

**WorkplaceNL**  
**2024-17-Q**  
**Service Providers of Hearing Aid Devices**

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**WorkplaceNL**

Health | Safety | Compensation

**Request for Qualifications (RFQ): 2024-17-Q**

**Service Providers of Hearing Aid Devices**

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**Issue Date: April 30, 2024**

**RFQ Closing Date: May 28, 2024 before 2:00 p.m. (NL Time)**

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**SECTION 1 – OVERVIEW AND SCOPE OF SERVICES**

**1.1 Request for Qualifications Summary**

The Workplace Health, Safety and Compensation Commission (“WorkplaceNL”) is inviting prospective Applicants to submit proposals to provide Hearing Aids and Hearing Aid Services to Injured Workers eligible for a Hearing Loss Claim.

WorkplaceNL reserves the right to contract with one provider of services for all regions or to contract with separate providers, as required, to provide the required regional services. The term of the agreement will be for a period three (3) years. WorkplaceNL will, in its sole discretion, have an option to extend the agreement for an additional term of two (2) years 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 RFQ 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.  |
| RFQ:            | Request for Qualifications which includes the original Request for Qualifications and any and all addenda.                     |
| Must/Shall:     | A requirement that is mandatory and if not met will result in rejection of the proposal.                                       |
| Services:       | Includes but is not limited to the dispensing of hearing aids and hearing aid services.  |
| Injured Worker: | an individual who is entitled to compensation under the <b>Workplace Health Safety and Compensation Act, 2022</b> (the “Act”). |

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### **1.3 Intent**

The purpose of this RFQ is to establish a formal non-exclusive contractual relationship with approved Applicants geographically in the province of Newfoundland and Labrador. This contract is for the proper selection, fitting, and verification of hearing aid devices based on current clinical best practices and associated aural rehabilitation services; and any required hearing aid maintenance and repairs for hearing aids currently owned by Injured Workers and for hearing aids fit during the term of the agreement. WorkplaceNL's intention is to ensure that these services will be provided by qualified professionals with the expertise, appropriate qualifications, licenses, equipment and premises as required.

WorkplaceNL has established set criteria and fees for identified services provided to Injured Workers.

A travel incentive will be paid to approved Applicants for travel to a Visiting Site in rural areas of Newfoundland and Labrador (towns or communities located off the Trans-Canada Highway) if they are the sole provider of services in the geographical area as identified herein. The incentive will not be payable if there is more than one approved Applicant providing services in that rural area. The incentive will be based only on mileage to that specific rural area once per month. The mileage is calculated utilizing the following government site:

<http://www.stats.gov.nl.ca/DataTools/RoadDB/Distance/>

### **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, 2022** (the "Act"). These services include promoting workplace health and safety in order to prevent and reduce workplace injury and illness. WorkplaceNL strives to ensure injured workers receive the best care possible and the benefits to which they are entitled. WorkplaceNL facilitates injured workers' recovery, and early and safe return to work. In addition, WorkplaceNL administers an employer classification and assessment system and ensures adequate funding for services through sound financial management.

WorkplaceNL is organized along two main functional areas: 1) prevention and workplace services; and 2) corporate and 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 (no-fault compensation coverage).

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## **1.5 Scope of Work**

Upon approval of a hearing loss claim, the Injured Worker will be notified of the approved Applicant(s) in the Injured Worker's geographical location and entitlement. The Injured worker will seek services from an approved Applicant in their geographical area.

WorkplaceNL will approve the purchase of a Hearing Aid that has been identified as the device that meets the Injured Worker's compensable hearing loss within the approved Hearing Aid Standing Offer List. If a Hearing Aid is required out of the Standing Offer Price List, the request will be reviewed on a case by case basis and may be approved if the hearing aid is selected from WorkplaceNL's Hearing Aid Exception List.

If the Injured Worker makes a decision to purchase a Hearing Aid from the Hearing Aid Exception List that is above the cost range approved by WorkplaceNL, the Applicant must invoice the Injured Worker directly for the difference.

WorkplaceNL may issue a purchase order to cover the cost of the Hearing Aid to the approved Applicant based on the Hearing Aid Standing Offer List or the Hearing Aid Exception List, as determined appropriate by WorkplaceNL. The Hearing Aid Standing Offer Price List and the Hearing Aid Exception List are available on WorkplaceNL's website to all approved Applicant(s).

The approved Applicant will be reimbursed for services associated with the fitting of the Hearing Aids as outlined in Appendix "C".

### **1.5.1 Required Services**

Listed below are the services required by Injured Workers who are approved for a hearing loss claim and the criteria to be met for payment of those services.

#### **Fitting Services**

The approved Applicant must provide the following services when fitting all Hearing Aids and the approved Applicant will be paid for the fitting fee as stated in Appendix "C".

The approved Applicant must ensure completion of the HA-02 form Hearing Aid Fitting Report.

#### **Approved Fitting Fee per Hearing Aid**

The Hearing Aid must be purchased directly from the list of manufacturers and hearing aids approved by WorkplaceNL.

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The fitting fee includes all of the following which will be covered in four (4) office visits:

- Hearing assessments required for hearing aid selection and fitting
- Earmold impression, if required
- Hearing Aid selection and ordering
- Hearing Aid fitting, verification (including all Real Ear Measurements that verify that prescriptive aided targets are met. Results must be kept on file as WorkplaceNL may require copies at any time) and adjustment which includes ensuring that the Hearing Aid shell or earmold is a precise, comfortable fit at the time of initial fitting.
- Education regarding the proper use, care and maintenance of the hearing aid including;
  - insertion/removal of the device
  - operation of all external controls and features
  - protecting the device from damage such as avoiding wax and moisture related repairs
  - use of the hearing aids with the telephone
  - proper cleaning including use of cleaning tools and wax guards included with the hearing aids
  - proper use and replacement of the required size hearing aid batteries
  - use of battery recharger, if applicable
- Approved Applicant must have the Injured Worker demonstrate the above techniques
- Counselling regarding realistic expectations, listening strategies in conjunction with hearing aid use and the recommended plan for follow-up post fitting
- Contact with the Injured Worker within 30 days of the fitting
- Follow-up visit to include adjustments, counselling, repair and one re-programming, if necessary
- Provision to the Injured Worker of all product manuals and warranty information
- Dri-Aid kits must be included with each fitting for battery operated hearing aids and must include instructions.

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**Support Maintenance Services**

The approved Applicant must provide follow up and process repairs and returns for Hearing Aids supplied by WorkplaceNL's approved manufacturers for all new purchases and for Hearing Aids purchased for Injured Workers prior to the term of the agreement. The terms, conditions and pricing structure in the agreement shall apply to all Hearing Aids regardless of the date and place of purchase and/or the age of the Hearing Aid. Analogue Hearing Aids continue to be used by some Injured Workers and the approved Applicant shall support those Hearing Aids.

A purchase order will be issued which will provide prior approval for the Injured Worker to obtain support maintenance services from the approved Applicant for a one (1) year period.

WorkplaceNL will not pay for the service unless a purchase order has been issued. The approved Applicant will be paid in accordance with the fees outlined in Appendix "C". The maximum number of services allowed for Injured Workers for support maintenance of a Hearing Aid(s) is two (2) services per Hearing Aid per year. Services may consist of an in-person clinic visit or a Hearing Aid mailed to the approved Applicant.

If an Injured Worker requires more frequent services, the approved Applicant must provide supporting rationale to WorkplaceNL. Prior approval is required and the Injured Worker and the approved Applicant will be advised if additional services will be covered. In cases where additional service is approved, a new purchase order will be issued.

The approved Applicant must identify on the invoice what service was provided and the serial number of the applicable Hearing Aid.

Support maintenance will cover the following services:

- 1) Assessment of problems. This may also include manufacturer repairs. Manufacturer repairs occur when a Hearing Aid must be sent to the manufacturer to repair. Manufacturer repairs which are not covered by the manufacturer's warranty will be assessed and if it is determined by WorkplaceNL following review of the repair history/costs that the repair will be conducted, payment for the repair will be based on the fees established between WorkplaceNL and the manufacturer.
- 2) Minor repairs. These may include but are not limited to: adjustments, removal of wax, cleaning, repair/replacement of battery doors, ear hooks, tubing and wax guards. Minor repairs are expected to be minimized by appropriate training and education of the Injured Worker during the fitting process. Hearing Aids with repeated repairs will be monitored and audited against the

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manufacturer's serial number. The approved Applicant must support all invoices repairs with the serial number of the Hearing Aid, a detailed list of repairs performed by the manufacturer and the actual manufacturer's repair cost.

- 3) Reprogramming of a Hearing Aid. This may include better meeting of aided prescriptive targets, sound quality, listening needs, loudness preference, especially following a trial period of use.
- 4) Counselling.

### **Replacement**

WorkplaceNL will replace an Injured Worker's Hearing Aid(s) only when necessary. The approved Applicant shall not solicit Injured Workers for replacement of current Hearing Aids; replacement must be initiated by the Injured Worker. The minimum replacement time frame is every five (5) years. The frequency of replacement Hearing Aids will be subject to audit by WorkplaceNL.

