**INDEPENDENT CONTRACTOR AND CONSULTANT AGREEMENT**

This **Independent Contractor** AGREEMENT made effective as of the **[INSERT DATE]**.

**BETWEEN:**

**[INSERT BIA NAME]**

(hereinafter called **“INSERT SHORT FORM”**);

**AND**

**[INSERT CONTRACTOR OR CONSULTANT NAME]**

(hereinafter called **“INSERT SHORT FORM”**).

**WHEREAS:**

1. **[INSERT BIA NAME]** is a not-for-profit organization that is committed to improving the experience of business owners, employees, visitors, members and stakeholders of the **[INSERT NEIGHBOURHOOD NAME]**;
2. **[INSERT CONTRACTOR OR CONSULTANT NAME]** is a limited liability partnership that is in the business of providing **[INSERT INFORMATION ABOUT THE CONSULTANT]**
3. The **[INSERT BIA NAME]** wishes to hire an independent contractor and consultant to assist with their **[insert Project title]** (the “**Project**”);
4. In or about **[INSERT DATE]**, **[INSERT CONTRACTOR OR CONSULTANT NAME]** tendered a formal proposal to the **[INSERT BIA NAME]**  with regards to the Project;
5. **[INSERT BIA NAME]** , having met with **[INSERT CONSULTANT NAME, TITLE, COMPANY NAME]**, with respect to the services offered by **[INSERT COMPANY NAME]**, has determined to retain  **[INSERT COMPANY NAME]**, via, **[INSERT CONSULTANT NAME]** as an independent contractor and consultant for the Project.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the premises and the mutual covenants and agreements herein contained, and subject to the terms and conditions set out in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

**1. TERMS OF AGREEMENT**

* 1. This Agreement takes effect as of the date above noted and continues until [INSERT END DATE OF THE PROJECT] , with the possibility to extend one extra business day, until the [INSERT DATE], if required, for reporting purposes. Unless or otherwise agreed upon in writing by the parties, the Agreement shall end by no later than the [INSERT DATE],
  2. Should this Agreement be extended in any manner, the parties agree that their relationship shall continue to be governed by this Agreement unless amended in writing by both parties.

**2. APPOINTMENT**

**[INSERT BIA NAME]** hereby appoints **[INSERT COMPANY NAME]** as an independent contractor and consultant for the Project as specified in this Agreement and Schedule “A” of this Agreement.

**3. SCOPE OF SERVICES**

* 1. During the term of Agreement, **[INSERT COMPANY NAME]** warrants and undertakes to act as an independent contractor and consultant for the **[INSERT BIA NAME]** and carry out all the services set out in Schedule “A” of this Agreement in accordance with the timelines set out in Schedule “A” of this Agreement.
  2. In addition to the professional services listed in Schedule “A”, **[INSERT COMPANY NAME]** may provide additional services for projects and special events as requested by the **[INSERT BIA NAME]** to be quoted (in advance) by **[INSERT BIA NAME]** prior to commencing work on noted work.

