

# Contract Caretaker Service Agreement

An Agreement for Services made this Day of Month, Year, and filed as Contract Caretaker Services enter RFQ #.

BETWEEN:

The Manitoba Housing and Renewal Corporation,

(called “**Manitoba Housing**”)

- and -

**Enter Business Name**

(called the “Contractor”)

Manitoba Housing and the Contractor agree as follows:

## 1. Term of Agreement

- 1.1. This Agreement comes into effect on XXXXXX and shall continue until XXXXXX, unless delayed or suspended under section 15 or terminated before that date under section 16.

## 2. Services to be Provided

- 2.1. Manitoba Housing agrees to retain the Contractor to provide the services and deliverables outlined in the Scope of Work (called the “Services”) and the Contractor agrees to provide the Services under the Terms and Conditions set out in this Agreement.
- 2.2. Manitoba Housing and the Contractor agree that any work performed by the Contractor outside the Scope of Work, without the prior written approval of Manitoba Housing shall be deemed gratuitous on the Contractor’s part, and Manitoba Housing has no liability with respect to such work.
- 2.3. Manitoba Housing reserves the right to revise the Services to be provided to suit the building usage and public requirements during this agreement.

## 3. Performance of Contractor’s Obligations

- 3.1. The Contractor represents and warrants that:
- 3.1.1. the Contractor possesses the necessary skills, expertise, experience, tools and equipment to perform the Services in accordance with the provisions of this Agreement; and
- 3.1.2. the Contractor understands Manitoba Housing’s requirements under this Agreement and will be able to satisfy these requirements.

3.2. The Contractor agrees:

- 3.2.1. to perform all obligations and provide the Services in a professional manner satisfactory to Manitoba Housing, and to provide competent, experienced personnel necessary to perform the Services to Manitoba Housing's satisfaction;
- 3.2.2. to respect the rights of the tenants;
- 3.2.3. to conduct itself in a professional and respectful manner;
- 3.2.4. to provide and cover all costs for the supervision and training of the Contractor's staff for the performance of the Services to the satisfaction of Manitoba Housing;
- 3.2.5. to provide and cover all costs for equipment and all other things necessary for the performance of the Services to the satisfaction of Manitoba Housing;
- 3.2.6. to comply with all reasonable directions and requests of Manitoba Housing;
- 3.2.7. to ensure that all applicable laws, regulations, orders and codes are complied with;
- 3.2.8. to ensure that all licences, including driver's licences, required by the officers, employees or agents of the Contractor performing the Services are obtained and in effect during this Agreement;
- 3.2.9. to keep and maintain, for a period of not less than three years after the termination of this Agreement, accurate accounts and records of the Services provided pursuant to this Agreement; and
- 3.2.10. that Manitoba Housing or any other person on behalf of Manitoba Housing and their respective directors, officers, employees and representatives may perform audits of the Services provided at such times as Manitoba Housing may request, and agrees to permit such persons to have access to the Contractor's accounts and records respecting the Services for audit purposes and to co-operate fully in any audit.

**4. Advertising**

- 4.1. The Contractor agrees that it will not refer to this Agreement or to the Services, now or in the future, in any press releases, advertising or promotional material and will not use the Manitoba Housing corporate name or logo in any advertising or promotional material except with the prior written authorization of Manitoba Housing.

## **5. Administrative Review**

- 5.1. Manitoba Housing may conduct reviews of this Agreement and the Services provided during the term of this Agreement. The Contractor agrees that it will co-operate fully in any administrative review including, without limitation, providing records or documents requested by Manitoba Housing and participating in meetings.

## **6. Contractor Fees**

- 6.1. Subject to the following subsections, in consideration of Services performed to the satisfaction of Manitoba Housing, Manitoba Housing shall pay the Contractor in accordance with the fees set out in Part "A" Bid Form in Canadian funds.
- 6.2. Manitoba Housing shall endeavor to pay the Contractor fees by the first day of the following month that services are provided.
- 6.3. The fees payable under this Agreement for Services shall not exceed the fees quoted in the Contractor's Bid.
- 6.4. Manitoba Housing shall reimburse the Contractor for minor maintenance expenses relating to the provision of the Services if:
- 6.4.1. prior written permission to incur the expenses was obtained from Manitoba Housing; and
  - 6.4.2. the Contractor provides satisfactory receipts or supporting documents to Manitoba Housing.
- 6.5. Payment of expenses shall be made, upon receipt and approval of an invoice and satisfactory receipts or supporting documents, in accordance with the provisions of subsections 6.02.

