

Schedule 2 – Privacy & Information Management Schedule

This Schedule forms part of the agreement between Kwantlen Polytechnic University (“the University”) and the “Supplier” respecting the “Agreement”.

Definitions

1. In this Schedule,
 - (a) “**access**” means disclosure by the provision of access.
 - (b) “**Act**” means the Freedom of Information and Protection of Privacy Act of British Columbia [RSBC 1996] Chapter 165, including any regulation made under it.
 - (c) “**Agreement**” means the Agreement between the University and the Supplier to which this Schedule is attached.
 - (d) “**Associate**” means, in relation to a Supplier, (i) an officer, director, partner or agent of the Supplier, (ii) an affiliate of the Supplier, (iii) a subcontractor, or further sub- subcontractor, of the Supplier, or (iv) an employee, officer, director or partner of an affiliate referred to in paragraph (ii) or of a subcontractor or further sub- subcontractor referred to in paragraph (iii).
 - (e) “**Business Day**” means a day, other than a Saturday or Sunday, on which the University is open for regular business in British Columbia.
 - (f) “**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; and business email or business fax number of the individual.
 - (g) “**Personal Information**” means recorded information about an identifiable individual, other than Contact Information, collected, created or accessible by the Supplier as a result of the Agreement or any previous Agreement between the University and the Supplier dealing with the same subject matter as the Agreement.
 - (h) “**Records**” means recorded information, including Personal Information, in any form that is (i) provided by the University to the Supplier, including provided by a third party on behalf of the University; (ii) provided by the Supplier to the University in relation to the Agreement; (iii) provided by a University Constituent to the Supplier; or (iv) created by the Supplier in the performance of the Agreement.
 - (i) “**Supplier**” means a party retained to perform the services under the Agreement (defined as service provider under the Act), and includes employees and volunteers of the party.
 - (j) “**Third Party Hosting Provider**” means a third party that provides a platform or hosting service through which the Supplier delivers the services under the Agreement and to whom Personal Information is not accessible and as such, for the purposes of this Schedule, is not considered an Associate.
 - (k) “**University Constituent**” means a University party including, without limitation, a prospective, current, or former student or applicant; alumni; prospective, current, or former employee or applicant; volunteer; partner; service provider, contractor; consultant; customer; prospective, current, or former donor; prospective, current, or former board member; or

research participant.

Purpose

2. The purpose of this Schedule is to:
 - (a) enable the University to comply with the University’s statutory obligations under the Act; and
 - (b) ensure that, as a service provider, the Supplier is aware of and complies with the Supplier’s statutory obligations under the Act.

Compliance with the Act and Directions

3. The Supplier must comply with:
 - (a) the requirements of the Act applicable to the Supplier as a service provider; and
 - (b) any direction given by the University under this Schedule.
4. The Supplier acknowledges that it is familiar with the requirements of the Act governing Personal Information and Records that are applicable to it as a service provider and agrees that:
 - a) Subject to 4(b) below, the Act applies to and governs all Records under the Agreement under the control of the University under the Agreement;
 - b) unless the Agreement otherwise specifies, all Records in the custody of the Supplier or Associate or, if applicable, a Third Party Hosting Provider, in relation to this Agreement and services delivered thereunder are and remain under the control of the University;
 - c) the requirements and restrictions established by Part 2 of the Act apply to all Records under the control of the University including in the custody of the Supplier or Associate or, if applicable, a Third Party Hosting Provider, and may require the disclosure of such Records to third parties by the University;
 - d) the requirements and restrictions established by Part 3 of the Act apply to the Supplier in respect of Personal Information; and
 - e) the Supplier will communicate the requirements and restrictions established by Part 3 of the Act to all employees and Associates of the Supplier managing Personal Information under this Agreement.
5. The Supplier will: (a) keep information and Records secure; (b) provide information or Records to the University within five (5) Business Days of being directed to do so by the University for any reason including an access request or privacy issue.
6. Any obligations of the Supplier in this Schedule apply to any Associate retained by the Supplier to perform obligations under the Agreement.

