

VINE 23 CONSULTING INC. – TERMS OF SERVICE

Thank you for choosing Vine 23 for your business. When you (the “**Client**”) retain the services of Vine 23, you are agreeing to be bound by our terms and conditions contained in these Terms of Service (the “**Agreement**”), so please read this Agreement carefully as it contains important information regarding your rights and obligations.

Vine 23 is engaged in providing professional human resources and employment management services (the “**Services**”).

This Agreement applies to any use of and access to the Services by you and your Affiliates. By retaining and using the Services, you are indicating that you have read this Agreement and agree to be bound by its terms and conditions. If you do not agree with all of the terms and conditions of this Agreement, you may not retain or use any Services provided by Vine 23.

This Agreement is effective upon the earlier of; the date you first retain and use the Services, or upon the execution of a Statement of Work (as defined herein) (the “**Effective Date**”).

1. **Definitions.** In this Agreement:

- (a) **"Client Data"** means the information, data, network traffic of Client or relating to its business and operations, and includes without limitation, business and personal information of its associates, employees, partners and clients that is:
 - (i) transferred, migrated or disclosed by Client to Vine23 for the purposes of the Services;
 - (ii) received, collected or used by Vine23 as part of, or for the purposes of providing the Services.
- (b) **"Confidential Information"** shall have the meaning set forth in the Confidentiality and Non-Disclosure Agreement entered into by Vine 23 and the Client in the form attached here to as Schedule A and shall include, without limitation, any and all information (whether written, oral, visual, in electronic or computer readable format or in any other form) that is or may be related to the assets, business, operations or affairs of the Parties, including but not limited to business plans, services, products, pricing, designs, data, clients, prospective clients, strategies, know-how, methodologies, trade secrets, intellectual property, financial information and forecasts of the Parties.
- (c) **"Intellectual Property"** means all intellectual property of any nature whether registered, registrable or otherwise, including without limitation patents, trademarks, designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright, moral rights, know-how and any other proprietary rights, workflow processes, user interface, designs, and other technologies, including without limitation any upgrades or modifications to the same.
- (d) **"Services"** means the Services as are more particularly described herein and in any Statement of Work (as defined herein) entered into by Vine 23 and Client;
- (e) **"Statement of Work"** means the Statement of Work entered into by the Client and Vine

23 which describes the Services to be provided by Vine 23 and Fees payable by Client for such Services pursuant to the terms and conditions of such Statement of Work and this Agreement.

2. Services.

- (a) Vine23 hereby agrees to provide the Services as described herein and in any executed Statement of Work in a professional and diligent manner.
- (b) Client and Vine23 will work collaboratively throughout the term of the Agreement to ensure smooth and effective use of the Services and to cooperate in identifying, addressing and resolving any issues as they arise.
- (c) Client hereby acknowledges and agrees that Client is responsible and obligated to make all final decisions and use the Services in the best interest of its business at Client's sole discretion.
- (d) Vine23 and Client shall use commercially reasonable efforts to fulfill their respective obligations hereunder in a timely manner. Vine23 shall not be responsible for any delays caused by Client during the provision of Services.
- (e) The Client shall provide accurate and complete Client Data, information and materials to Vine23, and guarantees and warrants that all Client Data and materials provided are owned by the Client and Client has all necessary rights, including copyright and moral rights in such materials, to permit Vine23 to use them for the Services.
- (f) Client hereby acknowledges and agrees that the Services provided by Vine23 hereunder do not include or constitute legal advice and should not in any way be construed as legal advice and should not be relied upon as such. Client shall obtain all required legal advice from independent qualified legal counsel.

3. Use of Services.

- (a) Subject to the terms and conditions of this Agreement, including up-to-date payment of fees by Client, Vine23 shall provide the Client on a non-exclusive, non-transferable basis, the Services solely for Client's benefit and internal business operations during the Term of this Agreement.
- (b) Client will use the Services at its sole discretion and in compliance with all applicable laws and regulations and in a manner that does not infringe on the rights of any third party or violate any third party's privacy rights.
- (c) Client hereby acknowledges, agrees and expressly consents to Vine23 using the Services provided hereunder for its own internal business purposes and for public promotional purposes. Vine23 may promote Vine23's business and mention Client's name in such promotional advertisements of Vine23's business.