## **7. Assistance from Manitoba Housing**

- 7.1. Manitoba Housing agrees to make reasonably available to the Contractor such documents, records and assistance from officers and employees of Manitoba Housing as may, in the opinion of Manitoba Housing, be reasonably necessary to assist the Contractor in the performance of this Agreement.

## **8. Confidentiality and Protection of Personal Information**

- 8.1. While this Agreement is in effect, and at all times thereafter, the Contractor and its officers, employees or agents:
- 8.1.1. shall treat as confidential all information, documents and materials, including (without limitation) all data, research, reports, drawings, designs, plans, photographs and other materials, acquired or to which access has been given in the course of, or incidental to, the performance of this Agreement;

- 8.1.2. shall not, without first obtaining written permission from Manitoba Housing,
  - 8.1.2.1. use, or permit use of, the information, documents and materials described in clause 8.1.1 except for the proper performance of the Contractor's obligations under this Agreement, or
  - 8.1.2.2. disclose, or permit disclosure of, the information, documents and materials described in clause 8.1.1 to any person, corporation or organization; and
- 8.1.3. shall comply with, any rules or directions made or given by Manitoba Housing with respect to safeguarding or ensuring the confidentiality of the information, documents and materials described in clause 8.1.1.
- 8.2. In addition to the requirements set out in subsection 8.1, the Contractor shall comply with the requirements set out in the Protection of Personal Information document respecting collection, use, disclosure and protection of personal information.

## **9. Ownership of Information**

- 9.1. All information, documents and materials discovered or produced by the Contractor, its officers, employees or agents shall be the exclusive property of Manitoba Housing and shall not be published or disclosed without written consent from Manitoba Housing.
- 9.2. The Contractor, its officers, employees or agents waive all moral rights under The Copyright Act (Canada) in favour of Manitoba Housing.

## **10. Use of Manitoba Housing's Premises, Keys, Records**

- 10.1. When providing Services, the Contractor and its officers, employees and agents shall comply with all security regulations in effect.
- 10.2. The Contractor shall obtain and maintain a Criminal Record Searches, Child Abuse Registry Searches, and Adult Abuse Registry Searches prior to and for the duration of the delivery of services at occupied Manitoba Housing premises and have acceptable record searches as defined in 10.3.
- 10.3. Acceptable search:
  - 10.3.1. An acceptable Criminal Record Search may contain Summary Conviction Offences providing there are only two (2) or less convictions in the last two (2) year period and the Summary Convictions are not crimes against persons or theft. Indictable Offence Convictions of any nature are not acceptable.
  - 10.3.2. An acceptable Child Abuse Registry Search and Adult Abuse Registry Search must be clear of any convictions.

- 10.4. From time to time Manitoba Housing may choose to audit the contractor records for the purpose of verifying compliance to Section 10.2. Manitoba Housing will provide a minimum five (5) day notice for scheduling the on-site audit. Manitoba Housing reserves the right to deny the Contractor's employees based on the requirements set out in this Agreement
- 10.5. The Contractor shall submit a complete list of names of the personnel who may be assigned from time to time during the term of the Agreement to perform Services for Manitoba Housing, including details regarding the work location(s) of each individual. The Contractor shall provide Manitoba Housing with written notification of changes to the list of employees prior to performing the Services on Manitoba Housing property.
- 10.6. Keys
  - 10.6.1. the Contractor shall sign the required form acknowledging responsibility for the safekeeping of all necessary keys.
  - 10.6.2. the Contractor shall be responsible to maintain the key cabinet inventory during the contract period.
  - 10.6.3. any costs related to replacements for lost keys or existing locking systems may be charged back to the Contractor if, in the sole discretion of Manitoba Housing, the loss is deemed to be due to negligence or irresponsibility on the part of the Contractor or the Contractor's staff.
- 10.7. Records – Logbooks
  - 10.7.1. The Contractor shall maintain records within designated logbooks provided by Manitoba Housing and provide these records to Manitoba Housing upon request for inspection during the term of this Agreement.
  - 10.7.2. The Contractor shall release all records and logbooks to Manitoba Housing upon completion or termination of this Agreement.
- 11. Manitoba Housing Not Liable for Injury, Etc. to Contractor**
  - 11.1. Manitoba Housing shall not be liable for any injury or for any damage to or loss of property of the Contractor, or its officers, employees or agents, caused by or in any way related to the performance of this Agreement.
- 12. Indemnification by Contractor**
  - 12.1. The Contractor shall use due care in the performance of the obligations under this Agreement to ensure that no person is injured, no property is damaged or lost and no rights are infringed.

