

Insurance Council

BRITISH COLUMBIA

Request for Proposal Confidentiality Agreement

Insurance Council of British Columbia

Digital Transformation

CONFIDENTIALITY AGREEMENT

THIS CONFIDENTIALITY AGREEMENT (the "Agreement") dated this

(ENTER DAY)

of

(ENTER MONTH, YEAR)

BETWEEN:

Insurance Council of BC of 1400-745 Thurlow Street, Vancouver, BC, V6E 0C5
(the "Insurance Council")

OF THE FIRST PART

- AND -

(RECIPIENT NAME)

of

(RECIPIENT ADDRESS)

(the "Recipient")

OF THE SECOND PART

BACKGROUND:

- A. The Insurance Council is a regulatory body incorporated under the *Financial Institutions Act*. The Insurance Council is responsible for regulating the activities of life, accident and sickness, and general insurance agents, salespersons and adjusters, and its mandate is to protect the public by ensuring its licensees act ethically, with integrity and competence.
- B. The Recipient intends to respond to the Insurance Council's Digital Transformation Request for Proposal to provide services relating to the Insurance Council's digital transformation program that will streamline business processes and migrate business functionality from legacy systems to a more advanced digital platform. The Insurance Council will provide the Recipient with a Request for Proposal package (the 'RFP Package').
- C. The Recipient will receive from the Insurance Council, or develop on the behalf of the Insurance Council, Confidential Information as a result of the Recipient's intent to respond. The Recipient will use the Confidential Information to prepare and submit a proposal to the Insurance Council (the 'Permitted Purpose').

IN CONSIDERATION OF and as a condition of the Insurance Council providing the Confidential Information to the Recipient in addition to other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

Confidential Information

1. All written and oral information and materials disclosed or provided by the Insurance Council to the Recipient under this Agreement constitute Confidential Information regardless of whether such information was provided before or after the date of this Agreement or how it was provided to the Recipient.
2. 'Confidential Information' means all data and information relating to the business and management of the Insurance Council, including but not limited to, the following:
 - a. The 'RFP Package' which includes the Request for Proposal document and all related Appendices, and the information contained in and derived from the RFP Package.

- b. 'Customer Information' which includes names of customers of the Insurance Council, their representatives, all customer contact information, contracts and their contents and parties, customer services, data provided by customers and the type, quantity and specifications of products and services purchased, leased, licensed, or received by customers of the Insurance Council.
- c. 'Intellectual Property' which includes information relating to the Insurance Council's proprietary rights prior to any public disclosure of such information, including but not limited to the nature of the proprietary rights, production data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets).
- d. 'Marketing and Development Information' which includes marketing and development plans of the Insurance Council, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of the Insurance Council which have been or are being discussed.
- e. 'Business Operations' which includes internal personnel and financial information of the Insurance Council, Recipient names and other Recipient information (including Recipient characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, external business contacts including those stored on social media accounts or other similar platforms or databases operated by the Insurance Council, and the manner and methods of conducting the Insurance Council's business.
- f. 'Service Information' which includes all data and information relating to the services provided by the Insurance Council, including but not limited to, plans, schedules, labor, inspection, and training information.
- g. 'Proprietary Computer Code' which includes all sets of statements, instructions or programs of the Insurance Council, whether in human readable or machine readable form, that are expressed, fixed, embodied or stored in any manner and that can be used

directly or indirectly in a computer ('Computer Programs'); any report format, design or drawing created or produced by such Computer Programs; and all documentation, design specifications and charts, and operating procedures which support the Computer Programs.

- h. 'Computer Technology' which includes all scientific and technical information or material of the Insurance Council, pertaining to any machine, appliance or process, including but not limited to, specifications, proposals, models, designs, formulas, test results and reports, analyses, simulation results, tables of operating conditions, materials, components, industrial skills, operating and testing procedures, shop practices, know-how and show-how.
- i. 'Accounting Information' which includes, without limitation, all financial statements, annual reports, balance sheets, company asset information, company liability information, revenue and expense reporting, profit and loss reporting, cash flow reporting, accounts receivable, accounts payable, inventory reporting, purchasing information and payroll information of the Insurance Council; and
- j. Confidential Information will also include any information that has been disclosed by a third party to the Insurance Council and is protected by a non-disclosure agreement entered into between the third party and the Insurance Council.