**Hearing Aids will not be replaced while under manufacturer or repair warranty without prior authorization of WorkplaceNL.**

The approved Applicant must complete and submit the HA-05 Form - Hearing Aid Replacement Information including all clinical and cost information to support the stated reason for replacement and the rationale for how the replacement Hearing Aid will serve the reason for replacement.

WorkplaceNL may authorize a new Hearing Aid;

- If the Hearing aid is not functioning properly and the cost of repair is no longer considered cost effective after WorkplaceNL's review of the repair history and costs.
- If there is a significant change in the Injured Worker's hearing or work-related hearing requirements that the current Hearing Aid cannot accommodate, even with adjustments. If requesting a replacement on this basis, the approved Applicant should provide full audiometric testing which includes real ear measurements and bone conduction testing as evidence to support that the current Hearing Aid is no longer suitable.
- Any other request will be reviewed on a case by case basis by WorkplaceNL.

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**Other Services**

Other services including real ear measurements, ear molds, ear impressions, ear mold blowers, Dri-Aid kits and remake and/or refitting of Hearing Aids shall be provided only upon issuance of a purchase order by WorkplaceNL and shall be invoiced in accordance with Appendix "C".

**Service Delivery Requirements**

An Injured Worker must have access to his or her clinic file. Should the Injured Worker request of copy of their file, the approved Applicant must comply.

**Acknowledgement of Receipt of Service**

It is the responsibility of the approved Applicant to take all reasonable steps to ensure that an Injured Worker fully understands the contents of any documents they are signing that relate to services and/or products for a fee which is payable under Appendix "C".

**Injured Workers – New Claims**

Potential Hearing Loss Claims: In the event that an approved Applicant is approached by a client who has not yet initiated a claim, the approved Applicant must inform the potential client to contact WorkplaceNL. The approved Applicant shall not make specific comments about claim entitlement.

The approved Applicant shall not accept any remuneration from an injured Worker for providing or assisting in completing the application forms.

**Accepted Hearing Loss Claims:**

It is the responsibility of the approved Applicant to investigate the status of an individual claim before initiating service. If an approved Applicant is in doubt about the status of an individual, he/she must contact the Claims Services Department of WorkplaceNL.

**Delivery of Product**

New Hearing Aids must not be mailed to Injured Workers for fitting purposes. The Hearing Aid fitting must take place in person.

Repaired Hearing Aids can be mailed to the Injured Worker if no further in-person fitting and verification requirements are warranted. All material procurement and costs incurred in the process of shipping Hearing Aids to Injured Workers (registered envelopes, postage, etc.) are the sole responsibility of the provider.

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**1.5.2 Premises and Equipment**

Premises must be designed and maintained to be in harmony with a clinic's professional health care function. Hotel/Motel rooms and private residences are not appropriate for the provision of services.

Premises must provide adequate space for a reception area, waiting area, audiometric testing room and consulting space as per ANSI standards. All test rooms and equipment used in the testing and fitting of Injured Workers must meet relevant ANSI standards and calibration standards. All calibration protocols must ensure that equipment such as audiometers, all headphones (insert earphones, supra-aural headphones) as well as bone vibrators/conductors are calibrated according to ANSI standards (S3.6). Consulting and testing rooms must be constructed in such a manner to ensure proceedings between approved Applicants and Injured Workers are confidential.

All Premises must have a test environment that meets ANSI standards (S3.1) which provides standards for the maximum permissible ambient noise levels for an audiometric test room.

Premises must provide appropriate access for elderly and disabled Injured Workers.

Injured workers visiting the Premises must have ready access to toilet facilities.

An approved applicant's practice must be clearly identifiable from the exterior of the practice by such means as signs, plates and/or window lettering.

Injured Workers must be able to contact staff between 9:30am and 4:30pm Monday to Friday, at permanent clinic sites unless otherwise negotiated with WorkplaceNL.

The approved Applicant must maintain at least one Permanent Clinic Site. A Permanent Clinic Site is defined as a permanently-staffed site offering services at least between 9:30am and 4:30pm for at least 5 days per week, with a Hearing Instrument Specialist or Audiologist available at least 21 hours per week.

A full range of services must be available at the Permanent Clinic Site and must meet the clinical standards. Injured Workers must be able to receive timely services and obtain professional advice and support when needed. The support staff must be well trained and available to provide quality service to Injured Workers.

Services may be provided at a Visiting Site, provided the approved Applicant also maintains a Permanent Clinic Site. A Visiting Site is a satellite office of a

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Permanent Clinic Site and need not be permanently staffed but must have appropriate facilities and test equipment for audiological assessment, hearing aid fittings and counselling, and must meet the standards as described above.

Visiting Site clinic schedules must be provided for a three (3) month period to WorkplaceNL for each area on a quarterly basis at least one (1) week prior to the commencement of the quarter. Notification of cancelled clinics must be provided in writing to WorkplaceNL immediately.

### **1.5.3 Solicitation**

After the Hearing Aid manufacturer warranty, fitting and service fee time limits have expired, approved Applicants may not solicit services from Injured Workers for which a fee may be claimed from WorkplaceNL or for which Injured Workers' travel costs could be charged to WorkplaceNL. Further service provision may be initiated by the Injured Worker only.

## **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:

- The Applicant must supply a service provider who is licensed to practice and in good standing with the Hearing Aid Practitioner's Board and in compliance with the Hearing Aid Practitioner's Act and Regulations or an Audiologist registered and in good standing with the Newfoundland and Labrador Council of Health Professionals and authorized to dispense hearing aids under the Health Professionals Act and Regulations.
- The Applicant must supply a service provider who possesses a minimum of two (2) years of experience in dispensing hearing aids as a hearing aid practitioner or audiologist in compliance with the Hearing Aid Practitioners Act, S.N.L. 2005, c. H-2.01, and Regulations thereto, as amended or the Health Professionals Act and Regulations. The two (2) years may be a combination of experience dispensing hearing aids under the Hearing Aid Practitioner's Act and the Health Professions Act.
- The Applicant must meet all criteria outlined in 1.5.2 Premises and Equipment.

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**SECTION 2 – INSTRUCTIONS TO APPLICANT**

**2.1 Electronic Copy of this Document**

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

It is the responsibility of the Applicants who retrieve or download this RFQ from WorkplaceNL's website (<http://www.workplaceni.ca>) or externally through the RFQ posting at [www.merx.com](http://www.merx.com) to monitor the sites for any addendum to the RFQ issued up to and including the RFQ Closing Date. Not required for Limited Call.

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 RFQ documents including any and all addenda. All terms, conditions, and/or specifications stated or referenced in the RFQ are assumed to be accepted by the Applicant and incorporated in the proposal. Limited Call RFQ's will require changes to this paragraph as the requests are emailed and not publically posted.

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 RFQ electronically must not alter any portion of the document, with the exception of applying any addendum issued by WorkplaceNL.

**2.2 RFQ Closing**

The RFQ CLOSING DATE is:

MAY 28, 2024 BEFORE 2:00 PM NEWFOUNDLAND TIME

Applicants are required to submit and ensure proposals are received via electronic upload at [www.merx.com](http://www.merx.com)

Fax Proposals: Will NOT be accepted.

Email Proposals: Will NOT be accepted.

Proposals will be opened publicly immediately following the RFQ closing in accordance with the Public Procurement Regulations, as amended. The names of all Applicants will be

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provided at the public opening. Applicants may email [purchasing@workplacenl.ca](mailto:purchasing@workplacenl.ca) to request a Webex meeting invite to attend the public opening. Applicants must include their name, email address, and tender number in the request. Meeting requests must be received by WorkplaceNL before 4:00PM Newfoundland Time on May 21, 2024.

### **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 by WorkplaceNL in its entirety by the RFQ Closing Date. Proposals or any portion thereof, received after the RFQ Closing Date will not be accepted.

Applicants are solely responsible to ensure receipt of their proposal by WorkplaceNL in its entirety, in the manner and time prescribed. Applicants must submit their proposal via [www.merx.com](http://www.merx.com) (see Appendix "A" – Electronic Proposal Submission Instructions).

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.

Any error in the proposal is the responsibility of the Applicant.

A proposal received in response to a RFQ cannot be withdrawn, altered or changed in any way after the RFQ Closing Date.

While WorkplaceNL has tried to ensure the accuracy of the RFQ, 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 RFQ 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 RFQ.

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

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## **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 RFQ, 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.

The RFQ 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 RFQ. 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**, SNL 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 RFQ 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 **ATIPPA**.

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 publicly released as part of the award notification process.

