



REQUEST FOR PROPOSAL

Learning Management and Web 2.0 Services

Request for Proposal No: **2009-0022**

Issue Date: **October 2, 2009**

KEY PROPONENT INFORMATION / INSTRUCTIONS

- Receipt Confirmation Due (Appendix B): October 9, 2009
- Closing : October 30, 2009 no later than 2:00 p.m. Local Time
- Thompson Rivers University Authorized Contact Person:

Name:	Sherry Hickman
Email:	shickman@tru.ca
Title:	Procurement Manager
Fax:	250.371.5512

Delivery Location (Courier/By Hand):

Address:	Thompson Rivers University
	Materials Distribution Centre – Second Floor
	900 McGill Road
	Kamloops, BC V2C 5N3
	Attention: Sherry Hickman

**ALL INQUIRIES MUST BE SUBMITTED IN WRITING
TO THE AUTHORIZED CONTACT PERSON**

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SECTION 1.0

GENERAL INFORMATION

1.1 INTRODUCTION AND PROJECT OVERVIEW

Thompson Rivers University (TRU) is an accredited post-secondary institution offering a range of educational services including full university degrees, academic transfer programs, career and technology diplomas, a variety of vocational and developmental program certificates, extension and other instruction services to communities in the Thompson Nicola region of British Columbia to both full and part time students. TRU operates the main campus in Kamloops, a satellite campus in Williams Lake and extensive education programs throughout the region.

TRU was founded in 1973 as a regional college known as Cariboo College. In 1989, it became a degree granting institution known as University College of the Cariboo (UCC) and, in 2004, Thompson Rivers University was formed as an accredited university. Today, TRU accommodates upwards of 10,000 students on the Kamloops campus (which includes a significant population of international students) and 15,000 students enrolled annually in distance and on-line courses.

The TRU infrastructure at the Kamloops campus provides a range of educational and support facilities including classrooms, laboratories, theatres, shops, study spaces, offices, common areas, a library, food and activity centres, a world class recreation/sports facility and a variety of support buildings.

For additional information please visit the TRU website: <http://www.tru.ca> and **Appendix E**.

1.2 PURPOSE OF THE RFP

Thompson Rivers University is seeking a vendor who can assist us with implementation, installation, and ongoing maintenance of Learning Management Systems and Web 2.0 Technologies.

TRU is interested in a contract that would last between one (1) and five (5) years renewable upon review of performance by TRU each year. TRU reserves the right to cancel the contract at any time.

1.3 BACKGROUND

TRU is in need of a vendor that can supply expertise in the area of Learning Management Systems and Web 2.0 Technologies to assist with the implementation, installation, and ongoing maintenance of these systems. Examples of LMS systems include Blackboard and Moodle. Web 2.0 systems include podcasting, wiki's, and blogs. The vendor must be familiar with programming and databases (e.g. Django, php, and Mysql). The vendor also needs to be able to setup and configure a Linux based system.

SECTION 2.0

BID PROCESS TERMS AND CONDITIONS

2.1 GENERAL INSTRUCTIONS

(a) TRU is inviting proposals for the provision of Learning Management and Web 2.0 Services in accordance with the specifications and requirements set out herein.

(b) Proposals must be received, no later than, 2:00. PM Local Time, on **October 30, 2009** at:

DELIVER IN PERSON, COURIER OR MAIL YOUR PROPOSAL DIRECTLY
TO:

Thompson Rivers University, Materials Distribution Centre - 2nd Floor
900 McGill Road
Kamloops, B.C. V2C 5N3
Attention: Sherry Hickman

FACSIMILE OR EMAIL TRANSMISSIONS WILL NOT BE ACCEPTED.

USING LEGIBLE PRINT, CLEARLY LABEL BOTH THE PROPOSAL AND
PACKAGE

Materials Distribution Centre – 2nd Floor

RFP 2009_0022 Learning Management and Web 2.0 Services

(c) Proposals should be delivered in one sealed envelope or package clearly marked on the outside with the name and address of the proponent and the RFP Number. The envelope or package should contain the complete RFP response. It is the Proponent's sole responsibility to ensure their proposal is received when, where and how it is specified in the RFP. TRU is not responsible for lost, misplaced or incorrectly delivered proposals. All proposals will be date and time stamped. For hand delivered proposals, TRU will supply a receipt if requested. Include four (4) hard copies of the proposal as well as one (1) electronic copy on CD using a minimum standard of Microsoft Word 2003 version with the .DOC extension, Microsoft Excel 2003 format with .XLS extension and PDF file of the final document. In the event of a discrepancy between the paper copy proposal and the diskette or CD-ROM copy, the paper copy shall prevail.

(d) The Proponent's proposal must be signed by a person authorized to sign on behalf of the Proponent and bind the Proponent to statements made in the proposal. Proposals received after the Closing or proposals that are non-compliant may not be accepted for consideration. The decision to accept or reject such proposal for consideration will be made by TRU in its sole discretion. The Proponent's proposal may be retained by TRU and TRU will forward a letter of non-compliance to the Proponent.

2.2 WAIVER OF NON-COMPLIANCE

Notwithstanding anything to the contrary in this RFP, if a Proponent fails to complete its proposal in compliance with this RFP, TRU in its sole discretion may waive such non-compliance, seek clarification or additional information from the Proponent, and consider and treat the proposal as a conforming proposal even if any such non-conformance or failure to comply with the requirements of this RFP would otherwise render the proposal null and void. Without limiting the generality of the foregoing, TRU reserves the right to accept or reject any proposal which is incomplete, obscure or irregular, which contains exceptions and variations, which are submitted after Closing, is unsigned, or which omits any matter other than the required signatures) that is required to be submitted.

2.3 RECEIPT CONFIRMATION FORM

Proponents are advised to complete and return the Receipt Confirmation Form (**Appendix B**) by October 9, 2009. All subsequent information regarding this RFP including amendments and/or clarifications will be posted on BC Bid.

2.4 NO PUBLIC OPENING

There will be no public opening of the proposals received unless indicated in this proposal. Proposals will be opened privately by TRU after the closing time specified for the receipt of proposals. No public announcement of the contents of any proposal will be made at any time.

2.5 OWNERSHIP OF PROPOSALS

All proposals submitted to TRU become the property of TRU. They will be received and held by TRU subject to the provisions of the "Freedom of Information and Protection of Privacy Act (FOIPPA)".

2.6 OPEN FOR ACCEPTANCE

The Proponent's offer shall remain open for acceptance for one hundred and twenty (120) Business Days from the Closing.

2.7 AMENDMENTS AND WITHDRAWALS

No proposal or price quotation forming part of a proposal shall be amended or withdrawn after the Closing. Negligence on the part of the Proponent confers no right for the amendment or withdrawal of a proposal after the Closing. In the event of pricing extension errors, the unit price will apply. In the event of a numerical discrepancy or error in a proposal, the written number will apply. Proposals may be amended or withdrawn upon written request before the Closing. Telephone communication will not be accepted.

2.8 ELECTRONIC TRANSMISSION

Electronic transmission of a proposal will not be accepted unless consented to in writing by TRU. If a situation arises that causes the Proponent's original proposal to be delayed that is not within the Proponent's control, a request may be made to accept an electronic copy (email or facsimile) of the Proponent's proposal. TRU, at

its sole discretion, will review the circumstances and make a decision whether or not to accept the Proponent's electronic copy. All decisions will be final. The electronic copy must be received before the Closing and the Proponent will be expected to immediately deliver an original paper copy to support the electronic transmission.

2.9 AUTHORIZED CONTACT

- (a) All inquiries related to this RFP must be directed to the individual identified below. Any substantive questions are to be submitted in writing and where in TRU's opinion it is warranted, a formal written response may be provided to Proponents:

Sherry Hickman

Phone Number: (250) 828-5386

Fax Number: (250) 371-5512

Email address: shickman@tru.ca

- (b) Any Proponent that circumvents this process and initiates any form of discussion with any other representative of TRU for any reason whatsoever may automatically be eliminated from consideration.

2.10 ALTERNATIVE OR VALUE ADDED SOLUTIONS

All Proponents may expand their proposals to detail additional services, features or performance characteristics or added value options available beyond those requested, together with pricing information, provided the product or service offered at least meets the required level of specifications listed. Any alternative or value added solutions being offered should be in the same format, clearly identified and separated within the main proposal with the heading Alternative or Value Added Solution.

2.11 ACCEPTANCE OF RFP TERMS AND CONDITIONS

A person(s) authorized to sign on behalf of the Proponent must sign the proposal and Acceptance of RFP Terms and Conditions form (**Appendix A**) and return it with the proposal. It is not required that a Proponent submit any response to the Bid Process Terms and Conditions, but the Proponents must be aware that by submitting a proposal the Proponent accepts the rules of the bid process.

2.12 PAYMENT AND DELIVERY TERMS

Unless otherwise agreed to by TRU, TRU's standard payment terms are net 30 days. All pricing, fees and costs associated with this RFP shall be in Canadian funds, inclusive of Provincial Sales tax and Goods and Service tax. Proponents must describe any discounts for early payment, Electronic Data Interchange or Electronic Funds Transfer transactions in their proposal.

2.13 PROPONENT'S MEETING

TRU may at their option require Proponents to attend a Proponent's meeting and site visits to clarify the requirements as written in the RFP. Proponents will be advised when the meetings and site tour will occur.

2.14 QUESTIONS AND INQUIRIES

- (a)** All questions and inquiries concerning this RFP including questions related to discrepancies, omissions, ambiguities and conflicts must be delivered, in writing or via email, to TRU's contact person designated above.
- (b)** To ensure consistency and quality of information, answers to questions relevant to the interpretation of this RFP will be sent to all Proponents from whom TRU has received the Receipt Confirmation Form via email without revealing the source of the enquiries. Responses may or may not be in the form of an addendum. The decision to issue or not issue an addendum is entirely at the sole discretion of TRU. Information obtained from any other source is not official and should not be relied upon.
- (c)** The Proponent has the responsibility, at all times, to notify the designated contact person in writing for any ambiguity, divergence, error, omission, oversight or contradiction contained in this RFP as it is discovered, or to request any instruction, decision, or direction which may be required to prepare the proposal.
- (d)** TRU reserves the right to request clarification of the contents of any proposal. TRU may require Proponents to submit supplementary documentation clarifying any matters contained in their proposals. This is not an opportunity for the Proponent to submit new information modifying its proposal. Notwithstanding the foregoing TRU is not obliged to seek clarification of any aspect of the proposal.

2.15 RFP REVISIONS

The RFP may be amended or revised by TRU in its sole discretion at any time prior to the closing date of the RFP. If it becomes necessary to amend or revise any part of the RFP, the amendments or revisions will be provided in writing to those who have submitted a Receipt Confirmation Form. It is the sole responsibility of the Proponent, prior to the closing date, to ensure they have received all amendments or revisions pertaining to the RFP. Amendments and/or clarifications will be posted on BC Bid.

2.16 PROPONENT'S EXPENSES

Proponents are solely responsible for their own costs and expenses in relation to this RFP and the award of the proposed Contract including preparing and submitting a proposal, attending interviews or meetings with TRU during the evaluation of the proposal, site tours, and negotiation, finalization and execution of any contract with TRU. TRU is not liable to pay such costs and expenses or to reimburse or to compensate a Proponent under any circumstance and TRU has no obligation to purchase or acquire any of the goods or services included in any proposal.

2.17 LIABILITY FOR ERRORS

TRU and its employees and agents shall not be held liable or accountable for any error or omission in any part of this RFP or response to Proponent questions. While TRU, and/or its employees and agents, have made efforts to ensure an accurate

representation of information in this RFP, the information contained in this RFP is supplied solely as a guideline for Proponents. The information is not guaranteed or warranted to be accurate by TRU, and/or its employees or agents, nor is it necessarily comprehensive or exhaustive. Nothing in this RFP is intended to relieve Proponents from the responsibility of conducting their own investigations and research and forming their own opinions and conclusions with respect to the matters addressed in the RFP. Proponents will be solely responsible to ensure their proposal meets all requirements of the RFP, to advise TRU immediately of any apparent discrepancies or errors in the RFP, and to request clarification if in doubt concerning the meaning or intent of anything to the RFP.