3. Confidential Information will not include the following information:

- a. Information that is generally known in the industry of the Insurance Council.
- b. Information that is now or subsequently becomes generally available to the public through no wrongful act of the Recipient.
- c. Information rightly in the possession of the Recipient prior to receiving the Confidential Information from the Insurance Council.
- d. Information that is independently created by the Recipient without direct or indirect use of the Confidential Information; or
- e. Information that the Recipient rightfully obtains from a third party who has the right to transfer or disclose it.

Confidential Obligations

4. Except as otherwise provided in this Agreement, the Recipient must keep the Confidential Information confidential.
5. Except as otherwise provided in this Agreement, the Confidential Information will remain the exclusive property of the Insurance Council and will only be used by the Recipient for the Permitted Purpose. The Recipient will not use the Confidential Information for any purpose that might be directly or indirectly detrimental to the Insurance Council or any associated affiliates or subsidiaries.
6. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on the Recipient in this Agreement and any obligations to provide notice under this Agreement will survive the expiration or termination, as the case may be, of this Agreement and those obligations will last indefinitely.
7. The Recipient may disclose any of the Confidential Information:
 - a. to such employees, agents, representatives, and advisors of the Recipient that have a need to know for the Permitted Purpose provided that:
 - i. the Recipient has informed such personnel of the confidential nature of the Confidential Information.
 - ii. such personnel agree to be legally bound to the same burdens of confidentiality and non-use as the Recipient.
 - iii. the Recipient agrees to take all necessary steps to ensure that the terms of this Agreement are not violated by such personnel; and
 - iv. the Recipient agrees to be responsible for and indemnify the Insurance Council for any breach of this Agreement by its personnel.
 - b. to a third party where the Insurance Council has consented in writing to such disclosure; and

- c. to the extent required by law or by the request or requirement of any judicial, legislative, administrative, or other governmental body.

Avoiding Conflict of Opportunities

8. It is understood and agreed that the use of the Confidential Information for any business opportunity relating to or similar to the Insurance Council's current or anticipated business opportunities coming to the attention of the Recipient during the Recipient's retainer is an opportunity belonging to the Insurance Council. Accordingly, the Recipient will advise the Insurance Council of the opportunity and cannot use the Confidential Information to pursue the opportunity, directly or indirectly, without the written consent of the Insurance Council.
9. Without the written consent of the Insurance Council, the Recipient further agrees not to:
 - a. solely or jointly with others undertake or join any planning for or organization of any business activity competitive with the current or anticipated business activities of the Insurance Council; and
 - b. directly or indirectly, engage or participate in any other business activities which the Insurance Council, in its reasonable discretion, determines to be in conflict with the best interests of the Insurance Council.

Ownership and Title

10. The Recipient acknowledges and agrees that all rights, title, and interest in any Confidential Information will remain the exclusive property of the Insurance Council. Accordingly, the Recipient specifically agrees and acknowledges that the Recipient will have no interest in the Confidential Information, including, without limitation, no interest in know-how, copyright, trademarks, or trade names, notwithstanding the fact that the Recipient may have created or contributed to the creation of that Confidential Information.
11. The Recipient does hereby waive any moral rights that the Recipient may have with respect to the Confidential Information.
12. The Confidential Information will not include anything developed or produced by the Recipient during the term of this Agreement, including but not limited to intellectual property, process,

design, development, creation, research, invention, know-how, trade name, trademarks, or copyright that:

- a. was developed without the use of any equipment, supplies, facility, or Confidential Information of the Insurance Council.
- b. was developed entirely on the Recipient's own time.
- c. does not relate to the actual business or reasonably anticipated business of the Insurance Council.
- d. does not relate to the actual or demonstrably anticipated processes, research, or development of the Insurance Council; and
- e. does not result from any work performed by the Recipient for the Insurance Council.

