

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**



Request for Proposals: 2019-17-P

**Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

Issue Date: May 20, 2019

Closing Date: June 10, 2019 before 2:00 p.m. (NL Time)

WorkplaceNL

2019-17-P

**Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

SECTION 1	OVERVIEW AND SCOPE OF SERVICES	1
	1.1 Request for Proposal Summary	
	1.2 Glossary of Terms	
	1.3 Intent	
	1.4 Background	
	1.5 Scope of Work	
	1.6 Mandatory Criteria	
SECTION 2	INSTRUCTIONS TO APPLICANT	4
	2.1 Electronic Copy of this Document	
	2.2 RFP Closing and Delivery	
	2.3 Proposal Instructions	
	2.4 Proposal Conditions	
	2.4.1 Confidentiality and Ownership of Information	
	2.4.2 No Claims by Applicant	
	2.4.3 Conflict of Interest	
	2.5 Questions and Clarification	
	2.6 Ineligibility of Proposals	
	2.7 Acceptance of Proposal	
	2.8 Agreement	
	2.9 Estimated Time Frames	
SECTION 3	GENERAL TERMS AND CONDITIONS	11
SECTION 4	RESPONSE REQUIREMENTS	11
SECTION 5	EVALUATION PROCESS AND CRITERIA	14
	5.1 Evaluation	
	5.2 Selection	
	5.3 Presentation of Proposals	
	5.4 Clarification	
	5.5 Notice of Proposal Results	
Appendix "A":	Standard Form Agreement	

WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration

SECTION 1 – OVERVIEW AND SCOPE OF SERVICES

1.1 Request for Proposal Summary

The Workplace Health, Safety and Compensation Commission (“WorkplaceNL”) is inviting prospective Applicants to submit proposals to assist WorkplaceNL with the design, development and implementation of the migration from Content Manager for iSeries with Workfolder Application Facility (WAF) to IBM Content Manager On Demand. The current WAF feature code is being discontinued as of January 2020 which facilitates the need for WorkplaceNL to transition to another imaging product. The required work must be completed by November 30, 2019.

WorkplaceNL reserves the right to contract with one provider of services, as required, to provide the required services. The term of the agreement will be for a period six (6) months. WorkplaceNL will, in its sole discretion, have an option to extend the agreement for an additional term of six (6) months on the same terms and conditions. Should needs be identified or conditions change during the original agreement, the needs and/or conditions may be addressed in the Extension Agreement but pricing for the items identified in the original agreement will remain firm.

If you are interested in providing this service for WorkplaceNL, please submit your completed proposal before the RFP Closing Date. Please review the enclosed documents for complete instructions and an explanation of the process.

1.2 Glossary of Terms

The following terms will apply to this document:

Applicant(s):	An individual, group of individuals or a company that submits, or intends to submit, a proposal in response to this document.
RFP:	Request for Proposal which includes the original Request for Proposals and any and all addenda.
Must/Shall:	A requirement that is mandatory and if not met will result in rejection of the proposal.
Services:	Functions to be performed by the Successful Applicant in fulfilling the obligations in the written Agreement with WorkplaceNL pursuant to this Request for Proposal.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

1.3 Intent

The purpose of this RFP is to solicit proposals to assist WorkplaceNL with the design, development and implementation of the migration from Content Manager for iSeries with Workfolder Application Facility (WAF) to IBM Content Manager On Demand.

1.4 Background

WorkplaceNL provides services to employers, injured workers and their dependents, and the public through the administration of the Workplace Health, Safety and Compensation Act (the Act). These services include promoting workplace health and safety in order to prevent and reduce workplace injuries and occupational disease. WorkplaceNL also works to ensure injured workers receive the best care possible and the benefits to which they are entitled; and facilitates recovery and return-to-work in an early and safe manner. In addition, WorkplaceNL administers an employer classification and assessment system, and must ensure adequate funding for services through sound financial management.

WorkplaceNL is organized along four main functional areas: 1) worker services; 2) employer services; 3) corporate services; and 4) financial services. These functional areas support the organization's three main lines of business:

1. Education on the prevention of workplace injuries, illnesses, and occupational disease;
2. Claims management for injured workers; and
3. Employer assessments (insurance coverage).

1.5 Scope of Work

The design, development and implementation of the migration from WAF to On Demand will include the migration of approximately fifteen million (15,000,000) imaged documents from IBM Content Manager for iSeries with WAF Feature code (Version v5r3) (WAF) to IBM Content Manager On Demand (version v7r3) (On Demand). The current software packages are running on IBM Power 8 iSeries. Assistance is required to configure the On Demand product to meet WorkplaceNL's needs.

WorkplaceNL's main image document functions include:

1. Importing documents into WAF from the following sources:
 - Scanning/processing faxed documents with Kofax KTA
 - Creating documents from a custom WEB application called CONNECT
 - Creating documentation either from a custom Microsoft Visual Basic .Net application or from custom RPG code

WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration

2. Displaying imaged documents in one of two ways:
 - utilizing a custom viewer in a Microsoft Visual Basic .Net custom application
 - utilizing an IBM product called IWPM on the iSeries via API's provided in the WAF product
3. Printing imaged documents in pre-defined groups or individual documents via API's provided with the WAF product.
4. Masking documents and moving documents from one entity to another.
5. Archiving imaged documents to a virtual optical system on the iSeries.

Each of these image document functions must be integrated into On Demand.

The successful Applicant will provide resources with the required skill sets to assist WorkplaceNL with the design, development and implementation of the migration from WAF to On Demand. The successful Applicant must ensure that sufficient skills transfer occurs to enable WorkplaceNL to be self-sufficient with respect to support of the On Demand product at the end of the project.

1.6 Mandatory Criteria

The successful Applicant(s) must meet the mandatory criteria and possess the necessary knowledge, skills and experience to supply the required service. The mandatory criteria are as follows:

- 1.6.1** The successful Applicant must have successfully completed a minimum of two (2) WAF to On Demand migrations.
- 1.6.2** The successful Applicant must provide an overview which demonstrates how the past professional experience of the organization meets the requirements as described in the RFP. The overview must include brief supporting details from relevant projects.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

SECTION 2 – INSTRUCTIONS TO APPLICANT

2.1 Electronic Copy of this Document

WorkplaceNL reserves the right to modify the terms of the RFP by issuance of addenda at any time prior to RFP Closing Date.

It is the responsibility of the Applicants who retrieve or download this RFP from WorkplaceNL's website (<http://www.workplacnl.ca>) to ensure they monitor this site for any addendum to the RFP issued up to and including the RFP Closing Date.

It is the Applicant's responsibility to ensure that they have received a complete set of documents. By submitting a proposal, the Applicant verifies that they have received a complete set of RFP documents including any and all addenda. All terms, conditions, and/or specifications stated or referenced in the RFP are assumed to be accepted by the Applicant and incorporated in the proposal.

By submitting a proposal, the Applicant confirms that all components necessary to deliver the required services have been included in the proposal, or will be provided at no additional charge to WorkplaceNL.

Applicants who have obtained the RFP electronically must not alter any portion of the document, with the exception of applying any addendum issued by WorkplaceNL.

2.2 RFP Closing and Delivery

RFP CLOSING DATE IS:

JUNE 10, 2019 BEFORE 2:00 PM NEWFOUNDLAND TIME

Applicants are required to deliver and ensure proposals are received at:
INFORMATION DESK (Main Entrance)

WorkplaceNL
146-148 Forest Road
P.O. Box 9000
St. John's, NL A1A 3B8

Fax Proposals: Will NOT be accepted.

Email Proposals: Will NOT be accepted.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

In the event that WorkplaceNL's St. John's office is closed due to poor weather conditions or other unscheduled closure, the RFP Closing Date will be extended to the next business day before 2:00 p.m. Newfoundland Time.

Proposals will be opened publicly immediately following the RFP closing at WorkplaceNL's St. John's office at 146-148 Forest Road, in accordance with the Public Procurement Regulations, as amended.

2.3 Proposal Instructions

All proposals must be legible and complete and supply all information required in SECTION 4: RESPONSE REQUIREMENTS. Applicants are not required to return any sections of this document in their proposal.

All proposals must be received in their entirety by the RFP Closing Date. Proposals or any portion thereof, received after the RFP Closing Date will be returned to the Applicant unopened. WorkplaceNL time clock will be deemed to be correct in the event of dispute.

RFP Proposals must be in an opaque envelope clearly marked with **Applicant's name and mailing address** and the following information.

<p>Request for Proposal 2019-17-P Content Manager for iSeries Workfolder Application Facility to IBM Content Manager On Demand Image Migration Attention: Nicole Bishop WorkplaceNL 146-148 Forest Road P.O. Box 9000 St. John's, NL A1A 3B8</p>

If an exterior courier envelope/container is used this must also be clearly marked with the Applicant's mailing address, proposal number and name and shall be addressed to the Senior Procurement Officer.

When delivering their proposal, Applicants are requested to remit 4 (four) COPIES of their proposal. The complete proposal is to be contained in a sealed opaque envelope or package when delivered to WorkplaceNL.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

Proposals must be signed by the Applicant or an authorized representative of the Applicant. If the Applicant is a corporation, the proposal must be signed by the authorized signing officer of the corporation submitting the proposal.

Applicants are solely responsible for the delivery of their proposal in the manner and time prescribed.

Any error in the proposal is the responsibility of the Applicant. Submitted proposals may be amended prior to the RFP Closing Date by submitting a complete new proposal clearly indicating it replaces the previously submitted proposal. Any such new proposal is subject to the requirements as outlined herein. The said new proposal replaces any other proposals previously submitted by the Applicant, and only the last of any new proposals received will be accepted.

Any proposal received in response to a RFP may be withdrawn by written request to WorkplaceNL, Nicole Bishop, Finance, but cannot be withdrawn, altered or changed in any way after the RFP Closing Date.

All requests for withdrawal, amendment or submission of a replacement proposal must be submitted in writing on company letterhead or equivalent, and be signed by the Applicant, an authorized representative of the Applicant or, if a corporation, an authorized signing officer of the corporation.

While WorkplaceNL has tried to ensure the accuracy of the RFP, it is not guaranteed or warranted by WorkplaceNL to be accurate, nor is it necessarily comprehensive or exhaustive. WorkplaceNL will assume that all Applicants have resolved any questions they might have about the RFP and have informed themselves as to the existing conditions and limitations, site restrictions, etc. before submitting their proposals. Nothing in the invitation is intended to relieve Applicants from forming their own opinions and conclusions with respect to the matters addressed in the RFP.

Unless stated otherwise in the RFP, proposals shall remain open for acceptance and are irrevocable for a period of 90 days after the RFP Closing Date.

