



Articles of Agreement
Professional Services Contract

These **ARTICLES OF AGREEMENT** are made as of **XX XXXX, 2010**.

BETWEEN:

Canadian Commercial Corporation

a Crown corporation having its head office in the in the City of Ottawa, Ontario
("CORPORATION"), acting in conjunction with the Department of Foreign Affairs
and International Trade ("DFAIT")

(referred to in this contract as **CORPORATION**)

AND

a company, having its head office in the City of _____

(referred to in this contract as **CONTRACTOR**)

The **CORPORATION** and the **CONTRACTOR** agree as follows:

AI CONTRACT

- 1.1 The following documents and any amendments relating thereto form the contract between the CORPORATION and the CONTRACTOR.
 - 1.1.1 These Articles of Agreement;
 - 1.1.2 the document attached hereto as "APPENDIX A" and entitled "GENERAL CONDITIONS", referred to herein as "General Conditions";
 - 1.1.3 the document attached hereto as "APPENDIX B" and entitled "STATEMENT OF WORK", referred to herein as "Statement of Work";
 - 1.1.4 the document attached hereto as "APPENDIX C" and entitled "BASIS OF PAYMENT", referred to herein as "Basis of Payment";

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- 1.1.5 the document attached hereto as “APPENDIX D” and entitled “METHOD OF PAYMENT”, referred to herein as “Method of Payment”;
- 1.1.6 the document attached hereto as “APPENDIX E” and entitled “PRIVACY REQUIREMENTS:”, referred to herein as “Privacy Requirements”;
- 1.1.7 In the event of discrepancies, inconsistencies of ambiguities of the wording of these documents, the wording of the document that first appears on the above list shall prevail over the wording of a document subsequently appearing on the list.

A2 DATE OF COMPLETION AND DESCRIPTION OF WORK

2.1 The CONTRACTOR shall perform the work described in the Statement of Work, between the date of this Agreement and **XXXX XX, 2010** with care, skill, diligence and efficiency.

A3 CONTRACT AMOUNT

3.1 Subject to the terms and conditions of this contract and in consideration for the performance of work, the CORPORATION shall pay the CONTRACTOR:

3.1.1 The sum of an amount not to exceed \$ VALUE CAD or USD (including GST).

A4 APPROPRIATE LAW

4.1 This contract shall be governed by and construed in accordance with the laws in force in the Province of Ontario.

A5 CORPORATION’S REPRESENTATIVE

For the purposes of the contract, the CORPORATION hereby designates: **Patricia Daigneault, Senior Project Manager** as the CORPORATION Representative.

This contract has been executed on behalf of the CONTRACTOR and on behalf of the CORPORATION by their duly authorized officers.

For the Contractor:	For the Corporation:
Signature:	Responsibility Centre Manager Signature:
Date:	Date:

Appendix "A"
General Conditions

GC1 - Interpretation

- 1.1 In this contract
- 1.1.1 **"contract"** means the contract documents referred to in the Articles of Agreement;
- 1.1.2 **"CORPORATION"** includes a person acting for, or appointed by the CCC for the purpose of this contract;
- 1.1.3 **"work"** unless otherwise expressed in this contract, means everything that is necessary to be done, furnished or delivered by the CONTRACTOR to perform the CONTRACTOR's obligation under the contract;
- 1.1.4 **"CORPORATION's representative"** means the officer or employee of the CCC who is designated by the Articles and Agreement and includes a person authorized by the CCC's Representative to perform any of the CCC Representative's function under the contract.

GC2 - Assignments

- 2.1 This contract shall not be assigned in whole or in part by the CONTRACTOR without the prior written consent of the CORPORATION and any assignment made without that consent is void and of no effect.
- 2.2 No assignment of this contract shall relieve the CONTRACTOR from any obligation under this contract or impose any liability upon the CORPORATION.