4. Fees and Payment.

- (a) Client will pay Vine23 the fees specified in the executed Statement of Work between the Client and Vine 23 (the "**Fees**"). Client will also be responsible to pay Vine23 for any

additional or unexpected time and expenditures actually incurred over and above the Fees outlined in the Statement of Work.

- (b) Unless otherwise expressly provided herein or in the Statement of Work, Client shall pay fifty percent (50%) of the total amount of Fees for the Services in advance upon the Effective Date of the Statement of Work and the remaining fifty percent (50%) of the total amount upon completion of the Services. All Fees and any additional amounts due and payable hereunder shall be paid by Client within thirty (30) days of the date of Vine23's invoice.
- (c) Any amounts not paid by Client when due and payable will be subject to interest charges of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower. Client will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Vine23 to collect any amount that is not paid when due. Amounts due from Client under this Agreement may not be withheld or offset by Client against amounts due for any reason.

5. Term and Termination.

- (a) This Agreement shall commence on the Effective Date and continue for the period set forth in the Statement of Work (the "Term").
- (b) Either Party may terminate this Agreement without cause by giving the other Party thirty (30) days advance written notice of such termination.
- (c) Either Party may terminate this Agreement for cause upon thirty (30) days written notice to the other Party if a material breach of the Agreement by the other Party remains uncured at the expiration of such thirty (30) day period, or immediately upon written notice if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- (d) Upon termination of this Agreement, all Client's rights to the Services will terminate and all materials, data, Confidential Information and Intellectual Property shall be returned to the Party retaining ownership of same. Client will pay to Vine23 all Fees or other amounts that have accrued up to and including the effective date of termination and Client shall retain all Services provided and paid for in full up to and including the effective date of termination.

6. Confidentiality and Non-Disclosure.

During the term of this Agreement and thereafter (regardless of the reason for the termination of this Agreement or the Party effecting it), unless Confidential Information (as defined in Schedule "A") is already or becomes public knowledge through no fault of the receiving Party, neither Party may directly or indirectly, for any reason, disclose to any person or make use of, any of the other Party's Confidential Information except with the prior written authorization of that Party. Without limiting the generality of the foregoing, the Parties hereto agree to be bound by the **Confidentiality and Non-Disclosure Agreement** entered into by the Client and Vine 23, the form of which is attached hereto as Schedule "A", which is incorporated into and shall form part of this Agreement.

7. Intellectual Property.

- (a) Client acknowledges and agrees that Vine23 owns all Intellectual Property related to and incorporated into the Services. Vine23 shall retain all right, title and interest in and to the Services and in all improvements, enhancements, modifications and derivative works, including all rights to patent, copyright, trademarks and trade secrets attributable thereto. Except as expressly stated herein, this Agreement does not grant Client any rights to Intellectual Property owned and belonging to Vine23.
- (b) Subject to Section 7(a) above, Vine23 acknowledges and agrees that Client shall own and retain all right, title and interest in and to the Client Data and the Services provided by Vine23 for and in collaboration with Client that have been paid for in full by Client in connection with this Agreement.

8. Indemnity.

- a) Client agrees to indemnify, save and hold harmless Vine23, and Vine23's officers, directors, shareholders, employees, agents, representatives successors and assigns from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any act or omission, or breach of Client's responsibilities or obligations, representations or warranties, or from any use by Vine23 of Client Data or materials, instructions directions or information provided by Client in connection with Services hereunder.
- b) Vine23 agrees to indemnify, save and hold harmless Client, and Client's officers, directors, shareholders, employees, agents, representatives successors and assigns from any and all damages, liabilities, costs, losses or expenses arising out of any claim, demand, or action by a third party arising out of any act or omission, or breach of Vine23's responsibilities or obligations, representations or warranties, or from any misuse by Vine23 of Client Data or materials in connection with Services hereunder

