

From: Fyfe, Richard J AG:EX
Sent: Thursday, May 26, 2011 11:25 AM
To: 'Stevens, Patricia'
Cc: Loukidellis, David AG:EX; McLaughlin, Joel G AG:EX
Subject: Indemnity Review

Patricia

Further to our telephone discussion, I confirm that

over the summer to assist with this review however we have confirmed the availability of another lawyer, Erin Shaw, who would assist in assembling and reviewing documents under Mr. Toope's direction. Prior to finalizing a retainer with Ms. Shaw I would request your confirmation whether the retainer should be arranged by Legal Services Branch or whether Mr. Toope would prefer to do so directly, either with Erin Shaw or with another lawyer.

If the preference is that we retain Ms. Shaw, we are in a position to do so immediately. If another lawyer, we request your guidance as to preferred approach.

Richard J. M. Fyfe, Q.C.
Assistant Deputy Attorney General
Legal Services Branch
Ministry of Attorney General
Tel: (250) 356-8800

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

May 5, 2011

British Columbia Public Service

Indemnity Policy Review

Terms of Reference

Introduction

The present formal indemnity policy is set out in section 73 of the Public Service Agency's Terms and Conditions for Excluded Employees ("PSA Terms"), and relates to civil litigation (non-criminal) matters only.

In addition, indemnities in criminal and other matters have been provided case by case on an *ex gratia* basis through indemnities under Financial Administration Act, section 72.

The indemnity policy applies to excluded employees, and appointees under the *Public Service Act* as well as to former excluded employees and appointees. It also applies to members of Executive Council and officers of the Legislature in the same manner and to the same extent as excluded employees. It does not apply to bargaining unit employees, as they are covered by the terms of the applicable collective agreements. It also does not apply to Members of the Legislative Assembly (MLAs) in that capacity.

Purpose and Scope of Review

The Attorney General has requested an independent review of the provincial government's current policy and practice (the "Policy") regarding the indemnification of its excluded employees and others for legal expenses arising from the performance of their employment.

In summary, the purpose of the review is to consider and answer these questions about the Policy:

- what is the objective of the Policy,
- how does it work,
- who is indemnified,
- under what circumstances,
- whether the Policy is fair and how it compares to other jurisdictions, and
- what, if any, changes need to be made.

This review is to consider the rationale for the Policy, the history of the development of the Policy, how it has been applied in the past, and the need for indemnity arrangements from a public administration perspective. The review should recommend the circumstances in which indemnity arrangements should be applied in respect of civil matters, and should separately consider an appropriate policy for criminal matters. Factors to be considered are further outlined below.

Specific Considerations

1. In non-criminal cases, the review should consider the various situations in which a public employee may be faced with a legal challenge arising in the performance of their employment. These include a public servant who becomes a defendant or plaintiff in a civil action (including in defamation actions), is a witness in legal proceedings involving the government, is subject to prosecution for a regulatory offence, is a respondent in professional body proceedings or in human rights proceedings. The review should provide guidelines to be consistently applied in any circumstance where coverage is appropriate.
2. In the criminal context, the review should consider whether there are circumstances in which it is appropriate for government, rather than the public servant, to bear the legal costs involved and if so, provide policy guidance regarding both the circumstances and the approach (for example, whether there should be an indemnity or reimbursement, and if indemnity, whether upon a guilty plea or conviction repayment should be required).
3. Where alternate means of legal expense coverage exist, they should be considered, as well as the possibility in criminal proceedings where a court may order public funding of defence costs (e.g. “Rowbotham” orders).
4. The review should consider the approaches taken by other public sector employers in BC, in other Canadian provinces, by the federal government, and in England, Australia and New Zealand, in order to provide “best practices” recommendations. The reviewer should also consult with the Legal Services Society of British Columbia about how they administer legal counsel retainers and manage costs.
5. For any circumstances that the review recommends coverage in some form, there should be guidelines, such as who should determine eligibility for coverage, what factors are appropriate or relevant (for example, the presumption of innocence in criminal cases) and what measures should be taken when arranging for and administering legal counsel retainers in order to better control costs, ensure appropriate review of billings, and protect solicitor-client privilege, confidentiality and privacy.
6. If the review contemplates limitations on legal counsel retainers, it should discuss whether a limitation or refusal of coverage may face judicial review. The review should also provide guidance regarding any conditions or requirements that should apply, such as repayment, appropriate security and termination of coverage.
7. The reviewer is at liberty to consult with any part of government, including the Legal Services Branch, the Public Service Agency, and the Risk Management Branch, to understand the evolution and application of the Policy, as well as the circumstances in which the Policy has been previously applied.