2.18 CONFIDENTIALITY

Information pertaining to TRU obtained by the Proponent, its employees and agents as a result of its participation in relation to this RFP, is proprietary and confidential. The data provided in this RFP is for the sole purpose of assisting the Proponent in the preparation of a proposal to TRU. The data must not be copied or disclosed by the Proponent except for the purpose of responding to the RFP.

2.19 AGREEMENT ON INTERNAL TRADE

TRU is subject to the terms and conditions of the Agreement on Internal Trade – Annex 502.4 as of April 1, 2002 and the TILMA Agreement, effective April 1, 2009.

2.20 FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

TRU is subject to legislation governing the protection of personal privacy and as such, TRU records are subject to access under this Act. The Act governs the collection, use, retention, security and disclosure of personal information managed by public organizations. The Act also applies to all electronic information accessed or returned by the Proponents. If documents submitted contain protected, proprietary, or confidential information identify the specific issue or information and provide supporting reasons why TRU should not release this information if requested by a Freedom of Information and Protection of Privacy Act (FOIPPA) inquiry. Determinations about what information must be disclosed in response to requests made under FOIPPA are made by the Privacy Commissioner of British Columbia. TRU makes no representations about what information of the Proponent will be subject to disclosure in response to a freedom of information request under the FOIPPA. **(Refer to Appendix F).**

2.21 CONFLICT OF INTEREST

Proposals will not be evaluated if the Proponents' current or past corporate or other interests are, in the opinion of TRU, deemed to be a conflict of interest or an apparent conflict of interest in connection with this RFP or the activities or mandate of its university. TRU reserves the right to disqualify or reject a proposal in whole or in part where the Proponent or directors, officers, shareholders or any person associated with the Proponent has a claim or has initiated a claim or legal proceeding against TRU or against whom TRU has a claim or has instituted a legal proceeding with respect to any previous contracts, tenders or business transactions.

2.22 RFP CANCELLATION

TRU is not bound to accept any proposal and reserves the right in its sole and absolute discretion to postpone or cancel this RFP at any time for any reason. Further and without limiting the foregoing, TRU will not be bound to accept the lowest bid and reserves the right to accept or reject any proposal in whole or in part, to discuss with any Proponent different or additional items and terms to those described in this RFP or received in any proposal, or to amend or modify any term of this RFP. TRU in its sole discretion may invalidate and cancel this RFP entirely. TRU may issue a new RFP or take other actions, as appropriate, if considered in the best interests of TRU.

2.23 VERIFICATION

TRU reserves the right to verify any statement or claim contained in any proposal or made subsequently in any interview or negotiation. That verification may be made by whatever means TRU deems appropriate and may include contacting the references provided by the Proponent. In submitting a proposal, the Proponent is deemed to consent to TRU verifying any information from third parties including the Proponent's bank references, and receiving additional information regarding the Proponent, its directors, officers, shareholders or owners and any other person associated with the Proponent as TRU may require.

2.24 LIMITATION OF LIABILITY AND INDEMNITY

- (a)** TRU will not be obligated or liable in any way whatsoever to a Proponent except where TRU has awarded and entered into a written Contract with that Proponent for the performance of the services contemplated by this RFP, and in which case, that Contract shall govern all such obligations and liabilities. It is a fundamental condition of this RFP and the receipt and consideration of proposal by TRU that TRU, and its respective employees, consultants and agents, govenors, senators, and its chancellor, will not and shall not under any circumstances, including without limitation whether pursuant to contract, tort, statutory duty, law, equity, any actual or implied duty of fairness, or otherwise, be responsible or liable for any costs, expenses, claims, losses, damages or liabilities (collectively and individually all of the foregoing referred to as "Claims") incurred or suffered by any Proponent as a result of or related to any one or more of the RFP, the preparation, negotiation, acceptance or rejection of any conforming or non-conforming proposal, the rejection of any Proponent, or the cancellation, suspension or termination of the RFP process, and by submitting a proposal each Proponent shall be conclusively deemed to waive and release TRU and its employees, contractors, consultants and agents, from and against any and all such claims.
- (b)** TRU is subject to the provisions of the Financial Administration Act and regulations made pursuant to such Act and are prohibited from granting an indemnity without obtaining prior written approval of the Minister of Finance or the Director of Risk management Branch. Accordingly any contract which may be entered into with the preferred Proponent will not include a TRU indemnity and such contract will provide

that TRU shall not be liable in connection with any claim by a contractor for any special, incidental, indirect or consequential loss or damage or for any claim in tort in respect of any act or omission of TRU.

- (c) By submitting a proposal, the Proponent agrees that it shall not claim damages for any matter arising out of this RFP process or in preparing and submitting a proposal. The Proponent further agrees to and hereby waives any claim for damages for loss of profits if no resulting Contract is entered into with the Proponent.
- (d) Each Proponent shall indemnify and hold TRU and its employees, contractors, consultants, agents, governors, senators and its chancellor, harmless from and against any and all Claims brought against them arising out of any act or omission of the Proponent or by third parties arising out of or relating to the Proponent's receipt of this RFP, or the preparation, submission and negotiation of any proposal submitted by the Proponent, where such third parties were directly or indirectly engaged by or through the Proponent in connection with any of the foregoing or where personal injury, bodily damage or property damage is caused by the negligent acts or omissions of the Proponent. Such indemnification shall survive completion of the goods or services provided under the Contract and the termination of the Contract.

2.25 SIGNED PROPOSALS

The proposal must be signed by a person authorized to sign on behalf of the Proponent and must designate the individual who is authorized to negotiate any subsequent Contract on behalf of the Proponent. Any unsigned proposals, at the sole discretion of TRU, may not be considered for evaluation by TRU.

2.26 SUB-CONTRACTING

No sub-contracting or assignment of any contract or of any services to be provided is permitted without the prior written consent of TRU.

2.27 FINANCIAL CONTRIBUTION DISCLOSURE

Proponents must complete and sign the statement of full disclosure document (Appendix C).

2.28 AVAILABILITY OF ITEMS

Goods and services offered by the Proponent must be available in sufficient supply to meet the RFP requirements at the time of Contract commencement. Proposal responses shall clearly identify any item(s), software functionality or service, which is not available. All quantities specified are approximate and are based on annual estimated requirements. Actual quantities are subject to change.

2.29 CONTRACT AWARD

- (a) By submission of its proposal, the Proponent agrees that should it be deemed the preferred supplier, the Proponent will negotiate in good faith and execute a Contract with TRU incorporating the terms and conditions of this RFP, the Proponent's proposal, and such other terms and conditions as TRU may reasonably require. TRU may negotiate modifications, additions or variations to such terms and conditions or to the services set out in a proposal in order to satisfy its operational or administrative requirements. The RFP and TRU's General Terms and Conditions take precedence over any and all documents submitted by the Proponent. TRU will not accept a Proponent's standard services agreement and by signing the Acceptance of RFP Terms and Conditions (**Appendix A**), the Proponent is agreeing to this condition.
- (b) TRU reserves the right to add, delete or change services as needed to support TRU and/or Ministry of Education operational requirements and to renegotiate fees if there are significant changes to the original scope of services.

2.30 CONTRACT FORM

The service Contract will contain the Standard Contract Terms and Conditions set forth in Section 3 together with such additional or modified terms, services and specifications as TRU may reasonably require and will bind the Proponent to any warranties, guarantees or representations stated therein or made during the Request for Proposal and selection process. No amendments to the General Contract Terms and Conditions will be made except as approved by TRU, in its sole discretion.

2.31 WORKING LANGUAGE

The working language of TRU is English and all responses to the RFP will be in English.

2.32 GOVERNING LAWS

This RFP will be governed exclusively by and construed and enforced in accordance with the laws of British Columbia and Canada. The Proponent agrees to attorn to the exclusive jurisdiction of the courts of the Province of British Columbia and the Government of Canada in the event of any dispute concerning this RFP or any matters arising out of this RFP.

2.33 APPENDICES

All appendices to this RFP are deemed to be incorporated herein and form part of this RFP.

2.34 HEADINGS

The insertions of headings in this RFP are for convenience only and shall not affect the interpretation or construction thereof.

2.35 TIME IS OF THE ESSENCE

Time shall be of the essence in this RFP.

SECTION 3.0 STANDARD CONTRACT TERMS AND CONDITIONS

3.1 INSTRUCTIONS

This section of the RFP summarizes important provisions which will be deemed to be incorporated as if fully set out in any Contract between the Proponent and TRU. The Contractor should note that the list of contract terms is not exhaustive and TRU may require additional or modified terms and conditions to be included in such Contract.

The Proponent should provide in its proposal any variation and/or additional terms and conditions it feels are applicable to the Contract and any changes it wishes to make to the terms and conditions as set out herein. TRU is not obliged to accept such changes. Unless approved by BC Risk Management, TRU is unable to provide indemnities and Proponents should not request TRU to provide contractual indemnities.

3.2 DEFINITIONS AND INTERPRETATION

(a) Definitions - Where used herein the following words and phrases shall have the following meanings:

- (i)** “*Business Day*” means any day other than a Saturday, Sunday or a statutory holiday in the Province of British Columbia;
- (ii)** “*Change Order*” means an instrument issued and signed by TRU authorizing alterations of, additions to or deletions from the contracted goods or services or revisions to the Contract pricing and/or pricing methodology;
- (iii)** “*Confidential Information*” means any and all information supplied to, obtained by or which comes to the knowledge of the Contractor as a result of this Contract with respect to TRU including without limitation all data, trade secrets, know-how, processes, formulas, standards, product specifications, marketing plans and techniques, cost figures, access or security codes, systems software applications, software/system source and object codes, documentation, program files, flow charts, drawings and operational procedures except that Confidential Information does not include information which the Contractor can prove is information which is in the public domain at the date of disclosure by TRU to the Contractor, is received by the Contractor without obligation of confidence from a third party who is in lawful possession of such information free of any obligation of confidence and is not otherwise prohibited from transmitting such information to the Contractor by contractual, legal or fiduciary obligation;

- (iv) “*Contract*” means the entire agreement between TRU and the Contractor for the supply of the goods or services and consists of the Request for Proposal, the Contractor’s proposal (excluding any portions thereof not accepted by TRU), these General Contract Terms and Conditions, any additional terms or conditions accepted by TRU in its sole discretion and the terms of any purchase order(s) issued by TRU to the Contractor who has been awarded the Contract as a result of the RFP;
 - (v) “*Contract Price*” means the total price payable by TRU to the Contractor for its performance of the Services at the times and manner provided for herein;
 - (vi) “*Contractor*” means the company with the Contract;
 - (vii) “*Proposal*” or “*proposal*” means the proposal submitted by the Contractor to TRU for the provision of the goods or services;
 - (viii) “*RFP*” means the Request for Proposal for the provision of the goods or services issued by TRU to potential Contractors, including the Contractor;
 - (ix) “*Services*” means the goods and services, responsibilities, functions, duties and obligations of the Contractor to be supplied and performed as set forth in this Contract;
 - (x) “*TRU*” means the Thompson Rivers University
 - (xi) “*Term*” means the initial term of this Contract and shall include any extended term of this Contract if the Contract includes an option for TRU to extend the term.
- (b) **Headings** - The division of this Contract into Articles and Sections and the insertion of the recitals and headings are for convenience of reference only and shall not affect the construction or interpretation of the Contract.
- (c) **Currency** – All transactions referred to in this Contract will be made in lawful currency of Canada.
- (d) **Singular, plural, gender and person** – Wherever in this Contract the context so requires, the singular number shall include the plural number and vice versa and any gender used shall be deemed to include the feminine, masculine or neuter gender and “person” shall mean an individual, partnership, consortium, corporation, joint venture or other entity or government or any agency, department or instrumentality thereof and vice versa.
- (e) **Time** - Time is of the essence of the Contract.
- (f) **Industry meanings** - Words and phrases used in the Contract that have acquired special meanings in the university sector will be interpreted in accordance with the special meanings attached to those words and phrases.
- (g) **Expiry of Time Period** - In the event that any date on which any action is required to be taken under this Contract is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day unless otherwise provided in this Contract.
- (h) **Accounting Terms** - All accounting terms not specifically defined shall be construed in accordance with Canadian Generally Accepted Accounting Principles.

