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THIS AGREEMENT MADE this _____ day of _____, 20____
(the "Effective Date")

BETWEEN:

THE GOVERNMENT OF THE NORTHWEST TERRITORIES
as represented by the Department of _____
(the "GNWT")

AND:

(CONTRACTOR)
of the City of _____ in the _____
(the "Contractor")

(hereinafter referred to collectively as the "Parties" and individually as a "Party")

WHEREAS the GNWT issued a Request for Proposals, reference number: [\[Click here to enter Event ID\]](#) (the "RFP"), for [\[add description of services\]](#);

AND WHEREAS the Contractor responded to the RFP by way of a formal proposal (the "Proposal") dated [\[Click here to enter a date\]](#);

AND WHEREAS the Parties have agreed to enter into this Services Agreement in which the Contractor will provide certain Services in accordance with the terms hereof;

NOW THEREFORE, in consideration of the mutual covenants set forth herein and the exchange of other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties agree as follows:

DEFINITIONS:

In this Agreement, including the Appendices, unless the context otherwise requires, or unless expressly stated:

"Agreement" means this agreement and the attached appendices;

"Access to Information and Protection of Privacy Act" means the *Access to Information and Protection of Privacy Act*, S.N.W.T.1994, c.20;

"Financial Administration Act" means the *Financial Administration Act*, S.N.W.T. 2015, c.13;

"Main Body" of the Agreement means this Agreement minus the appendices;

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1. SERVICES AND PAYMENT:

- 1.1. The Contractor agrees to provide to the GNWT those services set out in the Terms of Reference (attached as Appendix " ") and the relevant sections of the Contractor's proposal (attached as Appendix " "), to the full satisfaction of the GNWT (hereinafter the "Services").
- 1.2. The Services shall be provided by the Contractor at the rate mutually agreed to by both Parties and attached as Appendix " ", and except as may be agreed upon between the GNWT and the Contractor, the total amount payable to the Contractor for fees shall not exceed _____ Dollars (______).
- 1.3. The GNWT agrees to pay the Contractor, in addition to the Contractor's fees, the expenses set forth in Appendix " " attached hereto.

NOTE: If the contract is based on a lump sum (including all expenses) than clause 1.2 should be amended to state "the total amount payable to the Contractor for fees and expenses shall not exceed..." Clause 1.3 should then be deleted. If expenses are separated (i.e. an "as required" contract where you are reimbursing expenses separately) than 1.2 and 1.3 will remain as written here. [DELETE NOTE]

- 1.4. From time to time, the GNWT may add to, delete from, or revise the Services by providing written notice to the Contractor, providing such additions, deletions, or revisions are reasonable and do not fundamentally alter the Agreement and the Contractor, in consultation with the GNWT, shall determine how such additions, deletions or revisions shall be implemented.
- 1.5. The Contractor and the GNWT have mutually agreed upon the following terms: [Delete 1.5 if there are no additional mutually agreed terms.] **DELETE NOTE**

2. TERM:

- 2.1. This Agreement shall commence on the Effective Date and shall continue in force until _____ unless otherwise terminated or extended in accordance with the terms of this Agreement.
- 2.2. This Agreement may be extended, at the sole discretion of the GNWT, for _____ additional terms of one (1) year each. [Delete 2.2 if an extension is not applicable. Renewal terms must be reviewed by the Manager, Procurement Shared Services before inclusion] **DELETE NOTE**

3. ENTIRE AGREEMENT:

- 3.1. This This Agreement and the attached appendices hereto comprise the entire agreement between the Parties hereto and supersede and shall take effect in substitution for all previous agreements and arrangements whether written or implied between the Parties relating to the Services. Where there is a conflict between the Main Body of this Agreement and any of the appendices, the terms of the Main Body of this Agreement shall prevail, to the extent of the conflict. In the event of a conflict between the Request for Proposal and the Contractor's proposal, the terms of the Request for Proposal shall prevail.