2.4 Proposal Conditions

2.4.1 Confidentiality and Ownership of Information

Information pertaining to WorkplaceNL obtained by the Applicant as a result of participation in this RFP, and/or subsequent interviews, presentations, and/or negotiations with WorkplaceNL, if any, is confidential and shall not be disclosed without prior written authorization from WorkplaceNL.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

The RFP and any supplementary document or portion thereof is proprietary information, and must not be used by the Applicant other than for the submission of proposals without the permission of WorkplaceNL.

All proposals submitted become the property of WorkplaceNL. By submitting a proposal, the Applicant hereby grants WorkplaceNL a license to distribute, copy, print, or translate the proposal for the purposes of the RFP. Any attempt to limit WorkplaceNL's right in this area may result in rejection of the proposal.

The procurement process is subject to the *Access to Information and Protection of Privacy Act, 2015*, S.N.L 2015 c. A-1.2, as amended (*ATIPPA*). The Applicant's proposal may be subject to disclosure under the *ATIPPA*. By submitting a proposal, the Applicant agrees to the appropriate disclosure of the information supplied, subject to the provisions of the governing law. WorkplaceNL cannot guarantee the confidentiality of the content of any proposal after the RFP Closing Date. WorkplaceNL shall not be liable to any Applicant for any claim, direct or indirect, whether for costs, expenses, losses or damages, or loss of anticipated profits, or for any other matter whatsoever incurred by the Applicant as a result of disclosure pursuant to the *Access to Information and Protection of Privacy Act, 2015*, S.N.L. 2015, c. A-1.2, as amended.

By submitting a proposal, the Applicant agrees that it has identified any specific information in its proposal that may qualify for an exemption from disclosure under subsection 39(1) of the *ATIPPA*. If no specific information has been identified it is assumed that, in the opinion of the Applicant, there is no specific information that qualifies for an exemption under subsection 39(1) of the *ATIPPA* and information may be released without further notice.

The financial value of a contract resulting from this procurement process will be publically released as part of the award notification process.

2.4.2 No Claims By Applicant

By participating in the process outlined in this RFP document, the Applicant consents to the procedures as described in this RFP.

By submitting a proposal, each Applicant irrevocably waives any claim, action or proceeding against WorkplaceNL, including without limitation any judicial review or injunction application, or against any of WorkplaceNL's employees, advisors or representatives for damages, expenses or costs including costs of proposal preparation, loss of profits, loss of opportunity or any consequential loss for any reason including: any actual or alleged unfairness on the part of WorkplaceNL at any stage of the procurement process; if WorkplaceNL does not award or execute a contract; or, if WorkplaceNL is subsequently determined to have accepted a

WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration

noncompliant proposal or otherwise breached or fundamentally breached the terms of this procurement.

2.4.3 Conflict of Interest

Each Applicant must include in its proposal a confirmation that the Applicant, its employees, officers, associates and/or approved subcontractors do not and will not have any conflict of interest (actual or potential) in submitting its Proposal or, if selected, in providing services under the agreement. Where applicable, the Applicant must declare in its proposal any situation that may be a conflict of interest in submitting its proposal or, if selected, with the contractual obligations of the Applicant under the agreement.

If, at the sole and absolute discretion of WorkplaceNL, the Applicant, its employees, officers, associates and/or approved subcontractors is found by WorkplaceNL to be in an actual or perceived conflict of interest either during the RFP or after award of the contract, WorkplaceNL may, in addition to any other remedies available at law or in equity, disqualify the proposal submitted by the Applicant or terminate the agreement.

Sub-contracting to any firm or individual whose current or past corporate or other interests may, in WorkplaceNL's opinion, give rise to an actual or perceived conflict of interest in connection with this RFP will not be permitted. This includes, but is not limited to, any firm or individual involved in the preparation of the RFP.

2.5 Questions and Clarification

Any questions related to the RFP must be directed in writing by either facsimile or email to the Senior Procurement Officer whose name appears below.

<p>PROCESS INQUIRIES: Nicole Bishop, Senior Procurement Officer Fax #: (709) 778-1596 Email: nicole.bishop@workplacnl.ca</p>
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All questions should include the Applicant's name and address, contact person's name, telephone number, fax number and email address, and the reference to the specific section and page number of the RFP in question.

To the extent that WorkplaceNL considers that the answer to the question may assist in the preparation of a proposal, WorkplaceNL will post an addendum on its website which will be part of the RFP. WorkplaceNL may not answer a question where WorkplaceNL considers the information requested is not required to prepare a proposal, or where the

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

answer to the question posed may be found in the RFP. No responses shall be binding upon WorkplaceNL unless made in writing.

WorkplaceNL may request additional data, discussions, presentations or on-site visits in support of the proposal, all without obligation to provide other RFP recipients with similar information or notice of such communication. Additionally, WorkplaceNL reserves the rights to implement the appropriate due diligence processes to confirm or clarify any information provided, or to collect more evidence of managerial, financial and technical abilities, including but not limited to, meetings and visits with current customers served by the Applicant.

Any written information received by WorkplaceNL from an Applicant in response to a request for additional data from WorkplaceNL will be considered an integral part of the Applicant's proposal.

2.6 Ineligibility of Proposals

It is essential that the proposal thoroughly addresses and completes each requirement identified in the RFP, as incomplete proposals may be declared "non-responsive". Proposals that are improperly signed, conditional, illegible, obscure, or contain arithmetical errors, erasures, alterations, or irregularities of any kind may be considered invalid.

2.7 Acceptance of Proposal

WorkplaceNL reserves the right, as the interests of WorkplaceNL may require, to accept or reject in whole or in part any or all proposals. WorkplaceNL reserves the right to waive any minor irregularity or non-compliance where such irregularity or non-compliance is not of a material nature in its sole and absolute discretion. Such minor irregularity or non-compliance will be deemed substantial compliance and capable of acceptance. WorkplaceNL will be the sole judge of whether a proposal is accepted or rejected.

WorkplaceNL, in its sole discretion, reserves the right to cancel the RFP without award. WorkplaceNL is not bound to award a contract to any Applicant. The awarding of the contract(s) (if any) shall be at WorkplaceNL's sole discretion.

WorkplaceNL reserves the right to reject all proposals, to select a proposal that is not the highest score bid, and to refuse any proposal that does not meet the information or timing requirements of this RFP.

If WorkplaceNL does not receive compliant and acceptable proposals in response to the RFP, WorkplaceNL reserves the right to enter into negotiations with one or more of the Applicants or with any other party in order to complete the procurement of services.

WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration

A proposal may not be eligible for acceptance if current or past corporate or other interests of the Applicant or the Applicant's key personnel may, in WorkplaceNL's opinion, give rise to a conflict of interest.

WorkplaceNL reserves the right to disqualify any Applicant if the Applicant or the Applicant's key personnel have either breached an agreement and/or failed to provide satisfactory service and/or deliveries under any prior agreement with WorkplaceNL, in the sole opinion of WorkplaceNL.

The Applicant may be required to demonstrate financial stability, authorization to provide the goods and/or services being acquired, and/or regulatory agency approval, licensing or registration as needed, or otherwise clarify the Applicant's capability to satisfy the RFP requirements. WorkplaceNL reserves the right to reject a proposal from any Applicant that it feels is incapable of providing the necessary labour, materials, equipment, financing, or resources to perform the services or supply the goods in a satisfactory and timely manner.

2.8 Agreement

WorkplaceNL shall not be obligated to any Applicant until a written agreement has been duly executed related to an approved proposal. Any awards made pursuant to this RFP process are subject to execution of a written agreement which is acceptable to WorkplaceNL.

To be eligible to provide services to WorkplaceNL, the successful Applicant shall execute a written agreement with WorkplaceNL to perform the services which is acceptable to WorkplaceNL with terms and conditions as outlined in the standard form agreement in Appendix "A" within the time frame established by WorkplaceNL. The successful Applicant shall be responsible for compliance with the terms and conditions outlined in the Standard Form Agreement in Appendix "A".

Claims made by the Applicant in the proposal will constitute contractual warranties. Any provision in the proposal may, in WorkplaceNL's sole discretion, be included as a provision of the agreement between WorkplaceNL and the successful Applicant. In the case of conflict between the written agreement between WorkplaceNL and the successful Applicant and the RFP and proposal, the terms of the said written agreement shall prevail.

2.9 Estimated Time Frames

The following timetable outlines the estimated schedule for this RFP process. The timing and the sequence of events resulting from this document may vary.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

DESCRIPTION	DATE
RFP issue date	MAY 20, 2019
Deadline for questions	JUNE 3, 2019
Proposals to be received by	JUNE 10, 2019
Presentation of proposals (tentative - if required)	JUNE 17, 2019
Date of award (tentative)	JUNE 19, 2019

SECTION 3 – GENERAL TERMS AND CONDITIONS

- 3.1** The successful Applicant(s) is required to meet WorkplaceNL’s billing and accounting requirements. Progress billing should be submitted to WorkplaceNL every 30 days or other frequency as agreed to between WorkplaceNL and the successful Applicant(s). Invoices must be legible and clearly labeled with the Applicant’s invoice number.
- 3.2** This RFP, all proposals, and any agreements will be construed and interpreted in accordance with the laws of the Province of Newfoundland and Labrador.
- 3.3** The Applicant shall not use WorkplaceNL’s name or logo or make reference to this RFP in any advertising copy or other promotional materials or messages without WorkplaceNL’s prior written consent.

SECTION 4 – RESPONSE REQUIREMENTS

It is important that Applicants provide complete information with their proposal so it can be readily understood and evaluated. The following minimum information and format must be provided in the proposal. A proposal will be considered non-compliant if it fails to provide sufficient detail necessary to evaluate the proposal against the requirements outlined in this RFP.

All proposals must address the content of the RFP. Qualifying proposals are those that clearly demonstrate a thorough understanding of the RFP, and its stated requirements and criteria. WorkplaceNL may disqualify proposals that do not demonstrate this understanding and do not specifically address requirements and criteria as specified throughout.

Response Format

Your response should be provided in the same sequence of topics as below.

Cover Letter

Identify the RFP description. Identify your name and your company’s name (if applicable), address,

WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration

telephone number, fax number and email address. Identify the representative responsible for your proposal. The letter must confirm that you and your company (if applicable) are in compliance with the *Personal Information Protection and Electronic Documents Act*, SC 2000, c.5, and Regulations thereto, as amended. The letter must be dated and signed.

Table of Contents

List all topics and associated pages for easy reference.

Company Profile & Background

If the Applicant is a company, provide a brief introduction and an overview of your company's background and profile, including information on full services offered.

Ownership

If the Applicant is a company, provide names of all owners, including silent partnerships, affiliated relationships and/or companies, governing boards, etc.

Conflict of Interest

Each Applicant must include in its proposal a confirmation that the Applicant, its employees, officers, associates and/or approved subcontractors do not and will not have any conflict of interest (actual or potential) in submitting its Proposal or, if selected, in providing services under the agreement. Where applicable, the Applicant must declare in its proposal any situation that may be a conflict of interest in submitting its proposal or, if selected, with the contractual obligations of the Applicant as supplier under the agreement.

