

# Service Agreement

THIS Agreement for Services ("Agreement") made in duplicate as of September 1, 2009.

## BETWEEN:

HER MAJESTY THE QUEEN in right of Ontario, as represented  
by the Minister of Natural Resources ("the Crown")

AND

Algonquin Negotiation Representatives c/o McKillican & Associates  
("Contractor")

WHEREAS the Crown has requested Contractor to undertake certain work and services more particularly described in Schedule A attached hereto and forming part hereof (collectively "Services"); and

WHEREAS Contractor represents that it has the skill and expertise required to properly and fully perform the Services and has agreed to perform same;

NOW THEREFORE in consideration of the mutual promises set out below and other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Crown and Contractor intending to be legally bound agree as follows:

## 1. TERM; POSTPONEMENT

- 1.1 This Agreement shall commence on September 1, 2009 and, unless and until terminated earlier in accordance with the provisions hereof, shall terminate on February 1, 2010 unless the term is extended as a result of a postponement(s) pursuant to Section 1.2 below.
- 1.2 The Crown may postpone completion of the Services at any time(s) for any period(s) up to six (6) months in aggregate beyond the scheduled completion date, provided that in the event of any such postponement the Crown shall give Contractor not less than twenty (20) days prior written notice of (i) the date when such postponement is to commence and (ii) the date Contractor is to resume performance of the Services. The originally scheduled completion date and the term of the Agreement shall be extended by the length of any such postponement.

## 2. SERVICES

- 2.1 Contractor agrees to perform the Services subject to and in accordance with the terms and conditions of this Agreement.  
  
Contractor represents and warrants that it has the full right and power to enter into the Agreement and there is no agreement with any other person which would in any way interfere with the rights of the Crown under this Agreement.
- 2.2 Contractor represents and warrants that the Services shall be performed to the satisfaction of the Crown fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations and subject to Section 1.1 above by the target dates set out in Schedule A for their completion.
- 2.3 For day-to-day requirements related to the performance of the Services communications between the parties may be by telephone, email, fax or in person and shall be given by and to the designated representative ("Designated Representative") for each party as follows:

For the Crown:

Name:	Ken McWatters
Position:	Resource Liaison Specialist
Address:	31 Riverside Drive, Pembroke, ON, K8A 8R6
Fax No:	613-732-5539
Email Address:	<a href="mailto:ken.mcwatters@ontario.ca">ken.mcwatters@ontario.ca</a>
Phone No.	613-732-5572

For Contractor:

Name: Chief Patrick Glassford  
Position: Algonquin Negotiation Representative  
Algonquins of Greater Golden Lake  
Address: P.O. Box 215, Killaloe, ON, K0J 2A0  
Fax No: 613-757-0765  
Email Address: [anr@greatergoldenlake.com](mailto:anr@greatergoldenlake.com)  
Phone No. 613-757-0765

Each party may change its Designated Representative with seven (7) days prior written notice to the other party. Contractor agrees that the Crown may act through any individual designated by the Crown.

### **3. SUBCONTRACTING; MODIFICATION; SUBSTITUTION**

- 3.1 Except as otherwise expressly permitted in this Agreement, Contractor shall not assign, delegate, sub-contract or otherwise transfer, in whole or in part, whether voluntarily, by operation of law or otherwise, this Agreement or any of its rights or obligations hereunder without the prior written consent of the Crown, which consent may be withheld by the Crown at its sole discretion.
- 3.2 Contractor agrees to keep the Crown advised of Contractor's progress in performing the Services and agrees to submit progress reports to the Crown's Designated Representative at such times, in such form and with such details as may be specified by the Crown upon giving reasonable notice in writing to Contractor. Contractor further agrees to advise the Crown's Designated Representative of any problems or delays or anticipated problems or delays in completion of the Services as soon as possible. Contractor agrees that the Crown may from time to time inspect and test, for the purpose of determining compliance by Contractor with the terms and conditions of the Agreement, any related records, plans, staff, schedules and facilities outside or on Contractor's premises and Contractor further agrees to abide by all directions from the Crown respecting such inspections and tests.
- 3.3 Where Contractor believes that any of the Services should be curtailed, reduced or otherwise modified, Contractor agrees to immediately advise the Crown's Designated Representative accordingly in writing and obtain the prior written permission of the Crown to make any such modifications.