4. CONTRACTOR RESPONSIBILITIES:

- 4.1. The Contractor shall defend, indemnify and hold harmless the GNWT, its Ministers, officers, employees, servants and agents from and against all claims, actions, causes of action, demands, costs, losses, damages, expenses, suits or other proceedings by whomever made, brought or prosecuted in any manner based upon or related wholly or partially to the acts or omissions of the Contractor in its performance of this Agreement. The obligation to indemnify and hold harmless shall not apply to the extent that a court of competent jurisdiction finally determines that such losses or damages were caused by the intentional or negligent acts or omissions of the GNWT, its Ministers, officers, employees, servants or agents.
- 4.2. The Contractor shall be liable to the GNWT for any loss or damage to property or equipment that is supplied to or placed in the care, custody or control of the Contractor for use in connection with the Agreement whether or not such loss or damage is attributable to causes beyond the Contractor's control.
- 4.3. The Contractor shall not assign, transfer or sub-contract any of the Services, or any part thereof, to any Party without written consent from the GNWT. If, with the consent of the GNWT the Services or any part thereof is performed by a sub-contractor, the Contractor shall be fully responsible to the GNWT for the acts and omissions of the sub-contractor and all its officers, servants and agents. In the case of a proposed assignment of monies owing to the Contractor under this Agreement, the Contractor acknowledges that the consent in writing of the Comptroller General of the GNWT must be obtained for such assignment in accordance with s.130(3) of the *Financial Administration Act*.
- 4.4. The Contractor shall give notice to the GNWT immediately of any claim, action, or other proceeding made, brought, prosecuted, or threatened in writing to be brought or prosecuted that is based upon, occasioned by or in any way attributable to the performance or non-performance of the Contractor in its performance of the Services under this Agreement.
- 4.5. The Contractor shall comply with all legal requirements, and shall have and maintain, at its cost, all permits and licences required for its performance of the Services.
- 4.6. The Contractor will not provide any Services to any person in circumstances, which, in the reasonable opinion of the GNWT, would likely give rise to a conflict of interest between the Contractor's obligations to that person and the Contractor's obligations to the GNWT under this Agreement.
- 4.7. Upon completion of the Services the Contractor shall deliver to the GNWT, if requested in writing, in addition to anything specifically required herein, all correspondence, documents, papers and property belonging to the GNWT which may come into the Contractor's possession or control by virtue of this Agreement.
- 4.8. The Contractor declares that the Contractor has no pecuniary interest in the business of any third Party that would cause a conflict of interest in carrying out the Services. In the event such an interest is acquired, in the GNWT's opinion,

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during the life of this Agreement the Contractor shall be required to remedy the conflict of interest forthwith to the GNWT's full satisfaction. If the Contractor refuses to remedy the conflict of interest the GNWT may terminate this Agreement.

5. FINANCIAL PROVISIONS:

- 5.1. Upon completion of the Services, or any agreed upon part thereof, and provided all terms and conditions hereof on the part of the Contractor have been complied with, the GNWT shall pay each invoice from the Contractor within thirty (30) calendar days after its receipt, or thirty (30) calendar days after delivery of the Services, whichever is later. Invoices from Northern Contractors (as defined by the GNWT Business Incentive Policy, 63.02) will be paid twenty (20) calendar days after receipt of the invoice, or twenty (20) calendar days after delivery of the Services, whichever is later.
- 5.2. The Contractor may invoice the GNWT from time to time. All accounts shall be itemized giving details with dates, activities and time spent on each activity. The amounts will be based upon the Contractor's rates as represented in Appendix _.
- 5.3. The Contractor shall, with the submission of each invoice claim, deliver to the GNWT a completed Substantiation of BIP Content Report form and Statutory Declaration form, if the total value of the contract exceeds \$500,000.00.

Invoices that do not have a Substantiation of BIP Content Report form and Statutory Declaration form will be returned to the Contractor and may encounter delay in payment. Microsoft Excel versions of these forms can be accessed at: <https://www.fin.gov.nt.ca/en/services/procurement-shared-services/forms>

- 5.4. All invoices are to be addressed and sent to:

Financial Shared Services
Government of the Northwest Territories
P.O. BAG SERVICE 1511
YELLOWKNIFE, NT X1A 2R3

Email: financial_sharedservices@gov.nt.ca

Invoices should clearly indicate the reference number [Click here to enter text](#) to avoid delay in payment. Invoices that do not indicate the reference number may be returned to the Contractor.