Privacy/Confidentiality

Provide company policies, practices and tools for protecting privacy, confidentiality and security of information.

Overview

The Applicant must provide a clear and concise description of the Applicant's understanding of the service, their role in the service, and an overview of how the Applicant will meet the service requirements.

Approach and Methodology

The proposal shall include a detailed description of the approach and methodology which will be utilized in the provision of services.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

Professional Staff Complement

Provide a description of the professional staff and resources available. Identify the number, availability, and roles of individuals intended to be assigned to the project and describe how they meet the mandatory criteria as outlined in Section 1 - Overview and Scope of Services above.

Professional Staff Resumes

Provide a resume of not more than three pages outlining education and work experience for each professional staff member to be involved in the provision of services.

Value-added service

Provide any additional information that would enhance your ability to provide the service, e.g. resources, specialized personnel, affiliations, etc.

Geographical location

Indicate the city/town from which you propose to conduct the major activities of this work.

Quality Assurance

Describe your quality assurance program and how it influences your service delivery.

Previous Experience

Describe your organization's experience in Content Manager for iSeries with Workfolder Application Facility to IBM Content Manager On Demand Image Migration. Provide a list with a minimum of **three (3)** references with appropriate contact information who can provide evidence of previous experience providing similar services. References may be for contracts currently being performed or where work has been completed. References will be contacted as part of the review process. The list of references should exclude any potential references from WorkplaceNL.

Timelines, Schedules & Fees

The Applicant must outline the fees on a lump sum basis, plus associated costs. The Applicant should prepare a table for the Scope of Services to include:

- Proposed start date and timelines;
- Major expenditure categories (staff, materials, travel, communications, etc.) and their individual costs;
- The H.S.T. amount should be identified as a separate budget item; and

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

- All fees must be quoted in Canadian dollars.

Brochures

Include any brochure(s), company information and/or the company website address at the back of your proposal.

SECTION 5 – EVALUATION PROCESS AND CRITERIA

5.1 Evaluation

The proposals will be evaluated by WorkplaceNL's Director of Information Technology Services as well as the appropriate Director(s) and or Manager(s) from various departments, and representative(s) of the Finance Department, who will use the criteria provided in this section to determine the successful Applicant(s).

WorkplaceNL, in its sole discretion, may assess the Applicant(s)' experience and/or ability to provide the services required and described in this RFP by checking the Applicant(s)' references. A contract will not be awarded to any Applicant whose references, in the opinion of WorkplaceNL, are found to be unsatisfactory. WorkplaceNL reserves the right to obtain references from sources other than those provided in the proposal. WorkplaceNL reserves the sole discretion to determine whether the Applicant and its professional staff have the appropriate qualifications.

The intent is to enter into an agreement with the Applicant that achieves the highest overall score, or with more than one Applicant, that achieves the next highest scores, as determined by WorkplaceNL, while fulfilling the requirements outlined in this RFP, which meets the needs and best interests of WorkplaceNL.

5.2 Selection

The evaluation committee will evaluate all proposals against the mandatory criteria as stated in Section 1. Proposals that do not meet all mandatory criteria will be rejected on that basis.

The following criteria will be used to score proposals for both the short list and in the final selection:

Criteria	%
Qualifications and experience in performing comparable work	25%
Availability and commitment of proposed project team members during the required time frame	35%

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

References	10%
Quality of proposal/demonstrated understanding of RFP requirements	5%
Fees	25%

5.3 Presentation of Proposals

Subsequent to evaluating the proposals, WorkplaceNL may, in its sole discretion, select Applicants to meet with WorkplaceNL evaluation team. This meeting may include both a presentation by the Applicant and/or a question and answer session in support of, and/or to clarify questions arising from the Applicant's proposal. A maximum preparation period of one week will be given to prepare for the presentation. Applicants will be responsible for all expenses incurred in preparing and delivering the presentation.

5.4 Clarification

The committee may require clarification from Applicants to assist in making its evaluation.

5.5 Notice of Proposal Results

WorkplaceNL will notify both the successful and unsuccessful Applicants in writing. Unsuccessful Applicants will be notified following the award to the successful Applicant(s).

If the selected Applicant(s) becomes unable or unwilling to complete the agreement, or becomes unable to provide the required services, WorkplaceNL may enter negotiations with one or more of the Applicants or with any other party in order to obtain the service.

**WorkplaceNL
2019-17-P
Content Manager for iSeries with Workfolder Application Facility to
IBM Content Manager On Demand Image Migration**

APPENDIX "A"

STANDARD FORM AGREEMENT

THIS AGREEMENT made at the City of St. John's, in the Province of Newfoundland and Labrador this _____ day of < , 2019.

BETWEEN: **WORKPLACE HEALTH, SAFETY AND COMPENSATION COMMISSION**, a statutory corporation established under the *Workplace Health, Safety and Compensation Act*, R.S.N.L. 1990, c. W-11, as amended (the "Act")
(hereinafter called "WorkplaceNL")

AND: < >
(hereinafter called "Contractor")

(together, the "Parties")

WHEREAS

- (i) WorkplaceNL has requested that the Contractor provide to WorkplaceNL information technology ("IT") professional services in accordance with the terms and conditions set forth in this Agreement;
- (ii) The Contractor has agreed to provide the professional services in accordance with the said terms and conditions and for the compensation hereinafter set forth.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, promises, conditions and arrangements contained in this Agreement, and for the good and valuable consideration contained herein, the Parties agree as follows:

1.0 SERVICES

- 1.1 During the term of this Agreement, the Contractor agrees to provide the work as described in Schedule A ("Services") and assume the responsibilities and execute the duties described therein in accordance with the terms and conditions of this Agreement.
 - 1.2 WorkplaceNL may from time to time request changes to this Agreement, including the Services as set out in Schedule A, which to be effective must be in writing and approved in advance by the Contractor. Upon written notice, any portion of the Services may be removed from this Agreement by WorkplaceNL without penalty. The Contractor may from time to time propose changes to this Agreement, including the Services, which to be effective must be in writing and approved in advance by WorkplaceNL.
 - 1.3 Any adjustment in the time for completion of the Services shall first be detailed in writing by the Contractor and must be approved in writing by WorkplaceNL prior to the implementation of any such change.
 - 1.4 WorkplaceNL and the Contractor may designate by agreement between the Parties those employees, officers, associates and/or approved subcontractors or agents of WorkplaceNL and the Contractor authorized to make changes to the Agreement and the Services to be provided by the Contractor.
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- 1.5 Without the prior written consent of WorkplaceNL, the Contractor shall not subcontract any part of the Services, assign or transfer any interest, or delegate any responsibility arising out of this Agreement, to anyone other than the approved employees, officers, associates and/or approved subcontractors or agents of the Contractor in accordance with the provisions of this Agreement.

2.0 FEES AND EXPENSES

The charges payable by WorkplaceNL for the performance of the Services under this Agreement (“Applicable Charges”) shall be determined in accordance with the following terms and conditions:

- 2.1 All Applicable Charges for Services provided by the Contractor shall be invoiced to WorkplaceNL in accordance with the costs referenced in Schedule B (“Financial Costs”) of this Agreement, which Schedule is incorporated in and forms part of this Agreement.
- 2.2 All disbursements shall be billed based on expenditures pre-approved by WorkplaceNL unless otherwise agreed in writing by WorkplaceNL. Payment will be based upon actual disbursements incurred. No disbursements relating to the cost of purchase or rental of items specified as Contractor-supplied or of the training of Contractor personnel shall be paid by WorkplaceNL unless expressly agreed to by WorkplaceNL.
- 2.3 Allowances for meals and travel expenses for Contractor personnel shall be in accordance with WorkplaceNL guidelines. Travel is not to exceed the cost outlined in Schedule B (“Financial Costs”).
- 2.4 The following shall apply to the Services described in Schedule A: “Services”:
- (a) All deliverables specified in “Services” shall have the written approval of the Chief Financial and Information Officer or Director of Information Technology Services or his/her written designate that such deliverables comply in all material respects with the requirements set out in Schedule A “Services”.
 - (b) WorkplaceNL shall complete their review of a deliverable within a period of time to be determined by both WorkplaceNL and the Contractor. Upon completion of the review, WorkplaceNL shall provide the Contractor with
 - (i) Approval of the deliverable; or
 - (ii) A written statement, as provided below in 2.4 c(ii), of the deficiencies preventing approval.
 - (c)
 - (i) WorkplaceNL’s review and approval of a deliverable shall be for the purpose of determining compliance with the Services.
 - (ii) In the event of WorkplaceNL’s rejection of a deliverable, WorkplaceNL shall provide a complete and written statement which identifies in reasonable detail, the deficiencies of the deliverable and the corrective actions or changes to be made by the Contractor.
 - (d) WorkplaceNL shall have a period of time to be agreed between WorkplaceNL and the Contractor to complete a review of the corrective actions or changes made by the Contractor to the deliverable.
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- (e) WorkplaceNL and the Contractor may mutually agree to extend the period of time allotted for any review, correction or change under this Section. Any such extension of time shall extend the schedule for any subsequent deliverables by a corresponding amount.
- 2.5 The Contractor shall make commercially reasonable efforts to complete the Services referenced in Schedule A “Services” in accordance with the approved project costs.
- 2.6 Should WorkplaceNL and Contractor agree that the approved project costs require amendment; such amendment must be approved in writing by WorkplaceNL prior to any increased costs being incurred.
- 3.0 CONTRACTOR PERFORMANCE
- 3.1 The Contractor shall execute the Services on a commercially reasonable efforts basis. For the purposes of this Agreement, “commercially reasonable efforts” means taking in all good faith all reasonable measures to perform the Services “the Deliverables” as defined in Article 5.1(a) and as set out in Schedule A “Services”. The Contractor shall allocate all such personnel and resources as shall be reasonable and prudent to carry out the Services in an efficient manner given the nature of the Services and the mutually agreed upon completion date for the Services.
- 3.2 The Contractor shall provide the services of qualified personnel to perform the Services and shall appoint and replace, in consultation with WorkplaceNL, such personnel as necessary to complete the Services. WorkplaceNL has and shall retain throughout this Agreement the sole right of refusal on all personnel resources.
- 3.3 Where an individual has been specifically identified to provide the Services, that individual shall not be replaced by the Contractor without the Contractor providing to WorkplaceNL a notice period of two weeks advising of the replacement and without the prior written consent of WorkplaceNL. The notice period referenced in this Section may be amended (as reasonably required) if the need for the replacement is beyond the Contractor’s control, in particular, replacements due to illness, dismissal, resignation or death. If personnel replacements are approved, the Contractor shall supply and transition a new resource at no additional cost to WorkplaceNL for a period of time to be determined by agreement between WorkplaceNL and the Contractor.
- 3.4 Notwithstanding any other Section of this Article 3, WorkplaceNL may request that the Contractor replace any personnel assigned to WorkplaceNL under this Agreement by the Contractor who does not, in the sole opinion of WorkplaceNL acting reasonably, meet WorkplaceNL’s requirements. The Contractor shall use commercially reasonable efforts to replace such personnel with personnel of suitable ability and qualifications and WorkplaceNL, at its discretion acting reasonably, shall retain the right to refuse the appointment of such replacement personnel. If personnel replacements are approved, the Contractor shall supply and transition a new resource to WorkplaceNL for a period of time and at a cost to be mutually agreed to by WorkplaceNL and the Contractor.
- 3.5 The Contractor agrees that WorkplaceNL shall oversee and monitor the Contractor in the performance by the Contractor of the Services under this Agreement. WorkplaceNL has the right to appoint, by notice to the Contractor, an employee, officer, associate,
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contractor or agent of WorkplaceNL for the purposes of overseeing the performance of the Agreement.