The Crown in response to Contractor's advice or on its own initiative may from time to time issue addenda which shall have the effect of varying, making additions to or reducing the requirement for the Services hereunder. Contractor shall as soon as possible after the receipt of each addendum furnish the Crown with an accurate estimate of the revised charges resulting from the variations, additions or reductions and upon receipt of the Crown's prior written approval of the revised charges, shall comply with the requirements of such addendum. The Crown shall pay, subject to the terms and conditions of the Agreement, such approved revised charges to Contractor for such Services completed to the satisfaction of the Crown.

- 3.4 Where Contractor is uncertain how to proceed to provide any of the Services, Contractor agrees to immediately consult the Crown.
- 3.5 Contractor agrees that the Services shall be performed by its personnel named in Schedule B attached hereto and forming part hereof except as otherwise instructed by the Crown. If after Contractor commences performance of the Services, the Crown should reasonably object to any of those named individuals, or if any of those individuals should not be available to perform such Services for any reason, Contractor shall immediately replace such individual with an individual at least as qualified as such individual and acceptable to the Crown. None of the individuals referred to in Schedule B shall be removed or replaced by Contractor without the prior written consent of the Crown.
- 3.6 Contractor acknowledges and agrees that:
- (a) neither Contractor nor any of its directors, officers, employees, agents, sub-contractors, partners or volunteers is or may be deemed an agent, officer, or employee of the Crown for any purpose whatsoever and shall not hold themselves out as such;
  - (b) it is an independent contractor providing services to the Crown; and
  - (c) it is not in any way authorized to make a promise, agreement or contract on behalf of the Crown without obtaining the prior written consent of the Crown.

#### **4. PAYMENTS; INVOICING**

- 4.1 The Crown agrees to pay Contractor for the Services completed to the Crown's satisfaction in accordance with the payment schedule set out in Schedule C attached hereto and forming part hereof as follows:
- (a) Contractor shall submit to the Crown invoices in sufficient detail satisfactory to the Crown in accordance with such payment schedule for the Services completed in the applicable month;
  - (b) The Crown agrees to pay such monthly invoice as soon as reasonably possible after the Crown has approved the Services included therein. Payment terms are net 30 days;
  - (c) Contractor agrees that amounts payable by the Crown in accordance with the terms and conditions of the Agreement shall constitute the entire consideration payable to Contractor for the performance of the Services, provided that the total payable by the Crown for the performance of such Services shall in no event exceed the sum of **\$ 70,960** (Canadian dollars). The Contractor will not be paid any additional fees and will not be reimbursed for any expenses incurred;
  - (d) Should Contractor become financially indebted to the Crown under this Agreement or otherwise, Contractor agrees that the Crown may, to the extent possible, deduct and set off the amount of such indebtedness or any portion thereof from any amounts payable to Contractor under this Agreement; and
  - (e) Contractor agrees to provide the Crown upon request with further details with respect to any invoice submitted hereunder.
- 4.2 The Crown certifies that the Services purchased hereby are solely for the use of the Crown and not subject to the Goods and Services Tax.