- 5.5. Payment is subject to Section 97 of the *Financial Administration Act*, S.N.W.T. 2015, c.13, as amended, which reads as follows:

"It is a condition of every contract and other agreement made by or on behalf of Government requiring an expenditure that an expenditure pursuant to the contract or agreement will be incurred only if there is a sufficient uncommitted balance in the appropriation for the department for the Government fiscal year in which the expenditure is required under the contract or agreement"

- 5.6. The GNWT certifies that the Services to be purchased from the Contractor will be purchased with government funds and are not, therefore, subject to the Goods and Services Tax (GST) or the Harmonized Sales Tax (HST). Even though the Contractor will not charge GST or HST, the Contractor may be eligible to receive

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input tax credits with respect to any GST or HST liability incurred in providing the Services if such a refund would be available in other circumstances. It is the sole responsibility of the Contractor to determine if input tax credits are available in respect of the provision of the Services to the GNWT. The GNWT will not compensate the Contractor for any GST or HST liability incurred in the provision of the Services.

- 5.7. The GNWT, having given written notice of a breach, may withhold or hold back in whole or in part any payment due the Contractor without penalty, expense or liability, if in the opinion of the GNWT, the Contractor has failed to comply with or has in any way breached an obligation of the Agreement. Any such holdbacks shall continue until the breach has been rectified to the satisfaction of the GNWT.
- 5.8. The GNWT may set off any payment due to the Contractor pursuant to this Agreement against any monies owed by the Contractor to the GNWT only in accordance with Section 57 of the NWT *Financial Administration Act*, which provides that:

The Comptroller General may retain money by way of deduction or set-off out of money payable to a person by Government out of the Consolidated Revenue Fund or by a public agency, if (a) that person owes money to Government or a public agency; (b) Government or a public agency has made an overpayment to that person; or (c) that person received an accountable advance and has not repaid or accounted for it.

- 5.9. The GNWT may, in order to discharge lawful obligations or to satisfy lawful claims against the Contractor or a subcontractor arising out of the execution of the Services pay any amount, which is due and payable to the Contractor under the Agreement, if any, directly to the obligee of and the claimants against the Contractor or subcontractor.

6. TERMINATION:

- 6.1. The GNWT may terminate this Agreement at any time in the event that, in the opinion of the GNWT, the Contractor is unable to perform the Services, the Contractor's performance of the Services is faulty, the Contractor becomes insolvent or commits an act of bankruptcy, any actual or potential labour dispute delays or threatens to delay timely performance of the Services, or the Contractor defaults or fails to observe the terms and conditions of the Agreement in any material respect.

7. CONFIDENTIALITY:

- 7.1. The Contractor shall ensure that all and any information related to the affairs of the GNWT to which the Contractor becomes privy as a result of this Agreement, is confidential and shall be treated as confidential during and after the term of this Agreement and shall not be divulged, released or published without the prior written approval of the GNWT.

8. GENERAL TERMS:

- 8.1. This Agreement shall be interpreted and governed in accordance with the laws of the Northwest Territories and the laws of Canada as they apply in the Northwest Territories.
- 8.2. The Contractor is an independent Contractor, and nothing in this Agreement shall be construed or deemed to create the relationship of employee and employer or of principal and agent between the GNWT and the Contractor. The Contractor is solely responsible for payments of all statutory deductions or contributions including but not limited to pension plans, employment insurance, income tax, workers' compensation and Payroll Tax.
- 8.3. There shall be no waiver of a breach of any term or condition of this Agreement unless the waiver is in writing and signed by the Party, which has not committed the breach. A waiver with respect to any specific breach shall not affect the rights of the Parties relating to other or future breaches.
- 8.4. The GNWT, its servants and agents, shall not be liable to the Contractor, its officers, servants, agents or sub-contractors for any loss, damage or injury (including death) or for any loss or damages to the property of the Contractor, or property of others for which the Contractor is responsible, however arising or in any manner based upon, arising from or attributable to the performance of this Agreement; and the Contractor waives all rights and recourse against the GNWT for any such loss, damage, or injury or loss or damage to the Contractor's property or property of others for which the Contractor is responsible.
- 8.5. This Agreement may be amended, extended or renewed in writing only.
- 8.6. 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 whatsoever, then that particular provision shall be deemed severed from the remainder of this Agreement and all other provisions shall remain in full force.
- 8.7. Time is of the essence of this Agreement, both with respect to times, dates, or periods specified in the Agreement; and at any times, dates, or periods that may be substituted for any of those in the Agreement, by agreement between the GNWT and the Contractor.
- 8.8. If the Contractor is delayed in the performance of the Services as a result of new COVID-19 measures that were not foreseen at the time of the bid that negatively impact the Contractor, the Contractor may notify the GNWT and the timelines in the Agreement, including the completion date, shall be extended for such reasonable time as the Owner may recommend in consultation with the Contractor. The Contractor shall not be entitled to payment for costs incurred by such delays.
- 8.9. No implied terms or obligations of any kind by or on behalf of either Party to this Agreement shall arise from anything in the Agreement and the express covenants and agreements therein contained and made by the Parties to this Agreement are

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the only covenants and agreements upon which any rights against the Parties are to be founded.

