors informed by credible data (e.g. Canadian Community Health Survey, local health area profiles, BC Center for Disease Control Community Health Profiles), content experts (e.g. medical health officers, academics, planners), front line community experience (e.g. health care providers, collaborative service committees, primary care networks and community service providers) and people from diverse backgrounds with lived/living experience in order to:
 - foster a common understanding of community health priorities
 - create a shared vision for a healthy community
 - reach agreement on joint priorities for shared action/intervention
 - develop/maintain and/or renew time-limited strategy documents reflecting vision, priorities and action plans.
- Facilitate coordinated action amongst partners to address joint priorities.
- Engage policy makers around system level changes required to enable action on joint priorities.

- Support and coordinate the procurement of additional funding (from sources outside of Island Health), in-kind contributions and other resources to support actions addressing joint priorities.
- Facilitate ongoing collection and dissemination of data from partners regarding aligned community action in support of joint priorities and observable outcomes of aligned actions.
- Conduct outreach to build community awareness and support for the CHN.
- Ensure broad and equitable participation at all levels of their network structure including participation from multi-sector community partners with active participation from people with lived/living experience, foundations, charitable organizations, Island Health, local government, local First Nations, school districts/boards, post-secondary institutions, local business organizations, existing collaborative groups, and other institutions and sectors representing a spectrum of expertise, ages, and population perspectives spanning the entire region.
- Collaborate with Island Health regarding ongoing alignment of evolving priorities tied to strategic Initiatives of the Ministry of Health and Island Health which may change over time such as:
 - The Primary Care Networks (PCN) Initiative (requiring PCNs and Collaborative Services Committees (CSCs) to partner with the community sector regarding upstream prevention of locally prevalent illnesses and risk factors). This initiative seeks to link the health priorities identified through PCNs to specific population based initiatives that are mutually reinforcing to improve health and wellness of the population (for example, physical literacy initiatives in response to high incidence of frailty in seniors or air quality improvement strategies in response to high respiratory illness hospitalization rates).
 - The Healthy Communities Initiative (requiring partnerships between Island Health, Local Governments, Aboriginal Communities and other Community Partners on planning for upstream prevention).

The Contractor will:

- Consult with the CHN on all aspects of the coordinator's contract/work description;
- Ensure that the CHN supports the expectations laid out for the coordinator's contract/work description;
- Supervise the coordinator and collaborate with the CHN to ensure the coordinator is meeting expectations;
- Ensure that the CHN has approved invoices for the subcontracted coordinator;
- Provide monthly statements to the CHN;
- In kind accounts payable services; and
- Participate at an advisory level in the CHN.

The Contractor will consult with the CHN on all aspects of the coordinator's contract/work description and will ensure that the CHN supports the expectations laid out for the coordinator's contract/work description.

The Contractor hereby represents and warrants that all Services provided prior to the date of execution of this Agreement, if any, were provided in accordance with the terms and conditions of this Agreement.

SCHEDULE B – FEES AND EXPENSES

Fees: \$240,000.00 is the maximum amount of fees paid to the Contractor for providing the Services. Payments will be made by payment schedule in lump sum amounts on or about the following dates:

Payment Date	Amount
April 1, 2021	\$80,000.00
April 1, 2022	\$80,000.00
April 1, 2023	\$80,000.00

Should there be any break in the Services due to the unavailability of the subcontractor, Island Health may recover unspent funds within the fiscal year running April 1 to March 31.

SCHEDULE C – REPORTING ACCOUNTABILITIES

Full and detailed records are to be kept dealing with all aspects of the Services performed including, but not limited to, time records, invoices, and receipts.

The Contractor will report any issues that may impact the success of performing the Services as soon as they are identified. The Contractor will also provide details of the impact of associated issues, any potential mitigation strategies available and recommendation in regards to resolution of the issue.

On a quarterly basis, the Contractor will ensure that Island Health receives a summary report from the CHN outlining:

- The amount of funds that have been spent to date;
- Key accomplishments made possible through funding the coordinator role including a shared understanding and agreement on shared priorities stemming from the Local Health Area Profile;
- The anticipated expenditures to the end of the funding period; and
- Any change to the coordinator status or unplanned break in service.

In addition, the Contractor will ensure the coordinator contributes to evaluation activities regarding CHN outcomes and processes. This includes ensuring the completion of an annual process evaluation as well provision of qualitative and quantitative data to inform CHN outcome evaluation as needed.

Key Performance Measures:

- 1) Quarterly Reports Completed for each quarter and on time
- 2) Annual Reports Completed for each year and on time
- 3) Subcontracted coordinator role is maintained throughout the course of the Agreement
- 4) Strategic Plan Documents are maintained and updated
- 5) Actions and outcomes related to selected CHN priorities are completed and documented by end of year 3 and process for measuring longer term outcomes is in place

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- 6) Confirmation of Multi-sector partnerships tied to MOH initiatives (i.e. Local Governments, Aboriginal Communities, PCNs and CSCs) are documented and continually updated). (*Partnership with PCNs are in place within a year of establishment of a new PCN in the community*)

SCHEDULE D – APPROVED SUB-CONTRACTOR(S)

The approved sub-contractor(s) to whom the Contractor may sub-contract under this Agreement include:

<u>Name of Sub-Contractor</u>	<u>Type of Service</u>
Lindsay McGinn	Coordinator

SCHEDULE E – INSURANCE ^(S)

The Contractor shall provide, maintain, and pay for any insurance which the Contractor is required to carry by law or which the Contractor considers necessary to cover any risk the Contractor may assume as a result of entering into this Agreement.

SCHEDULE F – PRIVACY ^(H)

Please review Schedule F - Terms and Conditions Not Applicable

SCHEDULE G – WCB INSURANCE ^(M)

The Contractor will comply with the *Workers' Compensation Act of the Province of British Columbia* and in particular will obtain and maintain during the Term the necessary coverage for the Contractor and the Contractor's employees, and will, provide particulars of such coverage.

The Contractor's WorkSafeBC account number is 800094.

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Signed, sealed and delivered this _____ day of _____, 2021.

SIGNED AND DELIVERED on behalf of Island Health by an authorized representative of Island Health:	SIGNED AND DELIVERED by or on behalf of the Contractor (or by an authorized signatory if a corporation):
_____ Authorized Representative: (signature)	_____ Contractor or Authorized Signatory: (signature)
_____ Authorized Representative: (print name)	_____ Contractor or Authorized Signatory: (print name)
_____ Authorized Representative: (print title)	_____ Contractor or Authorized Signatory: (print title)
Department: Public Health	

Draft

TERMS AND CONDITIONS OF THE 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 regardless of the date of execution or delivery of this agreement.
2. You must supply and pay for all labour, materials, and approvals necessary or advisable to provide the Services.
3. 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. You must comply with our instructions in performing the Services, but not as to the manner in which those instructions are carried out except as specified in this agreement.
6. You must upon our request, fully inform us of all work you do 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 form and content satisfactory to us.
8. You must permit us at all reasonable times to inspect and copy all material that has been produced or received by you or any subcontractor as a result of this agreement (collectively the "Material"), including without limitation, accounting records, findings, software, data, specifications, drawings, reports and documents, whether complete or not.
9. You must treat as confidential all Material and not permit its disclosure without our prior written consent except as required by applicable law, before or after the termination of this Agreement, any Confidential Information (as defined below) nor will you use or exploit, directly or indirectly, any Confidential Information for any purpose other than for the fulfillment your obligations under this Agreement, including the *Freedom of Information and Protection of Privacy Act*. You agree compliance with the *Act* and this Agreement in respect of data shall supersede and have paramouncy over any compliance with privacy laws of general application in the private sector having application to you.

"Confidential Information" means any and all information supplied to, obtained by or which comes to your knowledge as a result of this Agreement with respect to the Vancouver Island Health Authority including, without limitation, all patient and client information (including patient names, addresses, telephone numbers and medical history), and all operational procedures except that Confidential Information does not include information which the Contractor can prove is information which is in the public domain.
10. The Material and any property we provide to you or a subcontractor is our exclusive property. You must deliver it to us immediately upon our request.
11. The copyright in the Material belongs exclusively to us. 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 subcontractors may have in the Material and confirming the vesting of the copyright in us.
12. You must maintain and pay for insurance on the terms, including form, amounts, and deductibles, outlined in Schedule E, if any, as modified from time to time in accordance with our directions.
13. You must apply for and immediately upon receipt, remit to us any refund or remission of federal or provincial tax or duty available with respect to any items used in connection with this agreement.
14. The Contractor will perform the Services in accordance with: (a) all applicable laws; (b) any instructions or directions that may be given by Island Health to the Contractor from time to time with respect to the provision of the Services; (c) all policies, guidelines and directives established from time to time by Island Health (including in particular, any policies of Island Health regarding confidentiality); and (d) all required permits and licenses.
15. The Contractor will indemnify and save harmless Island Health, its governors, directors, officers, employees and agents, from and against any and all losses, claims, damages, actions, causes of action, costs and expenses Island Health may sustain or incur, at any time, either before or after the expiration or termination of this Agreement, 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 service except, with respect to the extent any such claim arises solely from the negligence of Island Health.
16. You must not assign your rights under this agreement without our prior written consent. You agree to bear all legal and administrative costs associated with providing consent.
17. You must not subcontract any obligation under this agreement other than to persons listed in Schedule D without our prior written consent. No subcontract, whether consented to or not, relieves you from any obligations under this agreement. You must ensure that any subcontractor fully complies with this agreement in performing the subcontracted Services.

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18. 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.

PAYMENT

19. You must not do anything that would result in personnel you hire being considered our employees.
20. You must not commit or purport to commit us to pay any money except as authorized by this agreement.
21. We must pay you the fees described in Schedule B. We must pay you for expenses in accordance with 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.
22. You must submit written statements of account to us, but only for the portion of the Services that has been completed to our satisfaction.
23. We may withhold from any payment due to you an amount sufficient to indemnify us against any lien claim that could arise in connection with the provision of the Services.
24. 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 Vancouver Island Health Authority, during which payment becomes due.
25. Unless otherwise specified in this agreement, all references to money are to Canadian dollars.

TERMINATION

26. We may terminate this agreement for any reason on giving 10 days' written notice of termination to you. If we do so for any reason other than your failure to comply with this agreement, 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.
27. If you fail to comply with this agreement, we may terminate it and pursue other remedies as well.

GENERAL

28. You are an independent contractor and not our employee, agent, or partner. Neither you nor any person employed by or associated with you in the performance of the Services or otherwise is an employee of, or has an employment relationship of any kind with, Island Health.
29. If you are a corporation, you represent and warrant to us that you have authorized your signatory to enter into and execute this agreement on your behalf without affixing your common seal.
30. We must make available to you all information in our possession, which we consider pertinent to your performance of the Services.
31. This agreement is governed by and is to be construed in accordance with the laws of British Columbia.
32. Time is of the essence in this agreement.
33. 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 subsection (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.
34. 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.
35. No modification of this agreement is effective unless it is in writing and signed by the parties.
36. This agreement and any modification of it constitute the entire agreement between the parties as to performance of the Services.
37. 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 administered by the British Columbia International Commercial Arbitration Centre under its rules.
38. Sections 8 to 11, 14, 15 and 44 continue in force indefinitely, even after this agreement ends.
39. The schedules to this agreement are part of this agreement.
40. 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.

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41. You will comply with the *Workers' Compensation Act* of the Province of British Columbia and in particular will obtain and maintain during the Term the necessary coverage as specified in Schedule G
42. In this agreement, "we", "us", and "our" refer to Island Health and never refer to the combination of the Contractor and Island Health; that combination is referred to as "the parties".
43. Upon the request of Island Health, the Contractor shall conduct a criminal records check against the Contractor, its employees and sub-contractors (as Island Health may direct) under the *Criminal Records Review Act* (British Columbia). If Island Health does not receive an acceptable criminal records check against the Contractor, its employees and sub-contractors (as Island Health may direct) prior to the commencement of the Term, this Agreement shall be of no force or effect without further obligation of either party to the other
44. The aggregate liability of Island Health to the Contractor for any matters or claims of whatsoever nature and kind under or in connection with this Agreement will be limited to the "Maximum Amount" specified in Schedule B.
45. This Agreement may be executed in one or more facsimile or electronically scanned counterparts, each of which when so executed shall be deemed an original, and such counterparts together shall constitute one and the same instrument.

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SCHEDULE F
HEALTH ORGANIZATION PRIVACY SCHEDULE
CUSTODY, CONTROL AND ADMINISTRATION OF PERSONAL INFORMATION

1. Background

The Vancouver Island Health Authority ("HO") is a public body that is subject to the provisions of FIPPA relating to the collection, use, disclosure and security of Personal Information. HO and the Service Provider have entered, or will enter, into an agreement (the "Agreement") that may involve the sharing, management or administration of Personal Information with or by the Service Provider. The purpose of this schedule ("Schedule") is both to ensure that the Service Provider maintains adequate care of and security controls over the Personal Information and that the Service Provider is aware of and complies with the privacy protection provisions of FIPPA.

2. Definitions

In this Schedule:

"Access Conditions" means, in respect to access to Personal Information for a Permitted Purpose: (a) the Service Provider must ensure that access is limited to temporary access and storage for the minimum time necessary for the Permitted Purpose; (b) if such access is for the Permitted Purpose of data recovery, the Service Provider must ensure such access is limited to access and storage only after the system failure has occurred; and (c) such other conditions as may be imposed on access and disclosure for a Permitted Purpose pursuant to FIPPA;

"Applicable Law" means all present and future laws, statutes, ordinances, regulations, judgements, orders, rules, directions of any court or governmental authority that are enforceable in British Columbia or Canada, and includes FIPPA;

"Authorized Site" means the Service Provider's head office in Canada or such other premises of the Service Provider as may be approved in writing by HO;

"Commissioner" means the Information and Privacy Commissioner for British Columbia;

"Conflicting Foreign Order" means any order, subpoena, directive, ruling, judgment, injunction, award or decree, decision, request or other requirement issued from a foreign court, agency of a foreign state or other authority outside Canada or any foreign legislation the compliance with which would or could potentially breach FIPPA;

"Confidentiality Agreement" means an agreement between the Service Provider and its Personnel requiring that Personnel comply with the requirements of FIPPA, and other Applicable Law, in a manner which is sufficient to ensure compliance by the Service Provider and its Personnel under this Schedule;

"Contact Information" means information to enable an individual at a place of business to be contacted and includes the name, position name or title, business telephone number, business address, business email or business fax number of the individual;

"Excluded Information" or "Excluded Records" means information, documents or recorded information that (a) relate solely to the Service Provider's internal administration, finances, management, or labour and employment matters, unless they contain Personal Information about an individual other than Personnel or other third parties with whom the Service Provider has dealings unrelated to the subject matter of the Agreement; or (b) HO confirms in writing are excluded from the application of this Schedule;

"FIPPA" means the Freedom of Information and Protection of Privacy Act (British Columbia), and regulations enacted thereto, as amended from time to time;

"Material Breach" includes, without limitation, (i) non-compliance by the Service Provider with any provision of this Schedule relating to or resulting from the collection, use, disclosure, storage, disposal or destruction of any Personal Information or Records in contravention of FIPPA and/or this Schedule; and (ii) non-compliance by the Service Provider to take reasonable steps to cure any contravention of FIPPA and/or this Schedule to the satisfaction of the HO within 20 days after written notice is given to the Service Provider describing the breach in reasonable detail or otherwise within 20 days of the Service Provider becoming aware of the breach;

"Permitted Purpose" means access to Records or Personal Information that is necessary for: (a) installing, implementing, maintaining, repairing, trouble-shooting or upgrading an electronic system or equipment used by HO or by the Service Provider to provide services to HO pursuant to the Agreement; or (b) recovery of data (including Personal Information) undertaken following the failure of an electronic system used by HO or by the Service Provider to provide services to HO; or (c) performance of the duties of Personnel while temporarily travelling outside of Canada;

"Personal Information" means recorded information about an identifiable individual, excluding Contact Information and Excluded Information, that is collected or created by the Service Provider or otherwise obtained or held by or accessible to the Service Provider as a result of the Agreement or any previous agreement between HO and the Service Provider dealing with the same subject matter as the Agreement;

"Personnel" means any employees, officers, directors, contractors, subcontractors, associates (as defined in FIPPA), representatives or other persons engaged by the Service Provider for the purposes of fulfilling the Service Provider's obligations under the Agreement;

"Privacy Representative" means the designate of the Service Provider or HO with responsibility for compliance with FIPPA and this

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Schedule; and

"Record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which Personal Information is recorded or stored by graphic, electronic, mechanical or other means which are collected or produced by the Service Provider in the course of delivering services or otherwise performing its obligations under the Agreement, but does not include: (a) a computer program or any other mechanism that produces records or (b) Excluded Records.

3. Service Provider Subject to FIPPA

The Service Provider agrees that, in relation to the collection, use, disclosure, storage, security and destruction of Personal Information and Records, it is subject to and will comply with the requirements of FIPPA and this Schedule, including any applicable order or security requirements prescribed by the Commissioner or a court and any written direction issued by HO under this Schedule. The Service Provider will ensure that it and its Personnel are familiar and remain current with respect to its and their obligations under FIPPA.

4. Control of and Rights in the Record(s)

As between HO and the Service Provider, all right, title and interest and control in and to all Records shall remain with the HO. No proprietary right or other interest respecting the Records, other than as expressly set out herein, is granted to the Service Provider under this Schedule, by implication or otherwise. The Service Provider is granted temporary access to the Personal Information on the terms and conditions of this Schedule, for the sole and express purpose of fulfilling its obligations under the Agreement and for no other use or purpose. Where the Service Provider provides services under contract with one or more other public bodies in which such other public bodies also assert control over the same or overlapping Records, the HO will work with such other public bodies to resolve each other's rights and obligations with respect to such Records and the Service Provider will not be considered to be in breach of this Schedule by reason of its inability to provide unfettered control over the Records to the HO.

5. Collection of Personal Information

The Service Provider will only collect, acquire or hold Personal Information on behalf of HO as necessary for the performance of the Service Provider's obligations under the Agreement or as otherwise authorized by HO in writing. If the Service Provider is required by the Agreement to collect Personal Information on behalf of HO, the Service Provider will do so only in the manner prescribed by FIPPA. Specifically, the Service Provider will: (i) collect Personal Information directly from the individual to whom the information pertains; (ii) tell such individual the purpose and the legal authority for collecting it; and (iii) provide the individual with the title, business address and business telephone number of the person designated by HO to answer questions about the Service Provider's collection of Personal Information. The Service Provider may only collect Personal Information indirectly (i.e. other than directly from the individual that the information is about) as authorized in writing by the HO or as otherwise permitted by FIPPA.

6. Referral of Requests for Access or Correction

If the Service Provider receives a request under FIPPA for access to or correction of Personal Information from a person other than HO, the Service Provider will promptly advise the person to make the request to HO, unless the Agreement expressly requires the Service Provider to provide such access or process such correction or HO provides a written direction to the Service Provider to do so. The Service Provider will provide such person with the name and contact information for the HO Privacy Representative.

7. Cooperation in Responding to Requests for Access

Where HO communicates to the Service Provider that it has received a request for access to Personal Information, the Service Provider will, at its own expense, locate and supply to HO any and all Records in its custody that, in the opinion of HO, fall within the scope of the request. The Service Provider will comply with this obligation within a reasonable time frame that allows HO to comply with its obligations under FIPPA.

8. Accuracy and Correction of Personal Information

a) If the Service Provider engages in the collection, maintenance or updating of Personal Information or the creation of Records on behalf of HO under the Agreement, the Service Provider will make every reasonable effort to ensure the accuracy and completeness of such Personal Information generally and as required by FIPPA.

b) If HO directs the Service Provider to do so, the Service Provider will, in the manner specified by HO, correct or annotate any Records that are created, maintained or held by the Service Provider under the Agreement. If so directed, the Service Provider will also be responsible for providing notice of the corrected or annotated information to any person(s) specified by HO or who are entitled to receive such notice under FIPPA.

9. Protection of Personal Information

The Service Provider must protect Personal Information by making reasonable security arrangements against such risks as theft, loss or unauthorized access, collection, use, disclosure or disposal. Where appropriate, such as when the Service Provider's Personnel are working within HO's facilities, using its information systems or other technology (collectively, "HO Technology"), or otherwise accessing or using Records of HO, the Service Provider and all its Personnel will comply with:

- a) HO's privacy, security & confidentiality policies;
- b) terms of use, agreements, policies and guidelines applicable to the usage of HO Technology;
- c) any directions that may be issued from time to time by the HO's system administrators or privacy/security officers regarding access to and use of HO Technology and information contained therein; and
- d) other applicable policies of HO, such policies being applicable and reasonable in the circumstances and relating to the proper performance of an Agreement.

Without limiting the generality of the foregoing, the Service Provider will ensure that its security arrangements include the following:

- e) ensuring that access to electronic Records:

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- i. requires unique individual user identification;
- ii. includes appropriate controls for the issuance of changes to and cancellation of user identifications and authentication mechanisms;
- iii. requires that authentication codes and passwords are confidential, complex and are changed regularly (at least semi-annually);
- iv. is monitored by an auditing system which creates, at a minimum, an audit trail containing the date and time of access, identity of the user and the type and scope of information accessed, or work in cooperation with the HO to implement an appropriate system to audit access to Personal Information by the Service Provider and its Personnel in connection with the delivery of services under the Agreement;
- v. requires multi-factor authentication for remote access to Personal Information, unless otherwise authorized by HO in writing;
- f) maintaining and implementing systems to reasonably ensure that any Personal Information that is accessed or transmitted electronically (ie. facsimile, email, internet) is secure against unauthorized access;
- g) using encryption and password protection to secure Personal Information on mobile devices, removable media, and mobile backup media;
- h) maintaining and implementing formal procedures to immediately terminate access to Personal Information by Personnel who have left the organization or a position that requires the access;
- i) maintaining a process to track, audit and restrict access to Records by Personnel;
- j) maintaining a process, to regularly assess and/or upgrade the security arrangements of the Service Provider to ensure consistency with evolving industry standards and the guidelines and policies of HO; and
- k) such other specific data protection protocols and requirements as may be set out in Appendix A to this Schedule.

10. Segregation of Data

The Service Provider shall take reasonable steps to ensure that all Personal Information and Records are securely segregated from any information owned by the Service Provider or third parties to prevent unintended mixing of data or access by unauthorized parties and to enable Personal Information and Records under the control of HO under this Agreement to be identified and separated from those of the Service Provider or third parties.

11. Access, Use and Disclosure

The Service Provider will ensure that neither it nor its Personnel collects, creates, copies, reproduces, uses, stores, discloses or provides access to any Personal Information or otherwise removes Records from HO premises except in compliance with this Schedule and FIPPA and for purposes directly related to or necessary for the performance of the Service Provider's obligations under the Agreement, as authorized in writing by HO or as otherwise required by Applicable Law. The Service Provider will promptly take corrective action in response to any non-compliance of its Personnel with this Schedule and/or FIPPA.

12. Access by Personnel

The Service Provider will ensure that its Personnel are granted access to the Personal Information only where such access is necessary for the performance of the Service Provider's obligations or the exercise of its rights under the Agreement, and subject to the following terms:

- a) the Service Provider has entered into a Confidentiality Agreement with its Personnel or the Service Provider's Personnel has agreed to comply with the Service Provider's internal documents acknowledging the duty of confidentiality and any applicable privacy training received, which acknowledgement(s) may be obtained through electronic means, provided such internal documents and/or training are sufficient to ensure compliance by the Service Provider with the requirements of this Schedule;
- b) no access to Personal Information will be permitted while Personnel are physically located outside of Canada, except where access is for a Permitted Purpose and is compliant with the Access Conditions, or unless HO agrees in writing to permit such access;
- c) the Service Provider will revoke the access rights of any person who engages in the unauthorized collection, use or disclosure of Personal Information or otherwise breaches the Confidentiality Agreement or FIPPA;
- d) Confidentiality Agreements will be renewed or updated from time to time upon the amendment of this Schedule, changes in FIPPA or other Applicable Law, or otherwise at the reasonable request of HO;
- e) the Service Provider will ensure all Personnel are familiar and comply with the obligations of the Service Provider under this Schedule and FIPPA; and
- f) if requested by HO, the Service Provider will provide and conduct specific ongoing training for its Personnel regarding compliance with FIPPA and this Schedule.

13. Subcontractors

The Service Provider may not subcontract any of its obligations under this Schedule without the prior written consent of HO. The Service Provider acknowledges that any such consent will be conditional on the subcontractor's agreement to be bound by this Schedule and FIPPA, on the same basis that the Service Provider is bound.

14. Liability of the Service Provider for Personnel

The Service Provider specifically assumes all responsibility for the Personnel and for the breach by any one or more of them of any provision of FIPPA or this Schedule. The Service Provider hereby agrees to defend, indemnify and hold harmless the HO, and the members of its board, officers, employees and representatives of, from and against any and all loss, cost, liability, damage, fee, penalty or other expense, including legal fees (on a solicitor and own client basis) suffered or incurred by the HO, and its board members, officers, employees or representatives, or any of them, with respect to any breach or alleged breach by the Service Provider of any of its covenants or obligations under this Schedule or any non-compliance with the provisions of FIPPA or other Applicable Law.

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15. Foreign Access and Storage

The Service Provider will not permit the Records or any Personal Information to be transported or transmitted to, stored in or accessed from any jurisdiction other than Canada, except where such transport, transmission, storage or access is:

- a) for a Permitted Purpose, and (i) the Permitted Purpose is at all material times authorized by FIPPA, and (ii) the Service Provider strictly observes the Access Conditions and such other conditions as may be imposed by HO; and
- b) for a purpose other than a Permitted Purpose that is permitted by FIPPA, and (i) the Service Provider has received the prior written approval of HO, and (ii) the Service Provider strictly observes any other conditions as may be imposed by HO.

16. Notice of Demands for Disclosure

If the Service Provider or anyone to whom the Service Provider transmits Personal Information pursuant to a Permitted Purpose becomes legally compelled or otherwise receives a demand to disclose Personal Information other than permitted by FIPPA, including without limitation pursuant to any Conflicting Foreign Order, the Service Provider will not do so unless and until: (i) the HO has been notified of such requirement; (ii) the parties have appeared before a Canadian Court; and (iii) the Canadian Court has ordered the disclosure.

The Service Provider is responsible to ensure that it obtains such contractual rights or makes other such arrangements with its Personnel or such other third parties to whom it may grant access to Personal Information as may be necessary to enable it to comply with the provisions of this Section 16.

17. Storage of Records

a) The Service Provider must maintain and store the Records at an Authorized Site in Canada and will ensure that there are reasonable physical and electronic security measures in place at such site to protect against any unauthorized access to, theft, loss or disclosure of the Records.

b) Notwithstanding the foregoing, the Service Provider will provide notice to the HO in order to store or maintain Records at a facility other than an Authorized Site for a Permitted Purpose provided that it complies with the Access Conditions. The use of any such off-site facility by the Service Provider for the storage and maintenance of the Records will be subject to the Service Provider's strict compliance with any conditions imposed by HO from time to time. The Service Provider is responsible for ensuring that the conditions at off-site storage facilities are the same as or better than the conditions at the Authorized Site.

18. Privacy Representative

Upon execution of the Agreement, the Service Provider will appoint a Privacy Representative and such person will have sufficient authority to make decisions and execute documents on behalf of the Service Provider as may be required from time to time for the administration of this Schedule. The Service Provider shall promptly provide the HO of the name of its Privacy Representative and shall notify the HO of any change of its Privacy Representative.

19. Notice of Breach and Corrective Action

a) The Service Provider will provide HO with prompt written notice of any actual or anticipated Material Breach, including full particulars of such breach.

b) The Service Provider will co-operate fully with HO in preventing the occurrence or recurrence of any breach of this Schedule, including, if requested to do so: (i) by preparing a written proposal to address or prevent further occurrences; (ii) complying with the reasonable directions of HO; and (iii) taking all reasonable steps to recover or obtain any Records that have come into the custody or control of third parties contrary to FIPPA or this Schedule.

20. Audit, Inspection, Investigation & Cooperation

a) The Service Provider will permit HO and/or its representatives and agents to conduct periodic audits of Records related to performance by the Service Provider and the Personnel of the Service Provider's obligations under this Schedule. HO may, at any reasonable time and on reasonable notice to the Service Provider, enter on the Service Provider's premises to inspect any Records in the possession of the Service Provider or any of the Service Provider's information management policies or practices relevant to its management of Personal Information or its compliance with this Schedule, and the Service Provider must permit, and provide reasonable assistance to, any such inspection.

b) Upon request by HO, the Service Provider will, at its own cost, promptly provide any Records in its possession, custody or control to HO or its designate.

c) The Service Provider will, at its own cost, fully cooperate (including by providing access to Records and related documentation and information) with HO in the event of any audit, investigation, inquiry, complaint, suit or other legal proceeding regarding any actual or alleged breach of FIPPA or this Schedule, including but not limited to a Material Breach.