Access to and Collection of Personal Information

7. Unless the Agreement otherwise specifies or the University otherwise directs in writing, the Supplier may only access, collect or create Personal Information that relates directly to and is necessary for the performance of the Supplier’s obligations, or the exercise of the Supplier’s rights, under the Agreement.

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8. The Supplier must collect Personal Information directly from the individual the information is about unless:
- (a) the University provides Personal Information to the Supplier;
 - (b) the Agreement otherwise specifies; or
 - (c) the University otherwise directs in writing.

9. Unless the Agreement otherwise specifies or the University otherwise directs in writing, where the Supplier collects Personal Information directly from the individual the information is about, the Supplier must tell that individual:
- (a) the purpose for collecting it;
 - (b) the legal authority for collecting it; and
 - (c) the Contact Information of the individual designated by the University to answer questions about the Supplier’s collection of Personal Information.

10. Without limiting any other provision of the Agreement, the Supplier will implement and maintain an access log documenting all access to Personal Information, including a list of all persons that access any personal information.

Accuracy of Personal Information

11. Where Personal Information is collected by the Supplier directly from the individual the information is about, the Supplier must make every reasonable effort to ensure the accuracy and completeness of any such Personal Information to be used by the Supplier or the University to make a decision that directly affects that individual.

Correction of Personal Information

12. Within five (5) Business Days of receiving a written direction from the University to correct or annotate any Personal Information, the Supplier must correct or annotate the information in accordance with the direction.
13. When issuing a written direction under section 12, the University must advise the Supplier of the date the correction request was received by the University in order that the Supplier may comply with section 14.
14. Within five (5) Business Days of correcting or annotating any Personal Information under section 13, the Supplier must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was received by the University, the Supplier disclosed the information being corrected or annotated.
15. If the Supplier receives a request for correction of Personal Information from a party other than the University, the Supplier must promptly advise the party to make the request to the University and, if the University has advised the Supplier of the Contact Information of an official of the University to whom such requests are to be made, the Supplier must also promptly provide that official’s Contact Information to the party making the request.

Protection of Personal Information

16. Without limiting any other provision of the Agreement, the Supplier must protect Personal Information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including without limitation by ensuring that the integrity of the Personal Information is preserved.

Without limiting the general nature of the foregoing sentence, the Supplier will ensure that all Personal Information is securely segregated from any information under the control of Supplier or third parties to prevent unintended mixing of Personal Information with other information or access to Personal Information by unauthorized parties and to enable Personal Information to be identified and separated from the information of the Supplier or third parties.

Retention of Personal Information and Records

17. Unless otherwise specified in the Agreement, Supplier must retain Personal Information and Records until (a) directed by the University in writing to dispose of it or deliver it as specified in the direction or (b) expiry or termination of the Agreement, whereupon the Supplier will, at the University’s option, dispose of it or deliver it as specified by the University.

Use of Personal Information

18. Unless the University otherwise directs in writing, the Supplier may only use Personal Information if that use is for the performance of the Supplier’s obligations, or the exercise of the Supplier’s rights, under the Agreement. For clarity, unless the Agreement otherwise specifies or the University otherwise directs or authorizes in writing, the Supplier must not anonymize, aggregate or otherwise alter or modify Personal Information, including by converting Personal Information into non-Personal Information, or analyze Personal Information (whether by manual or automated means) for any purpose, including for the purpose of developing insights, conclusions or other information from Personal Information.

Disclosure of Personal Information

19. The Supplier may only disclose Personal Information to any party other than the University if the disclosure is for the performance of the Supplier’s obligations, or the exercise of the Supplier’s rights, under the Agreement and in accordance with the Act.