- 8.10. The failure of either Party at any time to require the performance of any provision or requirement of this Agreement shall not affect the right of that Party to require the subsequent performance of that provision or requirement.
- 8.11. All information, including documents, submitted to the GNWT are in the custody and control of the GNWT and thus subject to the protection and disclosure provisions of the *Access to Information and Protection of Privacy Act*. This Act allows any person a right of access to the records in the custody or under the control of the GNWT subject to limited and specific exemptions.
- 8.12. The provisions of this Agreement that by their nature extend beyond the expiration or termination of this Agreement shall survive any termination or expiration of this Agreement.
- 8.13. Title to any report, drawing, photograph, plan specification, model, prototype, pattern, sample, design, logo, technical information, invention, method or process and all other property, Services or materials which are produced by the Contractor in performing the Agreement or conceived, developed or first actually reduced to practice in performing the Agreement (herein called "the property") shall vest in the GNWT and the Contractor hereby absolutely assigns to the GNWT the copyright in the property for the whole of the term of the copyright.
- 8.14. The Parties and their employees, agents and representatives shall observe and be bound by the Harassment Free and Respectful Workplace Policy of the GNWT as it applies to this Agreement. A copy of the Harassment Free and Respectful Workplace Policy can be found at the following website:
<https://www.fin.gov.nt.ca/en/resources/harassment-free-and-respectful-workplace-policy>
The Contractor shall, upon the request of the GNWT, remove from any place where the Services under this Agreement are being performed, any person employed by the Contractor for the purpose of this Agreement who, in the opinion of the GNWT, has violated the Harassment Free and Respectful Workplace Policy.
- 8.15. This Agreement shall enure to the benefit of and be binding upon the administrators, executors, successors, and assigns of Contractor and the successors and assigns of the GNWT.
- 8.16. The Contractor shall keep proper accounts and records of this Agreement for a period of three (3) years after the expiry of this Agreement. At any time during the term of this Agreement, or the three (3) years after the expiry of this Agreement, the Contractor, upon request of the GNWT shall produce such accounts and records.
- 8.17. In the event the Contractor is, in the opinion of the GNWT, in default in respect of any of the obligations under this Agreement hereunder the GNWT may do any act it deems necessary to rectify such default and may deduct or set off the cost of such rectification against any amount or payment due to the Contractor.

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- 8.18. References to a statute or regulation shall be a reference to such statute or regulation, as amended or re-enacted from time to time and every statute or regulation that may be substituted therefore, and to all subsidiary instruments made pursuant to such statute or regulation.
- 8.19. In accordance with the Northwest Territories Manufactured Products Policy, the Contractor is required to utilize, whenever possible, approved Northern Manufacturers for any products that comply with specifications and applicable codes. The Approved Northern Manufacturers Product List may be viewed at: <http://www.iti.gov.nt.ca/en/services/nwt-manufactured-products-policy>
- 8.20. There shall be no presumption that any ambiguity in this Agreement is resolved in favour of either Party, and the *contra proferentem* rule shall not be applied in interpretation of this Agreement.

9. INSURANCE:

Note: Contracts that will be used for higher risk activities (e.g. risk of environmental contamination, etc.), may require additional insurance provisions. Please contact the Manager, Procurement Shared Services, if you feel that the contract may require additional insurance. DELETE NOTE

- 9.1. The Contractor shall, without limiting its obligations or liabilities hereunder, obtain, maintain, and pay for during the currency of the Agreement, and any renewal hereof, the following insurance with limits not less than those shown:
 - a) Workers' Safety and Compensation Commission (WSCC) insurance covering all employees engaged in the Services in accordance with the statutory requirements of the Territory or Province having jurisdiction over such employees. If the Contractor is assessed any additional levy, extra assessment or super assessment by a Workers' Compensation Board as a result of an accident causing injury or death to an employee of the Contractor or subcontractor, or due to unsafe working conditions, then such levy or assessment shall be paid by the Contractor at its sole cost and is not reimbursed by the GNWT.
 - b) Employer's liability insurance with limits not less than \$500,000.00 for each accidental injury to or death of the Contractor's employee engaged in the Services. If WSCC insurance exists, then in such event, the aforementioned Employer's Liability insurance shall not be required but the Commercial General Liability policy referred to in item (e) herein shall contain an endorsement providing for Contingent Employers' Liability insurance.
 - c) Motor Vehicle, water craft and snow craft standard liability insurance covering all vehicles and/or craft owned or non-owned, operated and/or licensed by the Contractor and used by the Contractor in the performance of this Agreement in an amount not less than one million dollars (\$1,000,000.00) per occurrence for bodily injury, death and damage to property; and with respect to buses used by the Contractor in the performance of this Agreement limits of not less than one million dollars (\$1,000,000.00) for vehicle hazards and not less than one million dollars