GC3 - Time of the Essence

- 3.1 Any delay by the CONTRACTOR in performing the CONTRACTOR's obligations under this contract which is caused by an event beyond the control of the CONTRACTOR without incurring unreasonable costs through the use of work-around plans including alternative sources or other means, constitutes an excusable delay. Events may include, but are not restricted to: Acts of God, Acts of Her Majesty, acts of local or provincial governments, fires, floods, epidemics, strikes or labour unrest, freight embargoes and unusually severe weather.
- 3.2 The CONTRACTOR shall give notice to the CORPORATION immediately after the occurrence of the event that causes the excusable delay. The notice shall state the cause and circumstances of the delay and indicate the portion of the work affected by the delay. When requested to do so by the CORPORATION the CONTRACTOR shall deliver a description, in a form satisfactory to the Corporation, of work-around plans including alternative sources and any other means that the CONTRACTOR will utilize to overcome the delay and endeavour to prevent any further delay. Upon approval in writing by the Corporation of work-around plans, the CONTRACTOR shall implement the work-around plans, and use all reasonable means to recover any lost time as a result of the excusable delay.
- 3.3 Unless the CONTRACTOR complies with the notice of requirements set forth in the contract, any delay that would constitute an excusable delay shall be deemed not to be an excusable delay.
- 3.4 Notwithstanding that the CONTRACTOR has complied with the requirements of GC3.2 the CORPORATION may exercise any right of termination contained in GC6.

GC4 - Indemnification

- 4.1 The CONTRACTOR shall indemnify and save harmless the CORPORATION from and against all claims, losses, damages, costs, expenses, actions and other proceedings made, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner, based upon, occasioned by, or attributable to any injury to or death of a person, damages of loss of property, or any consequential or economic loss arising from any act, omission or delay on the part of the CONTRACTOR, the CONTRACTOR's servants or agents in performing the work or as a result of the work or the performance or purported performance of this contract.
- 4.2 The CONTRACTOR shall indemnify the CORPORATION from all costs, charges and expenses whatsoever that the Corporation sustains or incurs in or about all claims, actions, suits and proceedings for the use of any intellectual property resulting from the performance of the CONTRACTOR's obligations under this contract, and in respect of the use of or disposal by the Corporation of anything furnished pursuant to this contract.
- 4.3 The CONTRACTOR's liability to indemnify or reimburse the CORPORATION under this contract shall not affect or prejudice the CORPORATION from exercising any other rights under the law of equity or common law.

GC5 Notice

- 5.1 Where in this contract any notice, request, direction, or other communication is required to be given or made by either party, it shall be in writing and is effective if delivered in person, sent by registered mail or by facsimile addressed to the party below. Any notice, request, direction or other communication given by registered mail shall be deemed to have been received when the postal receipt is acknowledged by the other party or by fax when successful transmittal is completed. The address of either party may be changed by notice in the manner set out in this provision.

Attn:
Tel: XXX-XXX-XXXX
Fax: XXX-XXX-XXXX

Attn:
Tel: XXX-XXX-XXXX
Fax: XXX-XXX-XXXX

GC6 - Termination or Suspension

- 6.1 The CORPORATION may, by giving 15 days written notice to the CONTRACTOR, terminate or suspend this contract with respect to all or any part of the work not completed.
- 6.2 All work completed by the CONTRACTOR to the satisfaction of the CORPORATION before the giving of such notice shall be paid for by the CORPORATION in accordance with the provisions of this contract and, for all work not completed before the giving of such notice, the CORPORATION shall pay the CONTRACTOR's costs as determined under the provisions, if any, of this contract, relating thereto, and, in addition, an amount representing a fair and reasonable fee in respect of such work. Where there are no provisions in this contract respecting the CONTRACTOR's costs, the CORPORATION shall pay such a sum as the CORPORATION shall determine to be the CONTRACTOR's reasonable costs.
- 6.3 In addition to the amount which the CONTRACTOR shall be paid under GC6.2, the CONTRACTOR shall be reimbursed for the CONTRACTOR's cost for the cancellation of any obligation incurred by the CONTRACTOR with respect to this contract.
- 6.4 Payment and reimbursement under the provision of GC6 shall be made to the extent that it is established to the satisfaction of the CORPORATION that the costs and expenses were actually incurred by the CONTRACTOR and that the same are fair and reasonable and are properly attributable to the termination or suspension of this contract or the part thereof so terminated.
- 6.5 The CONTRACTOR shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the CONTRACTOR under this contract, exceeds the contract price applicable to the work or the particular part thereof.
- 6.6 The CONTRACTOR shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of or directly or indirectly arising out of any action taken or notice given by the CORPORATION under the provisions of GC6 as expressly provided herein.