12.2. The Contractor shall be solely responsible for the following:

12.2.1. any injury to persons (including death), damage or loss to property or infringement of rights caused by, or related to, the performance of this Agreement or the breach of any term or condition of this Agreement by the Contractor, or its officers, employees or agents; and

12.2.2. any omission or wrongful or negligent act of the Contractor, or its officers, employees or agents;

and shall save harmless and indemnify Manitoba Housing, its officers, employees and agents from and against all claims, liabilities and demands with respect to clauses 12.1 and 12.2.

**13. Insurance**

13.1. The Contractor is required to purchase and maintain throughout the term of this Agreement the following insurance coverage and provide to Manitoba Housing a Certificate of Insurance for the following:

13.1.1. commercial general liability insurance with minimum coverage limits of Two Million (\$2,000,000.00 CAD) Dollars per occurrence for the Services provided by the Contractor pursuant to this Agreement and Manitoba Housing added as additionally insured;

13.1.2. third party dishonesty, fidelity or crime endorsement in an amount of no less than five thousand (\$5,000.00 CAD) dollars;

13.1.3. automobile liability insurance covering all licensed motor vehicles owned, hired or used by the Contractor in the performance of Services, with limits of not less than Two Million (\$2,000,000 CAD) dollars per occurrence.

13.2. The Contractor is responsible for insuring its tools, equipment and other property used in the performance of Services and Manitoba Housing shall not be responsible for any damage or loss to these tools, equipment or property.

13.3. The policies listed above shall contain a clause, which states that the insurers will not cancel or materially alter the policy without giving at least thirty (30) calendar days prior notice in writing to Manitoba Housing.

**14. Force Majeure**

14.1. The Contractor is not liable for default or delay due to causes beyond the Contractor's reasonable control and without fault or negligence on the part of the Contractor.

14.2. The Contractor must give Manitoba Housing prompt written notice when any such cause appears likely to delay delivery of goods or the performance of services and must take appropriate action to avoid or minimize such delay.

## **15. Suspension**

- 15.1. Manitoba Housing may, at its sole discretion, from time to time, delay or suspend Services being provided under this Agreement, in whole or in part, in writing for such period of time as, in the opinion of Manitoba Housing, may be necessary.
- 15.2. Where there is a delay or suspension under subsection 15.1, all terms and conditions of this Agreement shall continue in full force and effect against the Contractor. The Contractor shall not be entitled to make any claim for damages by reason of the delay or suspension.

## **16. Termination**

- 16.1. The Contractor may terminate this Agreement at any time by giving sixty (60) days' notice in writing to Manitoba Housing.
- 16.2. Manitoba Housing may terminate this Agreement at any time by giving thirty (30) days' notice in writing to the Contractor.
- 16.3. In addition to its rights under subsection 16.2, and without restricting any other remedies available, Manitoba Housing may, at its sole discretion, immediately terminate this Agreement in writing if:
  - 16.3.1. in the opinion of Manitoba Housing, the Services provided by the Contractor are unsatisfactory, inadequate, or are improperly performed; or
  - 16.3.2. in the opinion of Manitoba Housing, the Contractor has failed to comply with any term or condition of this Agreement; or
  - 16.3.3. the Contractor is dissolved or becomes bankrupt or insolvent.
- 16.4. Upon termination of this Agreement, the Contractor shall cease to perform any further work. Manitoba Housing shall be under no obligation to the Contractor other than to pay, upon receipt of supporting documentation satisfactory to Manitoba Housing, such compensation as the Contractor may be entitled to receive under this Agreement for work completed to the satisfaction of Manitoba Housing up to the date of termination.

## **17. Independent Contractor**

- 17.1. The Contractor is an independent contractor, and this Agreement does not create the relationship of employer and employee, or of principal and agent, between Manitoba Housing and the Contractor or between Manitoba Housing and any officers, employees or agents of the Contractor.
- 17.2. The Contractor is responsible for any deductions or remittances, which may be required by law.

17.3. In the event it is determined that the Contractor is not an independent contractor and that this Agreement creates the relationship of employer and employee between Manitoba Housing and the Contractor, the Contractor agrees:

17.3.1. to be solely responsible and to save harmless and indemnify Manitoba Housing, its officers, employees and agents from and against all claims, liabilities, orders, costs and demands resulting from such a determination, to the extent that such an indemnity is not prohibited by law; should such a determination be made,

17.3.2. that the amount Manitoba Housing has paid to the Contractor under this Agreement shall constitute an all-inclusive payment of the Contractor's wages, vacation pay, overtime pay, benefits or other remuneration whatsoever, regardless of the day of the week on which the Services were performed or the number of hours worked in a day or week.