#### **5. CONFIDENTIALITY**

- 5.1 During and following the term of the Agreement, Contractor shall treat as confidential and keep in trust and confidence for and on behalf of the Crown all Works (as defined in Section 8.1 below) created or developed under this Agreement and all materials, knowledge and information, including without limitation "Personal information" as defined in subsection 2.1 of Ontario's Freedom of Information and Protection of Privacy Act ("FIPPA") i.e. recorded information about an identifiable individual, obtained from the Crown by Contractor or any of its employees, agents, sub-Contractors, partners or volunteers pursuant to this Agreement (collectively "Confidential Information") and only use the Confidential Information for the purpose(s) authorized by the Crown in connection with the performance of the Services under this Agreement. However, Contractor shall have no confidentiality obligation with respect to any such Confidential Information which:
- (a) is or becomes publicly available through no fault of Contractor;
  - (b) Contractor can demonstrate was already in its rightful possession prior to its receipt from the Crown without any obligation of confidentiality;
  - (c) Contractor can demonstrate was independently developed by it;
  - (d) Contractor can demonstrate was rightfully obtained by it from a third party which was under no confidentiality obligation with respect thereto; or
  - (e) is disclosed with the prior written consent of the Crown

but such exclusions do not affect or limit the meaning of "Personal Information" or the obligations attaching thereto under Section 5.5 below.

During and following the term of the Agreement, Contractor shall ensure that Contractor, its officers, directors, employees, agents, sub-Contractors, partners and volunteers shall not use, copy, destroy, release, or disclose at any time, directly or indirectly, to any third party any of such Confidential Information without the prior written consent of the Crown.

- 5.2 Contractor shall use efforts no less than those used to protect its own confidential information of a similar nature but at least reasonable efforts to protect such Confidential Information from disclosure and unauthorized use shall divulge same only to its employees, agents, sub-Contractors, partners and volunteers on a need to know basis for purposes of this Agreement provided they have first signed a confidentiality

agreement with Contractor having substantially the same confidentiality terms and conditions that bind Contractor hereunder.

- 5.3 Contractor acknowledges that the disclosure of any such Confidential Information would cause serious and irreparable harm to the Crown which could not adequately be compensated for in damages. In the event of a breach, or an anticipated breach, by Contractor of any of its obligations under this Section 5, Contractor hereby consents to an injunction being issued against it restraining it from such anticipated breach or any further breach of such obligation, as applicable, but such action shall not be construed so as to be in derogation of any other remedy which may be available in the event of such breach or anticipated breach.
- 5.4 Contractor shall notify the Crown of any unauthorized possession, use, destruction or disclosure of any Confidential Information immediately after such possession, use, destruction or disclosure becomes known to Contractor.
- 5.5 The Parties acknowledge and agree that this Agreement and the confidentiality of the Confidential Information provided to Contractor hereunder may be subject to the provisions of FIPPA and that FIPPA may require the disclosure of recorded Confidential Information, including Personal Information, to third parties pursuant to an access request or an order of a court or tribunal. Contractor agrees:
- (a) to keep recorded Confidential Information secure;
  - (b) to provide recorded Confidential Information to the Crown within seven (7) calendar days of being directed to do so by the Crown for any reason, including an access request or privacy issue;
  - (c) not to access any Personal Information unless the Crown determines, in its sole discretion, that access is permitted under FIPPA and is necessary for any authorized purpose referred to above;
  - (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purpose not authorized by the Crown;
  - (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so;
  - (f) to restrict access to Personal Information to only those individuals who have a need to know it and who have been specifically authorized by the Crown to have such access for any authorized purpose referred to above;
  - (g) to implement other specific security measures that in the reasonable opinion of the Crown would improve the adequacy and effectiveness of any measures used to ensure the security and integrity of Personal Information and recorded Confidential Information generally; and
  - (h) that any Confidential Information supplied to the Crown may be disclosed by the Crown where it is obligated to do so under FIPPA, by an order of a court or tribunal or pursuant to a legal proceeding.
- 5.6 Upon request of the Crown at any time(s), Contractor shall return all such Confidential Information together with all copies thereof in its possession, custody or control.