- 3.6 If the Contractor has any consultant or agent working within the Province of Newfoundland and Labrador, its employees, officers, associates, and/or approved sub-contractors shall comply with the *Occupational Health and Safety Act*, R.S.N.L. 1990, c. O-3, and the Regulations thereto, as is amended from time to time. The Contractor shall ensure that the Contractor and the Contractor's employees, officers, associates, and/or approved sub-contractors or agents are qualified in the safe work procedures and operations of equipment in their use. The Contractor shall ensure that the Contractor and the Contractor's employees, officers, associates, and/or approved sub-contractors or agents do not commence work while under the influence of alcohol or illegal drugs.
- 3.7 The Contractor shall comply with all applicable laws, regulations, policies and procedures governing the assigned personnel, including compliance with the requirements of the *Workplace Health, Safety and Compensation Act*, R.S.N.L. 1990, c.W-11 (as amended) and payments due thereunder, and shall produce evidence of such compliance referenced in this Section upon request.
- 3.8 The Contractor shall keep and maintain accurate working records respecting Services provided to WorkplaceNL and, when required by WorkplaceNL, shall make such material available to WorkplaceNL on a timely basis.
- 3.9 (a) Contractor personnel resources, including contractors and approved subcontractors, assigned by the Contractor to undertake work for WorkplaceNL shall enter into a confidentiality agreement with the Contractor so as to respect and protect the confidentiality of WorkplaceNL information (to the extent that Contractor personnel resources are not already bound by terms of confidentiality at least as strict as those contained herein). The Contractor agrees that WorkplaceNL, in its discretion, may from time to time request confirmation from the Contractor that appropriate signatures have been obtained. The Contractor agrees to provide to WorkplaceNL signed copies of these agreements with its contractors and approved subcontractors. The Contractor shall consult with WorkplaceNL on any proposed changes that the Contractor may intend to make to the confidentiality agreements subsequent to the provision of the confidentiality agreement to WorkplaceNL in accordance with the preceding sentence.
- (b) The Contractor must ensure that all resources assigned to the project using Non-WorkplaceNL IT Assets will receive and sign a copy of the Terms of Use form attached in Schedule C ("Contractor Code of Conduct") and ensure that they will adhere to the conditions set out therein. The Contractor agrees that WorkplaceNL, in its discretion, may from time to time take measures to determine whether appropriate signatures have been obtained. The Contractor agrees to provide to WorkplaceNL signed copies of these agreements when requested.
- 3.10 The Contractor agrees that if required, any access to WorkplaceNL's premises by employees, officers, associates and/or approved subcontractors or agents of the
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Contractor shall only be granted during the ordinary working hours of WorkplaceNL unless previously authorized by WorkplaceNL.

- 3.11 The Contractor and all employees, officers, associates and/or approved subcontractors or agents of the Contractor shall comply with all security requirements in effect from time to time in respect of any premises of WorkplaceNL to which access is granted under this Agreement. WorkplaceNL shall provide information to the Contractor respecting these requirements.
- 3.12 The Contractor shall be responsible for making arrangements related to office space for personnel assigned by the Contractor if required for the performance of Services under this Agreement. In the event that WorkplaceNL agrees for the Contractor to utilize a computer, the Contractor must review WorkplaceNL guidelines in consultation with WorkplaceNL.

4.0 WORKPLACENL PERFORMANCE

- 4.1 WorkplaceNL shall cooperate with the Contractor in the performance of the Services. WorkplaceNL shall be responsible for the performance of its employees, officers associates and/or approved subcontractors or agents and for the accuracy and completeness of all data and information provided to the Contractor hereunder. It is understood that the Services may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, WorkplaceNL.
 - 4.2 The Contractor shall not be liable for loss of data or records of WorkplaceNL, with the exception of records the Contractor holds on behalf of WorkplaceNL for the management and reporting of the services the Contractor provides to WorkplaceNL under this Agreement. The Contractor shall be responsible for proper and adequate backup and storage of this data. WorkplaceNL shall be responsible for ensuring proper and adequate backup and storage procedures for WorkplaceNL-held data and records.
 - 4.3 As it relates to the Services described in Schedule A, WorkplaceNL shall:
 - (a) comply with all applicable governing law;
 - (b) unless provided by the Contractor as part of the Services and Deliverables, be responsible for the supply (including obtaining necessary licenses and authorizations), installation and maintenance of any material, equipment or software other than the WorkplaceNL Provided Equipment at each site that is necessary to receive the Services;
 - (c) obtain and maintain all third party licenses, authorizations, permissions and consents necessary to permit the Contractor prompt and safe access to WorkplaceNL's premises and WorkplaceNL Provided Equipment and Contractor Provided Equipment on WorkplaceNL premises, so they can perform Contractor's obligations and enforce the Contractor's rights under this Agreement;
 - (d) be responsible for use of the Services and Deliverables, including through access points, by any party other than the Contractor (collectively, "End Users"),
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and take all necessary measures to ensure that the End Users use the Services in accordance with the terms and conditions of this Agreement;

- (e) comply and cause its End Users to (A) comply with any third party software license terms and conditions for software used by the WorkplaceNL and/or its End Users in connection with the use of the Services and Deliverables; and (B) not upload or download, post, publish, retrieve, transmit, or otherwise reproduce, distribute or provide access to information, software or other content or material in connection with the use of the Services and Deliverables;
- (f) consent and ensure its End Users consent to receive software downloads from the Contractor, and its partners to the WorkplaceNL End User devices to the extent that such downloads are reasonably necessary for the continued efficient operation of the Services and Deliverables; and
- (g) not use, abuse, tamper with, alter or otherwise rearrange the Services or Deliverables, or permit or assist others to do so, for any purpose or in any manner, that: (A) interferes with the Services or Deliverables or the provision of them; (B) interferes with the networks of the Contractor or access to those networks by other users; or (C) uses the Services in a manner that directly or indirectly violates the terms of this Agreement, applicable laws or any third party or Contractor rights.

5.0 MATERIALS AND INTELLECTUAL PROPERTY

5.1 For the purposes of this Agreement:

- (a) For the purposes of this Agreement, Deliverables means all work and items specified in Schedule A as agreed between WorkplaceNL and the Contractor, including tangible, verifiable work output such as feasibility studies, detailed designs, working prototypes, reports, manuals, plans, computer systems, programming or other outputs developed by the Contractor for WorkplaceNL. For greater certainty, Services shall not include any third party software or related documentation licensed directly to WorkplaceNL from a third party, or any modifications or enhancements thereto or derivatives thereof. Deliverables do not include Contractor IP (as defined below).
- (b) For the purposes of this Agreement, “Contractor IP” shall mean (without limitation) the < > platform used to provide the Services and to develop the various intellectual, industrial and other property for WorkplaceNL. “WorkplaceNL IP” shall mean (without limitation) the concepts, ideas, methods, procedures, processes, know-how, techniques, models, templates, generalized features of the structure, sequence and organization of software, user interfaces and screen designs, which WorkplaceNL and the Contractor and its contracted affiliates and approved subcontractors have created.

5.2 All original materials, software, data, research, reports, notes, estimates, summaries, calculations, papers, completed works and works in progress, and all intellectual property interests and rights therein and thereto, including moral rights, that:

- (a) Were supplied by WorkplaceNL to the Contractor, its employees, officers, associates and/or, approved subcontractors or agents; or
- (b) All Deliverables created, prepared or produced by the Contractor, its employees, contractors, associates and/or approved subcontractors or agents in completing the Services under this Agreement

shall be and become the property of WorkplaceNL and shall be delivered to WorkplaceNL upon request or completion of Services or upon earlier termination of this Agreement except for any intellectual property of any third parties or any Contractor IP contained therein. WorkplaceNL agrees to comply with the terms and conditions of any third parties from whom the Contractor IP may have been sourced. For the avoidance of doubt, to the extent the Contractor uses any Contractor IP or any other intellectual, industrial or other property, including internal administrative materials and documents, in connection with the performance of Services hereunder, the Contractor shall retain all right, title and interest in and to such property, and except for the license expressly granted in Sections 5.2, WorkplaceNL shall acquire no right, title or interest in or to such property.

5.3 The Contractor agrees to indemnify WorkplaceNL from and against any loss, damage, or liability directly arising from the infringement of any patent, trademark, trade secret or copyright by WorkplaceNL which resulted from WorkplaceNL's receipt or usage of the Deliverables, and the Contractor shall, at its own expense and with the cooperation of WorkplaceNL, defend, settle or compromise any action against WorkplaceNL alleging that the Contractor's Deliverables infringe any patent, trademark, trade secret or copyright. WorkplaceNL shall promptly give notice to the Contractor of any such action. The obligation of the Contractor under this Section shall not apply where the infringement of any patent, trademark, trade secret or copyright results from:

- (a) WorkplaceNL's use of the Deliverables in a manner other than as contemplated, authorized or intended by the Agreement;
- (b) WorkplaceNL's failure to use corrections or modifications made available by the Contractor which would have prevented the infringement, provided such corrections or modifications would satisfy the specifications in Schedule A;
- (c) WorkplaceNL uses the Deliverables in combination with any product or information not contemplated or expressly authorized or intended by this Agreement.

5.4 In any proceedings by the Contractor to defend, settle or compromise any action for patent, trademark, trade secret or copyright infringement, the Contractor shall consult with WorkplaceNL respecting such action and, in particular, the Contractor shall consult with WorkplaceNL respecting the settlement or compromise of any such action. WorkplaceNL will not enter into any settlement or compromise any such claim without Contractor's prior written approval, which will not be unreasonably withheld.

5.5 If all or part of the Deliverables become, or in the opinion of the Contractor and WorkplaceNL may become, the subject of an infringement of any patent, trademark, trade secret or copyright, the Contractor will, at its option but in consultation with

WorkplaceNL:

- (a) Procure for WorkplaceNL the right to continue using the Deliverables;
- (b) Modify the Deliverables so they become non-infringing and they perform in a substantially similar manner;
- (c) Replace the Deliverables with non-infringing Deliverables which substantially comply with the replaced specifications; or
- (d) If none of the foregoing options are available terms and conditions that are reasonable in the Contractor's judgment, following consultation with WorkplaceNL, the Contractor may terminate the affected Deliverables and, without further liability but subject to Section 5.4, refund to WorkplaceNL the amount WorkplaceNL had paid to the Contractor for the Deliverables that are the subject of the infringement.