### **2.4.2 No Claims By Applicant**

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

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

### **2.4.3 Conflict of Interest**

For the purposes of this RFQ, the term "conflict of interest" includes, but is not limited to, any situation or circumstance where:

- in relation to the RFQ process, the Applicant has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to:
  - (i) using confidential information of WorkplaceNL in the preparation of its response that is not available to other Applicants;
  - (ii) having been involved in the development of the RFQ, including having provided advice or assistance in the development of the RFQ;
  - (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the RFQ;
  - (iv) communicating with any person with a view to influencing preferred treatment in the RFQ process (including but not limited to the lobbying of decision makers involved in the RFQ process); or
  - (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFQ process or render that process non-competitive or unfair;
- in relation to the performance of its contractual obligations under an agreement for services, the Applicant's other commitments, relationships, or financial interests:
  - (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement;  
or
  - (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

If, at the sole and absolute discretion of WorkplaceNL, the Applicant, its employees, officers, directors, associates and/or approved subcontractors is found by WorkplaceNL to be in an actual or perceived conflict of interest either during the RFQ 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.

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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 RFQ will not be permitted. This includes, but is not limited to, any firm or individual involved in the preparation of the RFQ.

## **2.5 Questions and Clarification**

Any questions related to the RFQ must be directed in writing by email to [purchasing@workplaceni.ca](mailto:purchasing@workplaceni.ca) or through the RFQ posting on [www.merx.com](http://www.merx.com) and received by WorkplaceNL before 4:00PM Newfoundland Time on May 14, 2024.

All questions should include the Applicant's name and address, contact person's name, telephone number, and email address, and the reference to the specific section and page number of the RFQ in question. All email questions must include the RFQ number and title in the email subject line.

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 and through the RFQ posting on [www.merx.com](http://www.merx.com) which will be part of the RFQ. WorkplaceNL may not answer a question where WorkplaceNL considers the information requested is not required to prepare a proposal, or where the answer to the question posed may be found in the RFQ. 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 RFQ 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 is complete and thoroughly addresses each requirement identified in the RFQ, 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.

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**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 RFQ 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 RFQ.

If WorkplaceNL does not receive compliant and acceptable proposals in response to the RFQ, 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.

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 RFQ 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 RFQ process are subject to execution of a written agreement which is acceptable to WorkplaceNL.

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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 “D” 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 “D”.

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 RFQ 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 RFQ process. The timing and the sequence of events resulting from this document may vary.

| DESCRIPTION   | DATE           |
|---|----------------|
| RFQ issue date                                      | APRIL 30, 2024 |
| Deadline for questions                              | MAY 14, 2024   |
| Proposals to be received by                         | MAY 28, 2024   |
| Presentation of proposals (tentative - if required) | MAY 28, 2024   |
| Date of award (tentative)                           | JUNE 11, 2024  |

**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 RFQ, 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 RFQ in any advertising copy or other promotional materials or messages without WorkplaceNL’s prior written consent.

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|  |
|--|
| <b>SECTION 4 – RESPONSE REQUIREMENTS</b> |
|--|

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 RFQ.

All proposals must address the content of the RFQ. Qualifying proposals are those that clearly demonstrate a thorough understanding of the RFQ, 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 RFQ description. Identify your name and your company's name (if applicable), address, 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**, S.C. 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 & Services**

If the Applicant is a company, provide an overview of your company and services offered. 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, directors, 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

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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.

**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. You must submit Appendix "B" with your submission, indicating which geographical area(s) you can provide services in. If service provision can be provided across all service regions, please indicate. The geographical areas are summarized as follows:

|                      |
|----------------------|
| Avalon Peninsula     |
| Baie Verte Peninsula |
| Bonavista Peninsula  |
| Burin Peninsula      |
| Clarenville          |
| Gander               |
| Grand Falls-Windsor  |
| Northern Peninsula   |
| Labrador             |

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|                      |
|----------------------|
| Trinity-Conception   |
| Western Newfoundland |

**Premises and Equipment**

Provide a description of the premises, including reception area, waiting area, audiometric testing room, consulting space and location. Describe any identifiable signage, access for elderly and disabled Injured Workers and accessible toilet facilities. List all equipment and testing areas used in the hearing testing and fitting of Injured Workers and specify how each meets any corresponding ANSI and calibration standards. Also include a description of the calibration protocols used to ensure equipment such as audiometers, all headphones (insert earphones, supra-aural headphones) as well as bone vibrators/conductors are calibrated according to ANSI standards (S3.6). List the security measures taken on the premises to ensure compliance with the Personal Health Information Act (ex. security systems, locked filing cabinets, computer security software, etc.). Describe how the company meets the mandatory criteria as outlined in Section 1.5.2 PREMISES AND EQUIPMENT.

**Quality Assurance**

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

**Previous Experience**

Describe your organization's experience in providing hearing aids and hearing aid services. Please include the length of time in business and the length of time performing services of a similar size and scope.

**References**

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 are required only if you are **not** currently a WorkplaceNL authorized hearing aid provider and may be for contracts currently being performed, or where work has already been completed. References will be contacted as part of the review process. The list of references should exclude patients and any potential references from WorkplaceNL.

**Brochures**

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

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**SECTION 5 – EVALUATION PROCESS AND CRITERIA**

**5.1 Evaluation**

WorkplaceNL will review the proposals to determine which proposals comply with all of the mandatory proposal requirements and all mandatory criteria. If a proposal fails to satisfy all of the mandatory requirements and criteria, WorkplaceNL will issue the Applicant a rectification notice identifying the deficiencies and providing the Applicant an opportunity to rectify the deficiencies. If the Applicant fails to satisfy the mandatory requirements and criteria within the rectification period, its quote will be rejected. The rectification period will begin to run from the date and time that WorkplaceNL issues a rectification notice to the Applicant.

The proposals will be evaluated by a committee designated at the sole discretion of WorkplaceNL, 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 RFQ 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 all Applicants that achieve the minimum scores as determined by WorkplaceNL, while fulfilling the requirements outlined in this RFQ, which in WorkplaceNL's sole discretion meets its needs and best interests.

**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:

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| <b>Evaluation Criteria</b>           | <b>Maximum Score</b> | <b>Minimum Score</b> |
|--------------------------------------|----------------------|----------------------|
| Qualifications & Previous Experience | 25%                  | 20%                  |
| Premises and Equipment               | 25%                  | 20%                  |
| Quality Assurance Program            | 15%                  | 10%                  |
| Value Added Service                  | 10%                  | 5%                   |
| Confidentiality Practices            | 10%                  | 5%                   |
| Geographical Location(s)             | 15%                  | 5%                   |
| <b>Total</b>                         | <b>100%</b>          | <b>65%</b>           |

### **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 Further Information and Clarification**

The evaluation committee may request further information from the Applicant or third parties in order to verify, clarify, or supplement the information provided in the Applicant's response. The evaluation committee may revisit, re-evaluate, and rescore the Applicant's response or ranking on the basis of any such information.

### **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.

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**APPENDIX “A”**

**Electronic Proposal Submission Instructions**

1. In order to be accepted, proposals must be submitted through WorkplaceNL’s posting for this opportunity on [www.merx.com](http://www.merx.com).
2. Applicants shall create a supplier account and be registered on [www.merx.com](http://www.merx.com). This will enable the Applicant to download the bid opportunity, receive addenda/addendum email notifications, download addenda/addendum, and submit their proposal electronically through the MERX website.
3. The timing of the proposal is based on when the proposal is **received** by the bidding system, **not** when the proposal is submitted by the Applicant, as transmission can be delayed by “Internet Traffic” for any number of reasons. WorkplaceNL recommends that Applicants allow for ample time to provide for uploaded proposals to be received prior to the RFQ Closing Date. Proposals received after the RFQ Closing Date will not be accepted.
4. It is the responsibility of the Applicant to ensure that the proposal is received on time. Once registered, MERX will send a confirmation email to the Applicant if the proposal was submitted successfully. If a confirmation has not been received by the Applicant, the proposal was not uploaded correctly and it is the responsibility of the Applicant to either reload the documents or to contact MERX to resolve any issues regarding their proposal.
5. Response materials should be prepared and submitted in accordance with the instructions in the bidding system, including any maximum upload file size. Documents should not be embedded within uploaded files, as the embedded files may not be accessible or evaluated.
6. To ensure receipt of the latest information and updates regarding this opportunity via email, the onus is on the Applicant to register with MERX, create a supplier account, and sign up for notices for this opportunity.
7. Clarifications and questions received for this opportunity electronically can be submitted via the opportunity listing on [www.merx.com](http://www.merx.com). Questions can be submitted, and confirmation will be received to the inquiry. Responses will be answered on an individual basis or collectively at the discretion of WorkplaceNL.