17.4. The Contractor shall not incur any expenses or debts on behalf of, nor make any commitments for, Manitoba Housing without first obtaining written permission from Manitoba Housing.

## **18. No Assignment of Agreement**

18.1. The Contractor shall not assign or transfer this Agreement or any of the rights or obligations under this Agreement without first obtaining written permission from Manitoba Housing.

18.2. No assignment or transfer of this Agreement shall relieve the Contractor of any obligations under this Agreement, except to the extent they are properly performed by the Contractor's permitted assigns.

18.3. This Agreement shall be binding upon the executors, administrators, heirs, successors and any permitted assigns of the Contractor.

## **19. Workers Compensation Coverage**

19.1. During the term of this Agreement, the Contractor shall be registered and in good standing with the Workers Compensation Board of Manitoba, and shall provide and maintain workers compensation coverage as required by *The Workers Compensation Act* (Manitoba). The Contractor shall provide Manitoba Housing with evidence of its good standing upon request.

## **20. Workplace Safety and Health**

20.1. The Contractor acknowledges that it may also be an "employer", a "self-employed person", a "supplier" and/or a "contractor" as the terms are defined in *The Workplace Safety and Health Act* (Manitoba). The Contractor shall comply with and undertake all duties and responsibilities as set out in the Act with respect to each and every function under the Act.



**21. Time of Essence**

- 21.1. Time shall be of the essence of this Agreement.

**22. Entire Agreement**

- 22.1. This Agreement and the following contain the entire Agreement:

22.1.1. Part A – Bid Form from the Contractor dated XXXXXX

22.1.2. Part B - Scope of Work

22.1.3. Protection of Personal Information

- 22.2. There are no undertakings, representations or promises, expressed or implied, other than those contained in this Agreement.

**23. Amendments**

- 23.1. No amendment or change to, or modification of, this Agreement shall be valid unless it is in writing and signed by both parties.

**24. Severability**

- 24.1. If any part of this Agreement is invalid, that part shall be considered separate and severable from this Agreement, and the other parts of this Agreement shall remain in force and continue to be binding upon the parties as though the invalid part had never been included in this Agreement.

**25. Applicable Law and GST**

- 25.1. This Agreement shall be interpreted, performed and enforced in accordance with the laws of Manitoba.
- 25.2. Manitoba Housing certifies that, based on a Reciprocal Tax Agreement with the Canada Revenue Agency, Manitoba Housing is relieved of paying the federal goods and services tax ("GST") and, therefore, the Services being purchased under this Agreement by Manitoba Housing are not subject to GST. The Contractor represents and warrants that GST has not been included or quoted in any fees, prices or estimates and will not include GST in any invoice provided, or claim for payment made, under this Agreement.

**26. Notices**

- 26.1. Any notice or other communication to the Contractor under this Agreement shall be in writing and shall be delivered personally to the Contractor or an officer or employee of the Contractor or sent by mail, postage prepaid, or by way of facsimile transmission or electronic mail to:

[Company Name]

[Company Address]

[Company Email]

Cell Phone: [Company Phone]

Fax: [Company Fax]

- 26.2. Any notice or other communication to Manitoba Housing under this Agreement shall be in writing and shall be delivered or sent by mail, postage prepaid, or by way of facsimile transmission or electronic mail to:

Manitoba Housing

Address

Address

Email

Fax

Attn: Contact Name

- 26.3. Any notice or communication sent by mail shall be deemed to have been received on the third business day following the date of mailing. Any notice or communication sent by facsimile or electronic mail shall be deemed to have been received on the business day following the confirmed transmission. If mail service is disrupted by labor controversy, notice shall be delivered personally.

## **27. Survival of Terms**

- 27.1. Clauses 3.2.9, 3.2.10 and 10.7, subsection 4.1 and sections 8, 9, 11, 12, 15, 17 and 27 shall survive the termination or expiration of this Agreement.

This Agreement has been executed by Manitoba Housing and by the Contractor by their duly authorized representatives on the dates noted below.

SIGNED IN THE PRESENCE OF:

FOR MANITOBA HOUSING:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

FOR THE CONTRACTOR:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date