5.6 Subject to the Contractor's obligations of confidentiality as set out in the Standard Terms and Conditions attached to this Agreement, nothing in this Article 5 precludes the Contractor or its approved subcontractors from using the generalized knowledge and insight gained as a result of the provision of the work with its other customers.

6.0 TERM

6.1 This Agreement shall be effective for a six (6) month period from [redacted], 2019 to [redacted], 2019. Any renewals, extensions or additions to the term of this Agreement shall be by the prior written agreement of the Parties. Upon mutual consent of the Parties in writing, this Agreement may be amended and/or extended for one (1) additional terms of six (6) months each.

6.2 Any dispute that may arise between the Parties to this Agreement shall be addressed by the representatives of the Parties. If the representatives cannot reach an agreement in resolution of such dispute within thirty (30) business days, the dispute shall be addressed in accordance with Schedule D to this Agreement.

7.0 NOTICE

7.1 Any notices required by this Agreement may be sent to the Parties at the following respective addresses:

WorkplaceNL addressed to: Chief Financial & Information Officer
WorkplaceNL
146-148 Forest Road
P.O. Box 9000
St. John's, NL A1B 3B8

The Contractor addressed to: [redacted] >
[redacted] >
[redacted] >
[redacted] >

8.0 NON-SOLICITATION

- 8.1 The Parties each agree that during the term of this Agreement and any extensions thereof, they shall not solicit any employee, contractor or agent of the other party whose employment is directly related to the provision of the work under this Agreement without the express written consent of the other party. If such consent is given, the Parties agree that a transition period shall be negotiated between them.
- 8.2 Should an employee, contractor or agent of one Party to this Agreement who is involved in the provision of work under this Agreement approach the other Party seeking employment or a contract of services, the Party which has been approached shall not provide such employment or contract of services for a period of twelve months following the termination of the employee's, contractor's or agent's relationship with the other Party.
- 8.3 Notwithstanding Sections 8.1 and 8.2, the Parties expressly warrant that, absent the other Party's express written consent, a Party will not hire any employee, contractor or agent of the Contractor whose employment is directly related to the provision of work under this Agreement unless that employee, contractor or agent is the successful candidate response to a bona fide general and non-targeted newspaper or other public media advertisement in the ordinary course of business and not as a direct result of this engagement.
- 8.4 If an employee, contractor, approved subcontractor or agent of the Contractor whose employment is directly related to the provision of work under this Agreement is hired by WorkplaceNL through an Open Competition, WorkplaceNL and the Contractor shall negotiate provisions respecting the effect of the hiring upon the completion of the work by the Contractor. Such provisions may include one or more of the following:
- (a) Deadlines for the applicable Scope of Work may be extended for up to five (5) weeks;
 - (b) A reasonable transition period to reduce the impact of the hiring on the delivery of the work; and
 - (c) Appropriate remediation for any changes to the work to be provided by the Contractor.
- 8.5 For the purposes of this Article, "directly related" refers to any employee, contractor or agent of the Contractor for whom 50 percent or more of his/her ongoing work hours are allocated to the provision of the work under this Agreement, or any employee, contractor, approved subcontractor or agent who is reasonably identified by the Contractor or WorkplaceNL as critical to the provision of work under this Agreement.

9.0 GENERAL PROVISIONS

- 9.1 The Parties will from time to time execute and deliver all such further documents and do all acts and things as the party may reasonably require to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement.
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IN WITNESS WHEREOF the Parties have caused this contract to be signed.

WorkplaceNL

Witness

Dennis Hogan
Chief Executive Officer

Date of Signature

< _____ >

Witness

< _____ >
< _____ >

Date of Signature

SCHEDULE A: SERVICES

A.01 The Contractor shall supply resources to assist WorkplaceNL with the design, development and implementation of the migration from WAF to On Demand. The resources shall perform the Services and shall work under the direction of WorkplaceNL. The Contractor is responsible for ensuring the complete compliance of the Consultant with all terms and conditions of this Agreement.

A.02 The Contractor shall be paid for the Services in accordance with Schedule "B".

CONTRACTOR'S PROPOSAL TO BE ATTACHED

SCHEDULE B: FINANCIAL COSTS

- B.01 Provided the Contractor has complied with all the terms, conditions and provisions of this Agreement, upon appropriate invoicing, WorkplaceNL shall pay the Contractor as outlined in Schedule A and the Standard Terms and Conditions for IT Contracts attached hereto and as outlined below.
- B.02 Provided the Vendor has complied with all the terms, conditions and provisions of this Agreement, upon appropriate invoicing, WorkplaceNL shall pay the Vendor the fixed price for the performance of the Services of < > Dollars and Cents (\$.00) plus HST, upon the milestones outlined below.
- B.03 WorkplaceNL shall not be responsible to pay any amounts invoiced by the Contractor which may arise from work, services, or expenses incurred to remedy errors or omissions in the Services for which the Contractor is responsible.
- B.04 WorkplaceNL shall, in addition to payment for Services as outlined herein, pay all reasonable expenses of the Contractor related to the provision of Services pursuant to this Agreement where:
- (a) The expense has been preapproved by WorkplaceNL; and
 - (b) The Contractor has submitted acceptable receipts as proof of the expense within 30 days after completion of the Services.

TRAVEL EXPENSES:

- B.06 When required by WorkplaceNL, < > will arrange to make consultant(s) available for work at WorkplaceNL's offices in St. John's, NL. Travel will be scheduled as mutually convenient.
- B.07 Unless otherwise specified herein, all travel must be pre-approved by WorkplaceNL. The Contractor shall comply with WorkplaceNL's Procedure 100.00: "Travel Procedures" for all travel expenses. The requirement for approval of out of province travel by the Chief Executive Officer and the Chair of the Board of Directors does not apply to the Contractor.
- B.08 If approved by WorkplaceNL, the Contractor shall make all travel arrangements for the its consultants and shall follow WorkplaceNL's procedure (Procedure number 100.00: Travel Procedures). The Contractor will use the most practical and economical arrangements for travel and accommodations considering both the dollars cost and travelling time involved. WorkplaceNL shall determine in its sole discretion what expenses shall be considered reasonable.
- B.09 Air travel will be by economy class.
- B.10 Special Government rates, available at many hotels/motels, must be requested when making reservations and wherever possible, establishments that offer discounts should be given preference by the person making the travel arrangements.

- B.11 Compensation for expenses shall be paid in accordance with WorkplaceNL's procedure (Procedure number 100.00: Travel Procedures) for expenses for management employees.
- B.12 Expense claims are required to be submitted to WorkplaceNL no later than 30 days after completion of work.

SCHEDULE C: CONTRACTOR CODE OF CONDUCT

If you are a contractor working with WorkplaceNL, you are required to acknowledge that you have received a copy of this Contractor Code of Conduct, have read and understood its purpose, and agree to comply with its standards and requirements.

CONFIDENTIALITY

- You will treat all WorkplaceNL information acquired in the performance of each assignment as privileged and confidential and shall not divulge the information to any person or persons at any time without the prior written consent and approval of WorkplaceNL unless required to do so by law. In the event that such disclosure is required, you agree to give WorkplaceNL prompt notice of the requirement unless prohibited by law.
- You will notify WorkplaceNL and provide to it full details of any unauthorized possession, use or knowledge, or attempt to gain possession, use or knowledge of WorkplaceNL information. You will use reasonable efforts to assist WorkplaceNL in investigating or taking preventive measures.
- You will cooperate with any investigation and litigation against third parties deemed necessary by WorkplaceNL.
- You will promptly use all reasonable efforts to prevent a recurrence of any unauthorized possession, use or knowledge of confidential information.
- You will ensure that all confidential information acquired in the performance of each assignment shall be secured in an appropriate manner to protect all interests, which could include the interests of WorkplaceNL and of third parties.
- You will return to WorkplaceNL all confidential information acquired in the performance of each assignment upon completion of that assignment, or destroy all confidential information acquired in the performance of each assignment as directed by WorkplaceNL, except as required to comply with relevant professional standards or required for regulatory compliance. Notwithstanding the foregoing, any information that is not capable of being destroyed shall remain subject to the provisions of this Code of Conduct.
- You will ensure that all confidential information acquired in the performance of each assignment is used only for the purposes intended for that assignment and in accordance with Privacy; not for the direct or indirect, current or future benefit of yourself, a member of your family, any other individual or of your company.
- You will disclose any factor that places you in a position of conflict of interest with respect to your assignment with WorkplaceNL.

USE OF COMPUTING DEVICES

The computing device is a desktop, laptop, mobile or other device that has been approved for use on the WorkplaceNL network (Network). This may be a WorkplaceNL-issued device.

- You will not attempt to connect to the Network (i.e. plug your computer directly into a Network jack in a WorkplaceNL building) without prior approval from WorkplaceNL.
- To obtain access to the Network, you must put a request in writing to WorkplaceNL's Security Manager. If permission is granted, then you must adhere to the terms and conditions of WorkplaceNL's Security Policies.
- You will permit WorkplaceNL to access and audit the device and all WorkplaceNL records on the device:
 - to validate the security of the device or for maintenance or security of the Network.
 - to add, remove, update and/or block any content, technical or otherwise, necessary for the maintenance or security of the Network or confidential information.
 - to determine if the device or inappropriate use of the device had adversely impacted the Network or confidential information.
 - to respond to an Access to Information and Protection of Privacy (ATIPP) or legal discovery request.
- It is not permissible to:
 - use the Network or device for illegal purposes, for personal gain or to contravene legislation, policies, directives or standards.
 - attempt to gain unauthorized access to the Network or to initiate or participate in any activity that negatively impacts the Network's security or performance.
- copy or transfer personal or confidential WorkplaceNL information from the Network to any media without the prior written approval of the business owner and/or the Director responsible for Information Technology Services. If copying or transferring personal or confidential information from the Network to any media is approved, then proper WorkplaceNL security procedures and protocols must be followed in the copying or transferring of that information.
- You must:
 - securely manage and protect Network and device usernames and passwords.
 - take reasonable precautions to prevent the introduction of viruses, SPAM or other malicious content.
 - immediately notify the IT Service Desk (service.desk@workplacenl.ca or 709-778-1555) if you know of or suspect potential harm to the Network or any device.
- You have no reasonable expectation of privacy when using the Network or when accessing confidential information. Equipment and resources will be monitored and/or searched, where necessary, by those authorized to do so on behalf of WorkplaceNL or law enforcement agencies.
- Where a determination is made that the Network or confidential information on the device could be or has been used for an improper or illegal purpose, WorkplaceNL may forward the device or information to law enforcement agencies for investigation.
- WorkplaceNL is within its rights to deny or sever access to the Network or application if you are found to be in violation of any of the above.