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**APPENDIX “B”**

**Geographic Service Areas**

Please identify areas in which you are able to provide service:

| <b>GEOGRAPHICAL LOCATION</b> | <b>Service Delivery (Y/N)</b> |
|------------------------------|-------------------------------|
| Avalon Peninsula             |                               |
| Baie Verte Peninsula         |                               |
| Bonavista Peninsula          |                               |
| Burin Peninsula              |                               |
| Clarenville                  |                               |
| Gander                       |                               |
| Grand Falls-Windsor          |                               |
| Northern Peninsula           |                               |
| Labrador                     |                               |
| Trinity-Conception           |                               |
| Western Newfoundland         |                               |

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**APPENDIX “C”**

**Approved Fee Structure**

| Service                         | Current Rate | Rate for Year 1<br>(2 % increase) | Rate for Year 2<br>(2% increase) | Rate for Year 3<br>(2% increase) | Rate for Year 4<br>(2% increase if contract extended) | Rate for Year 5<br>(2% increase if contract extended) |
|---------------------------------|--------------|-----------------------------------|----------------------------------|----------------------------------|---|---|
| Hearing Aid Fitting Fee         | \$542.48     | \$553.33                          | \$564.40                         | \$575.69                         | \$587.20  | \$598.94  |
| Semi Annual Support Maintenance | \$33.44      | \$34.11                           | \$34.79                          | \$35.49                          | \$36.20   | \$36.92   |
| Real Ear Measurement            | \$27.56      | \$28.11                           | \$28.67                          | \$29.24                          | \$29.82   | \$30.42   |
| Ear Impression                  | \$33.08      | \$33.74                           | \$34.41                          | \$35.10                          | \$35.80   | \$36.52   |
| Ear Blower                      | \$11.03      | \$11.25                           | \$11.48                          | \$11.71                          | \$11.94   | \$12.18   |
| Remake/refit                    | \$38.59      | \$39.36                           | \$40.15                          | \$40.95                          | \$41.77   | \$42.61   |
| Dri-Aid Kits                    | \$13.23      | \$13.49                           | \$13.76                          | \$14.04                          | \$14.32   | \$14.61   |

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**APPENDIX "D"**

**STANDARD FORM AGREEMENT**

**THIS AGREEMENT** made in the Province of Newfoundland and Labrador, this day of \_\_\_\_\_, 2024.

**BETWEEN:**           **WORKPLACE HEALTH, SAFETY AND COMPENSATION COMMISSION**, a statutory corporation established under the **Workplace Health, Safety and Compensation Act, 2022**, S.N.L. 2022, c. W-11.1, as amended (the “**Act**”)  
  
(hereinafter called “**WorkplaceNL**”)

OF THE FIRST PART

**AND:**                   **<ENTER CONTRACTOR’S NAME>**  
  
(hereinafter called the “**Contractor**”)

OF THE SECOND PART

(hereinafter jointly referred to as the “**Parties**”)

**WHEREAS** WorkplaceNL wishes to retain the Contractor for the purpose of providing hearing aid(s) and hearing aid services to Injured Workers eligible for a hearing loss claim and the Contractor agrees to provide those services upon the terms and conditions provided herein;

**AND WHEREAS** the primary goal of this Agreement is to ensure high quality services to Injured Workers by ensuring that Hearing Aid Services are provided in a timely manner and consistent with the provisions of the **Act**;

**AND WHEREAS** this Agreement is to ensure the proper selection, fitting, and verification of hearing aid devices based on current clinical best practices and associated aural rehabilitation services; along with any required hearing aid maintenance and repairs for hearing aids currently owned by Injured Workers and for those fit during the term of the Agreement.

**AND WHEREAS** WorkplaceNL is governed by the **Act** and administers the Newfoundland and Labrador no fault workplace insurance plan for workers and employers. Under the **Act**, WorkplaceNL has been given authority to cover health care services to injured workers which is done in accordance with the Health Care Entitlement Policy HC-13. WorkplaceNL will cover costs associated with hearing loss that arises out of and in the course of employment and in accordance with Hearing Loss Policy HC-12.00. The two most common causes of employment related hearing loss are traumatic hearing loss and noise-induced hearing loss. The process of determining entitlement will be followed as per Procedure 21.00 Hearing Loss.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the mutual covenants and agreements herein contained, the Parties hereto covenant and agree with each other as follows:

**1.0 Services**

- 1.1 WorkplaceNL shall engage the Contractor to provide and the Contractor shall provide to WorkplaceNL the certain services listed in Schedule "A" (the "Services") (which is attached hereto and forms part and parcel of the within Agreement). The Parties shall observe their respective obligations as specified in the within Agreement.
- 1.2 The WorkplaceNL Standard Terms and Conditions with the Declaration of Confidentiality/Conflict of Interest and the WorkplaceNL Confidentiality Schedule are attached hereto and form part and parcel of the within Agreement.
- 1.3 The Contractor shall not solicit services from an Injured Worker. The Contractor acknowledges that all Services shall be initiated by either the Injured Worker or WorkplaceNL. In the event that the Contractor is

approached by a potential client who has not yet initiated a claim, the Contractor must inform the potential client to contact WorkplaceNL. The Contractor shall not make specific comments about claim entitlement.

- 1.4 The Contractor agrees not to communicate with Injured Workers in any manner with respect to WorkplaceNL's policies, procedures, and practices, except as expressly put forth in this Agreement. The Contractor agrees to refer Injured Workers who have questions or concerns beyond the scope of this Agreement to WorkplaceNL for information.

## **2.0 Payment and Reports**

- 2.1 The Contractor shall invoice WorkplaceNL within one month of completing the Services in accordance with Schedule "B" which is attached hereto and forms part and parcel of the within Agreement.
- 2.2 As requested by WorkplaceNL, the Contractor shall furnish written reports providing details of Services provided under the Agreement and its progress in a format as specified by WorkplaceNL.

## **3.0 Term**

- 3.1 This Agreement is for a three (3) year period commencing on <insert date> and ending on <insert date> unless terminated prior to this date in accordance with Article 23 of the WorkplaceNL Standard Terms and Conditions and/or Article 5.0 herein.
- 3.2 WorkplaceNL, at its sole discretion, has the right to renew the Agreement for a further two (2) year term on the same terms and conditions. Should WorkplaceNL identify needs or if conditions change during the initial term of this Agreement, the said needs and/or conditions may be addressed in

an Extension Agreement but pricing for the Services herein will remain firm.

#### **4.0 Injured Workers**

4.1 Where WorkplaceNL has evidence regarding the compromised safety of an Injured Worker related to Services provided by the Contractor, WorkplaceNL or a representative of WorkplaceNL shall immediately notify the Contractor of same.

4.2 The Contractor will immediately investigate and provide written documentation to WorkplaceNL for any injury to an Injured Worker or persistent symptoms secondary to Services outside the normal response expected from that Service, occurring during or resulting from the Service, notwithstanding the reporting requirements of the Contractor's professional liability carrier.

4.3 The Contractor shall immediately provide notice to WorkplaceNL of any agreement with an employer or other agency to provide any other service in relation to an Injured Worker for whom they are providing Services.

#### **5.0 Termination**

5.1 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 to Injured Workers under this Agreement to be discontinued, unless WorkplaceNL has provided its express, written consent to the continuation of Services;

- (b) immediately allow WorkplaceNL full access to the Contractor's premises, records, and files;
- (c) within three (3) working days of receiving the notice of termination, provide WorkplaceNL with a list of all Injured Workers who were scheduled for Services by the Contractor at the date of notice of termination;
- (d) within five (5) working days of receiving the notice of termination, provide WorkplaceNL with all existing reports which as of the date of the notice of termination had not been forwarded to WorkplaceNL;
- (e) within seven (7) working days of receiving notice of termination, provide copies of all records and files for workers who were scheduled for Services at the date of the notice of termination;
- (f) within ten (10) working days, provide a final report/discharge statement for each Injured Worker who received Services by the effective date of Termination; and
- (g) within thirty (30) working days of the effective date of termination provide 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.

## **6.0 General**

6.1 All schedules and appendices attached hereto form part of this Agreement.

6.2 Any unresolved disputes to this Agreement shall be referred to the arbitration of a single arbitrator, if the Parties agree upon one. If the Parties fail to reach agreement on a single arbitrator the dispute shall be submitted to the arbitration of three arbitrators, one to be nominated by

each party and the third to be appointed by the two arbitrators nominated. The decision of any two of the arbitrators shall be binding. The cost of arbitration shall be borne equally by the Parties. The **Arbitration Act**, R.S.N.L. 1990, c. A-14, as amended, shall be applicable to any arbitrations in relation to the within Agreement.

- 6.3 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.
- 6.4 The following clauses and articles shall survive the termination of this Agreement, however caused:
- 2.0 Payment and Reports
  - 5.0 Termination
  - 6.0 General
- 6.5 WorkplaceNL hereby designates the Director of Finance or another who the Director may appoint from time to time, to administer this Agreement.
- 6.6 For the purposes of day to day contact throughout the term of this Agreement, the Contractor shall deal through the Manage, Purchasing and Facilities Management, or another who the Director may appoint from time to time.
- 6.7 The signatories of this Agreement hereby personally warrant that they have the full power and authority to enter into this Agreement on behalf of their respective principals and that the person signing this Agreement on behalf of each has been properly authorized and empowered. Each party further acknowledges that it has read this Agreement, understands, and is bound by it.

6.8 This Agreement may be executed in multiple counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement. The counterparts of this Agreement may be executed and delivered by facsimile, email, or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Any party providing an electronic signature agrees to promptly execute and deliver to the other parties an original signed Agreement upon request.