## **6. CONFLICT OF INTEREST**

- 6.1 In this Agreement "Conflict of Interest" includes, but is not limited to, any situation or circumstance where in relation to the performance of its obligations under this Agreement, other commitments, relationships or financial interests of Contractor could or could be seen to (i) exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment or (ii) compromise, impair or be incompatible with the effective performance of its obligations hereunder.
- 6.2 Contractor shall (a) avoid and shall cause its employees, agents, sub-Contractors, partners and volunteers to avoid any Conflict of Interest during the performance of their respective obligations hereunder; (b) disclose without delay any actual or potential Conflict of Interest that arises during the performance of such obligations; and (c) comply with any requirement prescribed by the Crown to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the Crown may, at its sole and absolute discretion, determine whether any situation constitutes a Conflict of Interest and may immediately terminate the Agreement upon giving notice to Contractor where (a) Contractor fails to disclose an actual or

potential Conflict of Interest; (b) Contractor fails to comply with any requirement prescribed by the Crown for Contractor to resolve a Conflict of Interest; or (c) Contractor's Conflict of Interest cannot be resolved. Contractor agrees that it shall be a Conflict of Interest for it to use any Confidential Information of the Crown where the Crown has not authorized such use in advance in writing. This paragraph shall survive any termination or expiry of the Agreement.

## **7. RETENTION OF RECORDS**

- 7.1 For seven (7) years following the termination or expiry of this Agreement Contractor shall maintain proper financial records and books of accounts, including all financial expenditures, as well as detailed records of the hours worked and fees charged relating to the Services provided pursuant to this Agreement which Contractor shall prepare during the term of the Agreement. Upon request, such records and books of accounts may be examined, audited and copied by the Crown and the provincial Auditor during and following the term of the Agreement.

## **8. INTELLECTUAL PROPERTY**

- 8.1 All data, compilations, collections and arrangements of data, drawings, films, software, processes, inventions, concepts, techniques, manuals, papers, reports, documentation, materials and other works of any kind whatsoever (collectively 'Works') and all related patents, copyrights, trade secrets, and other intellectual property rights created or developed in the course of performing the Services shall be the exclusive property of the Crown. Contractor shall at any time(s) during and following the term of the Agreement upon request by the Crown deliver to the Crown all original materials representing the Works together with all copies thereof which are in the possession, custody or control of Contractor.
- 8.2 Contractor hereby agrees to assign all intellectual property rights in the Works to the Crown upon request and agrees to execute such further assurances as the Crown may require from time to time to complete the assignment of such rights in a form and substance satisfactory to the Crown. Contractor shall also obtain from all its employees, agents, sub-Contractors, partners and volunteers written assignments of their respective copyrights and other intellectual property rights in the Works.
- 8.3 Prior to Contractor providing the Crown with the above-noted assignment, the Crown shall have the right from time to time to make as many copies of the Works, in whole or in part, and distribute same for use as the Crown deems necessary without restriction or obligation.
- 8.4 Contractor hereby waives in favour of the Crown and the Crown's successors and assigns all Contractor's moral rights in respect of the Works. Contractor shall obtain from all its employees, agents, sub-Contractors, partners and volunteers involved in performing the Services a written waiver of their respective moral rights in the Works in substantially the same format as the waiver to be provided by Contractor.
- 8.5 Contractor warrants and represents that none of the Works shall infringe any intellectual property rights, moral rights or any other rights of any third party or be libellous or otherwise unlawful. Contractor agrees to indemnify and save harmless the Crown and its officers, appointees, employees and agents from and against any and all liabilities, losses, damages, demands, claims, actions and causes of action by whomsoever made, brought or prosecuted that may arise out of or be in any way related to such warranty, representation or any breach thereof.

## **9. INDEMNITY AND INSURANCE**

- 9.1 Contractor shall indemnify and save harmless the Crown and its officers, appointees, employees and agents from and against any and all liabilities, losses, damages, demands, claims, actions and causes of action by whomsoever made, brought or prosecuted, arising out of or in any way related to this Agreement, the Services or any act or omission, negligent or otherwise, of Contractor, its directors, officers, employees, agents, sub-Contractors, partners or volunteers. Contractor agrees in performing the Services hereunder to comply with all applicable laws, statutes, ordinances, regulations, rules, orders, permits, licences and by-laws whether provincial, federal or otherwise.
- 9.2 During the term of this Agreement Contractor shall obtain and maintain in force at its expense with insurers acceptable to the Crown commercial general liability insurance (including without limitation coverage on any vehicle which Contractor uses to perform any of the Services) in the principal amount of not less than two million dollars (\$2,000,000.00) Canadian per occurrence insuring against any and all actions, causes of action, claims, demands, liabilities, damages and losses arising out of this Agreement and in any way related

to any negligent act or omission of Contractor or any of its directors, officers, employees, agents, sub-Contractors, partners or volunteers. Contractor agrees to provide the Crown upon request with evidence of such insurance satisfactory to the Crown. Contractor shall also arrange that the Crown and Her officers, appointees, employees and agents are named as additional insureds under such insurance and that such insurance will only be cancellable upon at least thirty (30) days written notice from the insurer(s) to the Crown.

- 9.3 If Contractor uses vehicles in any way to fulfil any of its obligations under this Agreement, then, during the term of this Agreement, Contractor shall obtain and maintain in force at its expense with insurers acceptable to the Crown automobile insurance as per statutory requirements in Ontario and/or other jurisdictions, Ontario Automobile Policy (OAP1) Owner's Policy Sections 3 and 4, auto liability for a limit not less than two million dollars (\$2,000,000.00) Canadian per occurrence including Accident Benefits, and where applicable, Section 7, Loss or Damage Coverage.

## **10. OCCUPATIONAL HEALTH AND SAFETY ACT; WORKPLACE SAFETY AND INSURANCE ACT**

- 10.1 Contractor shall be knowledgeable of and comply with the provisions of all legislation, regulations and by-laws in regards to health and safety in the Province of Ontario as well as specific health and safety instructions which may be given to Contractor by the Crown. Without limiting the generality of the foregoing, Contractor agrees to be knowledgeable of and perform all its obligations imposed by Ontario's Occupational Health and Safety Act ("OHSA"), as amended from time to time, including without limitation those obligations set out in Sections 25, 26, 37 and 51 of the OHSA and also agrees at all times at its expense:

- (a) To ensure any sub-Contractors employed are knowledgeable of and agree to comply with the OHSA and its regulations and that the rights and remedies available to the Crown under this Section apply to each such sub-contractor;
- (b) To comply with all requirements of Ontario's Workplace Safety and Insurance Act and to ensure that each sub-contractor complies with such requirements and provide the Crown upon request with evidence satisfactory to the Crown of such compliance, including without limitation valid clearance certificates of WSIA coverage. The Contractor will pay when due, and will ensure its subcontractors pay when due, all amounts required to be paid under the WSIA, failing which the Ministry shall have the right, in addition to and not in substitution for any other rights under the Contract or at law or in equity, to pay to the Workplace Safety and Insurance Board any amounts due and unpaid and to deduct such amounts from any amount due and owing from time to time to the Supplier together with all related costs incurred by the Ministry;
- (c) To ensure that all equipment used in connection with the Services performed hereunder is properly and safely maintained by duly qualified personnel and in good working order and to cooperate with the Crown at the Contractor's expense to allow the Crown to inspect any such equipment from time to time;
- (d) Identify in writing to the Crown the various hazards associated with the performance of the Services and of which Contractor is aware and the various procedures and safety practices which Contractor shall employ to protect the workers from such hazards and ensure that all sub-contractors comply with such procedures and practices;
- (e) Notify the Crown in writing of any work related injury or illness within twenty-four (24) hours of the occurrence of any such injury or illness;
- (f) Provide the Crown as soon as possible with full details of any investigations, prosecutions or convictions (whether pending, threatened or otherwise) against or relating to Contractor under the OHSA and Contractor hereby irrevocably authorizes the Ministry of Labour to release to the Crown as soon as possible any and all its records regarding such details, provided in the event of any prosecutions or convictions against Contractor or any sub-contractor, the Crown may then terminate this Agreement under Section 10.3(d) below; and
- (g) To ensure that each sub-contractor hired by Contractor to perform any Services provides the Crown as soon as possible with all details of any investigations, prosecutions or convictions against or relating to it under the OHSA and with irrevocable authorization to the Ministry of Labour to release any or all of that Ministry's records on the sub-contractor to the Crown, failing which, at the Crown's request, to dismiss and replace such sub-contractor with another qualified sub-contractor approved by the Crown. In the event of any such prosecution or conviction against a sub-contractor,

Contractor agrees upon request by the Crown to replace as soon as possible such sub-contractor with a duly qualified, competent substitute satisfactory to the Crown.

- 10.2 Contractor at its own expense prior to the commencement of the Services and otherwise upon request shall review with the Crown compliance with the two above-noted statutes by Contractor and each sub-contractor and implement as soon as possible at its own expense any further measures required by the Crown to ensure such compliance.
- 10.3 In the event of breach of any Sub-Section of this Section, the Crown in addition to its termination rights under Section 11.1 below may:
- (a) require Contractor, at Contractor's expense and without any liability on the part of the Crown,
    - (i) to cease performing the Services, in whole or in part, until such breach is rectified and/or
    - (ii) to dismiss any sub-contractor which has breached either of the two statutes referred to above if such sub-contractor fails to remedy such breach upon notice and replace such sub-contractor as soon as possible with a duly qualified competent substitute approved by the Crown,it being understood that Contractor by reason of such stoppage or required replacement of any sub-contractor shall not be relieved from timely performance of its obligations under the Agreement;
  - (b) on notice to Contractor and at Contractor's expense, take such remedial measures as the Crown at its sole discretion considers necessary to remedy any such breach, provided if Contractor fails to reimburse the Crown promptly upon request for any expenses incurred related to such remedial measures, then the Crown may terminate the Agreement, in whole or in part, pursuant to the Crown's rights under Sub-Section (d) immediately below;
  - (c) withhold payment of any monies otherwise due and payable under the Agreement until such time as such breach is rectified and/or set off against any such monies or securities, in whole or in part, posted by Contractor with the Crown any expenses incurred by the Crown under Sub-Section (b) immediately above; or
  - (d) on written notice to Contractor, immediately terminate the Agreement, in whole or in part, on account of such breach without any liability to Contractor.
- 10.4 The above rights and remedies in favour of the Crown are cumulative and in addition to all other rights and remedies available to the Crown under this Agreement or at law, equity or otherwise.

## **11. TERMINATION**

- 11.1 The Crown may immediately terminate the Agreement, in whole or in part, upon giving notice to Contractor where:
- (a) Contractor is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of Contractor's insolvency;
  - (b) Contractor breaches Section 5 (Confidentiality) or Section 6 (Conflict of Interest) above;
  - (c) Contractor, prior to or after executing the Agreement, makes a material misrepresentation or omission or provides materially inaccurate information to the Crown;
  - (d) Contractor subcontracts for the provision of part or all of the Services or assigns the Agreement in whole or in part without first obtaining the written approval of the Crown; or
  - (e) Contractor's acts or omissions constitute a substantial failure of performance.

The above rights and remedies are in addition to the other rights and remedies available to the Crown under Section 10.3(d) above or at law, equity or otherwise.