- WorkplaceNL devices must be returned to a manager or direct supervisor upon departure from WorkplaceNL.

Print name of Contractor: _____ Phone Number: _____

Print name of Company: _____ Assignment Location: _____

I acknowledge having read and understand this Contractor Code of Conduct and agree to comply with its standards and requirements.

SWORN/AFFIRMED at _____, this _____ day of _____, 2019, before me:

Commissioner of Oaths

SCHEDULE D: DISPUTE RESOLUTION

Any dispute that may arise between the Parties to this Agreement shall be addressed by the representatives of the Parties in accordance with the process outlined below:

1. **Level One:** Any disputes will first be negotiated at the level of Project Manager (for Contractor) and Project Manager (for WorkplaceNL) or the equivalent. Either Party may, after the expiry of five (5) days of discussions at this level, escalate the dispute to the next level.
2. **Level Two:** Presentation of the issue is made by each Party to the other Party's Project Manager (for Contractor) or Director of Information Technology Services (for WorkplaceNL) or the equivalent. If resolution cannot be attained after the expiry of five (5) days (or such longer period of time as mutually agreed by the Parties) then either Party may escalate the dispute to the next level.
3. **Level Three:** Presentation of the issue is made by both Parties to the next level of management (for Contractor) and the Chief Financial and Information Officer (for WorkplaceNL) or the equivalent executive counterpart. If resolution cannot be attained after the expiry of ten (10) days (or such longer time as mutually agreed by the Parties) then either Party may resort to any rights and remedies it has available under the terms of this Agreement or which are otherwise available at law.

Continued Performance

Except where clearly prevented by the issue in dispute, both Parties agree to continue performing their respective obligations under this Agreement while the dispute is being resolved unless and until such obligations are terminated or expire in accordance with the provisions hereof.

1. Agreement - This Agreement includes the following documents and any conflict between the documents shall be resolved by giving priority to the documents in the order as they appear:

- (a) executed agreement between WorkplaceNL and the Contractor to which this document is appended (if applicable);
- (b) WorkplaceNL Confidentiality Schedule (if applicable);
- (c) WorkplaceNL Standard Terms and Conditions;
- (d) Declaration(s) of Confidentiality/Conflict of Interest;
- (e) procurement documents (including purchase orders) issued by WorkplaceNL; and
- (f) Contractor's bid, proposal or quote.

This Agreement constitutes the whole agreement of the parties relative to the purchase of Services from the Contractor by WorkplaceNL and supersedes all prior negotiations, representations, or agreements, either written or oral.

2. Services – Services means all goods, materials and/or services required under this Agreement, but does not include the Contractor IP.

The Contractor shall provide the Services. WorkplaceNL is responsible for the evaluation of the scope and suitability of the Services provided by the Contractor.

3. Independent Contractor Status - The Contractor is an independent contractor as to all Services. Neither the Contractor, its employees, officers, associates and/or approved subcontractors and/or agents, if any, are to be construed as constituting employees, agents, or representatives of WorkplaceNL. As an independent contractor, the Contractor assumes all legal and contractual obligations arising out of the performance of the Services.

The Contractor shall not enter into any contract or commitment in the name of or on behalf of WorkplaceNL, or bind WorkplaceNL in any respect or make statements or representations of any kind or take any other actions that would be binding on WorkplaceNL except as specifically provided in this Agreement.

The Contractor shall be fully responsible for any and all employee benefits to be provided to the Contractor's employees. Neither the Contractor nor its employees, officers, associates and/or approved subcontractors or agents shall be entitled to participate in or receive any benefits whatsoever from WorkplaceNL as a result of performing Services. The Contractor is solely responsible for deducting the appropriate withholdings from the Contractor and its employees' pay cheques and for the remittance of such withholdings to the appropriate regulatory body as required by law.

Prior to commencing provision of Services the Contractor shall provide to WorkplaceNL a list of employees, officers, associates or approved sub-contractors or agents assigned to perform the Services including their job titles and qualifications for the provision of Services. The employees, officers, associates and/or approved sub-contractors or agents assigned to perform Services shall not change except with prior written consent of WorkplaceNL.

WorkplaceNL may, in its sole discretion, request that any employee, officer, associate or approved sub-contractor or agent of the Contractor be prohibited from the performance of Service and/or from access to any files and/or to WorkplaceNL's premises, and the Contractor shall immediately comply with this request. The Contractor hereby releases and forever discharges and holds harmless WorkplaceNL from any costs, claims, losses, and damages of any kind whatsoever based on negligence, defamation, wrongful discharge/dismissal or otherwise which Contractor may suffer, sustain, pay or incur as a result of any actions under this paragraph and will indemnify, defend and hold harmless WorkplaceNL against any third party claims based on actions hereunder.

4. Sub-Contractor - Without the prior written consent of WorkplaceNL, the Contractor shall not subcontract any part of the Services, assign or transfer any interest, or delegate any responsibility arising out of this Agreement, to anyone other than the approved employees, officers, associates, or approved subcontractors or agents of the Contractor in accordance with the provisions of this Agreement. Prior to approval of a sub-contractor, the Contractor must establish to the satisfaction of WorkplaceNL, that the sub-contractor also meets the requirements of this Agreement.

5. Payment - Provided the Contractor has complied with all terms, conditions and provisions of this Agreement, WorkplaceNL shall make payments to the Contractor of those fees as set forth in this Agreement, following appropriate invoicing by the Contractor. WorkplaceNL shall not be liable to the Contractor for any other costs or expenses, unless such costs or expenses are approved in advance and in writing by WorkplaceNL, or are specifically set out in this Agreement. The Contractor shall submit expense claims in a format acceptable to WorkplaceNL.

WorkplaceNL shall effect payment of invoices within thirty (30) days of receipt of an acceptable invoice by WorkplaceNL provided that the amounts so billed are correct and properly payable under this Agreement. All invoices shall include the Contractor's registration number for Harmonized Sales Tax (HST) and shall separately identify the amounts of such tax. Payment of invoices may be delayed through failure of the Contractor to identify the registration number and the amount of HST. The Contractor shall maintain records sufficient to verify invoices submitted to WorkplaceNL and WorkplaceNL shall not be responsible for reconciliation and/or review of incorrect bookkeeping by the Contractor.

WorkplaceNL will not pay interest on late or overdue accounts.

Payment for Services shall be made by direct deposit. The Contractor shall supply the necessary banking information to WorkplaceNL within 7 (seven) working days of awarding the contract.

Purchase orders and notices of payments will be forwarded to the Contractor from WorkplaceNL. The Contractor shall supply facsimile information to WorkplaceNL within seven (7) working days of awarding the contract.

Services which have been performed prior to the issuance of a purchase order shall not be invoiced to WorkplaceNL. Only

STANDARD TERMS AND CONDITIONS FOR IT CONTRACTS

Services rendered within the date range delineated on the purchase order will be paid by WorkplaceNL.

The Contractor shall only submit an invoice for payment once. If the Contractor has not received payment for an invoice, the Contractor may contact the Accounts Payable Department of WorkplaceNL but it shall not resubmit the invoice unless expressly requested by WorkplaceNL. If the Contractor sends a Statement of Account, it shall be clearly marked "Statement of Account" at the top of the page.

6. Set-Off - At its sole option and without notice to the Contractor, WorkplaceNL shall have the right to set-off any amount due to WorkplaceNL by the Contractor under this Agreement or otherwise against any amount due and owing by WorkplaceNL to the Contractor under this Agreement.

7. Non-exclusive - This Agreement does not create an exclusive relationship between the Contractor and WorkplaceNL. WorkplaceNL may also, at any time retain other contractors to perform work in relation to the Services or any changes or additions to such Services. The Contractor is free to, and it is anticipated that the Contractor will, engage with other clientele in addition to its engagement herein with WorkplaceNL.

8. Conflict of Interest – The Contractor shall not provide Services if the Contractor is in a conflict of interest. The Contractor shall not permit any actual, possible or perceived conflict of interest between the interest of WorkplaceNL and/or its clients and the interest of the Contractor. The Contractor shall immediately disclose any such conflict of interest to WorkplaceNL in writing. WorkplaceNL shall, in its sole discretion, determine if an actual, possible or perceived conflict of interest exists and determine the appropriate course of action to be taken by WorkplaceNL and/or the Contractor. WorkplaceNL's decision in this regard shall be final and conclusive. WorkplaceNL understands and agrees the Contractor is in the business of providing development solutions and related services which may be used by WorkplaceNL competitors.

The Contractor:

- (a) shall conduct all duties related to this Agreement with impartiality;
- (b) shall not influence, seek to influence, or otherwise take part in a decision of WorkplaceNL and/or WorkplaceNL's client, knowing that the decision might further its private interests;
- (c) shall not accept any communication, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of any Services, that causes, or would appear to cause, a conflict of interest; and
- (d) shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of any Services.

9. Confidentiality - All data and information of or concerning WorkplaceNL, WorkplaceNL clients, or of third parties to whom WorkplaceNL owes a duty of confidence, obtained by the Contractor, its employees, officers, associates, and/or approved sub-contractors or agents, is:

- (a) to be treated as confidential;
- (b) to be used only to supply or perform Services to WorkplaceNL pursuant to this Agreement;
- (c) not to be reproduced or disclosed to anyone other than WorkplaceNL personnel as required in the performance of this Agreement;

- (d) not to be removed from the offices of WorkplaceNL without prior written consent of WorkplaceNL;
- (e) to be delivered to WorkplaceNL without cost forthwith upon demand, including all copies and records of same; and
- (f) to be protected by making reasonable security arrangements against such risks as unauthorized access, collection, use, disclosure, disposal, and disaster.

Nothing in the Agreement will prohibit or limit either Party's use or disclosure of information (including, but not limited to, ideas, concepts, knowledge, techniques, and methodologies) which is:

- (a) previously known to it without an obligation of confidence;
- (b) independently developed by or for it;
- (c) acquired by it from a third party which is not under an obligation of confidence with respect to such information; or
- (d) required by law. In the case of a disclosure required by law, the Contractor shall notify WorkplaceNL in writing prior to the disclosure to provide an opportunity to restrain the disclosure.

The Contractor will notify WorkplaceNL both verbally and in writing in the event of any unauthorized access to or disclosure of data or information.