- (i) **Statutes** - Each reference to a statute is deemed to be a reference to that statute and to the regulations made under that statute as amended or re-enacted from time to time unless the context otherwise requires.
- (j) **Attornment** - The parties agree to submit to and hereby attorn to the exclusive jurisdiction of the courts of the Province of British Columbia for any action arising out of or in connection with this Contract.
- (k) **Severability** - Each provision of this Contract is intended to be severable and if any provision is determined by a court of competent jurisdiction to be illegal or invalid or unenforceable for any reason whatsoever, such provision shall be severed from the Contract and will not affect the legality, validity or enforceability of the remaining provisions of the Contract.
- (l) **Governing Law** - This Contract is and will be deemed to be made in British Columbia and for all purposes will be governed exclusively by and construed and enforced in accordance with the laws prevailing in British Columbia and the laws of Canada applicable therein.
- (m) **Precedence of Documents** - In the event of any ambiguity, conflict or inconsistency among any of the provisions of the Contract then the provisions establishing the higher quality manner, or goods and services supplied, using the more stringent standards, with the intent that the provisions which produce the highest quality with the highest level of goods and services, safety, reliability and durability shall govern.

3.3 STANDARD TERMS AND CONDITIONS

- 3.3.1 **Accounting Records and Reports** - The Contractor shall keep suitable and proper accounts and records of all its reports, correspondence, documents and records relating to the performance of the Services. Such information shall at all reasonable times be open to inspection by TRU who may make copies and take extracts there from. Access to such information shall be for the purposes of determining the Contractor's compliance with the terms of the Contract. TRU shall also have the right to conduct an audit of any of the statements, records and accounts of the Contractor in relation to the performance of the Services for the purposes of determining the Contractor's compliance with the Contract.
- 3.3.2 **Adverse Material Changes** – Due to the nature of the education sector, the potential for further education restructuring, and its restrictive funding, TRU reserves the right to cancel or reduce its contractual obligations without penalty.
- 3.3.3 **Amendment, Waiver or Modification** - This Contract may not be amended except by a Change Order or by a written instrument signed by TRU. No indulgence or forbearance by TRU shall be deemed to constitute a waiver of its rights to insist on performance in full and in a timely manner of all covenants of the Contractor and any such waiver, in order to be binding upon TRU, must be expressed in writing and signed by TRU and then such waiver shall only be effective in the specific instance and for the specific purpose for which it is given.

- 3.3.4 Authority** - The Contractor warrants it has full power and authority to enter into and perform its obligations under this Contract and the person signing this Contract on behalf of the Contractor has been properly authorized and empowered to enter into such Contract. The Contractor further acknowledges that it has read all of the terms, conditions and provisions of this Contract and understands all provisions thereof and agrees to be bound thereby.
- 3.3.5 Bonding** – Where requested by TRU, each employee of the Contractor that performs Services shall be bonded by the Contractor through a fidelity insurance policy with a third party extension endorsement included with an insurer acceptable to TRU which carries a blanket limit of no less than one hundred thousand dollars (\$100,000) per occurrence. Such policy shall provide coverage in respect of acts of the Contractor's employees in the course of performing the work and proof or such insurance shall be provided to TRU from time to time upon request.
- 3.3.6 Business Registration** – The Contractor will be required to be registered to conduct business in the Province of British Columbia.
- 3.3.7 Changes to Scope of Service** - TRU shall have the right to change the scope of Services provided by the Contractor by Change Order including changes in Service standards, increasing or reducing the frequency, level or quality of Services, adding, reducing or deleting Services at any facility and adding, deleting or change facilities, sites or locations of Services provided. The Contract Price will be adjusted to reflect any change in the scope of Services. The amount of any reduction or increase in the Contract Price shall be determined by TRU and the Contractor by taking into account any reduction or increase in capital or labor costs based on the pricing methodology, rates, and costs for the Services set forth in the Contractor's proposal. If TRU and the Contractor are unable to agree on the appropriate reduction or increase in the Contract Price the matter shall be referred for resolution pursuant to the dispute resolution provisions of this Contract. TRU shall not be liable to the Contractor for any loss (including loss of anticipated profit) or damage of any nature arising out of any reduction or deletion in Services. The Contractor shall not be entitled to be paid for any Services not expressly provided for within the scope of the Services or not covered by a duly authorized Change Order.
- 3.3.8 Clear Title** – The Contractor warrants clear title to materials/equipment supplied by them and will indemnify and hold TRU, and its respective employees, consultants, agents, governors, senators, and its chancellor harmless against any or all lawsuits, claims, demands and/or expenses, patent litigation, infringement, material or material men's or laborer's liens, or any claims by third parties in or to the commodities mentioned and supplied by the Contractor.

- 3.3.9 Confidentiality and Freedom of Information** - The Contractor acknowledges that all information or materials supplied to or obtained or created by the Contractor is subject to the provisions of the Freedom of Information and Protection of Privacy Act (British Columbia) and the Contractor will document and manage its records in accordance with such Act, applicable provincial and federal legislation and the policies of TRU. Where the Contractor has access to or has custody or control of “personal information” as defined in the Freedom of Information and Protection of Privacy Act (British Columbia) as amended from time to time, the Contractor will, to the extent required by Applicable Law, at all times hold, safeguard, use, disclose, document and manage personal information and all other information and records only in accordance with all Applicable Law including the Freedom of Information and Protection of Privacy Act (British Columbia) as amended from time to time, the policies of TRU, the requirements, policies and orders of the Office of the Information and Privacy Commissioner (British Columbia) and the provisions of **Appendix F**.
- 3.3.10 Confidential Information** - The Contractor shall not disclose or permit the disclosure of any TRU Confidential Information to any third party or use any TRU Confidential Information for any purpose other than the performance of the Services. The Contractor may disclose TRU Confidential Information only to those of its officers, employees, directors, agents and advisors who require it for the purposes of performing the Services and the Contractor shall cause each recipient of TRU Confidential Information to assume and comply with obligations of confidentiality equal to the obligations which the Contractor has assumed under this Contract.
- 3.3.11 Conflict of Interest** - The Contractor and its employees shall take all reasonable steps to ensure avoidance of all direct or indirect conflicts of interest between any of their individual interests and those of TRU. If the Contractor or any one of its personnel becomes aware of any reasonable possibility of any such conflicts, then the Contractor shall promptly disclose to TRU the facts and circumstances pertaining to same.
- 3.3.12 Contractor Performance** - TRU wants to ensure the Contractor provides high quality performance during the Contract period. Measurement factors include but are not limited to; quoted on-time delivery of products/services; response times; financial impact to support the required delivery dates; the acumen of sales representative; the level of sales support; Contract management responsibilities; problem solving capabilities; respect for TRU policies; ethical conduct and other attributes of leading organizations.

- 3.3.13 Contractor's Personnel** - The Contractor is solely responsible for all aspects of employment and labour relations in connection with its workforce. The Contractor is the employer of its workforce and such employees are not employees or agents of TRU. All such employees shall be under the direct management and sole supervision of the Contractor. No employment relationship is created between the Contractor or any of the employees and TRU. The Contractor shall be responsible for all payroll functions and shall pay in a timely manner all salaries and benefits, taxes, employment insurance premiums, Canada Pension Plan premiums or contributions, Workers Compensation Act assessments and any other assessments or contributions of any kind or nature whatsoever that are payable to any governmental authority in respect of the Contractor's employees. It is the express mutual understanding and intention of the Contractor and TRU that the Contractor is not a successor to, or common employer with, TRU and nothing in the Contract shall be construed, interpreted, understood or implied contrary to that mutual intention and understanding.
- 3.3.14 Contractor's Taxes** - The Contractor shall pay when due all taxes, rates, duties, assessments and license fees that may be payable by the Contractor under applicable law or levied, rated, charged or assessed by any governmental authority in respect of the provisions of the Services to TRU.
- 3.3.15 Copyright** – The Contractor expressly warrants that the goods and/or work to be furnished and the productions thereof do not and will not infringe any patent, copyright or industrial design and that the Contractor shall, at its own expense, defend any suit that may arise in respect hereto and hold harmless and indemnify TRU, and its respective employees, consultants, agents, governors, senators, and its chancellor against all claims, demands, costs, charges and expenses arising from or incurred by any such infringement.
- 3.3.16 Costs** - The Contractor shall be responsible for paying its own costs and expenses incurred in connection with the negotiation, preparation and execution and delivery of this Contract.
- 3.3.17 Counterparts** - This Contract may be executed and delivered in any number of counterparts with the same effect as if TRU and the Contractor had all signed and delivered the same document and all counterparts will be construed together to be an original and will constitute one and the same Contract. Either party may deliver and execute a copy of this Contract by facsimile facility but that party will immediately dispatch by delivery to the other party an originally executed copy of this Contract.
- 3.3.18 Disclosure to Province** - In recognition of TRU's responsibility to the Ministry of Advanced Education and Labour Market Development and the Province of British Columbia for discharging its obligations including reporting obligations the Contractor agrees that TRU may at any time and from time to time disclose the terms of this Contract including the nature of the Services, the nature, methods and manner of performance of the Services, the Contract Price and other pricing information and the contents of the Contractor's proposal to TRU's Other Facilities, the Province of British Columbia and the Ministry of Advanced Education and Labour Market Development.

- 3.3.19 Dispute Resolution** – A dispute that arises under the Contract as to the interpretation of the Contract, as to a matter to be agreed under the Contract or otherwise arising under the Contract will:
- (i) the first instance be referred to representatives of the parties for resolution in a professional and amicable manner by negotiation;
 - (ii) a dispute which has not been resolved by the party's representatives within ten (10) Business Days of its being referred to them for resolution may be submitted to non-binding mediation, through the use of a mutually agreeable dispute resolution process; and
 - (iii) if the dispute is not resolved by mediation within a further ten (10) Business Days after being referred to a mediator, it may be submitted by either party for determination through arbitration under the Commercial Arbitration Act (British Columbia). The arbitration will be governed by the British Columbia International Commercial Arbitration Centre in accordance with its "Domestic Commercial Arbitration Rules of Procedure" ("BCIAC Rules"). The arbitration shall be conducted by a single arbitrator appointed in accordance with BCIAC Rules in Kamloops, BC and the award of the arbitrator including any award as to costs will be final and binding on the parties. The reference to arbitration will not preclude a party from applying to a British Columbia court of competent jurisdiction for interlocutory or interim relief.
- 3.3.20 Duty to Mitigate** - Without limiting but in addition to all other obligations to mitigate required by this Contract, in all cases where the Contractor is entitled to receive from TRU any compensation including resulting from a Change Order the Contractor shall use all reasonable efforts to mitigate such amount required under this Contract to be paid by TRU.
- 3.3.21 Entire Agreement** – The Contract together with any portion of the proposal expressly incorporated herein by reference constitutes the entire agreement between the parties and supersedes all prior negotiations and discussions. The parties confirm and acknowledge that there are no collateral agreements, representations or terms affecting or forming part of this Contract other than set forth herein.
- 3.3.22 Firm Pricing** – Pricing shall be fixed for the duration of the Contract and shall not be subject to adjustment unless expressly provided for in the Contract.