Disclosure of Personal Information Outside Canada

20. Unless otherwise set out in the Agreement or the University otherwise authorizes in writing the Supplier must not disclose Personal Information for storage outside Canada or store Personal Information outside Canada.
21. The Supplier must specify in writing the geographical location(s) of the storage of Personal Information.
22. Where disclosure for storage of Personal Information outside of Canada is authorized under this Schedule, the Supplier will, in relation to any such disclosure, maintain a record of the following, as applicable:
- (a) the reason for such disclosure;
 - (b) what Personal Information is disclosed for storage outside Canada;
 - (c) such other information as the University may request in writing.

The Supplier will promptly provide such information to the University upon request.

23. Supplier will not authorize or assist a Third Party Hosting Provider to access any Personal Information without the prior written approval of the University.

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Notice of Unauthorized Collection, Use, or Disclosure

24. In addition to any obligation Supplier may have to provide the notification contemplated by section 30.5 of FIPPA, if Supplier knows or suspects that there has been an unauthorized collection, use, or disclosure of Personal Information, Supplier must notify the University immediately. The Supplier will provide assistance and support to the University to investigate an unauthorized disclosure, including providing the University a copy of the access log referenced in 10 above upon request.

25. If Supplier receives:

(a) a demand or request from a law enforcement agency outside of Canada for the disclosure of Personal Information; or

(b) a subpoena, warrant or order issued or made by a court or party outside of Canada for the disclosure of Personal Information,

Supplier must promptly notify the University of such demand or request for disclosure of Personal Information and:

(c) use its best efforts to direct the party making the demand or request to the University;

(d) provide the University with reasonable assistance if the University wishes to contest the demand or request; and

(e) if Supplier has not been permitted to notify the University of such demand or request, take reasonable steps to challenge the demand or request, and to limit the disclosure to the minimum necessary to comply with applicable law if the demand or request is not successfully opposed, including by presenting evidence with respect to:

i. the control of Personal Information by the University as a public body under the Act;

ii. the application of the Act to Supplier as a service provider to the University;

iii. the conflict between the Act and the demand or request; and

iv. the potential for Supplier to be liable for an offence under the Act as a result of complying with the demand or request.

Metadata

26. Where the Supplier has or generates metadata as a result of services provided to the University, where that metadata is Personal Information, the Supplier will:

(a) not use it or disclose it to any other party except where the Agreement otherwise specifies; and

(b) remove or destroy individual identifiers, if practicable.

Requests for Access to Personal Information

27. If the Supplier receives a request for access to information from a party other than the University, the Supplier must promptly advise the party to make the request to the University unless the Agreement expressly requires the Supplier to provide such access and, if the University has advised the Supplier of the name or title and Contact Information of an official of the University to whom such requests are to be made, the Supplier must also promptly provide that official's name or title and Contact Information to the party making the request.

Notice of Non-Compliance

28. If for any reason the Supplier does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Supplier must promptly notify the University of the particulars of the non-compliance or anticipated non-compliance and what steps it proposes to take to address, or prevent recurrence of, the non-compliance or anticipated non-compliance.

Termination of Agreement

29. In addition to any other rights of termination which the University may have under the Agreement or otherwise at law, the University may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Supplier, terminate the Agreement by giving written notice of such termination to the Supplier, upon any failure of the Supplier to comply with this Schedule in a material respect.

Interpretation

30. In this Schedule, references to sections by number are to sections of this Schedule unless otherwise specified in this Schedule.

31. The Supplier must ensure that any Associates comply with the requirements of the Act applicable to them.

32. This Schedule supersedes and replaces any Privacy Protection Schedule or privacy terms forming part of any previous Agreement between the University and the Supplier dealing with the same subject matter as the Agreement.

33. The obligations of the Supplier in this Schedule will survive the termination of the Agreement.

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

35. The Supplier must comply with the provisions of this Schedule despite any conflicting provision of the Agreement. Where there is any conflict between this Schedule and the Supplier's policies or practices, the provisions of this Schedule will prevail.