GC7 - Termination due to default of the Contractor

- 7.1 The CORPORATION may, by written notice to the CONTRACTOR, terminate the whole or part of this contract if:
 - (i) the CONTRACTOR becomes bankrupt or insolvent, or a receiving order is made against the CONTRACTOR, or an assignment is made for the benefit of the creditors, or if an order is made or resolution passed for the winding up of the CONTRACTOR, or if the CONTRACTOR takes the benefit of any statute for the time being in force relating to the bankrupt or insolvent debtors, or
 - (ii) the CONTRACTOR fails to perform any of the CONTRACTOR's obligations under this contract, or, in the CORPORATION's view, so fails to make progress to endanger performance of this contract in accordance with its terms.
- 7.2 In the event that the CORPORATION terminates this contract in whole or in part under GC7.1, the CORPORATION may arrange, upon such terms and conditions and in such manner as the CORPORATION deems appropriate, for the work to be completed, and the CONTRACTOR shall be liable to the CORPORATION for any costs relating to the completion of the work which are in excess of the consideration set forth in Article A3 of this contract.
- 7.3 Upon the termination of this contract under GC7.1, the CORPORATION may require the CONTRACTOR to deliver and transfer title to the CORPORATION in a manner and to the extent directed by the CORPORATION, of any finished work that has not been delivered and accepted prior to such termination and any materials of work-in-progress which the CONTRACTOR has specifically acquired or produced for the fulfilment of this contract. The CORPORATION shall pay the CONTRACTOR for all such finished work delivered pursuant to such direction and accepted by the CORPORATION the cost to the CONTRACTOR of all materials and work-in-progress delivered to the CORPORATION, pursuant to such direction. The CORPORATION may withhold from the amount due the CONTRACTOR, such sums as the CORPORATION determines to be necessary to protect the CORPORATION against excess costs for the

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completion of the work.

- 7.4 The CONTRACTOR shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the CONTRACTOR under the contract, exceeds the contract price applicable to the work or particulars thereof.
- 7.5 If after the CORPORATION issues a notice of termination under GC7.1 it is determined by the CORPORATION that the default of the CONTRACTOR is due to causes beyond the control of the CONTRACTOR, such notice of termination shall be deemed to have been issued pursuant to GC6.1 and the rights and obligations of the parties shall be governed by GC6.

GC8 - Records to be kept by the Contractor

- 8.1 The CONTRACTOR shall keep proper accounts of the cost of the work and all expenditures or commitments made by the CONTRACTOR including the invoices, receipts and vouchers, which shall at reasonable times be open to audit and inspection by the authorized representatives of the CORPORATION who may make copies and take extract therefrom.
- 8.2 The CONTRACTOR shall afford facilities for audit and inspection and shall furnish the authorized representatives of the CORPORATION with such information as the CORPORATION may from time to time require with reference to the documents referred to herein.
- 8.3 The CONTRACTOR shall not dispose of the documents referred to herein without the written consent of the CORPORATION, but shall preserve and keep them available for audit and inspection for such period of time as may be specified elsewhere in the contract or, in the absence of such specification, for a period of two years following the completion of work.

