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## PROFESSIONAL SERVICES PURCHASE AGREEMENT

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BETWEEN:

**Newfoundland and Labrador Centre for Health Information**  
Located at 70 O'Leary Avenue, St. John's, NL, A1B 2C7  
(the Centre)

-and-

**Vendor**  
Address  
(Referred to as the "Contractor")

**Project:**

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WHEREAS the Centre is desirous of receiving professional services; AND WHEREAS the Contractor hereunder is desirous of providing said services; NOW THEREFORE the parties hereto agree as follows:

### 1.0 SERVICES

- 1.1 The Contractor agrees to provide the Centre with professional services as set out in Exhibit "B" (Statement of Work) attached hereto. Any Statement of Work (SOW) signed after the date of this Agreement is hereby acknowledged to be subject to the terms and conditions of this Agreement and the express terms contained in the particular SOW.
- 1.2 The Contractor shall provide the Services using qualified resources and perform such services at all times in accordance and in full compliance with the statutes, laws, ordinances and regulations governing its profession.
- 1.3.1 The Centre for Health Information reserves the right to interview, accept and/or reject any resources provided by the Contractor. To that effect, NLCHI may require the Contractor to replace immediately a person provided by the Contractor who, in the Centre for Health Information's opinion, does not perform in a satisfactory manner.
- 1.3.2 The Centre for Health Information reserves the right to refuse any Service and/or Deliverables of the Contractor which is not in accordance with the specifications of this Agreement and/or contained in any SOW and, without limiting the remedies available to the Centre for Health Information, the Centre for Health Information at its discretion may return such work for correction at the Contractor's own cost and expense or; withhold payment of moneys payable pursuant to this agreement until such time as the Contractor provides such work which is on accordance with the specifications.

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2.0 TERM

2.1 The parties agree that upon signing this Agreement shall commence on \_\_\_\_, 20\_\_ and terminate on \_\_\_\_, 20\_\_ unless terminated earlier in accordance with the provisions of sections 10 or 11 herein.

3.0 COMPENSATION

3.1 The Centre agrees to pay the Contractor the amount at such times as set forth in Exhibit "C" attached hereto.

3.2 In order to receive payment, the Contractor must ensure that each Consultant submits a timesheet(s) with each invoice relevant to that invoice period. Each consultant will use the Centre's time entry system (spreadsheet).

4.0 PATENT, TRADEMARK, TRADE SECRET AND COPYRIGHT INFRINGEMENT

4.1 The Contractor covenants that all services or materials or both provided or to be provided to the Centre under this Agreement do not infringe any existing patent, trademark, trade secret or copyright registered or recognized in Canada or elsewhere with respect to or in connection with the intended use of the services or materials or both by the Centre.

5.0 OWNERSHIP OF MATERIALS

5.1 All Materials used or created as a result of this engagement (see SOW) by either party shall become or remain the sole property of the Centre. This includes any copies, pictures, duplicates, facsimiles or other reproduction or recordings of any type or any abstracts or summaries of the Material. Contractor will surrender same to the Centre immediately upon the termination of this Agreement.

5.2 The Centre recognizes that there will be some exceptions to this clause (e.g. ideas, designs, methods, computer techniques, Background Intellectual Property, discovery or improvement, inventions) developed by the Contractor under this Agreement shall remain the sole property of the Contractor. These items will be discussed at the close of the engagement.

5.3 Subject to the foregoing and for further clarity, the Centre for Health Information shall be the exclusive owner of all right, title and interest in the Services and Deliverables, together with all intellectual property rights therein.

5.4 Vendor shall retain ownership of all ideas, thoughts, concepts, and know-how derived through its own work.

6.0 CONFIDENTIALITY

6.1 The Contractor shall not at any time use or disclose any Material that it receives from the Centre pursuant to this Agreement or that relates to the business of the Centre except as expressly agreed upon under this Agreement or as required by law. Furthermore, the Contractor shall not use at any

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time (whether during the continuance of this Agreement or after its termination) for its own benefit or purposes or for the benefit or purposes of any other person, firm, corporation, association or other business entity, any trade secrets, business development programs, or plans belonging to or relating to the affairs of the Centre, including knowledge relating to customers, clients, or employees of the Centre.

- 6.2 The obligations of the Contractor under clause 6.1 above will not apply to information that the Contractor can demonstrate (i) at the time of disclosure is generally available to the public through no breach of this Agreement or other wrongful act by the Contractor, (ii) has been received by the Contractor from a third party without restriction on disclosure and without breach of agreement or other wrongful act by the Contractor, (iii) is independently developed by the Contractor without regard to the Material of the Centre, or (iv) is required to be disclosed by law or order of a court of competent jurisdiction, provided that the Contractor shall furnish prompt written notice to the Centre of such required disclosure.
- 6.3 Contractor will sign a Confidentiality Agreement – see Exhibit E
- 6.4 The Contractor shall return to the Centre or destroy any Confidential Information within thirty (30) days of this Contract being completed or terminated unless professional standards and/or practices deem otherwise.
- 6.5 With the Centre's prior written consent, the Contractor may disclose Confidential Information to any party who has a need to know.
- 6.6 With the Contractor's written consent, the Centre may disclose Contractor Confidential Information to any party who has a need to know
- 6.7 The Contractor shall immediately notify the Centre of any unauthorized disclosure of Material by the Contractor, its associates, servants or agents.
- 6.8 The provisions of this section shall continue to bind the Contractor notwithstanding the expiration or termination of this Agreement.
- 7.0 INDEPENDENT CONTRACTOR
- 7.1 The Contractor is an independent contractor and no provision of the Agreement that gives the Centre a measure of control over the work and services shall be construed so as to cause the Contractor's personnel to be considered employees of the Centre.
- 8.0 ASSIGNMENT AND SUBCONTRACTING
- 8.1 This Agreement is not assignable by either party without the prior written consent of the other.
- 8.2 The Contractor shall not subcontract any part of its obligations under this Agreement without the prior written consent of the Centre, which shall not be unreasonably withheld.
- 8.3 Consent under section 8.2 shall not relieve the Contractor from any of its obligations under this Agreement or impose on the Centre any liability to the subcontractor.

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## 9.0 LIABILITY AND INDEMNITY

- 9.1 The Contractor is liable to the Centre for all personal injury or property damage caused to the Centre, the Centre's employees or agents as the result of the negligence or wrongful actions of the Contractor, its associates, servants or agents in the course of performing its obligations under this Agreement.
- 9.2 The Contractor agrees to indemnify and save harmless the Centre from all actions, claims, suits, demands, loss and damages resulting from the unauthorized disclosure of Material, injury to persons, or direct damage to tangible personal property caused by the negligence or wrongful actions of the Contractor, its associates, servants and agents in the course of performing its obligations under this Agreement.
- 9.3 Notwithstanding anything to the contrary stated in this agreement, in no event shall either party be liable to the other for an amount in excess of the professional fees paid by NLCHI for the engagement during the 12 month period preceding the date of notification of claim. The provisions of this Section shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort or otherwise.
- 9.4 Notwithstanding anything to the contrary stated herein, no action, regardless of form, arising under or relating to this engagement, may be brought by either party more than one year after the cause of action has accrued, except that an action for non-payment may be brought by a party not later than one year following the date of the last payment due to such party hereunder.
- 9.5 For purposes of this Section, the term NLCHI shall include its respective partners, directors, officers, employees, associates, representatives, agents and volunteers.

## 10.0 TERMINATION

- 10.1 The Centre may terminate this Agreement without cause by provision of 7 days notice, such notice being provided in accordance with the provisions of section 18.
- 10.2 Where the Centre has terminated the Agreement, the Centre shall pay to the Contractor such amounts as are properly attributable to the work performed or costs or financial commitments incurred prior to the date of termination which cannot otherwise be avoided.
- 10.3 NLCHI shall have no obligation to pay the Contractor for any work performed after the Contractor has been directed to suspend or cease work under the particular SOW.

## 11.0 TERMINATION FOR CAUSE

- 11.1 If either party to this Agreement is in breach of any of its obligations under this Agreement, the other party may give notice in writing of the breach to the defaulting party and request the latter to remedy it. If the party in breach fails to remedy the breach within five (5) days after the date of delivery of such written notice, then this Agreement may be terminated immediately by further written notice of termination given by the complaining party.

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- 11.2 All work authorized by this Agreement prior to the effective date of termination shall be completed by the Contractor as if this Agreement were still in full force.
- 11.3 Upon completion of all work pursuant to section 11.2, the Contractor shall immediately turn over to the Centre all completed materials following the provisions of Section 6.3, and further the Contractor shall follow the provisions of Section 6.3 pursuant to this Agreement.
- 11.4 Notwithstanding the provisions of sections 10.1 or 11.1 hereof, the Centre may terminate this Agreement by written notice (e-mail) to take effect immediately upon receipt of it by the Contractor if:
- (a) the Contractor is in breach of Section 6 of this Agreement relating to the secrecy of confidential information; or
  - (b) the Contractor becomes insolvent or bankrupt or makes an assignment for the benefit of creditors, or a receiver is appointed of its business; or a voluntary or involuntary petition in bankruptcy is filed or proceedings for the re-organization or winding-up of the Contractor are instituted; or
  - (c) the Contractor attempts to assign or cede any interest in this Agreement without the prior written consent of the Centre; or
  - (d) the Contractor comes under the direct or indirect control of any corporation or person who does not control it at the date of execution of this Agreement.

#### 12.0 OBLIGATIONS OF CONTRACTOR ON TERMINATION

- 12.1 Upon termination of the Agreement for any reason, whether by expiration of the term or pursuant to sections 10 or 11, the Contractor agrees to provide all data and information in its possession to any successor chosen by the Centre in order to facilitate the transition. The Centre agrees that the Contractor will be compensated for the services completed and materials delivered in accordance with this contract up to the effective date of termination and if terminated for cause.

#### 13.0 SAFETY AND SECURITY

The Contractor, Contractor's employees, subcontractors and agents when using any of the Centre's buildings, premises, equipment, hardware or software shall comply with all safety and security policies, regulations or directives relating to those buildings, premises, equipment, hardware or software.

#### 14.0 FORCE MAJEURE

A party shall be excused from performance under this Agreement for any period to the extent that a party is prevented from performing any obligation as a result of causes beyond its reasonable control, including fire, flood, riot, strikes, labour disputes, freight embargoes, acts of God or of the public enemy, war, civil disturbances or terrorism act and without its negligence or willful misconduct. The delay to render Services shall be extended for the same duration. However, if the force majeure continues for more than sixty (60) days, each party may terminate the contract without cost.

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## 15.0 AMENDMENTS

15.1 No amendment, modifications or waiver of any term or provision of this Agreement shall be valid or binding unless it is in writing and duly executed by both parties and is then effective only in the specific instance and for the specific purpose for which it is given.

## 16.0 INTERPRETATION

16.1 Entire agreement and waiver. This Agreement (including the SOW) constitutes all of the agreements between the Contractor and the Centre pertaining to the subject-matter of it and supersedes all prior agreements, undertakings, negotiations and discussions, whether oral or written, of the parties to it and there are no warranties, representations or other agreements between the parties to it in connection with the subject-matter of it except as specifically set forth or referred to in this Agreement. No supplement, modifications, waiver or termination of this Agreement shall be binding unless executed in writing by the party hereto to be bound thereby. No waiver of any other provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions (whether or not similar) nor shall the waiver constitute a continuing waiver unless otherwise expressly provided.

16.2 Interpretation. In this Agreement, words importing the singular number include the plural and vice versa, words importing the masculine gender include the feminine and neuter genders; and words importing persons include individuals, sole proprietors, corporations, partnerships, trusts and unincorporated associations.

16.3 Applicable law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and the laws of Canada in force therein.

16.4 Invalidity of provision. The invalidity or unenforceability of any provision of this Agreement or any covenant in it shall not affect the validity or enforceability of any other provision or covenant in it and the invalid provision or covenant shall be deemed to be severable.