21. Default & Termination

a) Notwithstanding anything in the Agreement to the contrary, the Service Provider and the HO hereby agree that a Material Breach by the Service Provider will give rise to a right on the part of the HO to terminate the Agreement immediately upon written notice.

b) Without limiting the generality of the foregoing, the Service Provider agrees that in addition to any other rights or remedies the HO may have for a breach of this Schedule, HO has the right to an injunction or other equitable relief in any court of competent jurisdiction enjoining a threatened, anticipated or actual breach of this Schedule or FIPPA by the Service Provider.

22. Change of Law & Amendment

a) In the event of any change in the circumstances of either party, Applicable Law, including FIPPA, or any foreign laws applicable to the Service Provider or HO that would affect, in the reasonable opinion of HO, (i) either party's ability to perform its obligations under this Schedule, or (ii) the effectiveness or sufficiency of this Schedule in ensuring best practices and legal compliance, the parties will, at HO's option, enter into good faith negotiations in an effort to address any such issues by amendment to the Schedule or otherwise. If the parties are unable to reach agreement or the issues cannot reasonably be addressed by such agreement, then HO may terminate the Agreement upon the provision of reasonable written notice to the Service Provider.

b) The Service Provider shall promptly notify HO in writing of any fact or circumstance, including a change in law, which has, or may reasonably be expected to have, a material adverse impact on the Service Provider's ability to fully comply with this Schedule. Upon receiving such notice, HO may, at its option, exercise its rights under Subsection 22(a) above.

23. No Withholding

The Service Provider shall not be entitled to, and hereby waives any and all right to, withhold any Records from HO to enforce any alleged payment obligation or in connection with any dispute relating to the terms of the Agreement or any other matter between HO and the Service Provider.

24. Return or Destruction of the Record Upon Request

a) Except as otherwise specified in the Agreement, the Service Provider will retain the Personal Information and Records until it is provided with a written direction from HO regarding its return or destruction.

b) Upon the expiry or earlier termination of the Agreement or, at any time upon the written request of HO, the Service Provider will promptly and at its own cost, (i) return or deliver all Records, including any copies thereof, to HO; or (ii) destroy, according to HO's instructions, all documents or other Records, including any copies thereof, in any form or format whatsoever in the Service Provider's possession constituting or based upon Personal Information and, upon HO request, will provide a completed Certificate of Destruction in a form satisfactory to the HO. After a request is made under this Section, the Service Provider will not retain any Records for any purpose without the prior written consent of HO. If, for any reason, the Service Provider fails to return or destroy any Record in accordance with this Section 24, the Service Provider's obligations pursuant to this Schedule will continue in full force and effect.

c) Unless otherwise directed by HO, if the Service Provider is directed to destroy Records, the Service Provider will ensure that the destruction occurs as follows:

- i. Personal Information erasure will be accomplished by software erasure or by physical destruction of the media;
- ii. Software erasure and physical destruction will be at a minimum to NIST 800-88 standard, as updated, amended or replaced from time to time; and
- iii. Physical destruction of paper media will occur by burning, cross-cut shredding, or pulping.

25. General

a) If a provision of this Schedule or the Agreement (including any direction given by the HO under this Schedule) conflicts with a requirement of FIPPA, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict.

b) Unless otherwise expressly provided in the Agreement, if a provision of this Schedule is inconsistent or conflicts with a provision of the Agreement, the conflicting or inconsistent provision in the Agreement will be inoperative to the extent of the conflict.

c) The Service Provider expressly acknowledges and agrees that this Schedule is binding on the Service Provider notwithstanding any Conflicting Foreign Order or the laws of any jurisdiction outside of Canada purporting to compel disclosure or production of the Records or otherwise conflicting with this Schedule and that it will comply with the provisions set out in Section 16.

d) The Service Provider's obligations under this Schedule will continue despite the expiry or earlier termination of the Agreement.

e) Except as otherwise provided in this Schedule, no amendments to this Schedule will be effective unless made in writing and agreed to by the parties.

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