- 3.3.23 Force Majeure** – If either TRU or the Contractor fails to perform any term of the Contract and such failure is due to an Event of Force Majeure, that failure will not be deemed to be a default under the Contract. The party affected by an Event of Force Majeure will immediately notify the other party and will take all reasonable steps to minimize the extent and duration of the Event of Force Majeure and the period of all delays resulting from the Event of Force Majeure will be excluded in computing the time within which anything is required or permitted by such party to be done under this Contract, it being understood and agreed that the time within which anything is to be done under this Contract will be extended by the total period of all such delays. During the Event of Force Majeure requiring suspension or curtailment of a party's obligation under this Contract, that party will suspend or curtail its operations in a safe and orderly manner. "Event of Force Majeure" means any cause beyond the control of TRU or the Contractor which prevents the performance by either party of any of its duties, liabilities and obligations under this Contract not caused by its default or act of commission or omission and not avoidable by the exercise of reasonable effort or foresight by that party including explosion, fire, casualty or accidents, epidemics, cyclones, earthquakes, floods, droughts, war, civil commotion, acts of Queen's enemies, blockade or embargo, and acts of God but excluding lack of or insufficient financial resources to discharge and pay any monetary obligations and excluding increases in commodity prices, inability to obtain labour, equipment or materials, strikes, lockouts or other labour disputes.
- 3.3.24 Further Assurances** - The parties shall, with reasonable diligence, hold all meetings, perform all acts, execute and deliver all documents and instruments, do all such things and provide all such reasonable assurances as may be reasonably necessary or desirable to give effect to the provisions of this Contract.
- 3.3.25 Governing Law** – This Contract is and will be deemed to be made in British Columbia and for all purposes will be governed exclusively by and construed and enforced in accordance with the laws prevailing in British Columbia and the laws of Canada applicable therein.
- 3.3.26 Implementation Plan** – Where required by TRU, prior to commencement of the term of the Contract, the Contractor shall prepare and submit to TRU a detailed implementation plan acceptable to TRU which will address all requirements to achieve a smooth and seamless transition of the goods and services from the existing service model(s) in place at each of the TRU facilities to the control of the Contractor. The Contractor will make any adjustments to the implementation plan as reasonably required from time to time by TRU.

- 3.3.27 Indemnification** - The Contractor shall indemnify and save harmless TRU, and its respective employees, agents, consultants, governors, senators and its chancellor from and against any and all losses, claims, demands, damages, actions, causes of action, costs and expenses (including legal expenses calculated as between a solicitor and his or her own client) TRU may sustain or incur, arising directly or indirectly by reason of (a) any breach of the Contract by the Contractor, or any agent, employee, director, officer or sub-Contractor of the Contractor; (b) the acts or omissions of the Contractor, or any agent, employee, director, officer, or sub-contractor of the Contractor including any injury to or death of any person or any damage to any and all persons or property, whether deliberate, accidental or through negligence except to the extent that any such claim arises solely from the negligence of TRU. This indemnity will survive termination of the Contract. TRU shall not be liable to the Contractor in connection with any claim for any special, incidental, indirect or consequential loss or damages and TRU shall not be liable in tort to the Contractor in respect of any act or omission of TRU relating to or in connection with the Contract.
- 3.3.28 Independent Contractor** - The parties are independent Contractors. The Contract does not create or establish any relationship as partners, joint ventures, employer and employee, master and servant or principal and agent.
- 3.3.29 Independent Legal Counsel** - The Contractor confirms it has obtained independent legal advice in entering into this Contract.
- 3.3.30 Insurance** – The Contractor shall, at its own expense and without limiting its liabilities herein, insure its operations under a contract of comprehensive commercial liability insurance with an insurer licensed in British Columbia, in an amount required by TRU insuring against bodily injury, personal injury and property damage including loss of use thereof. Such insurance shall extend to include, but not be limited to product and completed operations, owners and Contractors' protective, broad form property damage, non-owned auto, blanket contractual, contingent employers, cross-liability, employees as additional insured's' and tenants' legal liability. If required by TRU the Contractor shall also provide property insurance on an "all risks" form and automobile liability insurance in respect of all owned or leased vehicles. All insurance other than automobile insurance shall be stated to be primary insurance and shall not require the insuring of any loss by any insurer of TRU, have added as additional insureds TRU and its directors, officers, employees, servants, consultants and agents, contain a waiver of subrogation clause against TRU and the additional insureds, contain a breach of warranty clause whereby a breach of a condition by the Contractor shall not eliminate or reduce coverage for TRU or the additional insureds and contain a clause requiring thirty (30) days advance written notice of cancellation or material change. If written on a layered basis, such policy shall provide that upper layers insurers coverage responds (including in respect of any defense obligation any liability policy) in case of exhaustion of any underlying insurance, or in the case of insolvency of any underlying insurance. Prior to commencement of any work the Contractor shall provide a copy of the Certificate of Insurance coverage or insurance policy to TRU as requested.

- 3.3.31 Intellectual Property Rights** – TRU will be the owner of the intellectual property rights, including patent, copyright, trademark, industrial design and trade secrets in any product developed through the Contract. Licensing and marketing rights to the developed product may be granted to the Contractor.
- 3.3.32 Liability Following Termination** – In the event of early termination of the Contract by TRU in accordance with the terms of the Contract, the Contractor agrees that TRU shall not be liable to the Contractor for any loss (including loss of anticipated profit), or damage of any nature including any special, incidental, direct, indirect or consequential damages arising out of such early termination not shall TRU be under any obligation to the Contractor save and except for the payment of such goods as may have been delivered to TRU and such Services as may have been performed in accordance with the terms of the Contract up to the date of termination.
- 3.3.33 License and Registration** - The Contractor shall be incorporated and have obtained licenses where required by legislation. The Contractor shall be registered in the Province of British Columbia. The Contractor shall comply with all applicable laws of any governmental authority having jurisdiction which is either expressly or by implication applicable to the provision of the Services.
- 3.3.34 Limit of Force Majeure** - If an Event of Force Majeure prevents the Contractor from providing Services at any facility for a period of one or more days, TRU may thereafter without incurring any liability to the Contractor on notice to the Contractor, either suspend in whole or in part the performance of further Services on a facility by facility basis or for all facilities or terminate this Contract with respect to the affected Services, or if all Services are prevented, the entire Contract. In the event of such suspension, the Contractor agrees it will vacate the affected site(s) along with all of its employees and equipment until such period of time as TRU may determine and TRU shall have the right to obtain substitute Services from a third party or through its own forces at its sole discretion for the duration of such period of suspension. In the event of such termination, TRU shall be entitled to a refund of all prepaid costs related to the Services prevented by the Event of Force Majeure.
- 3.3.35 Notices** - All notices, consents or other communications other than day-to-day communications, provided for under this Contract shall be in writing and shall be deemed to have been duly given and to be effective, if mailed three (3) Business Days after being deposited in the post as registered, postage prepaid, return receipt requested, addressed as follows and if delivered or sent by facsimile communication on the date of delivery or sending by facsimile to the parties at the respective addresses specified in the RFP and proposal or at such other address as the party to whom the notice is sent shall have designated in accordance with the provisions of this Section.
- 3.3.36 Penalties for Non-Performance** - TRU and the Contractor will implement any penalty program which they may agree to prior to the commencement of the term. Any such program will be included as an appendix to the Contract.

- 3.3.37 Press Releases** - The Contractor will not make any press release or other disclosures with respect to the execution and delivery or performance of this Contract or any matter related to the Contract unless TRU has jointly approved such press release or disclosure. All media releases shall be coordinated with TRU and shall be subject to prior approval of TRU, which approval may be arbitrarily withheld.
- 3.3.38 Protection of Personal Information** - Where the Contractor has access to or has custody or control of “personal information” as defined in the Freedom of Information and Protection of Privacy Act, the Contractor shall at all times document and manage personal information and all other information and records in accordance with all applicable law including the Freedom of Information and Protection of Privacy Act (British Columbia) and the provisions of **Appendix F**.
- 3.3.39 Purchase Orders** – Separate purchase orders may be issued by TRU to the Contractor. The Contractor will provide toll-free telephone and fax numbers or accept collect calls from TRU for order shipment or delivery enquiries. TRU will not be responsible for the payment of any items supplied to any individual, or ordered by telephone, without an official Purchase Order.
- 3.3.40 Services** - The Contractor shall provide continuous and uninterrupted Services in accordance with the Service standards, requirements, terms and conditions of the Contract. Such Services shall be performed to a standard of care, skill and diligence maintained by persons providing on the highest commercial standard, similar services. Should any Services or materials be required for the proper performance of the Contract which are not expressly or completely described in the Contract and are reasonably associated with or necessary for the proper and timely performance and provision of the Services, then such Services or materials shall be deemed to be implied and required by the Contract and the Contractor shall furnish them as if they were specifically described in the Contract as part of the Services.
- 3.3.41 Service Standards** – In providing the Services, the Contractor shall at all times meet or exceed the standards of the industry, the standards described in this Contract and the Service levels and quality standards provided by the service model(s) currently in place at each of the facilities. TRU shall have the right at any time throughout the term to revise such Service standards by Change Order and the Contractor shall promptly make all required adjustments to its operations to accommodate such revised Service standards. All Services will be provided to the complete satisfaction of TRU and will be conducted in such a manner as not to interrupt or interfere with TRU's operations.
- 3.3.42 Substitute Services** – If TRU chooses to obtain substitute Services due to Service delays or disruption, the Contractor must reimburse TRU for the difference, if any, between the charges incurred by TRU for the Substitute Services and the charges specified in the Contract that TRU would owe if not for the Service delay and disruption. If TRU decides to permanently use the substitute Service the Contract Price will be adjusted accordingly.
- 3.3.43 Successors and Assigns** - This Contract ensures to the benefit of and binds the parties and their respective successors and permitted assigns.

- 3.3.44 Survival** - All obligations of the Contractor which by their terms are intended or are appropriate to survive the termination of this Contract shall survive the cancellation, termination or expiration of this Contract.
- 3.3.45 Taxes** – TRU will pay any goods and service tax payable in respect of the various goods and services provided by the Contractor in accordance with the requirements under the Excise Tax Act (Canada). The Contractor will assist TRU in the recovery of any goods and services tax credits and will support any requests for tax interpretations or rulings that may assist TRU to reduce expenses. Any reduction, rebate or remission of goods and services tax collected by the Contractor from TRU will be reimbursed to TRU. TRU will also pay any provincial sales tax that may be required under the Social Services Tax Act. If the Contract Price includes provincial sales tax the Contractor will remit all applicable provincial sales tax to the appropriate governmental authority.
- 3.3.46 Term of Contract** -The Contract commences on the date of execution of the Contract. The initial term of the Contract shall be for xxx years (herein called the “Term”) commencing on the «Commencement Date» and continuing in full force and effect until 12 o'clock midnight on «Initial Termination Date» (herein called the “Initial Termination Date”) subject to earlier termination as herein provided.
- TRU may at its option extend the Term of the Contract for a further period at xxx year intervals up to a maximum of < XX > years from the Initial Termination Date
- 3.3.47 Termination by TRU Without Cause** - Notwithstanding anything herein otherwise provided, or any custom of the trade, duty of fairness, principle, term or rule of law to the contrary whether express or implied, TRU may at its option and in its sole and unfettered discretion terminate the Contract in whole or in part at any time without cause, and for any reason and without penalty upon providing thirty (30) days written notice to the Contractor.
- 3.3.48 Termination for Default** – Without limiting the other remedies available to TRU, TRU will have the right, at its option, to immediately terminate the Contract in whole or in part if:
- (i) the Contractor is in breach of the confidentiality provisions of the Contract;
 - (ii) if any representation, warranty or statement by the Contractor in its proposal or this Contract is false, inaccurate or misleading;
 - (iii) the Vendor becomes bankrupt or insolvent, takes the benefit of any act now or hereafter, makes an assignment for the benefit of its creditors or any arrangement or compromise or files any proposal or notice of intention to file a proposal;
 - (iv) proceedings are initiated against the Contractor under the Bankruptcy and Insolvency Act;
 - (v) a receiver or receiver manager is appointed in respect of all or part of the property or business of the Contractor; or

- (vi) proceedings are instituted by the Contractor or any other person for the winding up of the Contractor or other termination of the corporate existence of the Contractor;
- (vii) the Contractor is in breach of any other provision of the Contract and the breach is not cured within seven (7) days of receiving written notice of such breach from TRU;
- (viii) should the Ministry of Advanced Education and Labour Market Development terminate or suspend funding that affects the commitment to the utilization/consumption of the Service(s) embodied in the Contract;
- (ix) should there be a change in Provincial government policy that materially affects the performance or discharge of the Service(s) embodied in the Contract;
- (x) all costs associated with the termination and transfer of Services from the Contractor shall be borne by the Contractor;

Notwithstanding any other provision of this Contract, the occurrence of any of the above events of default on the part of the Contractor shall constitute a breach of this Contract and shall give rise to a right by TRU to initiate any one or more of the following remedies:

- (1) to immediately terminate this Contract in whole or in part upon notice to the Contractor;
- (2) to initiate legal action against the contractor for damages;
- (3) to pursue any other remedy or remedies available at law or in equity to TRU; or
- (4) to suspend in whole or in part further performance of the Services by the Contractor.