8. The final review recommendations should:
 - (a) consider the legal issues, criteria, and principles relating to indemnity coverage, the benefits and costs of providing such coverage, the consequences of not providing coverage, and the need to achieve an appropriate balance between the interests of taxpayers and public servants;
 - (b) if coverage in any form is recommended, provide guidelines and reasons for the recommended coverage;
 - (c) to the extent possible discuss the potential cost impacts of the recommended approach; and
 - (d) discuss the benefits, disadvantages, and considerations that arise under the various options for overseeing any indemnity or other coverage arrangements, including oversight by the Legal Services Branch, another branch of government, the Legal Services Society of B.C. or another outside agency.
9. The reviewer's report is to be submitted to the Attorney General on or before October 28, 2011 and will be made public within 30 days of being received by the Attorney General.
10. Although the reviewer will not receive any remuneration for conducting this review and preparing the report, the Ministry of Attorney General will arrange resources, including external legal counsel familiar with the Policy, and support services, to assist in locating and reviewing existing documents, and researching the policies of other jurisdictions and public agencies.

2



May 12, 2011

Mr. Stephen Toope
President and Vice-Chancellor
University of British Columbia
103 Old Admin Building
6328 Memorial Road
Vancouver, British Columbia
V6T 1Z2

Attention: Mr. Stephen Toope

Re: Review of BC Public Service Indemnity Policy

You have agreed to undertake a review and provide recommendations with respect to coverage of legal costs of British Columbia public servants.

We have arranged to indemnify you in the form of the enclosed Indemnity Agreement.

In the course of your review and reporting, you will be provided access to confidential material. Please ensure that no disclosure of any such material occurs during your review or in the report which you produce, and that your review remains confidential until the release of your final report by the Attorney General.

Please sign and return a copy of the enclosed Indemnity Agreement to me.

.../2

Ministry of Attorney General	Legal Services Branch Office of the Assistant Deputy Attorney General	Mailing Address: PO BOX 9280 STN PROV GOVT Victoria BC V8W 9J7	Location: 1001 Douglas Street Victoria BC
		Telephone: 250 356-9260	5
		Facsimile: 250 356-5111	AGt-2011-00146

Mr. Stephen Toope
Page 2

I appreciate your willingness to accept this engagement and your commitment to service in the public interest.

Sincerely,

Richard J.M. Fyfe, Q.C.
Assistant Deputy Attorney General

Enclosure



a place of mind
THE UNIVERSITY OF BRITISH COLUMBIA

OFFICE OF THE PRESIDENT

6328 Memorial Road
Vancouver, BC Canada V6T 1Z2

Phone 604 822 8300
Fax 604 822 5055

Professor Stephen J. Toope
President and Vice-Chancellor

27 May 2011

Richard J.M. Fyfe, Q.C.
Assistant Deputy Attorney General.
PO Box 9280 Stn Prov Gov't
Victoria, B.C., V8W 9J7

RE: Review of BC Public Service Indemnity Policy

Dear Richard,

Further to your letter of May 12, 2011, please find the original of the Indemnity Agreement signed by Professor Toope.

Sincerely,

Patricia Stevens
Executive Director
Office of the President

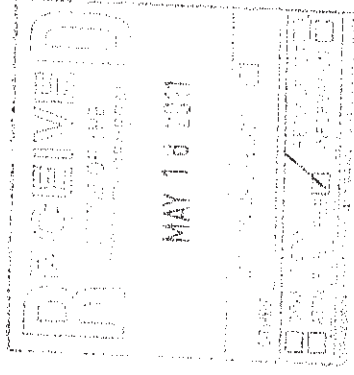
Original of Indemnity Agreement signed by Professor Toope

4

383720

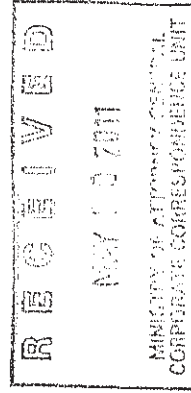


BRITISH
COLUMBIA



MAY 12 2011

Mr. Stephen Toope
President and Vice-Chancellor
University of British Columbia
103 Old Admin Building
6328 Memorial Road
Vancouver BC V6T 1Z2



Dear Mr. Toope:

I am pleased to engage you to undertake a review and provide recommendations with respect to coverage of legal costs of British Columbia public servants, as set out in the enclosed Terms of Reference.

You have kindly agreed, at the government's request and with no monetary compensation for your duties, to perform this role and to provide a report containing your recommendations to the Attorney General.

