

## STANDING OFFER AGREEMENT

**THIS AGREEMENT** is made as of the **[DATE]**.

**BETWEEN:**

**QIKIQTANI INUIT ASSOCIATION**, a society incorporated under the laws of Nunavut, having its head office in the City of Iqaluit, Nunavut, (hereinafter referred to as “QIA”)

-- and --

**[NAME]**, (a corporation) having an address of **[ADDRESS]** (hereinafter referred to as the “Contractor”)

### **WHEREAS**

QIA represents Inuit of the Qikiqtani region of Nunavut, and the QIA Executive Director (herein referred to as the “Executive Director”) is responsible for overseeing the administration, programs and strategic plan of QIA; and

QIA requires the services of consultants from time to time, and on **[date]**, 2017 issued a request for proposals **[name and number]** (“the RFP”) and

The Contractor provided a detailed proposal dated **[date]** (“the Proposal”) outlining its ability to provide **[type of service]** and was a successful proponent under the RFP; and

QIA wishes to retain the Contractor to provide certain specific services and perform specific tasks for the Executive Director as described herein, and the Contractor wishes to provide the specific services and to perform the specific tasks as described as aforesaid, on the terms and subject to the conditions specified herein;

**THEREFORE**, in consideration of the respective covenants and agreements of the parties contained herein, the sum of one dollar paid by the parties to each other, and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by each party) QIA and the Contractor agree as follows:

### **Services**

1. The Contractor will supply **[type of services]** from time to time, which services will be specifically set out in a Service Request agreed by both parties, a sample form of which is attached hereto as Schedule A.
2. No goods or services will be provided and no payments will be made except as set out in a complete and agreed Service Request. QIA does not promise any work to any Proponent, and

does not guarantee a minimum volume of Service Requests. The Contractor has no legal or equitable rights or privileges for any individual contract work or services until a specific Service Request for the work is signed.

3. The Services provided by the Contractor shall be provided in a professional manner, of a high grade, nature, and quality, and to a standard no less than that promised in the Proposal. The Services shall be performed in a timely manner and shall meet deadlines agreed between the Contractor and QIA.
4. The Contractor may not assign this Agreement, delegate the performance of the Services, or subcontract to agents and subcontractors without the prior written consent of QIA.

### **Call-Up Procedure**

5. The Contractor will not provide services, and QIA will not pay for services, except as provided for in an agreed and complete Service Request. The Service Request is not complete unless it includes
  - i. the scope of work, or description of the deliverable,
  - ii. total price,
  - iii. timing or deadlines,
  - iv. the name of the person in QIA to whom the Contractor reports,
 and
  - v. is signed by both parties.
6. The Contractor's work will be performed and billed in accordance with the following documents, and in case of a conflict, in the following order:
  - i. the Service Request, and
  - ii. this Agreement.
7. The Contractor shall report to the person named in the Service Request. The Contractor shall provide written and verbal reports of their activities as requested, and shall participate in regular meetings with QIA personnel, agents, and other QIA contractors as directed by the Executive Director from time to time.

### **Term and Termination**

8. This Agreement is effective as of the date first signed below, and shall continue until 31 January 2021.
9. This Agreement may be extended for a maximum of two additional one-year terms by written agreement with both parties.
10. Either party may terminate this Agreement on thirty days written notice. If at the time of this notice there is an agreed Service Request on which work is not complete, the Contractor must complete the work.
11. Termination of this Agreement or termination of Services shall not affect the provisions under Sections 18 to 26 below, which shall survive any such termination.

## **Payment**

12. The Contractor will be paid for the Services Agreement pursuant to the specific prices set forth in its Proposal, attached hereto as Schedule "B". Goods and Services Tax (GST) shall be in addition to the Prices. The Contractor's rates are fixed for the term of this Agreement.
13. No payment will be made for remedying errors or omissions for which the Contractor is responsible.
14. Excepting GST, QIA will not withhold, be responsible for or indemnify the Contractor for any other taxes in respect of such remuneration.
15. The Contractor warrants that it is a GST registrant and agrees to remit all GST charged on its invoices to Canada Revenue Agency in a timely manner, and will be solely responsible for any other taxes whatsoever levied upon the Contractor in respect of the Services.