GC9 - Ownership of Intellectual Property and Other Property Including Copyright

- 9.1 Documentation produced by the CONTRACTOR in performance of the work under this contract shall vest in and shall remain the property of the CORPORATION, and the CONTRACTOR shall account fully to the Corporation in respect of the foregoing in such manner as the Corporation shall direct.
- 9.2 Documentation shall contain the following copyright notice:

CANADIAN COMMERCIAL CORPORATION

- 9.3 Information and documentation conceived and developed under this contract shall be the property of the CORPORATION. The CONTRACTOR shall have no rights to the same. The CONTRACTOR shall not divulge or use such information and documentation, other than performing the work under this contract, and shall not sell other than to the CORPORATION, its content, in part or in total.

GC10 – “Conflict of Interest and a Harassment-Free Workplace”

- 10.1 The CONTRACTOR declares that the CONTRACTOR has no pecuniary interest in the business of any third party that would cause a conflict of interest or seem to cause a conflict of interest in carrying out the work. Should such an interest be acquired during the life of the contract, the CONTRACTOR shall declare it immediately to the CORPORATION’s Representative.
- 10.2 The contractor shall be subject to the CCC Policy for Harassment-Free Workplace. Substantiated complaints of harassment against the contractor by employee (s) of the CCC, may result in exercise of the right of termination in GC6.

GC11 - Contractor Status

- 11.1 This is a contract for the performance of a service and the CONTRACTOR is engaged under this contract as an independent CONTRACTOR for the sole purpose of providing a service. Neither the CONTRACTOR nor any of the CONTRACTOR's personnel is engaged under this contract as an employee, servant or agent of the CORPORATION. The CONTRACTOR shall be solely responsible for any and all payments and/or deductions required to be made including those required for Canada or Quebec Pension Plans, Unemployment Insurance, Workmen's Compensation or Income Tax.

GC12 - Warranty by the Contractor

- 12.1 The CONTRACTOR warrants that the CONTRACTOR is competent to perform the work required under this contract in that the CONTRACTOR has the necessary qualifications including the knowledge, skill and ability to perform the work. The CONTRACTOR further warrants that the CONTRACTOR has all licenses, insurance, work permits, visas and other government authorizations required to complete the work.
- 12.2 The CONTRACTOR warrants the CONTRACTOR shall provide under this contract a quality of service at least equal to that which the contractors generally would usually expect of a competent CONTRACTOR in a like situation.

GC13 - Members of the House of Commons

- 13.1 No member of the House of Commons shall be admitted to any share or part of this contract or to any benefit to arise here from.

GC14 - Interest on Overdue Accounts

- 14.1 In this Article the amount is "due and payable" when it is due and payable by the CORPORATION to the CONTRACTOR according to the terms of the contract;
- 14.2 For the purpose of this Article an amount is overdue when it is unpaid on the first day following the day upon which it is due and payable;
- 14.3 In this Article "date of payment" means the date of the negotiable instrument drawn by the CORPORATION and given for payment of an amount due and payable;
- 14.4 In this Article "Bank Rate" means the discount rate of the interest set by the Bank of Canada;
- 14.5 The CORPORATION shall be liable to pay, without demand from the CONTRACTOR, simple interest at the Bank Rate plus 1% per centum of any amount which is overdue from the day such an amount becomes overdue until the day prior to the date of payment, inclusively, however, interest will not be payable nor paid unless the amount has been outstanding (unpaid) for more than fifteen (15) days following the due date. Interest will not be payable on overdue advance payments;
- 14.6 The Bank Rate shall be that prevailing at the opening of business on the date of payment;
- 14.7 Interest shall only be paid when the CORPORATION is responsible for the delay in paying the CONTRACTOR. In the event the CORPORATION is not responsible for the delay in paying the CONTRACTOR, no interest shall be paid.

GC15 - Amendments

- 15.1 No amendments of this contract nor waiver of any of the terms and provisions shall be deemed valid unless effected by a written amendment signed by both parties to the contract.