In consideration of your agreement to undertake the review and provide the report as described in the terms of reference, the Ministry of Attorney General will arrange to support your review by retaining independent legal counsel for you. We will also be providing, through Legal Services Branch, any paralegal and other support that you may require. In addition, I confirm that you will be reimbursed for any legal costs or disbursements incurred in conjunction with your review and preparation of your recommendations.

To confirm your acceptance of this engagement, please sign and return a copy of this letter to my office at your convenience.

If at any time you are or become unable to perform the roles set out above, the government reserves the right, in consultation with you to the extent reasonably possible, to engage an alternate.

.../2

Ministry of Attorney General	Office of the Attorney General	Mailing Address: PO Box 9044 Sun Prov Govt Victoria BC V8W 9E2 e-mail: AG.Minister@gov.bc.ca website: www.gov.bc.ca/ag	Telephone: 250 387-1866 Facsimile: 250 387-6411
---------------------------------	-----------------------------------	--	--

Mr. Stephen Toope
Page 2

I appreciate your willingness to accept this engagement and your commitment to service in the public interest.

Sincerely,


Barry Penner, Q.C.
Attorney General

Enclosure

Acceptance of engagement confirmed this 11th day of May, 2011


Mr. Stephen Toope

6
McDonald, Heather M AG:EX

From: Stevens, Patricia [patricia.stevens@ubc.ca]
Sent: Friday, June 10, 2011 2:58 PM
To: Fyfe, Richard J AG:EX
Subject: RE: Indemnity Review

This is fine. Stephen's been at our Okanagan Campus all week. I will get him to sign it on Monday. He's also got a meeting with Erin on Monday.

I'm working on a letter with s.22 . Did you have a compensation amount for her?

Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Monday, June 06, 2011 1:14 PM
To: Stevens, Patricia
Subject: Fw: Indemnity Review

Patricia, forwarding Erin's comments for your review and further direction.
RF

From: Erin Shaw [mailto:
Sent: Monday, June 06, 2011 12:26 PM
To: Fyfe, Richard J AG:EX
Cc: Heuman, Sheena AG:EX; Lyttle, Shawna AG:EX
Subject: RE: Indemnity Review

Attached is the draft Letter of Engagement from Professor Toope with my changes. In addition to adding the hourly rate, contract amount, Worksafe BC and HST information, I have inserted the words "on an average" in the middle of page 2 in reference to the number of hours per week I have based the contract amount on since I will be on holiday for approximately six weeks during the contract period. This means some weeks I will be working much less than 9 hours and some weeks, much more. The only additional expense I anticipate is long distance charges, which may be incurred if I need to talk to officials from other jurisdictions.

I note in the emails below that there are several people, including Karen Horseman from LSB, who have asked to meet with Professor Toope. It would be very helpful for me to attend those meetings or to meet with them separately.

Erin

Erin Shaw
Policy Consultant & Lawyer
Victoria, BC
250-595-2173 (office)

s.22

s.22

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: June 3, 2011 9:23 AM
To: 'Erin Shaw'
Cc: Heuman, Sheena AG:EX
Subject: FW: Indemnity Review

Erin

Could you please review and provide input and rates re the attached?
Thanks,

RF

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: Stevens, Patricia [mailto:patricia.stevens@ubc.ca]
Sent: Wednesday, June 1, 2011 2:50 PM
To: Fyfe, Richard J AG:EX
Subject: RE: Indemnity Review

Richard

Further to my voicemail, attached is a first draft of an LOA between Stephen and Erin.
Section 4 – Compensation and Expenses is where I need specific direction.

Thanks,
Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Monday, May 30, 2011 8:52 AM
To: Stevens, Patricia
Cc: Heuman, Sheena AG:EX; Lyttle, Shawna AG:EX
Subject: RE: Indemnity Review

s.14

I am aware of at least one lawyer within Legal Services Branch interested in meeting or providing submissions (Karen Horsman, an expert on government liability, who has with Gareth Morley, also of our office, published the text "Government Liability, Law and Practice"). I will ask David Loukidelis if he is aware of others who have contacted the AG.

Please let me know if (a) a general services agreement is acceptable to Stephen; and (b) if you would like us to prepare a first draft, using the standard form.

We can also arrange a similar retainer for paralegal or document support services – please advise.

RF

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: Stevens, Patricia [mailto:patricia.stevens@ubc.ca]
Sent: Friday, May 27, 2011 1:43 PM

To: Fyfe, Richard J AG:EX
Subject: RE: Indemnity Review

Thanks Richard

Stephen is happy with Ms Shaw. How would you like to proceed? Stephen thought it was best if he did the hiring, but I suspect you have the contract language and terms that could be used.

