



SCIENCE & ENGINEERING

**TERMS AND CONDITIONS: CONSULTING, PROJECTS, JOBS**

*RPC-Ts\_and\_Cs\_Consulting\_Projects\_Jobs-02*

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This Agreement is made between the New Brunswick Research and Productivity Council (in this agreement called "RPC") and the customer named below (in this Agreement called the "Client").

RPC and the Client agree with one another as follows:

1. This document and the attached Proposal together form one agreement and are referred to collectively as the "Agreement".
2. RPC shall perform the services (as defined in the Proposal) on the terms and conditions set out in this Agreement.
3. The client shall pay the fees and disbursements stipulated in the Proposal upon receipt of RPC's invoice. Any amount owing by the Client to RPC but not paid within 30 days of mailing of an invoice therefore shall bear interest until paid at the rate of 1.5% per month (18% per year). Any amount past due at the beginning of a month shall bear interest for the full month.
4. Except as expressly set forth in the Proposal, RPC does not warrant that any goods or materials supplied by RPC to the Client are merchantable or fit for any particular purpose. No warranty, promise or representation made by RPC or anyone purporting to act on behalf of RPC shall be binding on RPC unless contained in this Agreement. The Client hereby represents to RPC that this Agreement is made by the Client in the course of the Client's business and acknowledges that the rights and remedies provided by or available under the Consumer Product Warranty and Liability Act of New Brunswick are completely excluded by this Agreement.
5. RPC shall not be responsible for any loss, damage or liability resulting from use of any goods produced, manufactured, altered or improved by RPC.
6. The Client agrees that no oral or written statement of any sort containing any reference to RPC shall at any time be released, made or given by or with the consent of the Client without RPC's prior written consent.
7. Title to any report, software, photograph, drawing, plan, operating data, specifications, model, prototype, pattern, sample, copyright, design, technical information, improvement, invention, method or process or other tangible or intangible property, produced, conceived or developed or first actually reduced to practice in performing the Services (which property is referred to collectively as the "Proprietary Rights") shall, unless otherwise provided in the Proposal, be dealt with as follows :
  - (a) to the extent such Proprietary Rights are capable of being protected, at or prior to completion of the Services, by registration or filing under the Canadian laws relating to patents, copyright, trade marks or industrial designs (the "Registrable Proprietary Rights"), those Registrable Proprietary Rights shall vest in the Client on the day following receipt by RPC of all amounts owing to RPC by the Client, provided the Client has duly performed all the Client's other obligations under this Agreement;

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- (b) any other Proprietary Rights, including any registrable Proprietary Rights that fail to vest in the Client, shall vest in and remain absolutely and exclusively the property of RPC.
8. RPC agrees to protect the Client against unauthorized disclosure by RPC's employees and agents of confidential information entrusted by the Client to RPC by taking reasonable precautions against disclosure including requiring those employees and agents who are given access to the Client's confidential information to enter into non-disclosure agreements. RPC's obligations of confidentiality with respect to confidential information emanating from the Client shall remain in effect until the earlier of 15 years from the date hereof or the date such information falls into the public domain through no fault of RPC; but these obligations do not extend to:
- (a) information that has been or is hereafter published without breach of any obligations hereunder;
  - (b) information that was in RPC's possession prior to receipt therefore from the Client;
  - (c) information that RPC acquires from a source other than the Client.
  - (d) Note that for Confidential Information that pertains to ISO 17020 Medical Gas Inspections and related services, the limit of 15 years on confidentiality does not apply, and that in these cases information about the Client received from third parties shall be treated as confidential, unless it is later found to have been published per 8.a), above or meets the criteria of 8.b), above. The other terms of this clause shall remain applicable to ISO 17020 Medical Gas Inspections and related services.
9. Unless otherwise stipulated in the Proposal, RPC's liability to the Client is limited to losses incurred by the Client as a direct result of negligent performance by RPC of the Services hereunder provided that RPC's liability shall in no event exceed the total amount actually paid by the Client to RPC pursuant to Part 3 above; and further provided that RPC's liability shall be excluded entirely unless the Client's claim is made in writing within two years of the completion of the Services in respect of which the claim is made. The Client acknowledges that the price charged by RPC for the Services has been kept lower than it would otherwise be if RPC's liability exceeded the limits referred to in this paragraph.
10. Due to the potential implications of a non-conformity or hazard that is identified by RPC, including those observed by RPC outside the normal inspection activity, Medical Gas Inspection Clients agree (in accordance with SCC Requirements and Guidance – Inspection Body Accreditation Program Clause 9.1.4 and ISO/IEC Guide 27), by signing this Agreement, as follows:
- (a) That they will expediently and thoroughly address any resulting non-conformities or other hazards identified by RPC, including those observed by RPC outside the normal inspection activity.
  - (b) That they accept that RPC is under an obligation to inform the relevant AHJ of any known safety related hazards or safety related recalls.
  - (c) That the client will follow any follow-up/corrective actions mandated by the relevant AHJ, and that RPC may be involved in these follow-up steps.

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- (d) That they will inform any other parties of the hazard or non-conformity if it may affect others, at minimum in accordance with the laws and regulations that apply to them.
  - (e) That, in any case where an inspection or re-inspection is required, the Client will hire either RPC or another accredited body to perform the inspection or re-inspection, and will retain the results of the inspection or re-inspection for such period as the laws and regulations pertaining to them require.
  - (f) That these steps shall repeat until the non-conformity or hazard is resolved.
  - (g) Medical Gas Inspection Clients agree to hold RPC harmless and to indemnify RPC from any and all liabilities that may result from non-conformities or other hazards identified by RPC.
11. This agreement sets forth and constitutes the entire agreement and understanding of the Parties with respect to the subject matter of RPC's quotation or proposal. This agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, regarding the subject matter of RPC's quotation or proposal, unless otherwise agreed in writing by a member of RPC's Executive Management. By signing RPC's quotation or proposal, or by otherwise proceeding with the related work, the Parties further agree that this agreement will not be superseded by additional or subsequent terms and conditions unless the additional or subsequent terms and conditions are agreed to in writing by a member of RPC's Executive Management.
12. This Agreement is governed by and will be interpreted in accordance with the laws in force in the Province of New Brunswick and the parties agree to submit to the exclusive jurisdiction of the courts of New Brunswick.