

th NOVEMBER

THIS AGREEMENT made as of 30 OF, 2010

BETWEEN

**Legal Aid Ontario**

(hereinafter referred to as "LAO")

AND

**HDR Corporation**

(hereinafter referred to as the "Consultant")

LAO and the Consultant agree as follows:

**1.0 Description of Services**

1.1 The Consultant shall perform the services described in Schedule "A" (the "Services").

**2.0 Consultant's Representations and Warranties**

2.1 The Consultant represents and warrants that:

(b) the Consultant is a corporation incorporated under the laws of the Province of Alberta;

(c) the Consultant is duly registered and qualified to do business wherever necessary to carry out the terms of this Agreement;

(d) the Consultant is not a party to and agrees not to enter into any agreement, business or other relationship or to incur any obligations which may conflict with this Agreement;

(e) the Consultant is able and willing to perform the Services in a timely fashion.

2.2 The standard of care for all professional, consulting and related services performed or furnished by Consultant and its employees under this Agreement will be the care and skill ordinarily used by members of Consultant's profession practicing under the same or similar circumstances at the same time and in the same locality. Consultant makes no warranties, express or implied, under this Agreement or otherwise, in

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connection with Consultant's services. However, the Services shall be suitable for the purposes specified in Schedule "A".

- 2.3 Acceptance or approval of any Services by LAO officials, whether express or implied, shall not alter the Consultant's responsibilities under this Agreement.
- 2.4 The Consultant represents and warrants that its Services shall not infringe upon or violate any patent, copyright, trade secret or any other right of any third party, and shall not be libelous or otherwise unlawful.
- 2.5 The Consultant represents and warrants that it shall comply with all federal, provincial and municipal laws, regulations and orders in existence on the date of execution of this Agreement or coming into existence during the term of this Agreement, including but not limited to the Discriminatory Business Practices Act, the Human Rights Code, and the Freedom of Information and Protection of Privacy Act. The Consultant shall be responsible for obtaining any permits or licenses required for the performance of its responsibilities under this Agreement.
- 2.6 The Consultant represents and warrants that it can and does hereby waive all moral rights that it, its employees or subcontractors may have in connection with or respecting the Services or the Materials as defined in paragraph 11.1.
- 2.7 The Consultant represents and warrants that all materials, documents, data and working papers relating to the services shall be the property of LAO and shall be surrendered to LAO upon completion and written acceptance of the services or termination of the Agreement for any reason whatsoever, unless otherwise stipulated in the Schedule(s) attached hereto. No documents, working papers or manuals may be removed from the work area without the permission of the designated LAO official, nor is any information about any systems or data in them to be disclosed without similar written authorization. Any re-use of documents by LAO for extensions of the project or other projects shall be at LAO's sole risk and liability.
- 3.0 Cost**
- 3.1 LAO shall pay to the Consultant the fees and any amounts allocated for disbursements, all as set out in Schedule "B", provided that the total liability of LAO under this Agreement shall not, in any event, exceed the total amount set out in Schedule "B".

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**4.0 Billing**

- 4.1 The Consultant shall invoice LAO bi-monthly.
- 4.2 Every invoice shall be in the form attached hereto as Schedule "C" or shall contain the information set out in Schedule "C".
- 4.3 Failure to provide the information required by the invoice may result in delays in payment.
- 4.4 LAO shall pay the amount due only after receipt of an invoice satisfactory to LAO Representative, as defined in paragraph 14.1, and acceptance by LAO of the Services for which the invoice is given.
- 4.5 On amounts for which no cheque has been issued within thirty (30) days after receipt of a satisfactory invoice and acceptance of the Services, LAO shall pay interest, on request, at the current rate of interest payable by the Province of Ontario from time to time.

**5.0 Time**

- 5.1 The Services shall commence on the 7th day of November, 2010 and shall be completed not later than the 31<sup>st</sup> day of March, 2011 .
- 5.2 Time shall be of the essence. No extension or variation of this Agreement shall operate as a waiver of this provision.
- 5.3 The Consultant shall adhere to the critical path, if any, as set out in Schedule "A".

**6.0 Reports**

- 6.1 The Consultant shall submit progress reports to LAO Representative as requested.
- 6.2 The Consultant shall, upon the request of the LAO, submit a final report to LAO Representative upon completion of the Services. When LAO has requested a final report, the Consultant shall, prior to submitting a final report, provide LAO with a draft of the final report for review and comment by LAO.

**7.0 Personnel**

- 7.1 The Services shall be performed by the following staff at HDR:

Dennis Bruce

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Dennis Lewis  
May Raad-Young  
John Parker  
Andrew Luison  
Tony Chen

7.2 The Consultant and LAO will not knowingly solicit the employment of the other party's employees in any capacity whatsoever during the term of this Agreement and for a period of one year after the termination of this agreement. The foregoing prohibitions do not prevent either party from engaging in conversations about employment and hiring any such employee who initiate contact with the party or who respond to a general advertisement placed by the party.

## **8.0 Assignment**

8.1 The Consultant shall not assign, transfer or pledge this Agreement or retain sub contractors for the performance of the Services hereunder without the prior written consent of LAO Representative. No assignment or sub contract shall relieve the Consultant from its obligations under this Agreement or impose any liability upon LAO to any assignee or sub contractor.

## **9.0 Limitation of Liability, Indemnification and Insurance**

9.1 LAO shall not be liable for any injury, death or property damage to the Consultant, its employees or agents or for any claim by any third party against the Consultant, its employees or agents, unless it was caused by the negligence or willful act of an employee or agent of LAO while acting within the scope of his or her employment or agency respectively.

9.2 LAO shall not be liable for any incidental, indirect, special or consequential damages or any loss of use, revenue or profit of the Consultant arising out of or in any way related to this Agreement or the Services.

9.3 The Consultant does hereby indemnify LAO, its employees and agents, against all costs, losses, expenses or liabilities incurred to the extent as a result of a claim or proceeding related to Consultant's negligent acts, errors, or omissions under this Agreement or the Services, unless it was caused by the negligence or willful act of an employee of LAO while acting within the scope of his or her employment.

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**10.0 Termination**

10.1 LAO may terminate this Agreement at any time, without fault and without liability, upon two (2) weeks' notice of termination to the Consultant.

10.2 LAO shall not by termination waive any rights or remedies it may have at the date of termination. Termination shall not relieve the Consultant from its warranties and other responsibilities relating to Services performed and money paid up to and including the date of termination.

10.3 Upon termination, the Consultant shall:

(a) disclose to LAO the current state of the Services which are being performed by the Consultant at the date of termination and provide a report of, and all the material reflecting, such current state of the Services to LAO; and,

(b) deliver to LAO everything produced by the Consultant in attempting to carry out this Agreement, and shall return everything supplied to it by LAO. Upon receipt of this material, LAO shall pay the Consultant for all services satisfactorily performed up to and including the date of termination.

**11.0 Intellectual Property**

11.1 All documents, raw data, research, processes, technology, programs, designs and inventions (collectively referred to as the "Materials") conceived of, completed or produced in the course or performance of this Agreement for LAO shall belong to LAO. The Consultant hereby assigns to LAO the Consultant's entire right, title and interest in and to all the Materials and all intellectual property rights therein including, without limitation, any patent, copyright, trademark, trade secret, industrial design, know how or other intellectual property right. The Consultant hereby waives all moral rights in connection with or respecting the Materials or the Services. The Consultant acknowledges that the Materials shall be and shall remain the sole property of LAO.

11.2 The Consultant shall assist LAO in preparing and prosecuting any Canadian or foreign patent or trademark application, copyright registration or any other intellectual property claim or interest that LAO considers appropriate, and shall obtain or execute any other documents reasonably required by LAO to protect the intellectual property of LAO.

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**12.0 Confidentiality**

12.1 The Consultant shall not disclose or publish at any time, any of the information provided to it by LAO or any of the information obtained, conceived of, originated, discovered or developed in the course of the performance of the Consultant's duties and obligations under this Agreement without the prior written consent of LAO Representative. The Consultant and its employees engaged in the performance of the services shall execute a confidentiality agreement in the form attached as Schedule "D" hereto. The Consultant acknowledges that LAO may suffer substantial and irreparable harm if this clause is breached. Any breach of this provision shall entitle LAO to immediately terminate the agreement and pursue the Consultant for damages.

It is hereby agreed that the following information is not considered to be confidential under this Agreement:

- a) Information already in the public domain;
- b) Information disclosed to Consultant by a third party who is not under a confidentiality obligation;
- c) Information developed by or in the custody of Consultant prior to entering into this Agreement;
- d) Information developed by Consultant through its work with other clients; and
- e) Information required to be disclosed by law or regulation, including, but not limited to, subpoena, court order or administrative order.

**13.0 Notices**

13.1 Notices under this Agreement shall be in writing and sent by personal delivery, facsimile transmission ("FAX") or by ordinary prepaid mail.

13.2 Notices by mail shall be deemed to have been received on the fourth business day after the date of mailing.

13.3 Notices by personal delivery or by FAX shall be deemed to have been received at the time of delivery or transmission.

13.4 In the event of an interruption in postal service, notice shall be given by personal delivery or by FAX.

13.5 Notices to the parties shall be sent to the following addresses:

LAO:

Legal Aid Ontario  
40 Dundas Street West., Suite 200  
Toronto, Ontario

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M5G 2H1  
FAX (416) 979- 1087

Consultant: HDR Corporation  
144 Front St. West, Suite 655  
Toronto, ON  
M5J 2L7

The parties may designate in writing to each other a change of address at any time.

#### **14.0 Representatives**

14.1 The LAO Representative is Nye Thomas, Director, Strategic Research. The Consultant's Representative is Dennis Bruce, Senior Vice President. Each party may designate a different representative by written notice to the other party.

#### **15.0 Representations and Warranties**

15.1 All representations, warranties, covenants and limitations of liability in this Agreement shall continue in full force and effect after the termination or expiry of this Agreement.

#### **16.0 Publicity**

16.1 LAO may, in its sole discretion, publicly disclose the provisions of this Agreement.

16.2 Any publicity or publications relating to this Agreement or the Services shall be arranged by LAO. LAO may, at its sole discretion, acknowledge the Services of the Consultant in any such publicity or publication. The Consultant shall not make use of its association with LAO without the prior written consent of LAO.

#### **17.0 Independent Contractor**

17.1 This Agreement is a contract for a particular and non exclusive service. The Consultant shall have no power or authority to bind LAO or to assume or create any obligation or responsibility, expressed or implied, on LAO's behalf, or in its name, nor shall it hold itself out to anyone as an agent, employee or partner of LAO.

17.2 As between LAO and the Consultant, the Consultant is solely responsible for all legally required employer and employee contributions and

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deductions for itself and its staff, including Workers Compensation, Canada Pension Plan, Unemployment Insurance and Federal and Provincial Income Taxes.

## **18.0 Harmonized Sales Tax Certificate**

18.1 LAO certifies that the Services are solely for use in the conduct of the business of LAO and therefore subject to the Harmonized Sales Tax.

## **19.0 Retention of Records and Inspection**

19.1 The Consultant shall retain and maintain all results of the Services and all related materials and records associated with this Agreement for a period of three (3) years following the termination or expiry of this Agreement.

19.2 LAO may, upon twenty four (24) hours notice and during normal business hours, review all results of the Services and all related materials and records of the Consultant, during the term of this Agreement and within three (3) years of its termination or expiry.

## **20.0 Waiver**

20.1 A waiver of any failure to comply with any term of this Agreement must be in writing and signed by the aggrieved party. Each waiver must refer to specific failure to comply and shall not have the effect of waiving any subsequent failures to comply.

## **21.0 Bankruptcy**

21.1 If the Consultant shall be declared insolvent or bankrupt, or if any assignment of the Consultant's property shall be made for the benefit of creditors or otherwise, or if a trustee in bankruptcy or similar officer or a receiver be appointed for the Consultant, then LAO may at its option upon written notice terminate this Agreement and shall thereupon be relieved from all liability hereunder.

## **22.0 Use of Consultant's Work**

22.1 Notwithstanding any other provision of this Agreement, LAO shall not be bound to act upon or otherwise use the Services or Materials.

## **23.0 Amendments, Alterations and Additions**

23.1 This Agreement may be amended, altered or added to only by written agreement between the parties which agreement is supplemental to this Agreement and thereafter forms part of this Agreement.

**24.0 Governing Law**

24.1 This Agreement and the rights, obligations and relations of the parties shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties agree that the Courts of Ontario shall have jurisdiction to entertain any action or other legal proceedings based on any provisions of this Agreement. The parties do hereby attorn to the jurisdiction of the Courts of the Province of Ontario.

**25.0 Headings**

25.1 The parties agree that the headings in this Agreement form no part of the Agreement and have been inserted for convenience of reference only.

**26.0 Entire Agreement**

26.1 This Agreement, including the Schedules, constitutes the entire Agreement between the parties. There are no other agreements, understandings, representations or warranties, either collateral, oral or otherwise.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

DATED AT TORONTO this <sup>th</sup> 30 day of NOVEMBER, 2010

**Legal Aid Ontario**

Per: Authorized Signature or Initials  
 Name: David McKillop  
 Title: Vice President  
 I have authority to bind the corporation

DATED AT TORONTO this <sup>th</sup> 24 day of November, 2010

**Consultant**

Per: Authorized Signature or Initials  
 Name: Dennis Bruce  
 Title: Vice President  
 I have authority to bind the corporation

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**Schedule A**

The consultant's responsibilities will include:

<b>Task</b>	<b>Title</b>
1.	Project Kick Off
2.	Data Review, Data Request and Testing
3.	Summary Criminal Certificate Database
4.	Review of Current LAO Operations and Costs
5.	Evaluation Criteria for Ranking Alternative Block Fee Models
6.	Financial Profile of Existing Criminal Certificate Costs
7.	Cluster analysis of Criminal Certificates
8.	Development of Block Fee Alternatives
9.	Analysis of Block Fee Model Alternatives
10.	Ongoing Financial Reports/Metrics and Forecasting
11.	Risk Mgt and Assessment Strategy
12.	Development of Presentation, Briefing and Consultation Materials
13.	LAO Consultation Support

Greater detail of each of these tasks is included in HDR's RFP proposal, dated July 30, 2010, which is attached as an appendix to this schedule.

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### Schedule B

The Consultant shall invoice LAO for fees and any amounts for disbursements in accordance with the following schedule on completion of each item:

Item	Title	Cost
1.	Project Kick Off	\$2,460
2.	Data Review, Data Request and Testing	\$10,620
3.	Summary Criminal Certificate Database	\$7,980
4.	Review of Current LAO Operations and Costs	\$3,960
5.	Evaluation Criteria for Ranking Alternative Block Fee Models	\$3,200
6.	Financial Profile of Existing Criminal Certificate Costs	\$4,440
7.	Cluster analysis of Criminal Certificates	\$7,800
8.	Development of Block Fee Alternatives	\$6,020
9.	Analysis of Block Fee Model Alternatives	\$6,260
10.	Ongoing Financial Reports/Metrics and Forecasting	\$3,360
11.	Risk Mgt and Assessment Strategy	\$6,590
12.	Development of Presentation, Briefing and Consultation Materials	\$7,9890
13.	LAO Consultion Support	\$8,160
14.	Travel	\$5,000
<b>15.</b>	<b>Total Project Cost</b>	<b>\$83,830</b>

### **Schedule C**

LAO shall require the consultant's invoices to include at least the following information:

- Date services rendered
- A specific description of services rendered and by whom
- The cost of the services rendered
- The date of the invoice

## Schedule D

### CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This confidentiality and non-disclosure agreement (the "agreement") is entered into and is effective as of November 7, 2010 by and between Legal Aid Ontario ("LAO") and HDR Corporation (the "Recipient").

1. In the performance of duties and responsibilities for LAO, the Recipient will become aware of confidential and proprietary information ("Information") related to LAO and its clients and stakeholders. This Information includes, but is not limited to, client, statistical, financial, technical, business, operational information and information related to LAO processes and/or computer systems.
2. Recipient will not disclose, publish, or disseminate Information to anyone other than those of its employees with a need to know, and Recipient agrees to take reasonable precautions to prevent any unauthorised use, disclosure, publication, or dissemination of Information. This paragraph is restricted by paragraph 4 in respect of personal information.
3. Recipient agrees to use Information for the sole purpose of performing its duties and responsibilities for LAO. Recipient agrees not to use Information otherwise for its own or any third party's benefit without prior written approval of an authorised representative of LAO in each instance.
4. The Recipient agrees that access to personal information which is in a form which identifies directly or indirectly the individual to whom the personal information relates will be given to the following named individuals only:
5. All Information, and any Derivatives thereof whether created by LAO or Recipient, remains the property of LAO and no license or other rights to Information is granted or implied hereby. For purposes of the agreement, "Derivatives" shall mean:
  - (a) for copyrightable or copyrighted material, any translation, abridgement, revision or other form in which an existing work may be recast, transformed or adapted;
  - (b) for material which is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected by copyright and/or trade secret; and,
  - (c) for patentable or patented material, any improvement thereon.
6. Within ten days of receipt of LAO's written request, Recipient will return to LAO all documents, records and copies thereof containing Information. The term "documents" includes all information fixed in any tangible medium of expression, in whatever form or format.
7. The Recipient shall destroy upon the conclusion of the contract all the information identifying individuals which is in their possession which is not returned to LAO.
8. The Recipient agrees not to contact any individual to whom personal information relates, directly or indirectly, without the prior written authority of LAO.

9. The Recipient shall ensure that no personal information will be used or disclosed in a form in which the individual to whom it relates can be identified without the prior written authority of LAO.
10. Recipient hereby acknowledges that unauthorised disclosure or use of Information could cause irreparable harm and significant injury to LAO that may be difficult to ascertain. Accordingly, Recipient agrees that LAO will have the right to seek and obtain immediate injunctive relief to enforce obligations under this agreement in addition to any other rights and remedies it may have.
11. Upon default by the Recipient under any terms of this agreement, and at any time after the default, LAO shall have all rights and remedies provided by law and by this agreement. No delay or omission by LAO in exercising any right or remedy shall operate as a waiver of them or of any other right or remedy, and no single or partial exercise of a right or remedy shall preclude any other or further exercise of them or the exercise of any other right or remedy. All rights and remedies of LAO granted or recognized in this agreement are cumulative and may be exercised at any time and from time to time independently or in combination.
12. The rights and obligations of this agreement shall survive and continue after any expiration or termination, for any cause, of Recipient's performance of duties and responsibilities for LAO and shall bind the parties and their legal representatives, successors and assigns.
13. The Recipient shall notify LAO in writing immediately if the Recipient becomes aware that any of the provisions set out in this agreement have been breached.
14. It is intended that all provisions of this agreement shall be fully binding and effective between the parties, but in the event that any particular provision or provisions or a part of one is found to be void, voidable or unenforceable for any reason whatever, then the particular provision or provisions or part of the provision shall be deemed severed from the remainder of this agreement and all other provisions shall remain in full force.
15. This agreement shall be governed by and be interpreted in accordance with the laws of the Province of Ontario.
16. No change or modification of this agreement shall be valid unless it is in writing and signed by each party.

In witness hereof the parties have signed and sealed this agreement this 30<sup>th</sup> day of November, 2010.

Legal Aid Ontario

The Recipient

Authorized Signature or Initials
Authorized Signature or Initials

Name David McKillop

Name: Dennis Bruce

Title: Vice President

Title: Senior Vice President

Date: 30 NOVEMBER 2010

Date: November 30, 2010-11-30