Also, Stephen mentioned when he was talking to the AG, that there were several other people that wanted to meet with him. Can you provide a list of those people and we will set up meetings with them and Stephen. I'd like to get those done fairly quickly before summer vacations start to happen.

Thanks,
Patricia

Patricia Stevens, MBA
Executive Director, Office of the President
Telephone: 604-822-0663



a place of mind

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Thursday, May 26, 2011 4:47 PM
To: Stevens, Patricia
Subject: FW: Indemnity Review

Patricia, as requested.

RF

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: Erin Shaw [mailto: s.22]
Sent: Thursday, May 26, 2011 4:44 PM
To: Fyfe, Richard J AG:EX
Subject: RE: Indemnity Review

Richard,

Attached is my CV. I mentioned to you on the phone that I will be in Vancouver on June 3rd and have some time during the day if Professor Toope would like to meet with me.

Erin

Erin Shaw
Consultant
Victoria, BC
PH: 250-505-7172

s.22

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]

Sent: May 26, 2011 3:22 PM

To: 'Erin Shaw'

Subject: Indemnity Review

Erin, if you or Jamie are interested, I would need a CV that I can forward to Stephen Toope. He has indicated a preference for a direct retainer rather than through LSB, however we will assist in making the arrangements.

RF

Richard J. M. Fyfe, Q.C.
Assistant Deputy Attorney General
Legal Services Branch
Ministry of Attorney General
Tel: (250) 356-8800

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.



a place of mind

Office of the President
6328 Memorial Road
Vancouver, B.C., V6T 1Z2

Erin Shaw
Policy Consultant & Lawyer
Victoria, BC
PH: 250-595-2173
s.22

Re: Indemnity Policy Review

I am pleased to advise you that I am prepared to offer you the following contract for your services. This LOA will form the contract in its entirety.

1. Term

Your services will be required from June 14, 2011 to 30 September 2011, on a non-exclusive basis. The term may be extended up to October 28, 2011, upon the mutual agreement of both parties.

2. Services

I am conducting an independent review of the provincial government's current policy and practice (the "Policy") regarding the indemnification of its excluded employees and others for legal expenses arising from the performance of their employment. You shall perform the following services in assistance of that review:

- Document the objectives, history and development of the Policy
- Document how it has been applied in the past in British Columbia, in what circumstances, for whom, and with what coverage
- Benchmark the Policy against other public sector employers in BC, in other Canadian Provinces, by the federal government, and in England, Australia and New Zealand
- Identify potential areas of best practice evident from the review of other jurisdictions

Specifically, you shall:

- Document, for the province and other areas of jurisdiction, the areas of coverage for the Policy, including but not limited to eligibility for coverage, factors used to determine coverage, limits on coverage, measures taken around legal counsel retainers, review of billings, protection of solicitor-client privilege, confidentiality and privacy, when repayment of fees is required, and termination of coverage
- Document how the Legal Services Society of British Columbia administers legal counsel retainers and manages costs
- Document the circumstances in which indemnity arrangements have been applied in respect of civil matters, identifying the types of situations in which a public employee may be faced with a legal challenge arising in the performance of their employment, including a public servant who
 - becomes a defendant or plaintiff in a civil action (including in defamation actions)
 - is a witness in legal proceedings involving the government
 - is subject to prosecution for a regulatory offence
 - is a respondent in professional body proceedings or in human rights proceedings



- Document the circumstances where indemnity arrangements have arisen in criminal cases
- Document where alternate means of legal expense coverage exist, including in criminal cases where a court may order public funding of defense costs (e.g. "Rowbotham" orders)
- Work with me to test the practical implications of policy options that may be considered

These services will be performed in an efficient, competent, timely and professional manner to my full satisfaction. I reserve the right to amend or vary these services upon notice in writing to you, or, as may be agreed between us from time to time. In the event that the volume of work increases as objectively determined by reference to hourly or daily rates, you shall advise me in writing, prior to commencing the new services, and I shall expressly approve of such increases in fees, in writing, or, none will be payable.

3. **Reporting**

You shall report directly to me on the progress of any services performed under this agreement.

4. **Compensation and Expenses:**

You shall receive XXXXX Dollars and XXXXX Cents (\$XX.XX CAD) per hour to a ceiling amount (based on approx. XX hours/week) of XXXXX Dollars and XXXX Cents (\$XX.XX CAD), plus GST/HST if applicable (refer to clause 19) and pre-approved expenses, for the described services performed and completed to my satisfaction. Payment will be made Net Thirty (30) Days from date of monthly invoice from you which provides details of the services performed, the time spent, and the fee for each of the services. Invoices should be submitted to me for approval.

I shall pay fees and reimbursable expenses subject to the following conditions:

- that I will not be required to make payments more frequently than monthly;
- that the invoice presented by you will include a completed "Invoice for Basic Services (or Additional Services) Summary";
- that you are in good standing and have satisfied your obligations to date under this Agreement, and:
- With respect to expenses, you shall be reimbursed only for the following pre-approved expenses:
 - Travel to Vancouver when required
 - other

I will not pay for clerical work, local facsimile, local travel/mileage within Victoria, legal costs, professional insurance, or equipment rental.

I will not be liable for and will not pay any unapproved expenses or increases in fees. You are expressly agreeing to complete all the described services for the consideration expressed herein.

5. **Sub-Consultants**

You shall obtain my approval prior to engaging any Sub-Consultant. If I, after this Agreement is entered into, acting reasonably require that you engage a consultant as a



Sub-Consultant, then you will do so, and in that case the fees to be paid by you for such Sub-Consultant will be a Reimbursable Expense.

6. **Ownership**

By mutual agreement, and except as agreed to in writing by me and you, I will own, and you grant to me all rights (including but not limited to copyright and patent), title and interest in and to any items created by you in performing your services, whether completed or not, and to their proceeds, such items including but not limited to reports, documents, and computer software. These items will be delivered to me upon request but in any event, no later than completion of the project.

7. **Independent Contractor**

By mutual agreement, the terms of this Letter of Agreement will be met by your provision of services as an independent contractor at arm's length from, and not as an employee of mine. As such, you are solely responsible for all matters relating to compliance with statutory and other legal obligations arising from your responsibilities in determining how and where the work set forth in this agreement is to be performed, including matters arising between yourself and your employees, if any. Such obligations include but are not limited to: remuneration; discipline; assessment of and withholding for income tax, employment insurance, Workers' Compensation, and Canada Pension Plan; leave, vacation, overtime and any other payments which may be assessed against you under any statutory authority for your performance of this Letter of Agreement.

To meet obligations under WorkSafeBC (the Workers' Compensation Board of British Columbia) regulations, you are confirming: (Note: Check one (1) box only)

☐ WorkSafeBC registrant # is: _____

Or,

☐ You are not covered by WorkSafeBC as a registrant employer, as you are not automatically covered by its provisions, and you have not applied nor will apply for voluntary coverage as a registrant employer for a period of time effective for the duration of this Letter of Agreement.

8. **Conflict of Interest**

You hereby declare that no potential, actual or perceived conflict of interest exists with respect to this engagement.

During the Term of this engagement, if you become aware of any potential, actual or perceived conflict of interest, you shall notify me immediately. Upon review of the circumstances, I reserve the right, in my sole discretion, to terminate the engagement without prejudice.

Undisclosed situations of a perceived conflict of interest will be reviewed and I reserve the right, in my sole discretion, to terminate the engagement and/or otherwise hold you accountable.

9. **Assumptions**

- It is expressly agreed that you are acting as an independent contractor in performing the services identified in this contract and not in any other capacity or relationship. As such, you shall have sole control of the manner and means of



performing the services under this contract while at the same time seeking reasonable, regular and appropriate direction from me on the business of the services indicated in this contract.

- You do not have, nor shall hold itself out as having, any right, power or authority to create any contract or obligation, either expressed or implied, on behalf of, in the name of, or binding upon me unless with my expressed written consent.
- It is agreed that while performing the services indicated in this contract, you may offer and provide services as in independent contractor to other parties provided that such outside contracts or retainers will not interfere in any way with the reasonable satisfactory provision of the service indicated in this contract.

10. Personal Information

The parties acknowledge that I am acting in public interests and may be subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia), as amended or replaced from time to time ("FIPPA"). The parties further acknowledge that a person retained under a contract to perform services for a public body is subject to FIPPA. You agree to comply with the provisions of FIPPA.

11. Confidentiality

You agree that:

- Proprietary Information (herein defined) will, for all purposes and at all times, both during and after your contract with me, be confidential and be and remain indefinitely the property exclusively of me; and
- During and after your contract with me, you will hold all Proprietary Information and other confidential information related to my business and affairs which you may learn of or be exposed to, in trust for the benefit exclusively of me; and
- You will not, either during or after your contract with me:
 - disclose to any corporation, entity or person other than me or as otherwise authorized by me, or
 - use for your own purposes or for any purpose other than mine, any Proprietary Information or trade secrets or other confidential information of mine.