6.9 Any notice required to be given by either party under this Agreement, unless otherwise specified herein, shall be effectively given and deemed to have been received as follows:

- (a) if delivered personally, on the day of delivery;
- (b) if sent by ordinary, certified or registered mail, on the seventh day after mailing; and
- (c) if faxed to the other party on the next business day.

In the event of an actual or threatened postal strike or interruption, service shall be by personal delivery or fax only. The names and addresses of the authorized representatives of the Parties are as follows:

to WorkplaceNL:                      Director of Finance  
WorkplaceNL  
146-148 Forest Road  
P.O. Box 9000  
St. John's, NL A1A 3B8  
t 709.778.1106  
f 709.778.1596

to the Contractor:                      <                      >  
<                      >  
t 709<                      >  
f 709<                      >

WorkplaceNL and the Contractor have caused this Agreement to be executed by their respective officers duly authorized in that behalf on the dates hereinafter set forth.

**WORKPLACE HEALTH, SAFETY  
AND COMPENSATION COMMISSION**

\_\_\_\_\_

\_\_\_\_\_  
**Date of Signature**

<XXX>

\_\_\_\_\_

\_\_\_\_\_  
**Date of Signature**

Print Name: \_\_\_\_\_

## SCHEDULE “A”

### Scope of Work

The following words and phrases shall have the following meanings when used in this Agreement:

- Injured Worker:** An individual as defined in the **Workplace Health, Safety and Compensation Act, 2022** (the “Act”), who is entitled to compensation under the **Act**.
- Premises:** Location(s) where services are to be performed.
- Hearing Aid:** An electroacoustic device to augment the hearing of a hearing impaired individual at amplifications that will achieve audibility.
- Service Provider:** An individual who is licensed and in good standing with Newfoundland and Labrador Hearing Aid Practitioners Board and in compliance with the *Hearing Aid Practitioners Act*, S.N.L. 2005, c. H-2.01, and regulations, as amended; or an audiologist who is registered and in good standing with Newfoundland & Labrador Council of Health Professionals and authorized to dispense hearing aids under the *Health Professions Act*, S.N.L. 2010, c. H-1.02, and regulations, as amended. The individual must possess a minimum of two years of experience in dispensing hearing aids as a hearing aid practitioner in compliance with the *Hearing Aid Practitioners Act*, or as an audiologist in compliance with the *Health Professions Act*. The two years’ experience may be a combination of dispensing hearing aids under the *Hearing Aid Practitioners Act*, and the *Health Professions Act*, as amended.
- Standing Offer List:** The list of hearing aids and supplies obtained through WorkplaceNL’s Standing Offer Agreement available for specified periods of time. These contracts enable WorkplaceNL to order goods and services directly from suppliers at both prearranged prices and delivery conditions.

A.01 The Contractor shall supply Service Provider(s) to perform the services outlined herein. The Contractor is responsible for ensuring the complete compliance of the Service Provider(s) with all terms and conditions of this Agreement. The Contractor and all Service Providers who will perform Services under this Agreement shall meet the requirements of a Service Provider as defined above.

### **Process**

A.02 Upon approval of a hearing loss claim, the Injured Worker will be notified of the process for obtaining service, entitlement and approved providers in the geographical area of the Injured Worker.

A.03 Once a claim for Hearing Loss is accepted, the process for obtaining services is as follows:

- A letter is forwarded to the Injured Worker advising of the claim approval and providing a list of approved provider(s) in Injured Worker's geographical area.
- If there is more than one provider listed for the geographical area, the Injured Worker must contact WorkplaceNL to advise which provider they select.
- If the selected approved provider conducts visiting clinics to the Injured Worker's geographical area, the Injured Worker will be provided with the upcoming scheduled dates of service and a purchase order is issued to the approved provider as approval for the visit. The Injured Worker is advised to contact the approved provider to schedule an appointment.
- The Injured Worker is advised that prior to the first scheduled appointment, approval is required from WorkplaceNL for all hearing aid visits and travel.

A.04 WorkplaceNL will approve the purchase of a Hearing Aid that has been identified as the device that meets the Injured Worker's compensable hearing loss within the approved Standing Offer List. The Hearing Aid will be chosen from the Standing Offer List available at the time of fitting. WorkplaceNL will issue a purchase order to cover the cost of the Hearing

Aid to the Contractor based on the prices in the current Standing Offer List.

- A.05 If a Hearing Aid is requested outside of the Standing Offer List, the request will be reviewed on a case by case basis and may be approved if the hearing aid is selected from WorkplaceNL's Hearing Aid Exception List which has been established with the hearing aid manufacturers. If the request is approved, WorkplaceNL will issue a purchase order to cover the cost of the Hearing Aid to the Contractor based on the prices on the current Hearing Aid Exception List.
- A.06 If the request has not been approved under A.05, and Injured Worker makes a decision to purchase a Hearing Aid from the Hearing Aid Exception List that is above the cost range covered by WorkplaceNL, the Contractor must invoice the Injured Worker directly for the difference.
- A.07 WorkplaceNL may issue a purchase order to cover the cost of the Hearing Aid to the Contractor based on the Hearing Aid Standing Offer List or the Hearing Aid Exception List, as determined appropriate by WorkplaceNL. The Contractor must purchase the Hearing Aid directly from the list of manufacturers and hearing aids approved by WorkplaceNL. The Standing Offer List and the Hearing Aid Exception List, and any updates thereto, is available to the Contractor on WorkplaceNL's website.
- A.08 The Service Provider shall complete the Hearing Aid fitting process on an Injured Worker in person. The Service Provider shall ensure delivery of all new Hearing Aids to the Injured Workers via their clinic appointments. Repaired Hearing Aids can be sent by mail, if no further in-person fitting and verification requirements are warranted. All material procurement and costs incurred in the process of shipping Hearing Aids to Injured Workers

(registered envelopes, postage, etc.) are the sole responsibility of the provider.

A.09 The Service Provider shall take all reasonable steps to ensure that an Injured Worker fully understands the contents of any documents they are signing that relate to services and/or products for which a fee is payable pursuant to this Agreement.

A.10 It is the responsibility of the Contractor to investigate the status of an individual claim before initiating service. If a Contractor is in doubt about the status of an individual, he/she must contact the Claims Services Department of WorkplaceNL.

### **Services Required**

A.11 Listed below are services to be provided to Injured Workers approved for a hearing loss claim and criteria to be met for payment of those services.

#### **Fitting Services**

The Service Provider must provide all of the services outlined below when fitting all Hearing Aids and the Contractor will be paid for the fitting fee as stated in Schedule "B". The fitting fee covers all of the following which will be completed in four office visits:

- Hearing assessments that are required for Hearing Aid selection and fitting
- Ear mold impression, if required
- Hearing aid selection and ordering
- Hearing Aid fitting, verification (including all Real Ear Measurements that verify that prescriptive aided targets are met – results must be kept on file and must be provided to WorkplaceNL upon request) and adjustment which includes ensuring that the Hearing Aid shell or ear mold is a precise, comfortable fit at the time of initial fitting

- Education and instructions to the Injured Worker regarding the proper use, care and maintenance of the Hearing Aid including:
  - Insertion/removal of the Hearing Aid
  - Operation of all external controls and features
  - Protecting the Hearing Aid from damage such as avoiding wax and moisture related repairs
  - Use of the Hearing Aids with the telephone
  - Proper cleaning including use of the cleaning tools and wax guards included with the Hearing Aids
  - Proper use and replacement of the required size Hearing Aid batteries
  - Use of battery recharger, is applicable
- The Service Provider must have the Injured Worker demonstrate the above techniques
- Counselling regarding realistic expectations, listening strategies in conjunction with Hearing Aid use, and the recommend plan for follow-up post fitting
- Contact with the Injured Worker within 30 days of the fitting
- Follow-up visit to include adjustments, counselling, repair and one re-programming, if necessary
- Provision of all product manuals and warranty information to the Injured Worker
- Dri-Aid kits must be included with each fitting for battery operated hearing aids and must include instructions

The Service Provider must ensure completion of the HA-02 Form *Hearing Aid Fitting Report*.

### **Support Maintenance Services**

The Service Provider must provide follow up and process repairs and returns for Hearing Aids supplied by WorkplaceNL's approved manufacturers for all new purchases and for Hearing Aids purchased for Injured Workers prior to the term of this Agreement. The terms, conditions and pricing structure in this Agreement shall apply to all Hearing Aids regardless of the date and place of purchase and/or the age of the Hearing Aid. Analogue Hearing Aids continue to be used by some Injured Workers and the Contractor shall support those Hearing Aids.

A purchase order will be issued which will provide prior approval for the Injured Worker to obtain support maintenance services from the Contractor for a one year period. WorkplaceNL will not pay for the service unless a purchase order has been issued. The Contractor will be paid in accordance with the fees outlined in Schedule "B". The maximum number of services allowed for Injured Workers for support maintenance of Hearing Aid(s) is two (2) services per Hearing Aid per year. Services may consist of an in-person clinic visit or a Hearing Aid mailed to the Injured Worker.