## 17.0 CHANGE REQUEST PROCESS

17.1 If the Contractor is of the opinion that some aspect of the Services or the Materials will fall outside the scope of this Contract, or, the existing SOW requires an extension to complete the necessary deliverables, the Contractor shall immediately, upon noticing such scope deviation or potential scope deviation, notify the Centre to authorize the initiation of the Change Request process. Changes to any contract will be within allowable limits as depicted in provincial guidelines for the hiring of external consultants.

17.2 The Change Request form (template) provided by the Centre is included in Exhibit D.

17.5 If the Centre considers the Services or Materials specified in the Change Request outside the scope of this Contract, the Centre may:

(a) Decide not to have the tasks completed; or

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- (b) request the Contractor to complete some or all of the tasks at a mutually agreed upon cost under separate contract.

18.0 NOTICES

18.1 Wherever in this Agreement notice is required or permitted to be given or served by either party to or on the other, the notice shall be sent via e-mail to the authorized designate for each respective signing authority. Notice personally served or sent by email shall be deemed received when actually delivered or transmitted, if delivery or transmission is on a business day. The contact information is listed below:

To the Centre

To the Contractor

Authorized designate of the Centre

Authorized designate of the Contractor

Mike Barron  
Chief Executive Officer  
Phone: (709) 752-6002  
Email: [mike.barron@nlchi.nl.ca](mailto:mike.barron@nlchi.nl.ca)

Name  
Title  
Phone:  
Email:

Contact for the Centre:

Tony Williams  
Manager, Business Services  
Phone: (709) 752-6032  
Email: [tony.williams@nlchi.nl.ca](mailto:tony.williams@nlchi.nl.ca)

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19.0 ADMINISTRATION

19.1 Purchase order numbers must be included on every invoice. Invoices must be sent directly to accounts payable at [accounts.payable@nlchi.nl.ca](mailto:accounts.payable@nlchi.nl.ca).

19.2 The successful vendor may be required to provide a Certificate of Conduct for the selected individuals.

19.3 The successful vendor should be in good standing with, and may be required to provide a letter from, the Workplace Health, Safety and Compensation Commission (WHSCC) prior to receiving any payments for work performed.

19.4 All travel and accommodations expenses will be in accordance with NL provincial policy (<http://www.exec.gov.nl.ca/hrpm/travel.html>)

19.5 Should additional work (that fits this role) be required upon expiration of this contract, the Centre reserves the right to retain the successful professional services firm and its resource to complete this additional work under separate contract (if performance matches expectations).

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the effective date.

Newfoundland & Labrador Centre for Health Information (the Centre)

Per: \_\_\_\_\_  
Name: Mike Barron  
Title: President & Chief Executive Officer

Vendor

Per: \_\_\_\_\_  
Name:  
Title:

**ACCEPTED AND AGREED** as of this \_\_ day of \_\_, 20\_\_.

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**EXHIBIT A – PROJECT BACKGROUND**

SAMPLE

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**EXHIBIT B - STATEMENT OF WORK**

SAMPLE

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**EXHIBIT C – PROJECT FEES**

SAMPLE

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### EXHIBIT D – Change Control Template

<b>Description of Change Requested</b>			
<b>Rationale</b>			
<b>Project Impact</b>			
<b>1. Effort / Quality</b>			
<b>2. Scope / Schedule</b>			
<b>3. Budget</b>			
<b>4. Project Leadership Signoff</b>			
<p><b>Title :</b>  <b>Name :</b>                      <b>Signature:</b> _____</p> <p><b>Title :</b>  <b>Name :</b>                      <b>Signature:</b> _____</p> <p><b>Title :</b>  <b>Name :</b>                      <b>Signature:</b> _____</p>			
<b>VENDOR NAME</b>		<b>NLCHI</b>	
Approved <input type="checkbox"/>		Approved <input type="checkbox"/>	
Rejected <input type="checkbox"/>		Rejected <input type="checkbox"/>	
Cancelled <input type="checkbox"/>		Cancelled <input type="checkbox"/>	
Name (Print)		Signing Officer (Print)	
Signature		Signature	
Date		Date	

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**EXHIBIT E**  
**AN AGREEMENT RESPECTING THE CONFIDENTIALITY AND PROTECTION OF SENSITIVE INFORMATION BY SUPPLIERS**

The Newfoundland and Labrador Centre for Health Information (the "Centre") is entrusted with personal health information of individuals in the Province of Newfoundland and Labrador and maintains personal information on employees and contractors, as well as corporate Sensitive Information.