In this Letter of Agreement, "Proprietary Information" means information, knowledge, and materials related to: the designs, know-how, goodwill, trade secrets, or property; or product, services, systems programs, designs, inventions, research, discoveries, developments, strategies, methods or ideas which have been or are being developed or utilized or marketed by me, or in which I am or may become interested; but excludes information in the public domain and information which is deemed not to be "Proprietary Information" for the purposes of this Paragraph.

12. Termination:

This contract may be terminated by

- Me, for:
 - inadequate or non-performance
 - breach of any term of this Agreement
- Either party upon Thirty (30) Calendar Days written notice; acknowledged receipt of such notice must be received by the issuing party for such notice to be valid.

In addition, I expressly reserve all legal rights and remedies available under general laws of Canada in the event of termination including the right of set off.



13. **Assignment**

This contract, being personal in nature, is not assignable by you but may be assigned by me in my sole discretion.

14. **Performance and Execution of Documents**

I, and you, will perform any act and execute and deliver any document which is reasonably required to carry out the terms of this Letter of Agreement according to its true intent and meaning.

15. **Goods and Services Tax (GST) / Harmonized Sales Tax (HST) Registration (check one (1) box only)**

- ☐ GST/HST Registrant and registration number is _____.
- ☐ Defined as a Small Supplier as GST/HST taxable sales or revenues earned worldwide in the previous four (4) calendar quarters does not exceed \$30,000 (or \$50,000 if a Public Service Body).
- ☐ Not a GST/HST Registrant.

16. **Billing Method for GST/HST (check one (1) box)**

- ☐ Invoices will clearly show the amount of tax as a separate tax.
- ☐ The amount of tax will not be indicated and it will be included in the invoice amount.
- ☐ GST/HST will not be applicable because (a) defined as a Small Supplier; or (b) not a GST/HST registrant.

17. **Notice**

- Any notice, or document a party may be required to deliver to the other party in writing, may be delivered by registered courier, by hand, by fax, or by e-mail. Delivery will be conclusively deemed to have been made:
 - If couriered to the addressee's address listed below, on date of confirmation of delivery by the courier company; or
 - If delivered by hand to the addressee's address listed below on the date of such personal delivery; or
 - If sent by fax to the addressee's fax number listed below, at the time of successful transmission as per the sender's record log; or
 - If sent by e-mail, at the time of sending as per sender's electronic or print record.
- The parties will give notice in writing of a change of address or fax number.

Address of Stephen J. Toope:

6328 Memorial Road
Vancouver, B.C., V6T 1Z2
stephen.toope@ubc.ca
Phone: 604-822-8300
Fax: 604-822-5055

Address of Erin Shaw:

s.22

Telephone: 250-589-2173
Fax: Insert Fax #



a place of mind

Office of the President
6328 Memorial Road
Vancouver, B.C., V6T 1Z2

18. Governing Law

This contract is governed by and interpreted in accordance with the Laws of the Province of British Columbia.

19. Whole Agreement

This Letter of Agreement, together with the documents cited herein which are not inconsistent with this contract, will form our entire agreement, and cannot be modified except by means of a written instrument signed by both parties to this agreement.

Please indicate acceptance of this offer by having an authorized representative sign and return this letter.

Thank you

Yours truly,
Stephen J. Toope

AGREED AND ACCEPTED

Stephen J Toope

Erin Shaw

(Date)

C Attorney General Penner

9
McDonald, Heather M AG:EX

From: Stevens, Patricia [patricia.stevens@ubc.ca]
Sent: Thursday, May 26, 2011 1:14 PM
To: Fyfe, Richard J AG:EX
Cc: Loukidelis, David AG:EX; McLaughlin, Joel G AG:EX
Subject: RE: Indemnity Review

Thanks Richard

Stephen would prefer to retain the lawyer directly. Do you have a cv for Ms Shaw that he could review?

Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Thursday, May 26, 2011 11:25 AM
To: Stevens, Patricia
Cc: Loukidelis, David AG:EX; McLaughlin, Joel G AG:EX
Subject: Indemnity Review

Patricia

Further to our telephone discussion, I confirm that s.22 has advised that he will not be available over the summer to assist with this review however we have confirmed the availability of another lawyer, Erin Shaw, who would assist in assembling and reviewing documents under Mr. Toope's direction. Prior to finalizing a retainer with Ms. Shaw I would request your confirmation whether the retainer should be arranged by Legal Services Branch or whether Mr. Toope would prefer to do so directly, either with Erin Shaw or with another lawyer.

If the preference is that we retain Ms. Shaw, we are in a position to do so immediately. If another lawyer, we request your guidance as to preferred approach.