If an Injured Worker requires more frequent services, the Service Provider must provide supporting rationale to WorkplaceNL. Prior approval is required and the Injured Worker and the Service Provider will be advised if additional services will be covered. In cases where additional service is approved, a separate purchase order will be issued.

The Service Provider must identify on the invoice what service was provided and the serial number of the applicable Hearing Aid.

Support maintenance will cover the following services:

- Assessment of problems. This may also include manufacturer repairs. Manufacturer repairs occur when a Hearing Aid must be sent to the manufacturer to repair. Manufacturer repairs which are not covered by the manufacturer's warranty will be assessed and if it is determined by WorkplaceNL following review of the repair history/costs that the repair will be conducted, payment for the repair will be based upon the fees established between WorkplaceNL and the manufacturer;
- Minor repairs. These may include, but are not limited to: adjustments, removal of wax, cleaning, repair/replacement of battery doors, ear hooks, tubing, and wax guards. Minor repairs are expected to be minimized by appropriate training and education of the Injured Worker during the fitting process. Hearing Aids with repeated repairs will be monitored and audited against the manufacturer's serial number. The Service Provider must support all invoices for repairs with the serial number of the Hearing Aid, a

detailed list of repairs performed by the manufacturer and actual manufacturer's repair cost;

- Reprogramming of a Hearing Aid. This may include better meeting of aided prescriptive targets, sound quality, listening needs, loudness preference, especially following a trial period of use; and
- Counselling.

## **Replacement**

WorkplaceNL will replace an Injured Worker's Hearing Aid(s) only when necessary. Neither the Contractor nor the Service Provider shall solicit Injured Workers for replacement of current Hearing Aids; replacement must be initiated by the Injured Worker. The minimum replacement time frame is every five (5) years. The frequency of replacement of Hearing Aids will be subject to audit by WorkplaceNL. Hearing Aids will not be replaced while under manufacturer or repair warranty without prior authorization of WorkplaceNL.

The Service Provider must complete and submit the HA-05 Form - *Hearing Aid Replacement Information*, including all clinical and cost information to support the stated reason for replacement and the rationale for how the replacement Hearing Aid will serve the reason for replacement.

WorkplaceNL may authorize a new Hearing Aid in any of the following instances:

- The Hearing Aid is not functioning properly and the cost of repair is no longer considered cost effective after WorkplaceNL's review of the repair history and costs.
- There is a significant change in the Injured Worker's hearing or work-related hearing requirements that the current Hearing Aid cannot accommodate, even with adjustments. If requesting a replacement on this basis, the Service Provider must provide full audiometric testing which includes real ear measurements and bone conduction testing as evidence to support that the current Hearing Aid is no longer suitable.

- Any other request will be reviewed on a case by case basis by WorkplaceNL.

The Contractor must obtain written authorization from WorkplaceNL prior to replacement of a Hearing Aid.

### **Other Services**

Other services including real ear measurements, ear molds, ear impressions, ear mold blowers, Dri-Aid Kits and remake and/or refitting of Hearing Aids shall be provided only upon issuance of a purchase order by WorkplaceNL and shall be invoiced in accordance with Schedule "B".

### **Premises**

A.12 The following are the requirements for the Contractor's premises:

- (a) Premises must be designed and maintained to be in harmony with a clinic's professional health care function. Hotel or motel rooms and private residences shall not be used for the provision of services;
- (b) Premises must contain adequate space for a reception area, waiting area, audiometric testing room and consulting room as per the ANSI Standards. All test rooms and equipment used in the testing and fitting of Injured Workers must meet relevant ANSI standards and calibration standards. All calibration protocols must ensure that equipment such as audiometers, headphones (insert earphones, supra-aural headphones) and bone vibrators/conductors are calibrated according to ANSI standards (S3.6). Throughout the term of the Agreement, the Contractor must supply a list of all equipment and testing rooms used in the testing and fitting of Injured Workers and specify how it meets any relevant ANSI and calibration standards.
- (c) Premises must have consulting and testing rooms which allow for the proceedings between Service Providers and Injured Workers to be confidential;

- (d) All Premises must have a test environment that meets ANSI standards (S3.1) which provides standards for the maximum permissible ambient noise levels for an audiometric test room;
  - (e) Premises must provide appropriate access for elderly and disabled Injured Workers;
  - (f) Injured Workers visiting the Premises must have ready access to toilet facilities;
  - (g) The premises must be clearly identifiable as the Contractor's practice from the exterior by such means as signs, plates and/or window lettering;
  - (h) Injured Workers must be able to contact the Contractor's staff between 9:30 am and 4:30 pm Monday to Friday, at a permanent clinic site, unless otherwise negotiated with WorkplaceNL.
- A.13 The Contractor must maintain a least one Permanent Clinic Site. A Permanent Clinic Site is defined as a permanently-staffed site offering services at least between 9:30 a.m. and 4:30 p.m. for at least 5 days per week, with a Service Provider available at least 21 hours per week.
- A.14 The Contractor must provide a full range of services at their Permanent Clinic Site to meet the requirements of clinical standards. Injured Workers must be able to receive timely clinical services and obtain professional advice and support when needed. The support staff must be well trained and available to provide a quality service to Injured Workers.
- A.15 Services may be provided at a Visiting Site, provided the Contractor also maintains a Permanent Clinic Site. A Visiting Site is a satellite office of a Permanent Clinic Site and need not be permanently staffed but must have appropriate facilities and test equipment for audiological assessment, Hearing Aid fittings and counselling and must meet the standards as described above. Vendor numbers are not issued to satellite offices.

**General**

A.16 The Contractor shall:

(a) provide regular monthly clinics in the following geographical areas:

(select all that are applicable)

- in (insert locations) for the Avalon Peninsula area;
- in (insert locations) for the Baie Verte Peninsula area;
- in (insert locations) for the Bonavista Peninsula area;
- in (insert locations) for the Burin Peninsula area;
- in (insert locations) for the Clarendville area;
- in (insert locations) for the Gander area;
- in (insert locations) for the Grand Falls-Windsor area;
- in (insert locations) for the Northern Peninsula area;
- in (insert locations) for the Labrador;
- in (insert locations) for the Trinity Conception area; and
- in (insert locations) for the Western Newfoundland area.

(b) provide a list of clinic dates to WorkplaceNL for each area for a three month period within 10 days of signing this Agreement;

(c) provide a list of clinic dates to WorkplaceNL for each area on a quarterly basis at least 1 week prior to the commencement of the quarter; and

(d) provide WorkplaceNL with immediate written notification of a cancelled clinic which may only be cancelled in accordance with A.18.

A.17 The Contractor may reschedule clinics, provided that the Contractor gives WorkplaceNL 30 days written notice of the place and date for the rescheduled clinic.

A.18 The Contractor may cancel a scheduled clinic in the event of:

- (a) inclement weather;
- (b) no injured workers being scheduled for services; or
- (c) personal emergency.

- A.19 WorkplaceNL will pay the travel expenses as set out in Schedule “B” for travel to a Visiting Site in a rural area (rural area includes towns or communities located off the Trans-Canada Highway) if the Contractor is the sole provider of Services in the geographical area as identified in A.16. Provided the Contractor continues to be the sole provider of Services in the geographical area, WorkplaceNL shall pay travel expenses as set out in Schedule “B” for travel to the following places: (insert all that are applicable).
- A.20 Neither the Contractor nor the Service Provider shall accept any remuneration from an Injured Worker for providing or assisting in completing the application forms.
- A.21 After the Hearing Aid manufacturer warranty, fitting and service fee time limits have expired, neither the Contractor nor the Service Providers may solicit services from Injured Workers for which a fee may be claimed from WorkplaceNL or for which Injured Worker travel costs could be charged to WorkplaceNL. Further service provision may be initiated by the Injured Workers only.
- A.22 An Injured Worker must have access to his or her clinic file. Should the Injured Worker request a copy of their file, the Contractor shall comply.

## SCHEDULE "B"

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 at the following rates for Services performed pursuant to this Agreement.

| Service                         | Current Rate | Rate for Year 1 (2% increase) | Rate for Year 2 (2% increase) | Rate for Year 3 (2% increase) | Rate for Year 4 (2% increase if contract extended) | Rate for Year 5 (2% increase if contract extended) |
|---------------------------------|--------------|-------------------------------|-------------------------------|-------------------------------|--|--|
| Hearing Aid Fitting Fee         | \$542.48     | \$553.33                      | \$564.40                      | \$575.69                      | \$587.20   | \$598.94   |
| Semi Annual Support Maintenance | \$33.44      | \$34.11                       | \$34.79                       | \$35.49                       | \$36.20  | \$36.92  |
| Real Ear Measurement            | \$27.56      | \$28.11                       | \$28.67                       | \$29.24                       | \$29.82  | \$30.42  |
| Ear Impression                  | \$33.08      | \$33.74                       | \$34.41                       | \$35.10                       | \$35.80  | \$36.52  |
| Ear Blower                      | \$11.03      | \$11.25                       | \$11.48                       | \$11.71                       | \$11.94  | \$12.18  |
| Remake/refit                    | \$38.59      | \$39.36                       | \$40.15                       | \$40.95                       | \$41.77  | \$42.61  |
| Dri-Aid Kits                    | \$13.23      | \$13.49                       | \$13.76                       | \$14.04                       | \$14.32  | \$14.61  |

B.02 The Contractor shall submit a separate, detailed invoice to WorkplaceNL on at least a monthly basis, for each Injured Worker who received Services. The following information must be included on all invoices:

- vendor name and number;
- purchase order number;
- injured worker's name and claim number;
- date of Services rendered;
- number of hours worked;
- service description;
- invoice date;
- invoice number;
- total invoice amount; and

Invoices that do not include the referenced information will be returned to the Contractor, and payment may be delayed pending proper invoicing by the Contractor.