Upon terminating the Contract under any of the above provisions, TRU shall be relieved from all further obligations and may take such steps as it deems necessary to provide for the continued and uninterrupted provision of the Services through its own forces or from another service provider. Termination of the Contract by TRU shall not deprive TRU of any of its rights, remedies or actions at law or in equity including the right to claim for damages arising from or related to any event of default by the Contractor.

- 3.3.49 TRU Policies** – The Contractor agrees to comply with TRU's policies including without limitation security, fire and safety, site orientation and other policies relating to the safety of students, faculty, staff and other users of the facilities.
- 3.3.50 Value Added Services** - The Contractor shall provide TRU with any value added services described in its proposal. Such value added services shall be provided to TRU at no charge.
- 3.3.51 Waiver** - A waiver of a breach or default under the Contract shall not be a waiver of any other breach or default. The failure of a party to enforce compliance with any term or condition of the Contract shall not constitute a waiver of such term or condition.

3.3.52 WCB Certification – The Contractor agrees to comply with all requirements of the Workers Compensation Act (British Columbia) and obtain and maintain during the term the necessary coverage for the Contractor and its employees and shall provide a WCB clearance letter indicating all assessments have been paid. WCB coverage shall be maintained by the Contractor during the term. The Contractor shall comply will all applicable law including without limitation the Labour Relations Code, Workers Compensation Act (British Columbia), the Employment Standards Act (British Columbia), the Occupational Health and Safety Regulations and Human Rights Code as amended from time to time and shall provide evidence of the Contractor's compliance with WHMIS when requested by TRU.

SECTION 4.0

PROPOSAL EVALUATION

4.1 EVALUATION AND SELECTION

- (a)** Proposals should challenge and identify “best practices” which may benefit both TRU and the Proponent.
- (b)** Proposals will first be reviewed by TRU for compliance with any mandatory criteria. Proposals not meeting the mandatory criteria may at the option of TRU be rejected without further consideration. Proposals that do meet the mandatory criteria will then be assessed and evaluated against the criteria.
- (c)** TRU reserves the right to request clarification of the proposals. A request for clarification will not entitle a Proponent to revise, resubmit, alter or amend its proposal.
- (d)** If a Proponent submits a proposal that is acceptable to TRU in its entirety without any changes required by TRU, TRU may negotiate a Contract based on that proposal. TRU reserves the right to concurrently negotiate with one or more preferred Proponents. If a Proponent’s proposal is not acceptable in its entirety, TRU at its discretion may negotiate a Contract with that Proponent. If any such negotiations on the Contract or proposal are not successful within such period of time as TRU may require, TRU may at any time discontinue further negotiations and discussions with any Proponent and may at any time commence negotiations with one or more other Proponents and finalize a Contract in accordance with the foregoing process with any other Proponent. The foregoing process may be undertaken until a Contract is executed and negotiations have been terminated by TRU.
- (e)** Notwithstanding the foregoing, if TRU in its sole discretion is not satisfied with any of the proposals received or with the result of negotiations between TRU and Proponents in accordance with the foregoing, or if TRU determines that none of the proposals are acceptable to TRU and that negotiations in relation to those proposals would produce a result which would likely not be acceptable to TRU, or if TRU is unable to conclude a Contract acceptable to TRU for whatever reasons TRU considers in its own best interests, then notwithstanding anything to the contrary in this RFP or any custom of the trade or duty of fairness to the contrary, TRU may terminate this RFP.
- (f)** Award of a Contract is in all cases conditional on the Proponent executing a Contract with terms and conditions acceptable to TRU. The Contract will be in a form and contain terms and conditions consistent with the RFP and those portions of the Proponent’s proposal acceptable to TRU. TRU may negotiate modifications or variations to the services set out in the Proponent’s proposal in order to satisfy operational or administrative requirements.

4.2 EVALUATION CRITERIA

- (a) Evaluation of proposals will be made by a committee of individuals designated by TRU, in its sole discretion.
- (b) The evaluation committee will assess proposals against the requirements identified in the RFP. Proposals not meeting these requirements may be rejected without further consideration at the absolute discretion of the evaluation committee. The following criteria and weightings will be applied in evaluating proposals. The evaluation team members will evaluate each proposal based on the information provided and will assign points per selection criteria for a total out of 100 points. TRU reserves the right to waive any of the evaluation criteria or to modify the weightings if it is considered in the best interests of TRU to do so and will advise Proponent's a minimum of seven days prior to the close of the RFP. The selection criteria and weighting are as follows:

SELECTION CRITERIA	WEIGHT
Number and quality of references received	10
Ability to manage, install and configuring an LMS system (e.g. Moodle). Please provide examples of systems that you've installed and managed. TRU may require the setup of a system to demonstrate these abilities.	10
Ability to program in languages such as php and java. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities. Provide code samples demonstrating the complexity and quality of the code. Document your coding standards within the code and be prepared to describe in an interview.	10
Ability to setup and configure a Linux system. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities.	10
Ability to install and configure databases such as mysql. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities.	10
Ability to configure and install wiki's and blogs. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities.	10
Hourly Rate	40
Total points	100

- (c) Notwithstanding anything herein in this RFP otherwise provided, TRU in its sole and unfettered discretion may take into consideration additional criteria and may adjust weightings accordingly, with a minimum of seven days notice prior to the RFP closing date. In considering the proponents proposal, the direct and indirect costs and non-monetary impact upon TRU may be taken into account. The evaluation process will be conducted solely at the discretion of TRU. TRU evaluation of proposals shall remain confidential and TRU is not obligated to disclose its evaluation of a proposal to any Proponent or third party.

4.3 ESTIMATED TIMELINES

The following timetable outlines the anticipated schedule for the RFP and Contract process. The schedule provided is for information only. Timing and sequence of events may vary and TRU will ultimately determine the timing and sequence of events.

Event	Anticipated Date
RFP issued	October 2, 2009
Receipt of Confirmation	October 9, 2009
Last day for Proponent Questions	October 14, 2009
RFP Closes	October 30, 2009 at 2:00 PM Local Time

SECTION 5.0

PROJECT SCOPE

5.1 SCOPE OF SERVICES

TRU invites proposals from qualified parties to assist us with implementation, installation, and ongoing maintenance of Learning Management Systems and Web 2.0 Technologies.

The services and expectations required by TRU include:

- Management, installation, and configuration of LMS systems including Moodle Release 1.9.5 and Blackboard CE V8 in a Linux RedHat environment that includes databases like mysql and scripting languages like PHP needed to support these environments.
- Management, installation, and configuration of Wiki's like DokuWiki and Blogs like WordPress
- Creation and/or modification of programs written in PHP, JAVA, and Django that manipulate data stored in mysql.
- Management, installation, and configuration of Linux RedHat systems.
- Management, installation and configuration of databases like mysql including the ability to write SQL queries and produce reports.

TRU encourages Proponents to submit alternative methods of service delivery if the intended goals and specifications are met and their alternatives are proven successful in reducing overall costs of their services to TRU. Proponents are requested to identify specific service restrictions or terms to ensure successful delivery of Service. Proponent performance will be tracked based on their ability to meet Service deliverables on time and to the level of quality described.

TRU reserves the right to alter the RFP by adding or deleting Service requirements as required by TRU. TRU will obtain pricing for any additional services or any material changes to the original scope of work.

5.2 CONTRACT DURATION

The initial term of the Contract will be for a period between twelve (12) and sixty (60) months and such other period of time as TRU may determine. TRU will have the option, at its sole discretion, to extend the Contract duration for a further period of up to six (6) months on the same terms, conditions, and agreed to total cost (**Appendix D**) if more time is required.

5.3 PRICING

TRU prefers all inclusive fees for Learning Management and Web 2.0 Services.

At TRU's option, TRU may consider additional value added Services, Improvements, and other solutions offered by the Proponent.

Prices submitted shall be firm for the Contract duration. TRU reserves the right to accept partial or all of the service offerings at our sole discretion.

The pricing sheet as attached in **Appendix D** is to be completed by the Proponent according to the requirements set forth therein. All pricing structures as requested are mandatory and failure to provide pricing may, in the discretion of TRU, result in disqualification of the proposal. The Proponent, as a value added solution, may provide separate pricing models, which may be considered by TRU.

5.4 HOURS OF WORK

The vendor must be available during normal business hours Monday to Friday from 8:00 am to 4:00 pm to assist TRU during the entire period of the contract. TRU reserves the right to reduce or increase hours as required with 24 hours notice to the vendor.

SECTION 6.0

PROPOSAL REQUIREMENTS

6.1 FORMAT AND INSTRUCTIONS

Proposal Innovation, Structure, Clarity and Brevity will be assessed throughout the Proposal Response and points will be awarded accordingly. Proposals should be written in clear, concise language that allows for ease of retrieval and understanding by the evaluation team / committee.

The Proposal should be written in Arial 11, on 8.5" x 11" margins of 2.5 cm and bound using a method that allows the document to lay flat when open such as coil bound or 3-ring binder. The proposal content and structure should include a formal letter of introduction, a table of contents and should be written in the same order, format, numbering and titles as illustrated in this section and RFP.

The following consists of questions that are to be addressed in the order provided within your proposal. Your proposal should clearly cross-reference to the corresponding question. If a Proponent wishes to include additional information that is not requested, such information is to be cross referenced and contained within a separate Appendix.

6.2 COMPANY BACKGROUND AND EXPERIENCE

- (a)** Legal name of the organization and current operating business name if different from the legal name.
- (b)** Street & mailing address of head office and local office if different.
- (c)** Name, title, phone, fax and email address of primary contact person and an alternate if primary contact not available.
- (d)** Identify the individual lead search consultant who will be charged with responsibility for the project. Provide biography of this consultant, a description of the relationship between them and their roles in the company and in the management of this assignment.
- (e)** Ability to manage, install and configuring an LMS system (e.g. Moodle). Please provide examples of systems that you've installed and managed. TRU may require the setup of a system to demonstrate these abilities.
- (f)** Ability to program in languages such as php and java. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities. Provide code samples demonstrating the complexity and quality of the code. Document your coding standards within the code and be prepared to describe in an interview.
- (g)** Ability to setup and configure a Linux system. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities.
- (h)** Ability to install and configure databases such as mysql. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities.

- (i) Ability to configure and install wiki's and blogs. Please provide examples of systems that you've installed. TRU may require the setup of a system to demonstrate these abilities.
- (j) Has there been a change of ownership of the firm during the last 3 years?
- (k) Briefly describe how your organization is an industry leader in the area TRU wishes to contract for and how your organization could provide the requirements outlined in this RFP for Learning Management and Web 2.0 Services.
- (l) Provide and describe any past, pending or threatened civil, governmental proceeding/investigations or legal proceedings within the past 5 years which the company or its directors or officers is or was party to.
- (m) Describe your organization's Advanced Education experience and if you have equivalent experience, describe why you believe it to be equivalent?
- (n) What percentage of your company's existing business would the TRU business opportunity represent?

6.3 QUALITY, SERVICE, STRATEGY

- (a) Please describe any expectations you may have of TRU and its staff to assist in the implementation phase.
- (b) Please include in your project plan any potential risks, timelines, dates, milestones, staffing and other deliverables you intend to control and manage during the transition if your company was the successful Proponent.

6.4 VALUE ADDS

Illustrate any alternate and/or value added solutions that would benefit TRU in terms of cost savings, improved service, quality control, sustainable initiatives, student employment, scholarships, bursaries, etc... Please insure that any of the value adds which you may propose are identified separately.

6.5 COMPLIANCE WITH THE RFP TERMS AND CONDITIONS

Please indicate your compliance to the Terms and Conditions outlined within this RFP.

6.6 REFERENCES

Providing as well the names and contact information of references where similar services in the university sector has been provided by your organization.

6.7 FINANCIAL / FEES

- (a) Vendor will provide a rate per hour for services to TRU.
- (b) Vendor must provide a detailed account of all work done for TRU at the end of each month along with a bill for services.

(c) TRU supports a performance based model that ensures target outcomes and accountability. Please indicate how your Company supports this model and how it will address the following:

(xi) Penalties for non-performance;

(xii) TRU favors relationships that are open and transparent. Describe the process you would use to support this principle.

(xiii) TRU's standard payment terms are net thirty (30) days from receipt of invoice. Please describe your firm's typical payment terms.

(d) Please describe the fees for the Learning Management and Web 2.0 Services to include professional fees, overheads, advertising and how you would manage budgets and certain costs (see **Appendix D**).

SECTION 7.0

MANDATORY CRITERIA

Submit this check-list within your proposal:

Mandatory Requirements		
The following are mandatory requirements:	Yes, I agree and/or comply	No, I do not agree and/or do not comply
Proposals not clearly demonstrating they meet these requirements may in the discretion of TRU, not be accepted for consideration.		
Proposal received by the Closing Date and Time.		
Appendix C: Statement of Disclosure		
Appendix A: Acceptance of RFP Terms and Conditions Form (Submit Signed form)		
Appendix D: Pricing		
SECTION 6.0 – PROPOSAL REQUIREMENTS		
SECTION 7.0 – MANDATORY REQUIREMENTS		

Executed this _____ day of _____, 2009.

Company Name:	
Authorized Signature:	
Printed Name:	
Title/Position:	
Company Address:	
Phone Number:	
E-Mail:	
Fax:	

APPENDIX A ACCEPTANCE OF RFP TERMS AND CONDITIONS

I an authorized representative
(Print Authorized Signature Name above)

of Proponent)
(Print Full Legal Entity Name above)

accept all of the terms and conditions set forth in **RFP 2009_0022 Learning Management and Web 2.0 Services** and agree to the terms set forth in our proposal delivered in response to the RFP and to the prices quoted herein. This proposal, including pricing, shall remain valid and open for acceptance for one hundred and twenty (120) Business Days from the Closing and shall together with the RFP document form the basis of any contract which may be entered into between TRU and the selected Proponent. I agree that TRU reserves the right to subsequently include additional or modified product and performance specifications and legal terms and conditions in addition to what is already specified in the RFP and proposal. I further acknowledge that the RFP to which this proposal responds shall not be deemed an offer by TRU and recognize that TRU reserves the right to accept or reject, in its sole discretion, any and all proposals furnished in response to the RFP or to negotiate separately with any source whatsoever in any manner deemed necessary by TRU to serve its best interests and to terminate negotiations at any time without incurring an liability. I further agree TRU is in no way obligated to purchase any goods or services or to award a contract on the basis of the RFP or this proposal until such time, if any, as a contract is executed and purchase orders are issued.

I understand and agree it is my responsibility to seek clarification to items I do not understand or that are susceptible to more than one interpretation. I will explain any qualifications or limitations to any response I provide to any question or requirement in the RFP. I agree that oral representations made by any TRU representative are not valid unless documented in writing by TRU.

I acknowledge failure of a Proponent to provide signatures below may at TRU's discretion result in immediate rejection of the proposal. The person signing this acceptance form declares they are the duly authorized signing authority of the Proponent with the capacity to commit the Proponent to the conditions of the proposal and that the proposal and this acceptance form are binding on the Proponent.

Executed this ____ day of _____, 2009.

Company Name:	
Authorized Signature:	
Printed Name:	
Title/Position:	
Company Address:	
Phone Number:	
E-Mail:	

APPENDIX B:**RECEIPT CONFIRMATION FORM**

REQUEST FOR PROPOSAL	2009_0022	LEARNING MANAGEMENT AND WEB 2.0 SERVICES
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To receive any further information about this Request for Proposal please return this form to:

Sherry Hickman

Procurement Services Manager

Thompson Rivers University
Materials Distribution Centre– Second Floor
900 McGill Road
Kamloops, BC V2C 5N3
shickman@tru.ca

This form acknowledges receipt of the above noted RFP document.

	Yes, we will be submitting a Proposal for the above -noted RFP

Authorized Signature:	
Printed Name:	

Send further correspondence to:

COMPANY:	
STREET ADDRESS:	
CITY:	POSTAL CODE:
MAILING ADDRESS IF DIFFERENT:	
FAX NUMBER: ()	PHONE NUMBER: ()
CONTACT PERSON	
TITLE:	
EMAIL ADDRESS:	
WEBSITE ADDRESS:	

APPENDIX C

STATEMENT OF DISCLOSURE

DISCLOSURE REQUIREMENTS

- (a)** Disclose the following affiliations and associations within your proposal referencing this appendix:
 - (i)** any affiliation, whether legal or financial, with any other entity which is in the business of providing the same type of goods or services which are the subject of this RFP;
 - (ii)** whether the Proponent is competing for this RFP with any entity with which it is legally or financially associated;
 - (iii)** Proponent employees and consultants that would work on the proposed project and their family members that are employees or consultants of TRU;
 - (iv)** any current or past corporate or other interest which may give rise to a conflict of interest (either actual or potential) in connection with the goods or services and TRU or the university members or facilities referred to in the RFP.
- (b)** Funding of supplies, equipment or services in addition to contracted items must be identified to determine value and purpose for the past 3 years. The following are examples:
 - (i)** capital equipment/office items/computers;
 - (ii)** seminars;
 - (iii)** educational activities, fellowships;
 - (iv)** supplier site visits (cost of travel, hotels, tickets);
 - (v)** supply items;
 - (vi)** research support (projects, publications).
- (c)** Gifts to TRU, its members, faculties, departments, employees and staff, at any time, are to be disclosed by the Proponent.
- (d)** A summary table is provided. Sign, complete and return this Statement of Disclosure even if there is nothing to disclose. Proponents are to include all funding support (including gifts), if applicable, that have been provided to TRU, its faculties or members during the last thirty six (36) month period. Failure to identify such support in this Disclosure document may result in disqualification of a Proponent or termination of the Contract.
- (e)** This Disclosure document may result in disqualification of a Proponent or termination of the Contract

STATEMENT OF FULL DISCLOSURE

For the Period from January 2006 to current

Type of Funding	Facility/Location	Department	Recipient	\$ Amount
Capital Equipment				
Seminars and Educational Events				
Research Support				
Publications				
Cash Donations				
Buildings				
Scholarship and Awards				
Other				

(Attach details as an addendum and cross-reference to this appendix if this table is not sufficient space to capture the data)

We comply with the above requests and have include/disclosed all requested information. We understand that failure to disclose the above information may result in disqualification of our proposal and related outcomes.

Company Name:	
Printed Name:	
Title/Position:	
Authorized Signature:	
Date:	

APPENDIX D

PRICING SCHEDULE

Complete, using the format below, the cost of the Proponent in providing the Learning Management and Web 2.0 Services at TRU:

Professional Fees	\$ _____
Travel Expenses	\$ _____
Miscellaneous / Other Costs	\$ _____

Describe what is included in each of the four pricing categories. The Professional Fees is expected to be a fixed cost Vendor will provide a rate per hour for services to TRU for the Contract term.

Any other fee and pricing schedules may be provided by the Proponent as a Value Added.

APPENDIX E

PROFILE OF TRU

Thompson Rivers University (TRU) was founded in 1970 as Cariboo College, one of the networks of two-year community colleges created in the 1960s and '70s to bring post-secondary education and training to all corners of British Columbia. The college began operations in Kamloops in the fall of 1970 in temporary quarters at the Kamloops Indian Residential School, and in the summer of 1971 moved to the current campus location on the south slope of the city overlooking the Thompson Rivers. From the main campus in Kamloops and a satellite campus in Williams Lake, the institution has served regional communities from Merritt in the south and Lillooet in the west, north to Williams Lake, Clearwater and east to Chase for over 35 years.

Twenty years after the creation of community colleges, widespread public support for greater access to university studies led to a second major expansion of post-secondary education in BC. One major strategy of the 'Access For All' initiative resulted in the college being given university college designation in 1989. This allowed the college to expand the range of program offerings to include complete undergraduate university degrees through partnership agreements with all three provincial universities. The new University College of the Cariboo (UCC) thrived under the expanded mandate, developing new program options and taking a leadership role in developing the concept of 'ladders' between traditional one- and two-year college programs and university degrees, to break down traditional barriers between 'college' and 'university' training and create new flexibility for students in planning their career paths.

With the proclamation of the amended College and Institute Act in 1994, UCC was given full authority to grant degrees in its own right, and within five years almost all degrees were independent. UCC established itself as a provincial leader in developing new degree programs (such as the Bachelor of Natural Resource Science BNRS) degree, the first new degree in BC developed outside of the three provincial universities, designed for the changing world of environmental awareness. As the model of an integrated institution evolved and instructional divisions created new degree completion opportunities that made post-secondary education more accessible, other dimensions of being a university had also emerged. New scholarship and research opportunities, a growing international presence, and connections to the workplace through co-op education and other forms of work experience were all making it apparent that the institution really had become a new kind of university.

This reality, combined with a new understanding in local and regional communities of the potential of a truly comprehensive and highly flexible institution, led to a grassroots community effort to achieve full university status. The Friends of UCC University Society was the catalyst for the second major transition in the history of the institution. In March 2004 the Government of British Columbia announced that UCC would be a full provincial university, mandated to be fully comprehensive and highly flexible. As an integral component of the transition, the new university would assume full responsibility for all courses and programs of the former BC Open University and Open College, including some 300 distance and online courses, and more than 50 degree, diploma and certificate programs that offered the maximum flexibility through open learning. This opportunity allowed TRU to benefit from the

significant expertise and background in distance learning that the Open University and Open College developed over twenty-five years of operation. In addition, it has enabled TRU to significantly expand its services to students across the province and establish a foundation for the flexible delivery of its own programs and those it inherited from the Open University and Open College.

The naming of the university took place in September 2004, and on March 31st, 2005 the Inaugural Convocation ceremonies marked the formal transition to Thompson Rivers University. Today, the impacts of this new role are being felt in many different ways, and the potential benefits of a truly comprehensive, primarily undergraduate, teaching focused university are being recognized across the country and beyond. Upwards of 10,000 students now study on campus at TRU, while another 15,000 students enroll annually in distance and online courses and programs. Thompson Rivers University is a comprehensive, learner-centered, environmentally responsible institution that serves its regional, national, and international learners and their communities through high quality and flexible education, training, research and scholarship.

Thompson Rivers University seeks to be the University of Choice for:

(a) STUDENT ENGAGEMENT

Thompson Rivers University recognizes that learning in all its forms is greatly enhanced by the environment in which it takes place. As a comprehensive, teaching-focused university, TRU has a unique opportunity to engage students and create an experience, be it on campus or in the community, that will enhance educational objectives and serve to prepare students to make positive, life-long contributions to our global society and the sustainability of the communities in which they live.

The Integration of Research and Scholarship with Teaching and Learning Thompson Rivers University recognizes that it is the contribution to the creation of knowledge and the application of existing knowledge to solve problems that distinguishes universities from other post-secondary institutions, and that students will benefit most from this when faculty who are actively engaged in research and scholarly work bring their expertise and experiences to their teaching. The University also believes that students benefit when they have the opportunity to participate in the processes of creation, integration, application and dissemination of knowledge, and sets as a high priority the integration of research and scholarly work with teaching and learning.

(b) ABORIGINAL STUDENTS AND FIRST NATIONS

Thompson Rivers University, known for its broad, multi-cultural student population, seeks to ensure that the campus, curriculum and the university community are welcoming, supportive and positive environments for Aboriginal students to achieve their education goals.