Richard J. M. Fyfe, Q.C.
Assistant Deputy Attorney General
Legal Services Branch
Ministry of Attorney General
Tel: (250) 356-8800

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

1a
McDonald, Heather M AG:EX

From: Stevens, Patricia [patricia.stevens@ubc.ca]
Sent: Friday, June 3, 2011 9:22 AM
To: Fyfe, Richard J AG:EX
Subject: RE: Indemnity Review

No concerns at all.

P.

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Friday, June 03, 2011 9:19 AM
To: Stevens, Patricia
Subject: RE: Indemnity Review

Patricia, do you have any concerns if I send this draft to Erin for her input and rates?

RF

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: Stevens, Patricia [mailto:patricia.stevens@ubc.ca]
Sent: Wednesday, June 1, 2011 2:50 PM
To: Fyfe, Richard J AG:EX
Subject: RE: Indemnity Review

Richard

Further to my voicemail, attached is a first draft of an LOA between Stephen and Erin.
Section 4 – Compensation and Expenses is where I need specific direction.

Thanks,
Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Monday, May 30, 2011 8:52 AM
To: Stevens, Patricia
Cc: Heuman, Sheena AG:EX; Lyttle, Shawna AG:EX
Subject: RE: Indemnity Review

s.14

I am aware of at least one lawyer within Legal Services Branch interested in meeting or providing submissions (Karen Horsman, an expert on government liability, who has with Gareth Morley, also of our office, published the text "Government Liability, Law and Practice"). I will ask David Loukidelis if he is aware of others who have contacted the AG.

Please let me know if (a) a general services agreement is acceptable to Stephen; and (b) if you would like us to prepare a first draft, using the standard form.

AGI-2011-00146

We can also arrange a similar retainer for paralegal or document support services – please advise.

RF

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: Stevens, Patricia [mailto:patricia.stevens@ubc.ca]

Sent: Friday, May 27, 2011 1:43 PM

To: Fyfe, Richard J AG:EX

Subject: RE: Indemnity Review

Thanks Richard

Stephen is happy with Ms Shaw. How would you like to proceed? Stephen thought it was best if he did the hiring, but I suspect you have the contract language and terms that could be used.

Also, Stephen mentioned when he was talking to the AG, that there were several other people that wanted to meet with him. Can you provide a list of those people and we will set up meetings with them and Stephen. I'd like to get those done fairly quickly before summer vacations start to happen.

Thanks,
Patricia

Patricia Stevens, MBA
Executive Director, Office of the President
Telephone: 604-822-0663



From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]

Sent: Thursday, May 26, 2011 4:47 PM

To: Stevens, Patricia

Subject: FW: Indemnity Review

Patricia, as requested.

RF

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

From: Erin Shaw [mailto: s.22

Sent: Thursday, May 26, 2011 4:44 PM

To: Fyfe, Richard J AG:EX

Subject: RE: Indemnity Review

Richard,

Attached is my CV. I mentioned to you on the phone that I will be in Vancouver on June 3rd and have some time during the day if Professor Toope would like to meet with me.

Erin

Erin Shaw
Consultant
Victoria, BC
PH: 250-595-7173

s.22

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: May 26, 2011 3:22 PM
To: 'Erin Shaw'
Subject: Indemnity Review

Erin, if you or Jamie are interested, I would need a CV that I can forward to Stephen Toope. He has indicated a preference for a direct retainer rather than through LSB, however we will assist in making the arrangements.

RF

Richard J. M. Fyfe, Q.C.
Assistant Deputy Attorney General
Legal Services Branch
Ministry of Attorney General
Tel: (250) 356-8800

This communication (both the message and any attachments) is confidential and may be protected by solicitor-client privilege. It is intended only for the use of the person or persons to whom it is addressed. Any distribution, copying, or other use by anyone else is strictly prohibited. If you have received this communication in error, please destroy the email message and any attachments immediately and notify me by telephone or by email.

11
McDonald, Heather M AG:EX

From: Stevens, Patricia [patricia.stevens@ubc.ca]
Sent: Monday, July 4, 2011 3:20 PM
To: Fyfe, Richard J AG:EX
Subject: RE: Toope Review
Attachments: Shaw June Inv_001.pdf

Hi Richard – here's Erin's first invoice, approved by Stephen. Should I be sending them to someone other than you for payment?

Patricia

From: Stevens, Patricia
Sent: Monday, June 06, 2011 11:46 AM
To: 'Fyfe, Richard J AG:EX'; 'Butler, Richard AG:EX'
Cc: 'Loukidellis, David AG:EX'
Subject: RE: Toope Review

Hi Richard

Stephen would prefer to follow the same process as with Erin Shaw. We'll produce an LOA and do expense/compensation by specific direction.