- B.03 WorkplaceNL shall pay for travel (air or mileage) to the geographical areas identified in A.19 as follows:

Air Travel – Where approved by WorkplaceNL, WorkplaceNL will reimburse the Contractor for pre-approved airfare at the rates obtained through WorkplaceNL's travel provider for one trip per month for one person upon remittance of all receipts. Air travel will be by economy class.

Mileage – Where approved by WorkplaceNL, WorkplaceNL will pay mileage once per month for one vehicle at the rate calculated utilizing the following government site:

<http://www.stats.gov.nl.ca/DataTools/RoadDB/Distance/>.

All travel arrangements must be made through WorkplaceNL's current preferred travel provider.

- B.04 Expense claims are required to be submitted to WorkplaceNL no later than 15 days after completion of work.

## STANDARD TERMS AND CONDITIONS

**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.

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, directors, associates nor approved sub-contractors, 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, directors, associates or approved sub-contractors 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, directors, associates and approved sub-contractors assigned to perform the Services including their job titles and qualifications for the provision of Services. The employees, officers, directors, associates and sub-contractors 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, director, associate or approved sub-contractor 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 the 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 sub-contract 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, directors, associates,

or sub-contractors 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 seven (7) 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 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** – Conflict of interest includes, but is not limited to, any situation or circumstance where in relation to the Services, the Contractor's other commitments, relationships, financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased, and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations. 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.

## STANDARD TERMS AND CONDITIONS

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.

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 offer, solicit, receive or 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, directors, associates, and/or approved sub-contractors, 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, 2022**, SNL 2022, c. W-11.1, 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**, RSNL 1990, c. P-22, as amended, and the **Personal Health Information Act**, SNL 2008, c. P-7.01, as amended ("**PHIA**"), 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, directors, associates, and/or approved sub-contractors, 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 ensure compliance of the Contractor's employees, officers, directors, associates, and/or approved sub-contractors with the provisions of the said Declaration of Confidentiality/Conflict of Interest. The Contractor shall provide to WorkplaceNL the said Declaration of Confidentiality/Conflict of Interest which has been executed by the Contractor or an officer or director of the Contractor.

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, directors, associates, and/or approved sub-contractors to comply with the WorkplaceNL Confidentiality Schedule. The Contractor must initial the WorkplaceNL Confidentiality Schedule which will form part and parcel of this Agreement.

**10. Ownership of Information** - All materials, data, designs, plans, drawings, specifications, research, reports, notes, estimates, summaries, calculations, surveys, papers, completed work, and work in progress and such other information and materials or parts thereof as are compiled, drawn and produced by the Contractor in performing the Services, including without limitation computer printouts and computer models and all copyrights thereto and all patents, trademarks and industrial designs arising therefrom are the sole and exclusive property of WorkplaceNL and the contents thereof are privileged and confidential. Nothing in the Agreement shall give the Contractor a right, however arising, to assert any lien, claim, demand, property right, remedy or security right of any kind over the information provided to the Contractor pursuant to the terms of the Agreement. The Contractor acknowledges that WorkplaceNL's right to this information shall at all times be paramount to any rights of the Contractor, at law or in equity, and that the Contractor's remedies against WorkplaceNL for WorkplaceNL's breaches under the Agreement do not include the right to deprive WorkplaceNL of access to WorkplaceNL's information in the Contractor's possession.

**11. 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.

**12. Warranty and Liability** - 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 free from any defects in design, materials and workmanship, and that the Services fully comply with specifications and are suitable and fit for its intended purpose;
- (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, directors, associates and approved sub-contractors 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;

## STANDARD TERMS AND CONDITIONS

- (h) the Contractor, its employees, officers, directors, associates and approved sub-contractors 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, directors, associates, and/or approved sub-contractors will not commence work while under the influence of alcohol, marijuana or illegal drugs;
- (j) the Contractor, its employees, officers, directors, associates, and/or approved sub-contractors shall comply with the **Occupational Health and Safety Act**, RSNL 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. 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, directors, associates, and/or approved sub-contractors in performance of the Services and to ensure compliance with this Agreement. WorkplaceNL's approval of employees, officers, directors, associates, or sub-contractors does not relieve the Contractor of the Contractor's responsibilities under this Agreement.

**13. Indemnity** - 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, directors, 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, directors, associates, and/or approved sub-contractors.

**14. Insurance** - 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.

**15. Good Standing and 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.

### **16. Performance Standards**

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

WorkplaceNL may notify the Contractor of any deficiencies, and in the event that the Contractor has failed to rectify the deficiencies within the time allocated by WorkplaceNL, WorkplaceNL may, at its discretion, obtain the Services, complete the work or rectify the deficiencies to its satisfaction and shall be entitled to deduct and set-off the costs of such work or rectification from any moneys due to the Contractor.

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.

**17. Inspection** – All Services are subject to final inspection and acceptance by WorkplaceNL. Services failing to conform to the specifications of this Agreement will be held at the Contractor's risk and may be returned to the Contractor. If so returned, all related costs are the responsibility of the Contractor. Services failing to conform to specifications of the Agreement may result in WorkplaceNL making adjustments to invoices.

**18. 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.

**19. Title and 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.

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

**21. 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.

**22. 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.

**23. 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, directors, associates, and/or approved sub-contractors 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;

## STANDARD TERMS AND CONDITIONS

- (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 determines, 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.

**24. 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 reasonable control of that party. These events shall include, but not be limited to, strikes or other labour disturbance, riots, civil disturbances, wars, fires, explosions, floods, acts of God, epidemics, pandemics and acts of any government or branch or agency thereof. The performance of this Agreement shall resume as soon as practicable after force majeure has ceased.

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.

**25. Records and 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 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, directors, officers, agents and approved sub-contractors 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.

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

**27. 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.

**28. 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.

**29. 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.

**30. Survival of Obligations** – All the obligations of the Contractor under this Agreement, including but not limited to independent contractor status, confidentiality, warranty and liability, records and audit, termination, indemnification and insurance provisions, shall survive the termination or completion of this Agreement.

**31. 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, directors, associates and/or approved sub-contractors shall not approach WorkplaceNL personnel, to in any way promote the business of the Contractor.

**32. 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.

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

STANDARD TERMS AND CONDITIONS

DECLARATION OF CONFIDENTIALITY/CONFLICT OF INTEREST

As a Contractor to WorkplaceNL, \_\_\_\_\_, its employees, officers, directors, associates and/or approved sub-contractors (collectively, the "Company") will perform Services pursuant to the Agreement between the Contractor and WorkplaceNL. All information of or concerning WorkplaceNL, WorkplaceNL clients, or of third parties to whom WorkplaceNL owes a duty of confidence, that is received or obtained by the Company in the course of performing the Services, either directly or indirectly, is Confidential Information.

As a Contractor, I \_\_\_\_\_, (name), an officer or director of the Company, hereby swear (or affirm) on behalf of the Company:

- 1. I have read and understand the following documents and shall comply with all terms and conditions outlined therein:
• WorkplaceNL Policy GP-01, Information Protection, Access and Disclosure;
• WorkplaceNL Standard Terms and Conditions; and
• WorkplaceNL Confidentiality Schedule (if attached to the Agreement).
2. I will comply with all professional standards and all obligations imposed under any applicable privacy laws, which may include 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, RSNL 1990, c. P-22, as amended, and the Personal Health Information Act, SNL 2008, c. P-7.01, as amended ("PHIA").
3. I shall not collect, use, or retain, or disclose any Confidential Information whatsoever except to the extent necessary to perform Services, which shall be limited to the minimum amount of information necessary to accomplish the purpose. Further, I acknowledge and agree that these obligations continue indefinitely, beyond the completion of the Agreement.
4. When required, I shall return to WorkplaceNL any and all Confidential Information obtained in the course of performing Services. Upon termination of the Company's relationship with any employees, officers, directors, associates, and/or approved sub-contractors, or when required, I will ensure the return to the Company of any and all Confidential Information obtained in the course of performing Services. I will retain copies of Confidential Information only to the extent required by law and applicable professional standards.
5. I will immediately notify WorkplaceNL if the Company becomes aware of a breach or possible breach of confidentiality, whether the awareness of the breach is by an employee, officer, director, associate, and/or approved sub-contractor or any other party that the Company may engage to assist in any part of the performance of Services.
6. I will communicate WorkplaceNL's confidentiality and conflict of interest requirements to the Company's employees, officers, directors, associates, and/or approved sub-contractors and I will bind them to comply with those requirements and sign an oath which addresses the principles of confidentiality contained therein. I acknowledge and agree that the Company is fully and solely responsible for the actions of the Company and its employees, officers, directors, associates, and/or approved sub-contractors to ensure compliance with WorkplaceNL's confidentiality and conflict of interest requirements.
7. 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 the Company, and will immediately disclose any such conflict to WorkplaceNL in writing.
8. In particular, the Company is aware of its obligation:
• to comply with the requirements of applicable legislation to protect the confidentiality of Confidential Information and the privacy of the individuals who are the subject of that information;
• to protect the confidentiality of the information that is in the Company's custody or control and the privacy of any individual who is the subject of that information;
• to provide for the secure storage, retention and disposal of Confidential Information to minimize the risk of unauthorized access to or disclosure of the Confidential Information.