## **Insurance**

16. The Contractor shall maintain at its own expense the following insurance:
  - a. Where available, professional liability insurance with limits of not less than one million dollars per claim; or
  - b. Where no professional liability insurance is available, commercial general liability insurance with limits of not less than one million dollars inclusive per occurrence for bodily injury, death, and damage to or loss of use of property;
  - c. Nunavut Workers Compensation and Safety coverage. Coverage from another province or territory is not effective in Nunavut.
17. The Service Request may establish higher insurance coverages.

## **Confidentiality and Ownership of Information**

18. The Contractor recognizes and acknowledges that QIA possesses certain confidential information that constitutes a valuable, special, and unique asset. As used herein, the term "confidential information" includes all information and materials belonging to, used by, or in the possession of QIA relating to its services, programs, processes, technologies, inventions, patents, ideas, contracts, financial information, developments, program strategies, costing, current and prospective associates, development plans, and trade secrets of every kind and character, but shall not include (a) information that was already within the public domain at the time the information is acquired by the Contractor, or (b) information that subsequently becomes public with the consent of QIA. The Contractor agrees that all of the confidential information is and shall continue to be the exclusive property of QIA, whether or not prepared in whole or in part by the Contractor and whether or not disclosed to or entrusted to the Contractor's custody. The Contractor agrees that the Contractor shall not, at any time following the execution of this Agreement, use or disclose in any manner any confidential information of QIA.

19. To the extent that any inventions, technologies, reports, memoranda, studies, writings, articles, plans, designs, specifications, exhibits, software code, or other materials prepared by the Contractor in the performance of the Services under this Agreement include material subject to copyright protection, such materials shall be the sole and exclusive property of QIA and it hereby assigns to QIA all intellectual property and waives any moral rights it has in or to such intellectual property. For the purposes of U.S. copyright law the materials have been specifically commissioned by QIA and shall be deemed “work made for hire” as such term is defined pursuant to U.S. copyright laws. To the extent any such materials do not qualify as “work for hire” under applicable law, and to the extent they include material that is subject to copyright, patent, trade secret, or other proprietary rights protection, the Contractor hereby irrevocably and exclusively assigns to QIA, its successors, and assigns, all right, title, and interest in and to all such materials. Where any of the Contractor’s rights, including without limitation any moral rights, are not subject to assignment hereunder pursuant to applicable laws, the Contractor hereby irrevocably and unconditionally waives all enforcement of such rights. The Contractor shall execute and deliver such instruments and take such other actions as may be required to carry out and confirm the assignments and waivers contemplated by this paragraph and the remainder of this Agreement. All documents, reports, studies, magnetically or optically encoded media, and other tangible materials of any kind created by the Contractor as part of the Services under this Agreement shall be owned by QIA and shall remain the property of QIA following termination.
20. The Contractor specifically acknowledges and agrees that the remedy at law of damages for any breach of any provision of this Agreement will be inadequate, and that QIA, in addition to any other relief available to it, shall be entitled to temporary and permanent injunctive relief without the necessity of proving actual damage, and the Contractor hereby expressly consents to QIA obtaining from a court of competent jurisdiction any temporary or permanent injunctive relief in the event of any breach of this Agreement.
21. The Contractor agrees that upon termination of this Agreement, the Contractor will return to QIA all drawings, reports, blueprints, notes, memoranda, specifications, designs, writings, software, devices, documents and any other material containing or disclosing any confidential or proprietary information of QIA or created for QIA pursuant to this Agreement, and shall not retain any copies of such materials without the express written consent of QIA.
22. The Contractor warrants that:
  - (a) The Contractor’s agreement to perform the Services pursuant to this Agreement does not violate any agreement or obligation between the Contractor and a third party; and
  - (b) The Services as delivered to QIA will not infringe any copyright, patent, trade secret, or other proprietary right held by any third party.
23. The Contractor shall, during and after termination of the Services, upon reasonable notice, furnish such information and proper assistance to QIA as may reasonably be required by QIA in connection with the Services performed by the Contractor. Any such further assistance requested by QIA following termination shall be furnished at levels of reasonable compensation, taking into consideration the Prices paid pursuant to this Agreement, and the nature and scope of the additional services requested by QIA. The terms and provisions of this

Agreement, except as to the definition of the Services and the Prices, shall continue to apply in respect of such further assistance.