Separate question – was Erin okay with the LOA sent over?

Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Monday, June 06, 2011 11:42 AM
To: Stevens, Patricia; Butler, Richard AG:EX
Cc: Loukidellis, David AG:EX
Subject: Fw: Toope Review

Patricia

We are looking the options for providing document search assistance to you. s.22 has extensive experience researching and producing documents within government records. Once again the question is whether we should pursue thus and if so whether the contract should be with us or Stephen (either is fine with us).

RF

From: Butler, Richard AG:EX
Sent: Monday, June 06, 2011 10:49 AM
To: Fyfe, Richard J AG:EX
Subject: FW: Toope Review

FYI

From: s.22 [mailto:s.22]
Sent: Monday, June 6, 2011 10:49 AM
To: Butler, Richard AG:EX
Subject: Toope Review

Hi Richard – further to our brief conversation last week. this is to confirm that I am interested in providing resources to assist with the Toope Review of the Indemnity Policy. s.22 is available for this work. If assistance is needed, perhaps we could discuss the nature of the work to be performed and agree rates.

You can reach me at this email address or on my cell at s.22

Thanks.

s.22

McDonald, Heather M AG:EX

From: Stevens, Patricia [patricia.stevens@ubc.ca]
Sent: Friday, June 10, 2011 3:15 PM
To: Fyfe, Richard J AG:EX; Butler, Richard AG:EX
Cc: Loukidelis, David AG:EX
Subject: RE: Toope Review

Hi Richard – Stephen and Erin have both indicated they are okay to go ahead with s.22
Could you send her contact information please?

Thanks,
Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Monday, June 06, 2011 11:42 AM
To: Stevens, Patricia; Butler, Richard AG:EX
Cc: Loukidelis, David AG:EX
Subject: Fw: Toope Review

Patricia

We are looking the options for providing document search assistance to you. s.22 has extensive experience researching and producing documents within government records. Once again the question is whether we should pursue thus and if so whether the contract should be with us or Stephen (either is fine with us).

RF

From: Butler, Richard AG:EX
Sent: Monday, June 06, 2011 10:49 AM
To: Fyfe, Richard J AG:EX
Subject: FW: Toope Review

FYI

From: s.22 [mailto:s.22]
Sent: Monday, June 6, 2011 10:49 AM
To: Butler, Richard AG:EX
Subject: Toope Review

Hi Richard – further to our brief conversation last week, this is to confirm that I am interested in providing resources to assist with the Toope Review of the Indemnity Policy. s.22 is available for this work. If assistance is needed, perhaps we could discuss the nature of the work to be performed and agree rates.

You can reach me at this email address or on my cell at s.22

Thanks.

s.22

17
McDonald, Heather M AG:EX

From: Stevens, Patricia [patricia.stevens@ubc.ca]
Sent: Monday, June 6, 2011 11:46 AM
To: Fyfe, Richard J AG:EX; Butler, Richard AG:EX
Cc: Loukidelis, David AG:EX
Subject: RE: Toope Review

Hi Richard

Stephen would prefer to follow the same process as with Erin Shaw. We'll produce an LOA and do expense/compensation by specific direction.

Separate question – was Erin okay with the LOA sent over?

Patricia

From: Fyfe, Richard J AG:EX [mailto:Richard.Fyfe@gov.bc.ca]
Sent: Monday, June 06, 2011 11:42 AM
To: Stevens, Patricia; Butler, Richard AG:EX
Cc: Loukidelis, David AG:EX
Subject: Fw: Toope Review

Patricia

We are looking the options for providing document search assistance to you. s.22 has extensive experience researching and producing documents within government records. Once again the question is whether we should pursue thus and if so whether the contract should be with us or Stephen (either is fine with us).

RF

From: Butler, Richard AG:EX
Sent: Monday, June 06, 2011 10:49 AM
To: Fyfe, Richard J AG:EX
Subject: FW: Toope Review

FYI

From: s.22 [mailto:s.22]
Sent: Monday, June 6, 2011 10:49 AM
To: Butler, Richard AG:EX
Subject: Toope Review

Hi Richard – further to our brief conversation last week, this is to confirm that I am interested in providing resources to assist with the Toope Review of the Indemnity Policy. s.22 is available for this work. If assistance is needed, perhaps we could discuss the nature of the work to be performed and agree rates.

You can reach me at this email address or on my cell at s.22

Thanks.

s.22