- 11.2 Subject to the Section 11.1 above, where Contractor fails to comply with any of its obligations under the Agreement, the Crown may issue a rectification notice to Contractor setting out the deficiency and manner and time-frame for rectification. Within fifteen (15) days of receipt of that notice, Contractor shall (a) rectify the deficiency or (b) meet with the Crown's Designated Representative and agree upon appropriate remedial action. If Contractor fails to rectify or agree upon such remedial action within the time permitted, the Crown may immediately terminate the Agreement. Where Contractor has been given a prior rectification notice, the same subsequent type of non-compliance by Contractor shall allow the Crown to immediately terminate the Agreement.
- 11.3 The Crown reserves the right to terminate the Agreement, in whole or in part, without cause, upon seven (7) days prior notice to Contractor. In the event the Crown terminates the Agreement, in whole or in part, without cause, Contractor shall only be entitled to be paid a reasonable amount for the Services completed to the Crown's satisfaction up to the date of termination. Such amount, however, shall not exceed the fees and expenses described in Section 4.1(d) above.
- 11.4 If this Agreement extends into a fiscal year for the Crown subsequent to its execution, continuation of the Agreement is conditional upon an appropriation of moneys by the Legislature of Ontario ("Legislature") sufficient to satisfy payments due under the Agreement. In the event that such moneys are not available as a result of: (i) non-appropriation by the Legislature for the fiscal year in which payment becomes due; and (ii) the payment being neither charged nor chargeable to an appropriation of the Legislature for a previous fiscal year, the Crown may terminate the Agreement upon giving notice to Contractor. Termination shall become effective on the date of the beginning of the first fiscal year for which funds have not been appropriated.
- 11.5 On termination of the Agreement, Contractor shall, in addition to its other obligations under the Agreement:
- (a) promptly provide the Crown with all completed or partially completed Services;
  - (b) promptly return to the Crown all Confidential Information and other materials, information, documents, equipment, machinery, software and other items supplied by the Crown and all copies (as applicable) in Contractor's possession, custody or control;
  - (c) provide the Crown with a report detailing (i) the current status of the provision of Services by Contractor at the date of termination and (ii) any other information requested by the Crown pertaining to the provision of the Services and its performance of the Agreement;
  - (d) execute such documentation as may be required by the Crown to give effect to such termination; and
  - (e) comply with any other instructions provided by the Crown, including without limitation instructions for facilitating the transfer of its obligations to another person.
- 11.6 In the event the Crown terminates this Agreement, in whole or in part, on account of a breach of any obligations herein or any material misrepresentation or omission hereunder by Contractor, Contractor shall be liable for all damages sustained by the Crown as a result of such breach. A reasonable amount determined in the sole discretion of the Crown representing any of such damages may be deducted and set off by the Crown from any monies owing hereunder to Contractor and Contractor shall remain liable to the Crown for the balance of such damages remaining after such deduction.

Any termination under Sections 10.3(d), 11.1 or 11.2 above by the Crown shall be without liability to Contractor and Contractor shall have no claim of any kind whatsoever at law, equity or otherwise for damages, compensation, loss of profit, allowance or otherwise directly or indirectly arising out of such termination.

Termination shall not relieve Contractor of its warranties and other responsibilities relating to the Services performed. In addition to its other rights to withhold or set off, the Crown may withhold payment or set off against any payments owed if Contractor fails to comply with its obligations on termination.

## **12. MISCELLANEOUS**

- 12.1 This Agreement is governed by the laws of the Province of Ontario.

- 12.2 Time is of the essence in this Agreement.
- 12.3 This Agreement and its Schedules constitute the entire agreement between the parties relating to the subject matter hereof and all prior agreements, representations, negotiations and undertakings, whether oral or in writing, are superseded by the provisions of this Agreement. In the event of any conflict or inconsistency between the terms and conditions of the main body of the Agreement and those of any Schedule, the terms and provisions of the main body shall prevail. Any change to the Agreement must be effected by a written amendment signed by the parties.
- 12.4 No provision of this Agreement shall be deemed waived by a party unless such waiver is in writing and signed by the party giving such waiver. No waiver shall be construed as an amendment hereof or extend or be taken to affect any other breach or any other right of the party giving the waiver. The failure of a party to insist in one or more instances upon the performance by the other party of any provisions of this Agreement shall not be construed as a waiver by such party to require further performance of such provision and the obligations of the other party with respect to such future performance shall continue in full force and effect.
- 12.5 Each provision of this Agreement shall be severable and in the event that any provision is declared invalid or unenforceable, the balance of the provisions shall survive.
- 12.6 Neither party shall not be liable for any delay in the performance of its obligations under this Agreement due to circumstances beyond its control.
- 12.7 Except for communications between the parties pertaining to day-to-day requirements relating to the performance of the Services which are addressed in Section 2.3 above, all notices and communications required to be given pursuant to this Agreement by a party shall be in writing and forwarded in the manner prescribed below to the other party at its address designated below or at such other address as such party may designate from time to time by notice in writing in the prescribed manner:

To the Crown: Paul Moreau  
MNR Pembroke District Manager  
31 Riverside Drive, Pembroke, ON, K8A 8R6  
Address  
613-732-5539  
Fax No.