The University will build partnerships with aboriginal and First Nations communities and organizations to support the academic preparation of aboriginal students. Through consultation, and working the Special Advisor to the President on Aboriginal Opportunities, TRU will determine how to make the campus more welcoming and supportive for people of aboriginal ancestry while also expanding services in support of the successful participation of aboriginal students in all programs.

(c) OPEN LEARNING

Thompson Rivers University, which has a legacy of being open and accessible to students, now has a legislative mandate for open learning in the province of British Columbia. As the most comprehensive university in Canada, TRU has the ability and opportunity to incorporate openness across all programs, and ensure that learning, and the recognition of learning in the form of a credential, is available provincially, nationally and internationally.

(d) ENVIRONMENTAL SUSTAINABILITY

Thompson Rivers University recognizes that it has a significant role to play in education, research, policy development and information exchange related to the health of the local and global environments in which citizens live and work. TRU seeks to be the University of Choice for students concerned about environmental sustainability and to be recognized for its leadership and stewardship in responding to environmental challenges.

(e) INTERNATIONAL OPPORTUNITIES

Thompson Rivers University has a rich history of being open and accessible to students from around the world, and of extending the expertise of the University to the international community. Building on the legacy of thirty years of international connections, the University seeks to balance success in the international context by creating expanded international opportunities and experiences for Canadian students, faculty and staff, and by increasing levels of international awareness and understanding within the university community.

(f) CAREER SUCCESS

Thompson Rivers University recognizes that access to post-secondary education is essential for all members of society in the 21st-century global economy. Success is a lifelong achievement, and over the course of a lifetime individuals will have opportunities to achieve success in many ways.

TRU seeks to be the university best known and regarded for its unique ability to prepare students with an integrated set of academic, applied and experiential skills to be highly successful at every stage of life.

Thompson Rivers University Values

(a) LEARNER-CENTEREDNESS

TRU is a learner-centered institution dedicated to the development of its students, staff and faculty. It aims to empower individuals through intellectual, cultural, ethical, emotional, social and physical development. To this end, TRU believes that all programs or courses should provide students with learning and critical thinking skills and the encouragement to approach issues with creativity.

(b) ACCESSIBILITY

TRU aims to serve the needs of adult learners across British Columbia and around the world. It is committed to lifelong learning and sees the provision of multiple modes and levels of access to education as the best way of meeting these needs. TRU endeavors to maintain access through flexible scheduling of courses and

services, through a variety of traditional and distance delivery methods, through a progressive credential structure, and through ladder curricula, all of which allow students to move in and out of post-secondary education as their personal and professional needs allow.

(c) QUALITY OF EDUCATION AND SERVICE

TRU strives for the highest levels of educational quality, research, scholarship and service. It is dedicated to maintaining the integrity of its programs and developing graduates who strive for excellence in their studies and rise to the challenge of the future. It sets high standards for its students, faculty and staff and believes that the support necessary to meet those standards should be provided.

(d) RESPONSIVENESS

TRU recognizes the interdependence of the region, its communities and the university. It endeavors to play a responsive and creative role in the province's economy through training, research and the development of human resources. It also recognizes a responsibility to respond to the educational, cultural and social needs of the communities it serves.

(e) COMPREHENSIVENESS

TRU believes that it can best meet the needs of its face-to-face and distance learning constituencies through a balanced profile of programs and services and, accordingly, provides a range of preparatory, undergraduate, graduate, continuing studies, career-technical, trades and vocational programming.

(f) SENSE OF COMMUNITY

TRU recognizes and values the diversity of interests and plurality of cultures among its students and staff. Consequently, it seeks to create a safe, participatory environment in which the keystones are mutual trust, respect and integrity of relationships among those various interests and cultures.

(g) ACCOUNTABILITY

TRU values the responsible and effective stewardship of human, physical and financial resources as a means of maximizing benefits to its students and staff, and to the provincial, national and international communities it serves.

(h) ENVIRONMENTAL RESPONSIBILITY

TRU recognizes the environmental challenges faced by current and future generations, believes in the importance of a sustainable future, and values the ethic of environmental responsibility.

(i) QUALITY WORK PLACE

TRU recognizes the importance of a work environment that provides for the professional, personal, social and cultural development of its employees. The integration of employees into the life of the campus is integral to making the university a desirable place to work

CUSTODY AND CONTROL OF DATA**1.0 PURPOSE**

The purpose of this Schedule is to: (a) enable the Customer to comply with its statutory obligations under the Act with respect to personal information; and (b) ensure that the Service Provider is aware of and complies with its statutory obligations under the Act with respect to personal information.

2.0 DEFINITIONS:

- (a) **“Act”** means the Freedom of Information and Protection of Privacy Act (British Columbia), as amended from time to time.
- (b) **“Associate”** has the meaning specified in the Act.
- (c) **“Authorized Site”** means Service Provider’s head office in British Columbia or at such other location in Canada as may be approved in writing by the Customer.
- (d) **“Agreement”** means the Agreement to which the Schedule is appended.
- (e) **“Commissioner”** means the BC Information and Privacy Commissioner appointed under the Act.
- (f) **“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 likely render the Customer or its employees in non-compliance with the Act.
- (g) **“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.
- (h) **“Customer”** means [INSERT NAME].
- (i) **“Foreign Access Conditions”** means:
 - (i) the Service Provider must ensure that such access is limited to temporary access and storage for the minimum time necessary for the Permitted Purpose; and
 - (ii) 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.
- (j) **“Permitted Purpose”** means access to Records containing Personal Information that is necessary for:
 - (i) installing, implementing, maintaining, repairing, trouble-shooting or upgrading an electronic system used by the Customer or by the Service Provider to provide services to the Customer pursuant to the Agreement, or any

equipment that includes an electronic system used by the Customer or by the Service Provider to provide services to the Customer pursuant to the Agreement; or

- (ii) recovery of data (including Personal Information) undertaken following the failure of an electronic system used by the Customer or by the Service Provider to provide services to the Customer.
- (k) **“Personal Information”** means recorded information about an identifiable individual, other than contact information, collected or created by the Service Provider or otherwise held on behalf of the Service Provider as a result of the Agreement or any previous agreement between the Customer and the Service Provider dealing with the same subject matter as the Agreement but excluding any such information that, if this Schedule did not apply to it, would not be under the “control of a public body” within the meaning of the Act.
- (l) **“Personnel”** means any employees, agents, representatives or Associates of the Service Provider who provide the Services or to whom access is made available to Personal Information for the purposes of fulfilling the Service Provider’s obligations under the Agreement.
- (m) **“Access Agreement”** means an agreement between Personnel and the Service Provider requiring the security of Personal Information.
- (n) **“Record”** includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information, including Personal Information, is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records.
- (o) **“Service Provider”** means the Contractor identified on page 1 of this agreement
- (p) **“Schedule”** means this Privacy Schedule, as may be amended from time to time.

3.0 INTERPRETATION:

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

4.0 SERVICE PROVIDER SUBJECT TO THE ACT:

- (a) The Service Provider must in relation to Personal Information comply with: (a) the requirements of the Act applicable to the Service Provider, including any applicable order of the Commissioner under the Act; and (b) any direction given by the Customer under this Schedule. If the Customer learns of a Commissioner order applicable to the Service Provider’s services, it will notify the Service Provider.
- (b) The Service Provider acknowledges that it is familiar with the requirements of the Act governing Personal Information that are applicable to it as a service provider.

5.0 COLLECTION OF PERSONAL INFORMATION:

- (a)** unless the agreement otherwise specifies or the customer otherwise directs in writing, the service provider may only collect, create or hold, on behalf of the customer, personal information that is necessary for the performance of the service provider's obligations, or the exercise of the service provider's rights, under the agreement.
- (b)** the service provider may only collect personal information if expressly authorized by the agreement. Where authorized to do so, and unless the agreement otherwise specifies or the customer otherwise directs in writing, the service provider shall: (i) collect personal information directly from the individual the information is about; and (ii) tell an individual from whom the service provider collects personal information the purpose for collecting it; the legal authority for collecting it; and the title, business address and business telephone number of the person designated by the customer to answer questions about the service provider's collection of personal information.

6.0 ACCURACY OF PERSONAL INFORMATION

Where applicable to the services provided by the service provider pursuant to the agreement, the service provider shall make every reasonable effort to ensure the accuracy and completeness of any personal information that comes into their custody pursuant to this agreement and which may be used by the service provider or the customer to make a decision that directly affects the individual the information is about.

7.0 RECEIVING REQUESTS FOR ACCESS OR CORRECTION OF PERSONAL INFORMATION

If a request is received under the Act for access to, or correction of, Records that are in the custody of the Service Provider but under the control of the Customer, the Service Provider must promptly advise the person to make the request to the Customer and if the Customer has advised the Service Provider of the name or title and contact information of an official of the Customer to whom such requests are to be made, the Service Provider must also promptly provide that official's name or title and contact information to the person making the request. The Service Provider must provide the Records to the Customer for management by the Customer's Information and Privacy Officer. This shall occur within a reasonable time frame to enable the Customer to comply with the Act. If a request is permitted by the Act, the Service Provider shall be responsible for providing the Records at the Service provider's expense to the Customer. If the Service Provider is expressly authorized by the Agreement to manage the request for correction of records, the Service Provider shall do so in accordance with Section 8 of this schedule.

8.0 CORRECTION OF PERSONAL INFORMATION

The Service Provider may only correct Personal Information if expressly authorized by the Agreement. Where authorized to do so, and unless the Agreement otherwise specifies or the Customer otherwise directs in writing:

- (a) Within 5 business days of receiving a written direction from the Customer to correct or annotate any Personal Information, the Service Provider must annotate or correct the information in accordance with the direction.
- (b) When issuing a written direction under paragraph (a), the Customer must advise the Service Provider of the date the correction request to which the direction relates was received by the Customer in order that the Service Provider may comply.
- (c) Within 5 business days of correcting or annotating any personal information, the service provider must provide the corrected or annotated information to any party to whom, within one year prior to the date the correction request was made to the customer, the service provider disclosed the information being corrected or annotated.

9.0 CONTROL OF AND RIGHTS IN THE RECORD

All right, title and interest in, and control and custody of, all records shall remain with the customer. No interest or any right respecting the record, other than as expressly set out herein, is granted to the service provider under this schedule, by implication or otherwise. If personal information is collected by the service provider and transmitted to the customer, such personal information is deemed to be under the control of the customer.

10.0 ACCESS TO AND USE OF PERSONAL INFORMATION

- (a) The Service Provider is hereby granted temporary access to Personal Information pursuant to 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 except as required to comply with any Canadian statutory or other legal requirement, including an Order of a Canadian Court, although any disclosure of Personal Information remains subject to Section 12 of this Schedule. The Service Provider shall not copy or reproduce any written materials containing Personal Information without the Customer's prior written consent. Notwithstanding the foregoing, the Service Provider may access Records containing Personal Information for a Permitted Purpose. However, if Records containing Personal Information are disclosed outside of Canada or accessed from outside of Canada, the Service Provider must comply with the Foreign Access Conditions.
- (b) The Service Provider shall not take any action to obtain access of any kind to any Personal Information from any location outside of Canada except for a Permitted Purpose or as permitted by the Act and then only subject to the Foreign Access Conditions and such other processes and access controls as may be imposed by the Customer.

- (c) Except as otherwise permitted under this Schedule, the Service Provider shall not remove, physically, electronically or in other manner whatsoever from the authorized premises of the Customer, any Personal Information, without the Customer's prior written consent. Except as otherwise permitted under this Schedule, the Service Provider shall not store any Personal Information or permitted back-up copies of the Personal Information off-site unless expressly authorized by Customer. Where authorized, Service Provider must store back-up records off-site in Canada under conditions that are the same as or better than on-site storage conditions for original Records.
- (d) The Service Provider will ensure that only Personnel who have entered into a Access Agreement may access the Personal Information. Unless approved by the Customer, the Service Provider may not enter into any form of a Personal Information sharing relationship with any other party.