### **Remedies**

24. The Contractor agrees to indemnify, defend, and hold QIA and its successors, officers, directors, agents and employees and other contractors harmless from any and all actions, causes of action, claims, demands, cost, liabilities, expenses and damages (including legal costs) arising out of, or in connection with any breach of this Agreement by the Contractor.
25. The rights and remedies provided by this Agreement are cumulative, and the exercise of any right or remedy by either party hereto (or by its successor), whether pursuant to this Agreement, to any other agreement, or to laws of general application, shall not preclude or waive its right to exercise any or all other rights and remedies.
26. No failure or neglect of either party hereto in any instance to exercise any right, power or privilege hereunder or under law shall constitute a waiver of any other right, power or privilege or of the same right, power or privilege in any other instance. All waivers by either party hereto must be contained in a written instrument signed by the party providing the waiver and, in the case of QIA, by the Executive Director or other person duly authorized by QIA.

### **Relationship of Parties**

27. The Contractor is an independent contractor of QIA. Nothing in this Agreement shall be construed as creating a partnership or joint venture between them or providing a guarantee of future engagement, or as a limitation upon QIA's sole discretion to terminate this Agreement at any time without cause. The Contractor further agrees to be responsible for all of the Contractor's federal, provincial and territorial taxes, assessments, levies, withholdings, insurance, and other costs in respect of the Contractor's own employees and obligations to its agents and subcontractors. The Contractor shall provide QIA with reasonable proof of the payment of its own employees, agents and subcontractors at the reasonable request of QIA.
28. The Contractor is free to engage in other independent contracting activities, provided that the Contractor does not engage in any such activities which are inconsistent with or in conflict with this Agreement or the best interests of QIA, or that so occupy the Contractor's attention as to interfere with the proper and efficient performance of the Services. The Contractor agrees not to induce or attempt to influence, directly or indirectly, any employee or agent of QIA to terminate his/her employment or services and work for the Contractor or any other person.

### **Notices**

29. Any notice, request, consent or approval required or permitted to be given under this Agreement or pursuant to law shall be sufficient if in writing, and sent prepaid by express post or registered mail, to the Contractor's head office, or to QIA's head office, as the case may be. Notice shall be effective on the 10<sup>th</sup> business day following the giving of the written notice to Canada Post for delivery. Notice may also be provided by facsimile transmission to the head

office of either party, or by e-mail to the Executive Director, on behalf of QIA, and to the person so designated by the Contractor to receive notices, on behalf of the Contractor.

**Miscellaneous**

- 30. Headers in this Agreement are for information only.
- 31. This Agreement shall be to the benefit of and shall be binding upon the parties hereto and their respective legal administrators, successors and permitted assigns.
- 32. This Agreement shall be governed by and construed in accordance with the laws of the Territory of Nunavut and the federal laws of Canada applicable therein. The parties agree irrevocably to conform to the exclusive jurisdiction of the Courts of Nunavut.
- 33. If any Section or any portion of any Section of this Agreement is determined to be unenforceable or invalid for any reason, that unenforceability or invalidity shall not affect the enforceability or validity of the remaining portions of this Agreement and such unenforceable or invalid Section or portion thereof shall be severed from the remainder of this Agreement.

**Agreement May be Signed in Counterparts and Delivered Electronically**

- 34. This Agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original, and the counterparts together shall be deemed to be one instrument.
- 35. Signed counterparts to this Agreement may be delivered by facsimile or PDF or such similar device, and that the reproduction of signatures by facsimile, PDF, or such similar device will be treated as binding as if originals. Each party undertakes to provide the other party with a copy of the Agreement bearing original signatures on demand.

**IN WITNESS WHEREOF** the parties have hereby duly executed this agreement:

**Per: QIKIQTANI INUIT ASSOCIATION**

_____	_____
Name	Title
_____	_____
Signature	Date

**Per: [NAME of Contractor]**

By signing, I confirm that I am authorized to enter into this Agreement on behalf of the Contractor, and do so.

_____	_____
Name	Title
_____	_____
Signature	Date