The Contractor acknowledges that WorkplaceNL is bound by the terms of the *Workplace Health, Safety and Compensation Act*, R.S.N.L. 1990, c. W-11, as amended (the "Act"), the *Access to Information and Protection of Privacy Act*, 2015, SNL 2015, c. A-1.2, as amended ("ATIPPA"), the *Management of Information Act*, SNL 2005, c. M-1.01, as amended, the *Privacy Act*, R.S.N.L. 1990, c. P-22, as amended, and the *Personal Health Information Act*, SNL 2008, c. P-7.01, as amended, and agrees to abide strictly by the terms of these and any other applicable laws and professional standards respecting the collection, use and disclosure of data or information that the Contractor, its employees, officers, associates, and/or approved sub-contractors or agents, could become exposed to directly or indirectly during the performance of Services. WorkplaceNL may be compelled to disclose data or information pursuant to ATIPPA.

The Contractor shall observe all requirements, standards and protocols of WorkplaceNL, relating to confidentiality, conflict of interest, and collection, storage, transfer, copying, modification, use, disclosure and disposition of information. The Contractor shall comply with the provisions of the attached "Declaration of Confidentiality/Conflict of Interest" and shall provide to WorkplaceNL executed copies of the said Declaration of Confidentiality/Conflict of Interest by the Contractor and all of the Contractor's employees, officers, associates, and/or approved sub-contractors who will perform Services under the Agreement prior to the provision of Services.

The Contractor shall ensure that it has in place and follows appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all Confidential Information, including but not restricted to the following:

- (a) At a minimum, using the same level of physical and electronic security as the Contractor employs to avoid disclosure or dissemination of the Contractor's own confidential information, to prevent the disclosure of any of the Confidential Information to any third party other than those who are required to have access to properly perform the work under this Agreement;
- (b) Establishing and maintaining security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the Confidential Information;

Contractor Initials: _____

STANDARD TERMS AND CONDITIONS FOR IT CONTRACTS

- (c) Providing appropriate access control methods for areas where Confidential Information is stored;
- (d) Ensuring all employees, officers, associates and/or approved subcontractors or agents of the Contractor comply with all policies, standards and safeguards established under this Article;
- (e) Advising WorkplaceNL of any changes in its security systems, procedures, standards and practices that may negatively impact the protection of Confidential Information;
- (f) Reporting to WorkplaceNL at least annually, but more often if required by WorkplaceNL, the status of its security measures and any further measures that may be taken to ensure confidentiality is maintained; and
- (g) Satisfaction of the foregoing commitments includes, but is not restricted to, compliance with the requirements set out in Schedule "C", unless otherwise advised by WorkplaceNL, and this includes:
 - (i) Complying with all alterations or updates of Schedule "C" as may be provided to the Contractor from time to time; and
 - (ii) Adhering to any additional instructions (including oral instructions) from WorkplaceNL as it relates to the subject matter contained in Schedule "C" and this Article.

Without limiting the generality of the foregoing, the Contractor acknowledges that WorkplaceNL shall have the right to obtain injunctive relief for violation of the terms of the clause. All those carrying out this Agreement on the Contractor's behalf are subject to this Agreement and may be liable to suit by WorkplaceNL for breaching this clause.

When deemed appropriate by WorkplaceNL, in its sole discretion, WorkplaceNL may also require the Contractor and its employees, officers, associates, and/or approved sub-contractors or agents to comply with the WorkplaceNL Contractor Code of Conduct – "Schedule C". The Contractor must initial the WorkplaceNL Confidentiality Schedule which will form part and parcel of this Agreement.

10. Access to Information – WorkplaceNL is subject to the ATIPPA and consequently the public has a right of access to WorkplaceNL's records. WorkplaceNL shall not be liable for any claims, costs, losses or damages experienced by the Contractor as a result of WorkplaceNL's release of information to another party pursuant to the provisions of ATIPPA or due to any other legal requirements.

11. Warranty - The Contractor represents, warrants and covenants that:

- (a) the information contained in its bid, proposal or quote is true and accurate;
- (b) all equipment supplied meets and is operated in accordance with the manufacturer's specifications and applicable regulatory requirements;
- (c) all Services provided are materially free from any defects in design, materials and workmanship, and that the Services materially comply with specifications and are suitable and fit for its intended purpose, which warranty extends no longer than 3 months from the delivery of any Deliverable;
- (d) the supply of Services will not infringe any patent, trademark or copyright;
- (e) the Contractor provides good and clear title to the Services to WorkplaceNL;
- (f) the Contractor, its employees, officers, associates and/or approved subcontractors or agents have the necessary skills, expertise, materials and experience; are qualified in the safe work procedures and operations of equipment;

- and shall provide and perform the Services in accordance with the provisions of this Agreement;
- (g) the Contractor shall provide and perform the Services in accordance with all applicable law and professional standards, and in a skilful, safe, efficient and professional manner satisfactory to WorkplaceNL;
- (h) the Contractor, its employees, officers, associates and/or approved subcontractors or agents shall comply with all safety and security rules and workplace policies and procedures in effect from time to time while using or accessing WorkplaceNL's premises, assets, and/or resources;
- (i) the Contractor, its employees, officers, associates, and/or approved sub-contractors or agents will not commence work while under the influence of alcohol, marijuana or illegal drugs;
- (j) the Contractor, its employees, officers, associates, and/or approved sub-contractors or agents shall comply with the *Occupational Health and Safety Act*, R.S.N.L. 1990, c. O-3, and the Regulations thereto, as amended; and
- (k) if the Contractor is carrying on an undertaking in the Province of Newfoundland and Labrador, the Contractor will during the term of this Agreement continue to be registered and authorized to carry on business in compliance with the laws of the Province of Newfoundland and Labrador.

The Contractor shall supply all labour, materials, and supervision to complete the Services in accordance with the Agreement, provided that the Contractor IP will be independently licensed by WorkplaceNL. The Contractor shall obtain all permits and licences, pay such fees, and give all notices necessary for the lawful performance of the Services. Except as otherwise specifically stated in this Agreement, all facilities and equipment required for the provision of the Services shall be provided by the Contractor and shall remain the property and responsibility of the Contractor.

The Contractor is fully and solely responsible for the actions of the Contractor and its employees, officers, associates, and/or approved sub-contractors or agents in performance of the Services and to ensure compliance with this Agreement. WorkplaceNL's approval of employees, officers, associates, and/or subcontractors or agents does not relieve the Contractor of the Contractor's responsibilities under this Agreement.

12. Indemnity and Liability

The Contractor shall indemnify and hold harmless WorkplaceNL from and against all claims, actions, losses, expenses, costs and direct damages of every nature and kind whatsoever which WorkplaceNL or its employees, officers, associates, or agents may suffer where the same are based upon or arise out of anything done or omitted to be done by the Contractor or its employees, officers, associates, and/or approved sub-contractors.

The Contractor shall be liable for (i) all bodily injury or death, (ii) property damage, (iii) breach of confidentiality, (iv) damages arising from intellectual property infringement as described in the Agreement and (v) dishonest or fraudulent act by any of the Vendor's employees, officers, associates and /or approved subcontractors or agents caused to WorkplaceNL, its employees, officers, associates and/or approved subcontractors or agents, by the Contractor's fault, negligence, act or omission or by the fault, negligence, act or omission of the Contractor's employees, officers, associates and/or approved subcontractors or agents in the performance or non-performance of any of its obligations under this Agreement.

Contractor Initials: _____

STANDARD TERMS AND CONDITIONS FOR IT CONTRACTS

The Contractor shall indemnify and hold harmless WorkplaceNL from and against any loss arising from all claims, actions, demands, losses, costs, debts, damages, expenses, actions, suits or other proceedings arising as a result of bodily injury or death and property damage due to the fault or gross negligence of the Contractor, its employees, officers, Associates and/or approved subcontractors or agents in the performance or non-performance of any of its obligations under this Agreement.

Without limiting the generality of the foregoing, the Contractor shall also be liable and shall indemnify WorkplaceNL for any loss suffered by WorkplaceNL as a result of the commission of any dishonest or fraudulent act by any of the Contractor's employees, officers, associates, and/or approved subcontractors or agents during the term of this Agreement or at any time after the termination of this Agreement.

Except for any claims (i) all bodily injury or death, (ii) property damage, (iii) breach of confidentiality (iv) damages arising from intellectual property infringement and (v) dishonest or fraudulent act by any of the Contractor's employees, officer, associates and/or approved subcontractors or agents arising out of the actions of the Contractor, the Contractor's liability for damages or indemnification shall be limited to direct damages equal to the amount actually billed during the quarter immediately prior to when the claim arose for the work to which the claim relates. Regardless of the nature of the claim, in no event shall the Contractor be liable for indirect, incidental, special or consequential damages or damages for lost profits, data, opportunities or revenues of WorkplaceNL relating to the work or any breach of this Agreement, even if it has been informed of the possibility thereof. The limitations and exclusions from liability herein shall apply regardless of the basis of the claim, including, without limitation, any claim of fundamental breach of contract, and shall apply for the benefit of the Contractor's employees, officers, associates and/or approved subcontractors or agents.

Except for any claims (i) all bodily injury or death, (ii) property damage, (iii) breach of confidentiality (iv) damages arising from intellectual property infringement and (v) dishonest or fraudulent act by any of the Contractor's employees, officers, associates and/or approved subcontractors or agents arising out of the actions of WorkplaceNL, WorkplaceNL's liability for damages or indemnification under this Agreement shall be limited to direct damages equal to the amount actually billed by the Contractor to WorkplaceNL during the quarter immediately prior to when the claim arose for the work to which the claim relates. Regardless of the nature of the claim, in no event shall WorkplaceNL be liable for indirect, incidental, special or consequential damages, damages for lost profits or opportunities or any breach of this Agreement, even if it has been informed of the possibility thereof. The limitations and exclusions from liability herein shall apply regardless of the basis of the claim, including, without limitation, any claim of fundamental breach of contract.

13. Insurance and Risk of Loss

All work, including but not limited to the software, materials, data, specifications, and programs which have been delivered to WorkplaceNL by the Contractor under this Agreement, shall:

- (a) Prior to delivery to WorkplaceNL be the responsibility of the Contractor to protect from loss, damage or destruction, and the replacement of any such work lost, damaged or destroyed prior to delivery shall be at the sole expense of the Contractor; and

- (b) Upon delivery to WorkplaceNL become the responsibility of WorkplaceNL to protect from loss, damage or destruction, and the replacement of any such work lost, damaged or destroyed after delivery to WorkplaceNL shall be at the sole expense of WorkplaceNL.

The Contractor shall, at its own expense and without limiting its liability herein, insure its operations under a contract of General Liability Insurance, with an insurer licensed in Newfoundland and Labrador, in an amount not less than Two Million Dollars (\$2,000,000) per occurrence, with an annual general aggregate, if any, of not less than Four Million Dollars (\$4,000,000) for each of its locations, insuring against any and all bodily injury, personal injury and property damage including loss of use thereof. Such insurance shall include blanket contractual liability and shall be in effect for the duration of the Agreement and any extensions or renewals. The deductibles applicable to the insurance required shall not exceed Five Thousand Dollars (\$5,000) per occurrence.