11.0 RETURN OR DESTRUCTION OF THE RECORD UPON REQUEST

- (a) Unless the Agreement otherwise specifies, the Service provider must retain Personal Information until directed by the Customer in writing to dispose of it or deliver it as specified in the direction. Upon the request of the Customer for any reason whatsoever, and unless required to do otherwise in order to comply with any Canadian statutory or other legal requirement, including an Order of a Canadian Court, although any disclosure of Personal Information remains subject to Section 12 of this Schedule, the Service Provider shall deliver to the Customer or destroy promptly, according to the Customer's instructions, all documents or other Records in any form or format whatsoever in the Service Provider's possession constituting or based upon Personal Information and shall confirm that delivery or destruction to the Customer in writing. If, for any reason, the Service Provider fails to return or destroy any Record in accordance with this Section 11, the Service Provider's obligations pursuant to this Schedule will continue in full force and effect.
- (b) In the event of destruction of electronic Personal Information by the Service Provider, the following instructions shall be adhered to:
- (c) Personal Information erasure may be accomplished by software erasure (where feasible) or by physical destruction of the media;
- (d) Software erasure must be at a minimum to US DoD standard 5220.22-M (this standard is achievable through a number of products such as Norton WipeInfo);
- (e) Physical destruction of paper media can be done by burning, by cross-cut shredding, or by pulping;
- (f) Physical destruction of disc media can be done by use of tools such as hammers, band saws, or drills in order to render the device no longer useable; and
- (g) Some media such as diskettes can be run through a degausser in order to render them no longer readable.

12.0 DISCLOSURE TO THIRD PARTIES

Except as specifically permitted by the Customer in writing, the Service Provider shall not disclose and shall not allow any Personnel to disclose in any manner whatsoever any Personal Information to any person, firm or corporation without the prior written consent of the Customer. The Service Provider agrees that such consent shall only be provided if such disclosure is permitted under the Act and the third party agrees, in writing, to be bound by the Act. 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 as permitted by the Act, including without limitation pursuant to any Conflicting Foreign Order, the Service Provider will not do so unless: (a) the Customer has been notified; (b) the parties have appeared before a Canadian Court; and (c) the Court has ordered the disclosure. Unauthorized disclosure is subject to penalties under the Act.

13.0 PRIVACY REPRESENTATIVE

If required by the Customer, immediately upon execution of the Agreement the Service Provider shall appoint a representative to be responsible for the Service Provider's compliance with this Schedule and the Act (the "Privacy Representative"). The Service Provider shall grant its Privacy Representative sufficient authority to communicate and execute documents on behalf of the Service Provider as may be required from time to time for this purpose. The Service Provider shall promptly provide the Customer with the name of its Privacy Representative and shall promptly notify the Customer of any change of its Privacy Representative.

14.0 NOTICE OF BREACH

If for any reason the Service Provider does not comply, or anticipates that it will be unable to comply, with a provision in this Schedule in any respect, the Service Provider must promptly notify the Customer 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.

The Service Provider shall notify the Customer immediately of the disclosure of Personal Information to any person or entity not authorized by the Agreement to have such Personal Information, including full details of such disclosure. The Service Provider shall co-operate with the Customer in preventing the recurrence of such disclosure and to the extent feasible, in recovering the disclosed Personal Information, including any copies thereof.

15.0 PERSONNEL BOUND BY THE ACT

The Service Provider and the Customer hereby further acknowledge and agree that in order to fulfill its obligations under the Agreement or in connection with a Permitted Purpose it may be necessary for the Service Provider to grant to Personnel access to Personal Information. The Service Provider hereby agrees that:

- (a) it shall only make Personal Information available to Personnel to the extent it is necessary for the purpose of fulfilling the Service Provider's obligations under the Agreement and for a Permitted Purpose;
- (b) it shall not make Personal Information available to any Personnel while any such persons are physically located outside of Canada, except for a Permitted Purpose under the Foreign Access Conditions or as permitted by the Act;
- (c) if and whenever requested by the Customer, the Service Provider shall cause each of the Personnel providing services on behalf of the Service Provider under the Agreement to enter into an Access Agreement, in a form and substance acceptable to the Customer wherein the Personnel agree, among other things, to comply with the requirements of all applicable laws including in particular the requirements of the Act as if that person were originally bound by the Act; and
- (d) the Customer is granted the right to demand that the Personnel who breached the obligation be removed from the provision of services pursuant to the Agreement.
- (e) The Service Provider shall be required to renew and refresh any or all such agreements from time to time at the reasonable request of the Customer.
- (f) The Service Provider shall properly advise each of the Personnel providing services under the Agreement of the requirements of the Service Provider under this Schedule and the Act. If requested by the Customer, the Service Provider shall provide and conduct specific ongoing training for all such individuals in form and substance reasonably satisfactory to the Customer. The Service Provider acknowledges its obligations and, to the extent legally permissible, will address any non-compliance with this Agreement, by their staff, at their discretion.
- (g) [****Insert this provision as applicable if indemnification is not addressed to the satisfaction of the Customer in the terms and conditions of the agreement**] Notwithstanding the foregoing, the Service Provider specifically assumes all responsibility for the Personnel and for the breach by any of them of any provision of the Act or this Schedule. The Service Provider hereby agrees to defend, indemnify and hold harmless the Customer, and its directors and officers from and against any and all loss, cost, liability or expense suffered or incurred by the Customer, and its directors, 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 its non-compliance with the provisions of the Act.
- (h) The Service Provider shall, upon request by Customer, provide a copy of the access agreement, the process for executing the agreements and the list of staff associated with the client's project or initiative who have signed the agreement within the last 12 months.

16.0 SUBCONTRACTORS

Any reference to the Service Provider in this Schedule includes any subcontractor or agent retained by the Service Provider to perform obligations under the Agreement and the Service Provider must ensure that any such subcontractors and agents comply with this Schedule.

17.0 AUDIT AND INSPECTION

In addition to any other rights of inspection the Customer may have under the Agreement or under statute, the Service Provider shall permit the Customer and/or its representatives and agents to conduct periodic audits of Records related to performance by the Service Provider and the Personnel and permitted subcontractors, if any, of the Service Provider's obligations under this Schedule. The Customer may, at any reasonable time and on reasonable notice to the Service Provider, enter on the Service Provider's premises to inspect any Personal Information 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.

18.0 DEFAULT

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

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

19.0 TERMINATION

Upon the expiration or earlier termination of the Agreement, the Service Provider shall promptly return to the Customer or destroy promptly, according to the Customer's instructions, all Records in the Service Provider's possession pursuant to the Agreement, whether created by the Service Provider or by others, constituting or based upon Personal Information and shall confirm that delivery or destruction to the Customer in writing.

In the event of a change to the Act or any other applicable privacy legislation or the issuance of a directive or policy by the government of the Province of British Columbia or a finding or report by the Commissioner, such that the Customer reasonably considers that the terms and conditions of the Agreement for the protection of Personal Information are deficient, the Customer and the Service Provider will enter into good faith negotiations in an effort to cure any deficiency and agree to new or amended terms of the Agreement such that it is no longer deficient. Should such negotiations fail, the Customer may terminate all or any portion of the Agreement in accordance with the termination requirements in the Agreement, upon provision of written notice to the Service Provider or upon such other future date as the Customer may specify in writing in such notice.

20.0 NO WITHHOLDING

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

21.0 INVESTIGATION

The service provider shall co-operate with any customer investigation of a complaint that the customer's personal information has been used contrary to the act or this schedule.

22.0 STORAGE AND ACCESS TO PERSONAL INFORMATION

The Service Provider shall maintain Personal Information only at an Authorized Site. Except in relation to a Permitted Purpose under Foreign Access Conditions, no services that require access to Personal Information shall be provided or performed by the Service Provider in any location outside Canada and no Personal Information may be stored, transmitted or otherwise made available in any manner or accessed from outside Canada and no person outside Canada shall have access in any manner to Personal Information except as expressly approved by the Customer in writing. The Service Provider will notify the Customer prior to changing the Authorized Site.

23.0 SEGREGATION OF DATA

The Service Provider shall take reasonable steps to ensure that all Personal Information is securely segregated from any information owned by the Service Provider or third parties, including access barriers, physical segregation, password authorization and public key encryption systems. The Service Provider must store Personal Information on agreed-upon media using techniques enabling access only by authorized persons, including encryption and compression of Personal Information.

24.0 PROTECTION OF PERSONAL INFORMATION

The service provider must protect personal information by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure or disposal, including any expressly set out in the agreement.

25.0 PARAMONTCY

- (a)** The Service Provider must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or, subject to section 25 (b), the law of any jurisdiction outside Canada or any conflicting Foreign Order.
- (b)** Nothing in this Schedule requires the Service Provider to contravene the law of any jurisdiction outside Canada unless such contravention is required to comply with the Act.
- (c)** The Service Provider acknowledges that the Customer is subject to the Act.
- (d)** The Service Provider shall immediately inform the Customer if the Service Provider or any of the Personnel receive any Conflicting Foreign Order.

26.0 SURVIVAL

The obligations of the Service Provider in this Schedule will survive the termination of the agreement.

27.0 AMENDMENT

Upon enactment of any British Columbia law or regulation or amendment to such law or regulation affecting the use or disclosure of Personal Information, or the publication of any decision of a British Columbia court relating to such law or regulation, or the publication of any interpretive policy or opinion of any government agency charged with the enforcement of any such law or regulation, the Customer, by written notice to the Service Provider, may specify the amendment of this Schedule in such manner as the Customer reasonably determines necessary to comply with such law or regulation to the extent such law or regulation is directly applicable and enforceable against the Service Provider. This provision is additional to any rights of the Customer to terminate pursuant to Section 19(b) of this Schedule.

28.0 INCONSISTENCY

If a provision of the Agreement (including any direction given by the Customer under this Schedule) conflicts with a requirement of the Act or an applicable order of the Commissioner under the Act, the conflicting provision of the Agreement (or direction) will be inoperative to the extent of the conflict. Where in the Customer's reasonable opinion, there is ambiguity regarding whether a provision conflicts, the conflicting provision will be inoperative to the extent determined by the Customer. The Service Provider must comply with the provisions of this Schedule despite any conflicting provision of this Agreement or the law of any jurisdiction outside Canada.

29.0 SPECIFIC COVENANTS – PERSONAL INFORMATION HANDLING*

If the Service Provider will manage Personal Information as part of the services, the Service Provider shall:

- (a) take a physical inventory, at least annually, of all Personal Information, to identify any losses;
- (b) ensure that access systems require individual user identification to be unique and re-authenticated each time access is made to the Personal Information ;
- (c) implement appropriate controls for the issue, change, cancellation, and audit-process of user identifications and authentication mechanisms;
- (d) ensure authentication codes and passwords are confidential, are pseudo-random in nature or vetted through a verification technique designed to counter triviality and repetition, are no fewer than 6 characters in length, are one-way encrypted, are excluded from automatic log-in procedures and are changed irregularly and at least semi-annually;
- (e) maintain and implement formal procedures for terminated employees, agents, representatives and Associates who have had access to Personal Information; and
- (f) design and implement an automated, always-on auditing system which can be accessed by the Customer to monitor access to and use of Personal Information, which system creates an audit trail that automatically records the identity of anyone who accesses Personal Information, recording the date and time of access, and which flags access or access attempts that fall outside set criteria (e.g. access outside regular business hours).

[*Insert this provision if Service Provider will manage Personal Information as part of the Services.]

30.0 EXCLUDED RECORDS – ADVANCED EDUCATION

This Schedule does not apply to any information, documents or records that:

- (a) do not contain Personal Information;
- (b) relate solely to the Service Provider's internal administration, finances or management, unless they contain Personal Information about an individual other than the Service Provider's own employees, officers, directors, agents, service providers, suppliers or contractors;
- (c) relate solely to the Service Provider's internal labour and employment matters, unless they contain Personal Information about an individual other than the Service Provider's own employees, officers, directors, agents, service providers, suppliers or contractors; or
- (d) the Customer and the Service Provider have expressly agreed in writing fall outside the scope of this Schedule.