9. Limitation of Liability.

- a) TO THE EXTENT ALLOWED BY LAW, IN NO EVENT SHALL VINE23 HAVE ANY LIABILITY TO THE CLIENT FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES HOWEVER CAUSED, INCLUDING LOST PROFITS AND REVENUES, DEPLETION OF GOODWILL, OR OTHER COMMERCIAL OR ECONOMIC LOSS, INCLUDING ANY DAMAGE CAUSED BY ERRORS OR OMISSIONS IN ANY INFORMATION OR INSTRUCTIONS PROVIDED BY CLIENT IN CONNECTION WITH VINE23'S PERFORMANCE OF THIS AGREEMENT OR ANY ACTION TAKEN BY VINE23 AT CLIENT'S DIRECTION, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT VINE23 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- b) VINE23'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION (WHETHER INNOCENT OR NEGLIGENT), RESTITUTION, INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OR

OTHERWISE, ARISING IN CONNECTION WITH THE PERFORMANCE OR CONTEMPLATED PERFORMANCE OF THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT OF FEES PAID BY CLIENT DURING THE TERM OF THIS AGREEMENT.

10. General Provisions.

- (a) **Assignment.** Neither this Agreement nor any of the rights, benefits or obligations arising hereunder may be assigned, either in whole or in part, by the Client, without the prior written consent of Vine23, which consent may not be unreasonably withheld. This Agreement, and the rights, benefits, and obligations arising hereunder may be assigned, either in whole or in part, by Vine23.
- (b) **Severability.** If any provision of this Agreement is unenforceable or invalid for any reason whatsoever, such provision will be severable from the remainder of this Agreement and the validity of the remainder will continue in full force and effect and be construed as if this Agreement had been executed without the invalid or unenforceable provision.
- (c) **Disputes.** Any dispute arising under or related to this Agreement shall first be addressed between the Parties. Disputes shall be addressed as soon as they arise, or at least within five (5) business days. If a resolution of a dispute cannot be reached between the Parties, the Parties may submit the dispute to binding arbitration before a mutually agreed upon arbitrator. The arbitrator's decision or award shall be final and binding. Nothing in this paragraph precludes the parties from resolving their dispute through judicial means.
- (d) **Governing Law and Jurisdiction.** This Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the Province of British Columbia and the laws of Canada applicable therein. Each Party hereby expressly and irrevocably adorns and submits to the exclusive jurisdiction of the courts of the Province of British Columbia, in respect of all matters arising out of or in connection with this Agreement.
- (e) **Waiver and Consent.** No consent or waiver, express or implied, by any Party of any breach or default by the other Party of any or all of its obligations under this Agreement will be valid unless it is in writing and stated to be a consent or waiver pursuant to this Section 10(e). Such waiver or consent shall not constitute a waiver or consent to or of any other breach or default of the same or any other obligation under this Agreement.
- (f) **Notices.** Any notices, reports or other communications required under this Agreement shall be in writing and shall be sufficient if delivered by hand, courier, mail, facsimile or email addressed to the Company or Client at their respective addresses provided in the Statement of Work, or to such other address as the Party shall advise the other Party in writing. Any such notices, reports or other communications shall be deemed to have been received by the Party(s) to whom they were addressed upon delivery by hand, mail, courier, facsimile or email, when received.
- (g) **Survival.** Any provision of this Agreement which expressly states that it is to continue in effect after termination or expiration of this Agreement, or which by its nature would

survive the termination or expiration of this Agreement, shall do so, including but not limited to Sections 6, 7, 8 and 9.

- (h) **Amendment.** No amendment or modification to any provision of this Agreement shall be binding unless in writing and signed by both Parties hereto.
- (i) **Currency.** Except where otherwise expressly provided, all monetary amounts referenced to in this Agreement are stated in and shall be paid in Canadian currency.
- (j) **Entire Agreement.** This Agreement, together with any executed Statement of Work, is the entire agreement between the Parties and replaces and supersedes all prior agreements, whether verbal or written, relating to the subject matter hereof.
- (k) **Priority of Documents.** In the event of any conflict or inconsistency between any of the provisions of this Agreement and any Statement of Work, the provisions of the Statement of Work shall take precedence first, followed by the provisions of this Agreement.