SWORN/AFFIRMED at \_\_\_\_\_, in the Province of \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me:

Commissioner of Oaths

Signature of Individual

Print Name

## CONFIDENTIALITY SCHEDULE

1. For the purposes of this Schedule, references to Contractor(s) shall include the Contractor, its employees, officers, directors, associates, and/or approved sub-contractors and employees, officers, directors, and associates of approved sub-contractors.
2. For the purposes of this Agreement "Confidential Information" means:
  - (a) all communications and instructions from WorkplaceNL respecting the Services;
  - (b) all information acquired by the Contractor respecting policy development, consideration and development, business decisions, internal deliberations, discussions and considerations and any other aspect of the decision-making process of WorkplaceNL;
  - (c) all oral, written, electronic, and machine readable information and data and any accompanying supporting materials and documentation, including without limitation, materials, documents, reports, databases, information and data of whatever nature and kind concerning WorkplaceNL, WorkplaceNL employees, injured workers or employers, disclosed directly or indirectly to the Contractor during the performance of the Services or in any way related thereto;
  - (d) all personal information, as defined under the **Access to Information and Protection of Privacy Act, 2015**, SNL 2015, c. A-1.2, as amended, ("**ATIPPA**") and the **Personal Health Information Act**, SNL 2008, c. P-7.01, as amended, ("**PHIA**") which is, directly or indirectly, disclosed to or collected by the Contractor during the performance of the Services or in any way related thereto;
  - (e) all information that is developed based upon Confidential Information including the work product of the Contractor; and
  - (f) Confidential Information shall not include any information which:
    - (i) at the time such information was provided to the Contractor was or thereafter became part of the public domain through no act or omission of the Contractor or its representatives; or
    - (ii) is information which the Contractor can show possession of prior to the date of the Agreement and which was received or developed by the Contractor free of obligations of confidentiality to WorkplaceNL.
3. The Contractor shall not directly or indirectly collect Confidential Information in the performance of the Services unless the collection is necessary to carry out the duties associated with the Agreement.
4. The Contractor shall only use the Confidential Information acquired in the performance of the Services for the purposes specified in the Agreement, and shall not permit the use of the Confidential Information for any other purposes.
5. The Contractor shall treat all Confidential Information acquired by the Contractor in the performance of the Services as privileged and confidential and shall not directly or indirectly disclose the same to any person or persons at any time without the express written approval of WorkplaceNL, unless required to do so by law. In the event that such disclosure is required, the Contractor shall notify WorkplaceNL prior to the disclosure to provide an opportunity to restrain the disclosure.
6. Upon request by WorkplaceNL, the Contractor shall provide to WorkplaceNL and solely to WorkplaceNL all Confidential Information acquired during the performance of the Services, or shall, at the request of WorkplaceNL, destroy any and all copies and versions of the Confidential Information in the possession and/or control of the Contractor and shall certify the destruction of same to WorkplaceNL. The Contractor shall retain copies of Confidential Information only to the extent required by law and applicable professional standards.
7. To assist and further ensure compliance with the Agreement, the Contractor shall have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all Confidential Information, which are acceptable to WorkplaceNL and consistent with all applicable privacy legislation, 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, or to any of its employees, officers, directors, associates, and/or approved sub-contractors other than those who are required to have access to properly perform the Services under the Agreement;
  - (b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the Confidential Information;
  - (c) prior to execution of the agreement, provide to WorkplaceNL copies of its policies and standards in relation to confidentiality, conflict of interest, and collection, storage, transfer, copying, modification, use, disclosure, disposition, and access of information;
  - (d) advise WorkplaceNL of any changes in its security systems, procedures, practices, policies and standards that may affect the Confidential Information and seek WorkplaceNL's written consent prior to such changes;
  - (e) complete training relating to **PHIA** which WorkplaceNL deems necessary, in WorkplaceNL's sole discretion;
  - (f) report 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 the Protocols for Security of WorkplaceNL Information on Information Technology Assets ("Protocols") which forms part and parcel of this Schedule, unless otherwise advised by WorkplaceNL, and this includes:
    - (i) complying with all alterations or updates of the Protocols 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 the Protocols and this Schedule.
8. The Contractor shall only disclose Confidential Information to persons other than its approved employees, officers, directors, associates, and/or sub-contractors with the prior written consent of WorkplaceNL, and then only to those persons who need to know the information in order to carry out the duties associated with the Agreement and only after confirming that such persons agree to comply with the provisions of the Agreement including the requirements set out in the Protocol by requiring such persons to execute the Declaration of Confidentiality/Conflict of Interest attached to the Agreement.
9. The Contractor shall:
  - (a) notify WorkplaceNL promptly of any unauthorized possession, use or knowledge, or attempt thereof, of Confidential Information in the possession of the Contractor, including but not limited to data processing files, transmission messages or other Confidential Information by any person or entity which may become known to the Contractor;
  - (b) promptly furnish to WorkplaceNL full details of the unauthorized possession, use or knowledge, or attempt thereof, and assist WorkplaceNL in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of Confidential Information;
  - (c) use reasonable efforts to cooperate with WorkplaceNL in any litigation and investigation against third parties deemed necessary by WorkplaceNL;
  - (d) promptly use all reasonable efforts to mitigate the damages related to the unauthorized use, possession, or knowledge and to prevent a recurrence of any such unauthorized possession, use or knowledge of Confidential Information; and
  - (e) follow the privacy breach protocol of the Government of Newfoundland and Labrador as it exists at the time of the breach as per the **ATIPPA** website: [www.gov.nl.ca/atipp/](http://www.gov.nl.ca/atipp/)

## CONFIDENTIALITY SCHEDULE

### Protocols for Security of WorkplaceNL Information on Information Technology Assets

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These requirements apply to the Contractor and all employees, officers, directors, associates, and/or approved sub-contractors of the Contractor, and it is the responsibility of the Contractor to ensure that all such employees, officers, directors, associates, and/or approved sub-contractors are aware of these restrictions and are in compliance herewith.

#### GENERAL

- Portable storage devices or media (e.g., flash drives, memory sticks, portable hard drives, writeable compact discs or digital video discs, etc.) may only be used to transport and/or store Confidential Information where either the Confidential Information or the device or media is encrypted.
- Contractors must implement and maintain up to date versions of all ordinary business software for the reasonable protection of information on computers attached to the Internet which will have access to or store Confidential Information, including security firewall and anti-viral software.
- Confidential Information must be transferred using a secure, encrypted transfer mechanism that is approved by WorkplaceNL.
- Contractors are not permitted to store Confidential Information in cloud services (e.g., Onenote, etc.).
- When accessing WorkplaceNL networks externally, Contractors will use an encrypted multi-factor VPN connection that will be supplied by WorkplaceNL.

#### USE OF APPROVED DEVICES ON WORKPLACENL NETWORK

The following protocols apply to computing devices (desktop, laptop, mobile or other device) that have been approved for use on the WorkplaceNL network (Network). This may be a WorkplaceNL-issued device.

- The Contractor 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 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.
  - share personal computer drives or folders on a computer accessing the network.
  - access the network remotely, either through wired or wireless connections, except through the use of a WorkplaceNL provisioned VPN connection with multi-factor authentication.

## CONFIDENTIALITY SCHEDULE

- copy or transfer personal or Confidential 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.
- The Contractor 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@workplacnl.ca or 709.778.1555) if potential harm to the Network or any device is known or suspected.
- There is 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 the Contractor is found to be in violation of any protocol outlined herein.
- WorkplaceNL devices must be returned to a manager or direct supervisor upon departure from WorkplaceNL.

### USE OF NON-WORKPLACENL DEVICES

- Unless specifically separately authorized by the Contractor's Agreement or otherwise, the Contractor is not permitted to attach non-WorkplaceNL computers or other information technology systems to any WorkplaceNL network. (e.g., plug your computer directly into a Network jack in a WorkplaceNL building).
- To obtain access to the Network, the Contractor must submit a request in writing to WorkplaceNL's Security Manager. If permission is granted, the Contractor must adhere to the terms and conditions of the Security Manager.