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(**\$1,000,000.00**) for Bodily Injury to or death of one or more passengers and loss of or damage to the passengers property in one accident.)

- d) Aircraft Liability insurance covering all aircraft, owned or non-owned, operated and/or licensed by the Contractor and used by the Contractor in the performance of this Agreement with a bodily injury, death and property damage and passenger hazard limit of five million dollars (**\$5,000,000.00**) (inclusive).
- e) Commercial General Liability Insurance with limits of not less than two million dollars (**\$2,000,000.00**) (inclusive) per occurrence for bodily injury, death and damage to property including loss of use thereof. Such insurance shall include but not be limited to the following terms and conditions:
 - Products & Completed Operations Liability *
 - contractor's Protective Liability
 - Blanket Contractual Liability
 - Broad Form Property Damage
 - Personal Injury Liability
 - Cross Liability
 - Medical Payments
 - Non owned Automobile Liability *
 - Contingent Employers Liability *
 - Employees as Additional Insured *
- f) Professional Liability Insurance, if applicable, with limits of not less than one million dollars (**\$1,000,000.00**) per claim and two million dollars (**\$2,000,000.00**) in the annual aggregate, to cover claims arising out of the rendering of or failure to render any professional service under this Agreement.
- g) Motor Truck Cargo insurance, against all risks of physical loss or damage in an amount not less than **\$500,000.00**, covering the property of the GNWT while in the care and custody of the Contractor during any transit, warehousing and delivery services required in the performance of this Agreement.

All policies shall provide that thirty days written notice be given to the GNWT prior to any material changes or cancellations of any such policies.

The policies shall name the GNWT and all subcontractors as additional insured only with respect to the terms of this Agreement (except on WSCC insurance and Professional Liability insurance) and shall extend to cover the employees of the insured hereunder.

The Contractor shall be responsible for any deductibles, exclusions and/or insufficiency of coverage relating to such policies.

The Contractor shall deposit with the GNWT prior to commencing with the Services a certificate of insurance evidencing the insurance(s) required by this Agreement in a form satisfactory to the GNWT and with insurance companies licensed to conduct business in Canada that are satisfactory to the GNWT.

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10. NOTICE AND ADDRESS:

10.1. All notices between the GNWT and the Contractor may be sent by registered or certified mail, email, or by facsimile transmission, addressed to the Party to whom it is sent at the address shown below or such other address as either Party may specify to the other in writing. All notices, invoices or other documents shall be deemed to have been received on the date of delivery, when transmitted by email or facsimile transmission; or on the fifth business day, when sent by registered or certified mail.

i. If to the Government of the Northwest Territories:

[Click here to enter title](#)
[Click here to enter division](#)
[Click here to enter department](#)
Government of the Northwest Territories
[Click here to enter street address](#)
P.O. BOX 1320
YELLOWKNIFE, NT X1A 2L9

Attention: [Click here to enter contact name](#)

Email: [Click here to enter email](#)
Phone: [\(867\) number](#)
Facsimile: [\(867\) number](#)

ii. If to the Contractor:

[Click here to enter company name](#)
[Click here to enter street address](#)
[Click here to enter mailing address](#)
[Click here to enter city, territory/province and postal code](#)

Attention: [Click here to enter contact name](#)

Email: [Click here to enter email address](#)
Phone: [number](#)
Facsimile: [number](#)

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IN WITNESS WHEREOF the Contractor has signed this Agreement on the ____ day of
_____, 20___.

CONTRACTOR

Per: _____
Authorized Signature

Print Name

Title

Witness

IN WITNESS WHEREOF the GNWT has signed this Agreement on the ____ day of _____,
20___.

**GOVERNMENT OF THE NORTHWEST
TERRITORIES**

Per: _____
Authorized Signature

Print Name

Title

Witness