To Contractor: Chief Patrick Glassford  
Name  
P.O. Box 215, Killaloe, ON, K0J 2A0  
Address  
613-757-0765  
Fax No.

Notice shall be given by:

- (i) personal delivery, effective at the time of delivery;
- (ii) fax, effective at the time of receipt by the sending party of confirmation of successful transmission to the receiving party; or
- (iii) registered mail, effective on the third day following the deposit of a properly addressed notice in the mail, provided however, in the event of an actual or threatened disruption of postal service, notice shall not be given by mail.

- 12.8 Notwithstanding anything to the contrary in this Agreement, on termination or expiration of the Agreement Sections 3.1, 5, 6, 7, 8, 9.1, 11.3, 11.5, 11.6 and 12 shall survive and remain in full force and effect thereafter.
- 12.9 Subject to the restriction in this Agreement on Contractor's right to assign, delegate, subcontract or otherwise transfer, in whole or in part, this Agreement or any of its rights or obligation hereunder, this Agreement shall be binding upon and enure to the benefit of the Crown, Her heirs, successors and assigns and Contractor, its successors and permitted assigns.

IN WITNESS WHEREOF the parties have duly executed this Agreement as of the date first indicated above.

**Algonquin Negotiation Representatives c/o McKillican & Associates**

Per: \_\_\_\_\_  
Signature

Doreen Davis  
Name

Trustee - Algonquin Negotiation Representative  
Officer Title

I have authority to bind the Contractor

**Algonquin Negotiation Representatives c/o McKillican & Associates**

Per: \_\_\_\_\_  
Signature

Dave Joannis  
Name

Trustee - Algonquin Negotiation Representative  
Officer Title

I have authority to bind the Contractor

**Algonquin Negotiation Representatives c/o McKillican & Associates**

Per: \_\_\_\_\_  
Signature

Jerrow Lavalley  
Name

Trustee - Algonquin Negotiation Representative  
Officer Title

**HER MAJESTY THE QUEEN in right of Ontario  
as represented by Minister of Natural Resources**

Per: \_\_\_\_\_  
Signature

Paul Moreau \_\_\_\_\_  
Name

MNR – Pembroke District Manager  
Title

Per: \_\_\_\_\_  
Signature

David de Launay \_\_\_\_\_  
Name

Assistant Deputy Minister  
Field Services Division  
Ministry of Natural Resources  
Title

**SCHEDULE A**

**Algonquin Management Plan**

**As submitted by the Algonquins of Ontario**

**July 2009**

**(complete Schedule A starts on next page with maps included)**

**SCHEDULE B**

**CONTRACTOR'S PERSONNEL  
ASSIGNED TO PERFORM THE SERVICES**

Chief Patrick Glassford,  
Algonquin Negotiation Representative  
Algonquins of Greater Golden Lake  
P.O. Box 215  
Killaloe, ON, K0J 2A0

Phone/Fax 613-757-0765

Email: [anr@greatergoldenlake.com](mailto:anr@greatergoldenlake.com)



**SCHEDULE C**

**PAYMENT SCHEDULE**

The Crown agrees to provide a total of \$70,960.00 as the Crown's contribution for the 2009-10 Algonquin Hunt in eastern Ontario as outlined in Schedule A. Payment breakdown is as follows:

- i) One payment of \$67,412.00 to the Contractor upon execution of this Agreement, or as soon as possible thereafter. To be paid to Partner upon receipt of an invoice. Payment terms net 30 days.
- ii) An additional payment of \$3,548 to the Contractor on receipt of all reports described in Schedule A. To be paid to Partner upon receipt of an invoice. Payment terms net 30 days.