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GC16 – Change to Contractor Project Team

- 16.1 No change to the Contractor's Project Team as submitted in the RFP can be made without the express written consent of the Corporation.

GC17 - Entire Agreement

17.1 This contract constitutes the entire agreement between the parties with respect to the subject matter of this contract and supersedes all previous negotiations, communications and other agreements relating to it unless they are incorporated by reference to this contract.

GC18\ - Dispute Resolution

18.1 In the event of any dispute between the CORPORATION and the CONTRACTOR under this contract, the parties shall attempt to settle the matter amicably. In the event that the matter is not so settled and either party wishes to pursue the matter further, it shall be referred to Arbitration in accordance with the *Commercial Arbitration Act* (R.S.C.1985, c.17, 2nd Supp.). The Arbitration shall be held in Ottawa, Canada and the decision shall be final and binding.

Appendix “B” - Statement of Work
Professional Services Contract

TBD

Note: Only the CORPORATION’s Representative or anyone designated in writing by the CORPORATION’s Representative has authority to authorize work under this contract.

Appendix “C” - Basis of Payment
Professional Services Contract

CONTRACTOR shall be paid

And shall invoice upon completion

and forward to the following address:

Canadian Commercial Corporation
50 O’Connor Street, Suite 1100
Ottawa, Ontario
K1A 0S6

Attention: Patricia Daigneault
Telephone: 1 613-992-3480
Facsimile: 1 613-995-2121
Email: patricia.daigneault@ccc.ca

Appendix "D" - Method of Payment
Professional Services Contract

- 1 - Payment by the CORPORATION for each delivery shall be made within:
- a) twenty eight (28) days following the date on which an invoice and substantiating documentation are received according to the terms of the contract;
- 2 - If the CORPORATION has any objection to the invoice or the substantiating documentation within fifteen (15) days of its receipt, the CORPORATION shall notify the CONTRACTOR of the nature of the objection.

Interest on Overdue Accounts

- a)
 - (i) in this Article an amount is "due and payable" when it is due and payable by the CORPORATION to the CONTRACTOR according to the terms of the contract;
 - (ii) for the purpose of this Article, an amount is overdue when it is unpaid on the first day following the day upon which it is due and payable;
 - (iii) in this Article "date of payment" means the date of the negotiable instrument drawn by the CORPORATION and given for payment of an amount due and payable;
 - (iv) in this Article "Bank Rate" means the discount rate of interest set by the Bank of Canada.
- b)
 - (I) The CORPORATION shall be liable to pay, without demand from the CONTRACTOR, simple interest at the Bank of Canada Rate of any amount which is overdue from the day such amount become overdue until the day prior to the date of payment, inclusively: however, interest will not be payable nor paid unless the amount has been outstanding (unpaid) for more than fifteen (15) days following the due date. Interest will not be payable on overdue advance payments;
 - (ii) then Bank rate shall be that prevailing at the opening of business on the date of payment.
- c) Interest shall only be paid when the CORPORATION is negligent in paying the CONTRACTOR. In the event the CORPORATION is not responsible for the delay in paying the contractor, no interest shall be paid.

Appendix "E" - Privacy and Security Requirements
Professional Services Contract

Privacy Requirement

The provisions of the *Privacy Act*, which include restrictions on the collection, use, disclosure, retention and disposal of personal information, will be applied to this contract.

Any personal information in the custody of the CONTRACTOR will not be disclosed to anyone except those employees of the CORPORATION and the CONTRACTOR with the required clearance and on a need to know basis.

Documents, diskettes, tapes and any other media containing personal information will be kept in locked containers. Personal information stored in a computerized database shall be protected by a password which is to be changed regularly and immediately following the permanent departure of a staff member from the CONTRACTOR's facility.

Security Clause

CONTRACTOR personnel who require access to PROTECTED information, assets or sensitive work sites, shall EACH hold a valid security clearance of ENHANCED RELIABILITY.