Certificates of insurance shall be provided to WorkplaceNL prior to the provision of Services under this Agreement and within thirty (30) days of any insurance renewal. All insurance called for under this Agreement shall be endorsed to provide WorkplaceNL with thirty (30) days advance written notice of cancellation, failure to renew or material change (material defined as any change restricting or reducing required coverage). WorkplaceNL may, at any time, request certified true copies of the policies and they shall be provided within fourteen (14) working days of the request. All insurance called for under this Agreement shall be primary insurance and shall not require the pro rata sharing of any loss by WorkplaceNL or any insurer of WorkplaceNL.

14. Good Standing & Safety – If the Contractor is engaged in, about or in connection with an industry in the province of Newfoundland and Labrador under the *Act*, prior to commencing provision of Services and during the term of this Agreement, the Contractor and any approved sub-contractors must be registered as an employer or have independent operator coverage under the *Act*, must be in good standing with WorkplaceNL, and shall comply with the *Act* and the Regulations thereto, as amended. The Contractor authorizes WorkplaceNL to obtain confirmation of the same.

15. Performance Standards

Time is of the essence in the performance of the Agreement.

WorkplaceNL shall not be obligated to make any payments for Services rendered by the Contractor to remedy errors or omissions for which, in the reasonable opinion of WorkplaceNL, the Contractor is responsible.

16. Non-waiver – Mere acceptance of shipment of the Services specified and any inspection thereto by WorkplaceNL, shall not alter, limit or affect the obligations of the Contractor or the rights of WorkplaceNL herein or at law.

17. Title & Risk - Title to Services shall not pass to WorkplaceNL until delivered to a WorkplaceNL location and until such time shall be at the sole risk of the Contractor.

18. Canadian Standards Association (CSA) Approval – The Contractor shall ensure that all electrical, materials, hardware and assemblies supplied under the Agreement are fully CSA approved.

Contractor Initials: _____

STANDARD TERMS AND CONDITIONS FOR IT CONTRACTS

19. Workplace Hazardous Materials Information System

(WHIMIS) – When dealing with materials designated as hazardous, the Contractor shall ensure all goods and materials are provided with appropriate labels and material safety data sheets where required by WHIMIS legislation.

20. Changes – WorkplaceNL, without invalidating the Agreement, may alter, add to or delete from the work, the Agreement sum being adjusted accordingly provided the Contractor has agreed to the same in writing. All such changes shall be governed by the conditions of the original Agreement. Any changes and unforeseen extras must be documented by change orders and approved by WorkplaceNL prior to proceeding. Supplementary invoices not supported by change orders will not be honored. The Contractor must notify WorkplaceNL of changes in the Contractor's policy or organization that affects its ability to meet its obligations outlined in the Agreement.

21. Termination - This Agreement may be terminated at any time by the mutual consent of the Parties.

WorkplaceNL may terminate this Agreement at any time, without cause, by giving thirty (30) calendar days written notice to the Contractor. WorkplaceNL shall not be subject to a claim for damages by the Contractor for any such termination.

WorkplaceNL may, in addition to and not in lieu of any other right or remedy available, at law or in equity, on the terms outlined in this paragraph terminate this Agreement at any time without notice, for cause and without compensation to the Contractor should:

- (a) the Contractor, its employees, officers, associates, and/or approved sub-contractors or agents be in breach of any provision of this Agreement;
- (b) WorkplaceNL determine, in its sole discretion, that the Services are being provided in a manner inconsistent with this Agreement;
- (c) the Contractor fail to make adequate progress in the performance of the Agreement, or alternatively, an indication by the Contractor that they cannot or will not meet any or all of the requirements of the Agreement;
- (d) WorkplaceNL determine, in its sole discretion, that the invoicing practices of the Contractor are unsatisfactory or improper; or
- (e) the Contractor becomes insolvent or bankrupt or makes an assignment for the benefit of creditors or receivers appointed of its business, or a voluntarily or involuntary petition in bankruptcy is filed, or proceedings for the reorganization or winding up of the Contractor is instituted.

WorkplaceNL may terminate the Agreement immediately or may provide the Contractor with written notice of the above noted default and provide the Contractor an opportunity to rectify the said default within 72 hours. If the default is not rectified to the satisfaction of WorkplaceNL within 72 hours, then WorkplaceNL can proceed to terminate this Agreement, for cause, without further notice.

Where this Agreement is terminated, either by mutual consent or otherwise, the Contractor shall, without any further fee or cost whatsoever to WorkplaceNL:

- (a) upon the effective date of termination of this Agreement cause all Services being provided under this Agreement to be discontinued, unless WorkplaceNL has provided its express, written consent to the continuation of Services; and
- (b) within thirty (30) working days of the effective date of termination, provide all work product and all final invoices

for Services completed to the date of termination pursuant to this Agreement. The obligations of WorkplaceNL to make payment to the Contractor shall continue for Services performed up to and including the date of termination but do not continue beyond that time period. If the Agreement stipulates a lump sum payment, any such payment for Services performed shall be valued proportionately to the value of the contract.

The Contractor shall not be entitled to any other payment in respect of such termination including, without prejudice to the generality of the foregoing, any payment for any consequential loss or damage or loss of profits arising from termination of this Agreement or in any other way related thereto.

22. Force Majeure – Neither the Contractor nor WorkplaceNL shall be deemed to be in default of its obligations under this Agreement, if, and for as long as, any delay or non-performance is directly or indirectly caused by or results from events of Force Majeure beyond the control of that party. These events shall include, but not be limited to, strikes, civil disturbances, wars, fires, acts of God, and acts of any government or branch or agency thereof.

Force Majeure shall not include the following:

- (a) late delivery of equipment or materials caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or similar occurrences; and
- (b) late performance by a sub-contractor(s) unless the delay arises out of a Force Majeure occurrence in accordance with this clause.

23. Records & Audit - The Contractor shall maintain appropriate records and files in relation to the Services provided under this Agreement for seven (7) years, at which time the Contractor will destroy any and all copies and versions of the said records and files. The Contractor will retain copies of the records and files only to the extent required by law and applicable professional standards. The Contractor shall provide a copy of the said records and files within seven (7) working days of receipt of a written request from WorkplaceNL.

In addition to any other rights of inspection or audit that WorkplaceNL may have under this Agreement or under statute, WorkplaceNL or a person authorized by WorkplaceNL, may, at any reasonable time and upon reasonable notice to the Contractor, inspect, audit and evaluate the Contractor's compliance with the terms of this Agreement, including but not limited to compliance with Service and invoice obligations, privacy, security and information management, under this Agreement through any means including but not limited to the following means:

- (a) on-site visit and examination of records and files, and inspection of electronic devices upon WorkplaceNL's request,
- (b) observation of the performance of the Services in progress,
- (c) full access to applicable records and files and the ability to make copies of the record, and
- (d) oral or written communication pertaining to Services with any clients, employees, associates, officers, and approved sub-contractors or agents of the Contractor.

Notwithstanding any other provision of this Agreement, WorkplaceNL shall not be responsible for the Contractor's costs or fees associated with compliance with this section.

24. General - The paragraph headings shall not be considered in interpreting the text.

Contractor Initials: _____

STANDARD TERMS AND CONDITIONS FOR IT CONTRACTS

25. Invalid or Unenforceable Provision - If any term or provision of this Agreement is found to be illegal, invalid, or unenforceable, notwithstanding this Agreement may, at WorkplaceNL's option, remain in full force and effect and such term or provision shall be deemed removed from this Agreement and the remaining provisions form a valid agreement.

26. Waiver - Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the party giving it, and only in the specific instance and for the specific purpose for which it has been given. Failure on the part of any party to exercise, and/or delay in exercising, any right under this Agreement shall not operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

27. Governing Law - This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Newfoundland and Labrador, and the forum for all disputes shall be the Courts of the Province of Newfoundland and Labrador.

28. Survival of Obligations – All the obligations of the Contractor under this Agreement, including but not limited to

independent contractor status, confidentiality, warranty & liability, records & audit, termination, indemnification and insurance provisions, shall survive the termination or completion of this Agreement.

29. Promotion - The Contractor shall not associate WorkplaceNL in any advertising or other promotional materials or messages associated with it without WorkplaceNL's prior written consent. The Contractor, its employees, officers, associates and/or approved sub-contractors or agents shall not approach WorkplaceNL personnel, to in any way promote the business of the Contractor.

30. Enurement – Subject to the express limitations set out in the Agreement, this Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the Parties.

31. Agreement Amendment - The Agreement may only be modified by a written agreement signed by persons duly authorized by the Contractor and WorkplaceNL.

Contractor Initials:_____

DECLARATION OF CONFIDENTIALITY/CONFLICT OF INTEREST

I, _____, of _____ do declare that:
(Print name of individual) (Print name of contractor)

1. I am either a) an owner of the Contractor; b) an employee of the Contractor, c) an independent contractor or d) I have been determined to be an employee of the Contractor by WorkplaceNL pursuant to the *Workplace Health, Safety and Compensation Act*. I am not an employee of WorkplaceNL.
2. I will perform Services pursuant to the Agreement between the Contractor and WorkplaceNL in relation to WorkplaceNL and/or in relation to clients of WorkplaceNL. All data and information received or obtained in the course of performing the Services, either directly or indirectly, is confidential information. I shall conduct myself in accordance with applicable privacy legislation and professional standards and I shall keep in confidence any such confidential information. I shall not collect, use, or retain any such confidential information whatsoever except to the extent necessary to perform Services. I will protect this information from disclosure to any other person or other entity whatsoever.
3. I acknowledge that I have read and understand the WorkplaceNL Standard Terms and Conditions and any applicable WorkplaceNL Confidentiality Schedule and I, hereby, agree to comply with all terms and conditions outlined therein.
4. Upon termination of my employment with the Contractor or when required, I shall return to the Contractor any and all confidential information obtained in the course of performing Services which is in my possession and/or control. When required, I shall return to WorkplaceNL any and all confidential information obtained in the course of performing Services which is in my possession and/or control. I will retain copies of confidential information only to the extent required by law and applicable professional standards.
5. I will not permit any actual, possible or perceived conflict of interest between the interests of WorkplaceNL and/or its clients and the interests of either myself or the Contractor, and will immediately disclose any such conflict to WorkplaceNL in writing.
6. I agree:
 - (a) to conduct all duties related to Services with impartiality;
 - (b) that I shall not influence, seek to influence, or otherwise take part in a decision related to WorkplaceNL and/or its client, knowing that the decision might further my private interests or the interests of the Contractor;
 - (c) that I shall not accept any communication, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of Services, that causes, or would appear to cause, a conflict of interest; and
 - (d) that I shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of Services.
7. I acknowledge having read, understood and obtained receipt of a copy of this declaration.

SWORN/AFFIRMED at _____,
in the Province of Newfoundland and Labrador, this
_____ day of _____, 2019, before me:

Commissioner of Oaths

Signature of Individual

Contractor Initials: _____