The Centre is obligated by legislation and ethical practices to maintain the strict confidentiality of all Sensitive Information in its custody and control, and to ensure that it is protected by physical, administrative and technical safeguards. These obligations apply to Sensitive Information in all formats, including oral, written and electronic formats; moreover, these safeguards must protect all manners of handling Sensitive Information, including collection, use, disclosure, access, storage, transfer, copying, modification and disposition.

All Suppliers, as well as employees, associates, servants and agents of Suppliers, are responsible for ensuring the confidentiality and protection of Sensitive Information they collect, encounter or create as part of their engagement with the Centre.

**ARTICLE 1 – DEFINITIONS**

1.1 In this Agreement:

- (a) "ATIPPA" means the Newfoundland and Labrador *Access to Information and Protection of Privacy Act*, S.N.L 2002 c. A-1.1;
- (b) "PHIA" means the Newfoundland and Labrador *Personal Health Information Act*, S.N.L 2008 c. P-7.01;
- (c) "CHIA" means the Newfoundland and Labrador *Centre for Health Information Act*, S.N.L 2004 c. 5.1;
- (d) "Centre" means the Newfoundland and Labrador Centre for Health Information;
- (e) "Supplier" means any party providing goods or services to the Centre under a contract or other agreement;
- (f) "Contract" means the agreement under which the Supplier is providing goods or services to the Centre;
- (g) "Products" means the goods or services provided to the Centre by the Supplier under the Contract;
- (h) "Personal Information" is defined as per *ATIPPA*;
- (i) "Personal Health Information" is defined as per *PHIA*; and
- (j) "Sensitive Information" means Personal Information, Personal Health Information and all other information collected, encountered, or created by the Supplier during the course of providing the Products, except that information which is determined by the Centre as not being "Sensitive Information".

**ARTICLE 2 – PURPOSE OF AGREEMENT**

2.1 The purpose of this Agreement is:

- (a) To enable the Centre to comply with statutory and other obligations, such as those under *ATIPPA*, *PHIA*, *CHIA* and Centre policy, including Section 22(2) of *PHIA* where applicable; and

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- (b) To ensure that the Supplier is aware of and complies with its obligations regarding the confidentiality and protection of the Sensitive Information that result from the relationship established between the Supplier and the Centre via the Contract.

**ARTICLE 3 – CONFIDENTIALITY AND PROTECTION OF SENSITIVE INFORMATION**

3.1 The Supplier warrants the following:

- (a) It understands that it is the Supplier’s responsibility to ensure the confidentiality and protection of the Sensitive Information;
- (b) It will only handle the Sensitive Information for the purpose of providing the Products, or as the Centre authorizes;
- (c) It will remain aware of and ensure compliance with all requirements respecting the confidentiality and protection of the Sensitive Information, including best practices, the Centre’s policies/procedures and applicable legislation such as *ATIPPA*, *PHIA* and *CHIA*;
- (d) If it suspects that there has been a violation of the Centre’s or Supplier’s policy respecting the confidentiality or protection of the Sensitive Information, then it will report the violation to the Centre;
- (e) If it suspects an incident which has lead to, or could lead to, the compromise of the confidentiality or protection of the Sensitive Information, then it will report the incident to the Centre;
- (f) If it has questions or concerns respecting the confidentiality or protection of the Sensitive Information, then it will address them with the Centre; and
- (g) It will ensure that an oath (or affirmation) of confidentiality and information protection is taken by all employees, associates, servants and agents of the Supplier that will handle the Sensitive Information.

**ARTICLE 4 – SURVIVABILITY**

4.1 This Agreement shall survive the termination of the Contract.

**IN WITNESS WHEREOF**, this Agreement has been signed on behalf of all employees, associates, servants and agents of the Supplier on the date indicated below.

\_\_\_\_\_  
Supplier Company Name

\_\_\_\_\_  
Authorized Supplier Designate (Print)

\_\_\_\_\_  
Authorized Supplier Designate (Sign)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contract No. (Office Use only)

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