Remedies

13. The Recipient agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any failure to maintain the confidentiality of the Confidential Information in breach of this Agreement cannot be reasonably or adequately compensated for in money damages and would cause irreparable injury to the Insurance Council. Accordingly, the Recipient agrees that the Insurance Council is entitled to, in addition to all other rights and remedies available to it at law or in equity, an injunction restraining the Recipient, any of its personnel, and any agents of the Recipient, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

Return of Confidential Information

14. The Recipient agrees that, upon request of the Insurance Council, or in the event that the Recipient ceases to require use of the Confidential Information, or upon expiration or termination of this Agreement, or the expiration or termination of the Permitted Purpose, the Recipient will destroy all documents, disks or other computer media, or other material in the possession or control of the Recipient that:

- a. may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information as defined in this Agreement; or
- b. is connected with or derived from the Recipient's services to the Insurance Council.

Notices

- 15. In the event that the Recipient is required in a civil, criminal, or regulatory proceeding to disclose any part of the Confidential Information, the Recipient will give to the Insurance Council prompt written notice of such request so the Insurance Council may seek an appropriate remedy or alternatively to waive the Recipient's compliance with the provisions of this Agreement in regard to the request.
- 16. If the Recipient loses or fails to maintain the confidentiality of any of the Confidential Information in breach of this Agreement, the Recipient will immediately notify the Insurance Council and take all reasonable steps necessary to retrieve the lost or improperly disclosed Confidential Information.
- 17. Any notices or delivery required in this Agreement will be deemed completed one (1) day after e-mail is sent to the e-mail addresses contained in this Agreement.
- 18. The addresses for any notice to be delivered to any of the parties to this Agreement are as follows:
 - a. itrfp@insurancecouncilofbc.com
 - b. _____

(RECIPIENT EMAIL ADDRESS)

Representations

- 19. In providing the Confidential Information, the Insurance Council makes no representations, either expressly or impliedly as to its adequacy, sufficiency, completeness, correctness, or its lack of defect of any kind, including any patent or trademark infringement that may result from the use of such information.

Assignment

20. Except where a party has changed its corporate name or merged with another corporation, this Agreement may not be assigned or otherwise transferred by either party in whole or part without the prior written consent of the other party to this Agreement.

Amendments

21. This Agreement may only be amended or modified by a written instrument executed by both the Insurance Council and the Recipient.

Governing Law

22. This Agreement will be construed in accordance with and governed by the laws of the Province of British Columbia.

General Provisions

23. Time is of the essence in this Agreement.
24. This Agreement may be executed in counterpart.
25. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.
26. The clauses, paragraphs, and subparagraphs contained in this Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement.
27. The Recipient is liable for all costs, expenses and expenditures including, and without limitation, the complete legal costs incurred by the Insurance Council in enforcing this Agreement as a result of any default of this Agreement by the Recipient.
28. The Insurance Council and the Recipient acknowledge that this Agreement is reasonable, valid and enforceable. However, if a court of competent jurisdiction finds any of the provisions of this Agreement to be too broad to be enforceable, it is the intention of the Insurance Council and the Recipient that such provision be reduced in scope by the court only to the extent deemed

necessary by that court to render the provision reasonable and enforceable, bearing in mind that it is the intention of the Recipient to give the Insurance Council the broadest possible protection to maintain the confidentiality of the Confidential Information.

29. No failure or delay by the Insurance Council in exercising any power, right or privilege provided in this Agreement will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any other right, power or privilege provided in this Agreement.
30. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Insurance Council and the Recipient.
31. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.

Insurance Council

BRITISH COLUMBIA

If the Recipient agrees to the terms and conditions of this Confidentiality Agreement, the Recipient is required to sign and return this Agreement to the Insurance Council by emailing it to itrfp@insurancecouncilofbc.com.

SIGNED BY:

DATE:
