# CLIENT-SUPPLIER AGREEMENT

Ontario Exchange Platform (OEX)

**THIS CLIENT-SUPPLIER AGREEMENT**, for **[SUPPLIER LEGAL NAME]** as outlined in the RFSQ 22-006 Virtual Learning Development Service Providers for Ontario Exchange Platform is effective as of the **[PROPOSED START DATE]**

BETWEEN:

XXXXXXX

(the “Client”)

*- and –*

*XXXXXXXXX*

(the “Supplier”)

**WHEREAS** the Supplier responded to the RFSQ 22-006 Virtual Learning Development Service Providers for Ontario Exchange Platform posted on May 6th, 2022 by the Ontario Online Learning Consortium (“OOLC”) for the provision of Services;

**AND WHEREAS** the Client (the OOLC member institution) has decided to become a Client as defined under this Client-Supplier Agreement (the “CSA”);

**NOW THEREFORE** in consideration of their respective agreements set out below and subject to the terms of the CSA, the parties covenant and agree as follows:

## ARTICLE 1 - DEFINITIONS

Unless otherwise specified in the CSA, capitalized words and phrases shall have the meaning set out below. When used in the CSA, the following words and phrases have the following meanings:

**“Agreement” or “Client-Supplier Agreement (CSA)”** refers to this document, which will bind the Supplier and the Client for the Term of the Project.

“Project Application” refers to the Expression of Interest titled OEX - Funded Support” released by OOLC on the OEX portal.

**“Monthly Report”** refers to the reports compiled through the process laid out in Appendix B.

**“Ontario Online Learning Consortium (OOLC)”** is the officially registered name of eCampus Ontario (or eCO), and the two shall be synonymous within this document.

**“Project”** is the work governed by this CSA and laid out in the previous Project Application.

**“RFP” or “RFSQ”** refer to either the RFSQ opened May 6, 2022 through which a Supplier has applied to become a vendor of record with OOLC. “**RFSQ”** shall be used from hereon in unless a specific item refers to only one of the processes.

**“Services”** are the resources provided by the Supplier in response to the Project Application, whereas **“Deliverable”** refers to the output of a Service, i.e. were a Supplier to offer Instructional Design “Services”, the “Deliverable” may refer to individual modules being designed.

**“Term”** is the time between the proposed project start and end date, as laid out in Appendix A of this CSA.

## ARTICLE 2 - THE AGREEMENT

**2.1** This CSA is entered into pursuant to, incorporates by reference and is governed by the the RFSQ opened May 6th 2022.

**2.2** All terms and conditions of the Agreement apply with the appropriate modifications to this CSA. In the event of a conflict or inconsistency between this CSA and the previous RFP/RFSQ or Project Application, the former shall govern provided that the Rates or net price payable pursuant to a Client-Supplier Agreement executed by the Supplier and the Client are less than the Rates or net price set out in the OOLC and Supplier quotation.

## ARTICLE 3 – REPRESENTATIVES FOR CLIENT-SERVICE AGREEMENT

**3.1** The Supplier’s representative for purposes of this CSA shall be:

Representative Name:

Email:

**3.2** The Client’s representative for purposes of this CSA shall be:

Representative Name:

Email:

**3.3 OOLC’s representative for purposes of this CSA shall be:**

Primary Representative: Emily Tamfo, Senior Manager of Digital Product

Email: etamfo@ecampusontario.ca

Secondary Representative: Imohimi Abonkhai, Finance Director

Email: iabonkhai@ecampusontario.ca

## ARTICLE 4 - TERM OF CSA

**4.1** This CSA and any addendum must be reviewed by OOLC prior to execution by the Supplier and Client, and will, unless terminated earlier in accordance with the provisions of the Agreement, terminate on the proposed end date as laid out in Appendix A of this Agreement.

## ARTICLE 5 – SERVICES, RATES AND PAYMENT PROCESS

**5.1** The Client, following the Broader Public Sector Procurement Directive, has obtained a quotation from the Supplier for the work contemplated in Appendix A.

**5.2** The Supplier agrees to provide Services to the Client, and adhere to the timelines and key deliverables as set out by Appendix A of this CSA.

**5.3** OOLC shall pay the Supplier in accordance with the Rates set out in Appendix A of this Agreement by way of electronic funds transfer.

**5.4** Fulfillment of Supplier invoices by OOLC will be contingent upon the Client’s sign-off via a monthly reporting process by the Client, outlined in Appendix B. Both the Client and Supplier shall review and agree upon the monthly reporting process by completing Appendix B.

**5.5** Only work completed under an executed CSA will be paid by OOLC. The Supplier and Client shall not begin work until each has received an executed copy of this Agreement.

**5.6** Should the Client or Supplier mutually agree upon changes required to the Project that alter the Rates or related Services covered in this CSA, an amended Agreement will be prepared and must be reviewed by an OOLC agent before work may begin. Changes to timeline that do not incur Rate changes may be reported in the monthly reporting process, and work may continue under this CSA. This process is further elaborated upon in Appendix B of this Agreement.

## ARTICLE 6 – INTELLECTUAL PROPERTY

**6.1** The Supplier and the Client shall review and complete Appendix C – Licensing and Usage which will govern the licensing and sharing of the Project.

## ARTICLE 7 – INSURANCE

**7.1** The Client shall be responsible in ensuring the Supplier has appropriate business insurance. By signing the CSA the Client and Supplier absolve OOLC of all liability associated with the Project.

## ARTICLE 8 - NOTICES

**8.1** Notices shall be in writing delivered by email and shall be addressed to, respectively, the Client address to the attention of the Client Representative and to the Supplier address to the attention of the Supplier Representative. The parties may change such addresses by notice in writing delivered to the other in accordance with this paragraph.

## ARTICLE 9 –TERMINATION

**9.1** **Termination by Either Party**

Either party may terminate this CSA upon prior written notice of thirty (30) days to the other where such other party neglects or fails to perform or observe any material term or obligation of the CSA and such failure has not been cured within thirty (30) days of written notice being provided.

**9.2 Termination by Client**

The Client shall be entitled to terminate the CSA, without liability, cost or penalty:

on written notice to the Supplier, if any Proceeding in bankruptcy, receivership, liquidation or insolvency is commenced against the Supplier or its property;

on written notice to the Supplier, if the Supplier makes an assignment for the benefit of its creditors, becomes insolvent, commits an act of bankruptcy, ceases to carry on its business or affairs as a going concern, files a notice of intention or a proposal or seeks any arrangement or compromise with its creditors under any statute or otherwise;

on written notice to the Supplier, following the occurrence of any material change in the Client’s requirements which results from regulatory or funding changes or recommendations issued by any government or public regulatory body;

at any time, without cause, by giving the Supplier at least thirty (30) days written notice;

or, in accordance with any provision of the Agreement or the CSA which provides for termination.

In the event of termination, the Client shall furnish OOLC with a copy of the termination notice.

**9.3** **Supplier’s Obligations on Termination**

The Supplier shall, in addition to its other obligations under the Contract and at law:

provide the Client with a report detailing (i) the current state of the provision of Resources by the Supplier at the date of termination; and (ii) any other reasonable information requested by the Client pertaining to the provision of the Resources and performance of the CSA;

execute such documentation as may be required by the Client to give effect to the termination of the CSA; and comply with any reasonable instructions provided by the Client, including but not limited to instructions for facilitating the transfer of the Supplier’s obligation to another person.

**9.4 Supplier’s Payment Upon Termination**

OOLC shall only be responsible for the payment for the Services supplied on or before the effective date of any termination of the CSA. Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Services performed or money paid prior to termination. In addition to its other rights of hold back or set off, OOLC may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

**9.5** **Termination in Addition to Other Rights**

The express rights of termination in the CSA are in addition to and shall in no way limit any rights or remedies of the Client or the Supplier under the CSA, at law or in equity.

## ARTICLE 10 – PUBLICITY

**10.1** Any publicity or publications related to this CSA or the Resources shall be mutually agreed upon between the Supplier and the Client.

## ARTICLE 11 - LEGAL RELATIONSHIP BETWEEN CLIENT, SUPPLIER AND THIRD PARTIES

**11.1** **Supplier’s Power to Contract**

The Supplier represents and warrants that it has the full right and power and all necessary licences, authorizations and qualifications to enter into and perform its obligations under this CSA and that it is not a party to any agreement with another Person which would in any way interfere with the rights of the Client under this Contract.

**11.2** **Representatives May Bind the Parties**

The parties represent that their respective representatives have the authority to legally bind them.

**11.3** **Independent Contractor**

This CSA is for particular and non-exclusive products and services. The Supplier shall have no power or authority to bind the Client or to assume or create any obligation or responsibility, express or implied, on the Client’s behalf, or to hold itself out as an agent, employee or partner of the Client. Nothing in the CSA shall have the effect of creating an employment, partnership or Institution relationship between the Client and the Supplier. For the purposes of this paragraph, the Supplier includes any of its directors, officers, employees, agents, partners, affiliates, volunteers or the Supplier’s Subcontractors.

**11.4** **Subcontracting or Assignment**

It is the preference of OOLC that subcontracting is not engaged, however, should the Supplier deem it necessary to subcontract or assign this Agreement in whole or any part to any corporation or other business entity, then that entity must be controlled by or is under common control of the Supplier. Control exists when an entity owns or controls directly or indirectly the outstanding equity representing the right to vote for the election of directors or other managing authority of another entity. If this Agreement is subcontracted or assigned to such a corporation or business entity, the Supplier shall remain jointly and severally liable with such corporation or business entity for all obligations hereunder.

The Supplier shall not subcontract or assign the whole or any part of the CSA or any monies due under it, other than as outlined above without the prior written consent of the Client, not to be unreasonably withheld. Such consent shall be in the sole discretion of the Client and subject to the terms and conditions that may be imposed by the Client. Nothing contained in the CSA shall create a contractual relationship between any Supplier Subcontractor or its employees and the Client.

## ARTICLE 12 – GENERAL

**12.1** **Severability**

If any term or condition of the CSA, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the CSA, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

**12.2**  **Force Majeure**

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the CSA where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one’s reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the CSA would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism and labour disruptions but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this CSA due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the CSA by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the CSA, at law or in equity.

**12.3** **Changes by Written Amendment Only**

Any changes to the CSA shall be by written amendment signed by both parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

**12.4 Section 217 Education Act et. al.**

The Supplier represents and warrants that it has not employed, and that it will not during the Term employ, any teacher, supervisory officer or other employee of an Ontario district school board or of the Ontario Ministry of Education to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario district school board, provincial school or teachers’ college, or to any pupil enrolled therein, and that it has not given or paid, and will not during the Term give or pay, directly or indirectly, compensation to any such teacher, supervisory officer or employee for such purpose.

The Supplier further represents and warrants that it has not employed, and that it will not during the Term employ, any member of faculty or other employee of an Ontario college or university to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario college or university, or to any student enrolled therein, and that it has not given or paid, and will not during the Term give or pay, directly or indirectly, compensation to any such member of faculty or employee for such purpose where such employment or compensation would place the member of faculty or employee in a Conflict of Interest with the college or university by which he or she is employed.

**12.5 Criminal Records Check**

Both the Client and Supplier covenants, agrees, and assumes responsibility that it will not engage any employee or other person to perform services for the Supplier who may come into direct contact with students on a regular basis, or who may have access to student information to provide services hereunder, where such employee or other person has been charged with or convicted of an offence the nature of which may be construed as jeopardizing the safety and well-being of the students of the Client. For the purposes of this CSA, the Client shall determine in its sole and unfettered discretion if a criminal reference check should be executed and whether an employee of the Supplier or such other person may come into direct contact with students on a regular basis or have access to student information and whether or not any such offence is of a nature which may be construed as jeopardizing the safety and well-being of students.

The Supplier covenants and agrees to retain on file at its head office a criminal background check covering convictions, charges and occurrences under the Criminal Code, the *Controlled Drugs and Substances Act* and any other convictions, charges and occurrences which would be revealed by the long version Vulnerable Persons search of the automated Criminal Records Retrieval System maintained by the Royal Canadian Mounted Police (“RCMP”) (“Criminal Background Check”), together with an Offence Declaration in a Client approved form for every employee of the Supplier or other person who will perform services for the Supplier who may come into direct contact with students on a regular basis or who may have access to student information, prior to the occurrence of such possible direct contact or prior to having access to student information and on or before September 1st each year thereafter with respect to Offence Declarations.

The Supplier agrees to indemnify and save harmless the Client from all claims, liabilities, expenses and penalties to which it may be subjected on account of: the Supplier engaging an employee or other person to perform services in contravention of this paragraph 12.5; or the Supplier’s failure to retain a Criminal Background Check or an Offence Declaration on file, as aforesaid. This indemnity shall survive the expiration or sooner termination of this CSA. In addition to and notwithstanding anything else herein contained, if the Supplier engages an employee or other person to perform services in contravention of this paragraph 12.5, or fails to retain a Criminal Background Check and an Offence Declaration for any employee of the Supplier or other person who performs services for the Supplier who may come into direct contact with students on a regular basis, or who may otherwise have access to student information prior to the occurrence of such possible direct contact, or prior to having access to student information and on or before September 1st each year thereafter with respect to Offence Declarations, then the Client will have the right to immediately terminate this CSA without prejudice to any other rights which it may have in this CSA, at law or in equity.

The Client shall be entitled, on forty-eight (48) hours prior written notice to attend at the head office of the Supplier for the purposes of reviewing the Criminal Background Checks and Offence Declarations. The parties acknowledge and agree that it is contemplated that the Client may attend to such reviews at least twice per year during the Term, and any renewal thereof.

In the event that either the Criminal Background Check or an Offence Declaration reveals a charge or a criminal conviction which is not acceptable to the Client in the circumstances and in its sole and unfettered discretion, then the Client will have the right to request that the Supplier prohibit the employee of the Supplier or other person who performs services for the Supplier from providing services to the Client hereunder. Upon such request, the Supplier will forthwith effect such removal, without prejudice to any other rights which the Client may have in this CSA, at law or in equity.

The Supplier will use a third party to conduct criminal reference checks for onsite employees or contractors supporting this CSA.

The Supplier will provide thirty (30) days written notice to OOLC and the Client should the third party provider be changed to another provider.

**12.6** **Purchasing Policies and Guidelines**

The Supplier agrees to comply with the Client’s purchasing or administrative policies and guidelines which apply to the provision of Services under this CSA. Applicable policies and guidelines are attached as Appendix D of this CSA.

**12.7 Harassment and Assault**

Without limiting the generality of the foregoing, the Supplier is required to comply with the Client’s policies with respect to sexual harassment, workplace harassment, workplace violence, prohibited discrimination and harassment, and health and safety.  The Supplier must cooperate with the Client in any investigation undertaken by the Client pursuant to such policies.

**12.8 Language of Contract**

It is the express wish of the parties hereto that this agreement and any related documents be drawn up and executed in English. Les parties conviennent que la présente convention et tous les documents s'y rattachant soient rédigés et signés en anglais.

**IN WITNESS** **WHEREOF** the parties hereto have executed this Client-Supplier Agreement as of the date first above written.

**Client Representative: Supplier Representative:**

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Authorized Signature Authorized Signature

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Name Name

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Title Title

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Date Date

# APPENDIX A – SERVICES AND DELIVERABLES PROVIDED

[NTD: Work will not begin without an executed CSA which has been reviewed by OOLC.]

## 1.0 Introduction

Clients will work with the Supplier to finalize the following:

A description of Services provided and detailed Rates for services

## 2.0 Proposed Project Start and End Dates

[NTD: The Supplier and the Client will mutually agree upon project start and end dates, accounting for factors such as Supplier lead time, production time for the Services and Deliverables set out below, review time by OOLC or academic timelines. An End Date shall not fall later than February 27th, 2023, and OOLC will not issue payment for any services provided under this agreement after that date.]

Proposed Start Date: Click or tap to enter a date.

Proposed End Date: Click or tap to enter a date.

## 3.0 Description of Services Required and Supplier Rates

After reviewing the original scope of work proposed by the Client within their Project Submission, the Supplier and Client will confirm any changes to the original scope of required Services using the table below. The Supplier and Client will mutually agree upon Rates for Services provided.

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| --- | --- | --- | --- | --- |
| **Project Role/Title** | **Description of Services** | **Hours**  **provided by Client** | **Hours provided by Supplier** | **Supplier Rate** |
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|  | **Total Hours** |  |  | **(Total Cost)** |

## 4.0 Key Project Deliverables

The Supplier and the Client will mutually agree upon the final deliverables for which the Supplier will be responsible, breaking the Services above into discrete line-item deliverables. Progress on the deliverables listed here will be updated through the Monthly Reporting process (see Appendix B). As a Funded Support project, it is expected that these final outputs be delivered to the eCampusOntario Open Library in an editable format, with an open license (e.g. Ontario Commons 1.0, Creative Commons). Read more in Appendix C.

|  |  |  |  |
| --- | --- | --- | --- |
| **Deliverable** | **Description** | **Estimated Total Hours** | **Proposed Delivery Date** |
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# APPENDIX B – MONTHLY REPORTING AND INVOICING

[NTD: ] For OEX Projects supported by OOLC funding, a monthly reporting process must be completed for Supplier invoices to be fulfilled. Monthly Reports are submitted by the Client and will have a Supplier invoice attached. These Reports are used to track progress of the Project, and for OOLC agents to review and fulfil Supplier invoices. Monthly Reports shall be submitted between the last five (3) business days of the current month, and before the first three (3) days of the following month. Work shall not begin without OOLC approval of an executed CSA.

The Monthly Reporting process can be completed using the OEX web portal, and can be accessed via the Client’s project dashboard. When reporting is available, a prompt will appear in the appropriate project card and users may complete reporting within the platform. Log into your user account here: [exchange.ecampusontario.ca](http://exchange.ecampusontario.ca)

The process is as follows:

The Client and Supplier negotiate a CSA, and submit the document to OOLC for review via the Ontario Exchange web platform. OOLC will have five (5) business days to review. Following a successful review an OOLC agent will collect payment information from the Supplier if required.

Work begins on the Project.

The Supplier will upload their invoice via the Ontario Exchange web portal within the Reporting period, which will be the last five (5) business days of the current month, and before the first three (3) business days of the following month. For example, to submit reports and invoices for work completed on a funded support project in September, the reporting period will be the last (5) business days of September, until the first three (3) business days of October.

The Client, via the web platform, will complete their Monthly Report by answering a few questions on the progress of the project. Within this process, the Client will review and authorize the invoice submitted by the Supplier, confirming that they have received the services listed by the Supplier.

OOLC will review the invoice and Monthly Report internally and, following approval, the Supplier shall be paid via electronic transfer within ten (10) business days.

Should a work change order be required (I.e. change of Services or Rates), both the Client and Supplier shall complete an amendment form to be submitted to the OEX team. This amendment must be reviewed and approved by OOLC.

It is the responsibility of the Supplier to provide accurate invoices in a timely manner, so that the Client has sufficient time to review the Services listed and complete the Monthly Reporting process. It is the responsibility of the Client to complete Monthly Reporting on time, and carefully review Supplier invoices. Missed reports will have to be submitted the following month.

By properly authorizing this document, the Client and Supplier acknowledge that they have reviewed and agree to the Monthly Reporting process.

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Client Signature Supplier Signature

Date Authorized: Click or tap to enter a date.

# APPENDIX C – LICENSING AND USAGE

## 1.0 Licensing of Content Created through OEX Funding

Ontario Exchange supports the development of high-quality digital content that is openly available for reuse and redistribution across all Ontario publicly-assisted postsecondary institutions. This focus on collaboration, reuse, and system-wide benefit is at the core of eCampusOntario’s [Virtual Learning Strategy](https://vls.ecampusontario.ca/). To help realize this vision, all net new\* content created with OEX funding will be:

Delivered for deposit in the eCampusOntario Library for sustainable retention of final product.

Made available for use by institutions across the province using an appropriate license (for example, a Creative Commons license or [Ontario Commons 1.0 license](https://vls.ecampusontario.ca/wp-content/uploads/2021/01/Ontario-Commons-License-1.0.pdf).

**By properly authorizing this document, the Client and Supplier acknowledge that they have reviewed and agree to the stipulations above regarding usage and licensing.**

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Client Signature Supplier Signature

Date Authorized: Click or tap to enter a date.

*\* Alternative licensing arrangements may be proposed for projects containing sensitive or otherwise restricted content (for example, Traditional Knowledge), or where a significant portion or the content has already been developed. Please consult*[*this eCampusOntario webinar on licensing options*](https://www.youtube.com/watch?v=WmJPjLX4aqk) *for more information or contact*[*exchange@ecampusontario.ca*](mailto:exchange@ecampusontario.ca)

# APPENDIX D – CLIENT’S POLICIES AND GUIDELINES

[NTD : ]The Supplier and Client, when executing a CSA, may mutually agree to additional terms and conditions (e.g. Client’s business hours, locations, project management, insurance coverage/requirements, security clearance checks, etc.)

Use this section to attach these additional terms.

[End of Client-Supplier Agreement]