**4. INDEPENDENT CONTRACTOR RELATIONSHIP**

* 1. **[INSERT COMPANY NAME]** is and shall remain at all times an independent contractor and not an employee of the **[INSERT BIA NAME]**. Nothing in this Agreement shall be construed to create any association, partnership, joint venture, agency, fiduciary or employment relationship between **[INSERT COMPANY NAME]**and the**[INSERT BIA NAME]**, for any purpose, and neither party has the authority to contract for or bind the other party in any manner whatsoever.
  2. **[INSERT COMPANY NAME]** shall provide the services to the **[INSERT BIA NAME]** on a non-exclusive basis and shall be free to provide its services to third parties during the Term of this Agreement provided that **[INSERT COMPANY NAME]** shall not provide such services in a way that is inconsistent with any of the provisions of this Agreement.
  3. Without limiting Article 4.1, **[INSERT COMPANY NAME]** and any of its team members or employees assigned to this Project shall not be eligible to participate in any benefit or compensation plans offered by the **[INSERT BIA NAME]** to its employees or team members, including, without limitation, any payments under any employment standards legislation.
  4. The **[INSERT BIA NAME]** shall have no liability or responsibility for withholding or remitting any income, payroll, or other federal or provincial taxes, including employment insurance remittances, Canada Pension Plan contributions, or employer health tax or worker's compensation insurance premiums for **[INSERT COMPANY NAME]** or its team members or employees. **[INSERT COMPANY NAME ]**is responsible for these withholding, remitting and registration obligations, and shall indemnify the **[INSERT BIA NAME]** from and against any order, penalty, interest, taxes or contributions that may be assessed against the **[INSERT BIA NAME]** due to the failure or delay of **[INSERT COMPANY NAME]** to make any such withholdings, remittances or registration, or to file any information required by any law.
  5. **[INSERT COMPANY NAME]** shall be fully responsible for its team members or employees and shall indemnify the **[INSERT BIA NAME]** against any claims made by or on behalf of any of **[INSERT COMPANY NAME]** or its team members or employees, including, without limitation, any claim for unpaid wages, overtime, vacation pay, or any other claim under employment standards legislation, reasonable notice of termination, or any other claim whether arising pursuant to contract, statute, common law or otherwise. Article 4.5 shall survive the termination of this Agreement and remain binding on **[INSERT COMPANY NAME]** .

**5. COMPENSATION**

* 1. Estimated fees for this appointment are **[insert the fees]**, exclusive of HST and reasonable out-of-pocket-expenses, which shall not exceed **[insert the fees].**
  2. Where possible, **[INSERT COMPANY NAME]** and its team shall work with the **[INSERT BIA NAME]** management team to leverage information and/or documents already prepared within the BIA to avoid duplication of work and/or time. If the time used is less than the above-noted amount, it will be reduced to match the time incurred on the engagement.
  3. Further to Article 5.1 and 5.2, Schedule “B” details **[INSERT BIA NAME]** policies surrounding additional charges billing procedures. Schedule “B” constitutes a part of this Agreement.

**6. CONFIDENTIALITY**

* 1. **[INSERT COMPANY NAME]** agrees that it will keep secret and confidential and not disclose without prior written consent (such consent not to be unreasonably withheld) any:

(a) financial, business and personal data relating to clients, affiliates, subsidiaries, consultants and employees of the **[INSERT BIA NAME]**;

(b) business and marketing plans, strategies and methods of the **[INSERT BIA NAME]** which are not standard industry practice, or which are not generally known in the industry; and

(c) studies, charts, plans, tables and compilations of business and industrial information of the **[INSERT BIA NAME]** acquired or prepared in relation to this Agreement.

* 1. The obligations imposed on **[INSERT COMPANY NAME]**  its team by this clause shall not apply to data or information which:

(a) prior to disclosure is in the public domain or in published literature or subsequent to disclosure becomes part of the public domain or is published other than as a result of an unauthorized act or failure to act;

(b) is received from a third party without any obligation to hold in confidence and which has not been obtained by that third party directly or indirectly from the **[INSERT BIA NAME]**;

(c) is independently developed by an employee engaged by **[INSERT COMPANY NAME]** owing the obligation of confidentiality whilst having no knowledge of **[INSERT BIA NAME]** confidential information; or

(d) the **[INSERT BIA NAME]**, claiming confidentiality has identified in writing as being released from the obligation of confidentiality.

* 1. Any combination of confidential information shall not be deemed to be in the public domain merely because the confidential information is in **[INSERT COMPANY NAME]** or its team’s possession.
  2. Confidential information shall not be deemed to be in the public domain merely because it is embraced by a general disclosure in the public domain.
  3. The onus of showing that any of the above exceptions apply will rest upon **[INSERT COMPANY NAME]**  and its team.
  4. **[INSERT COMPANY NAME]** shall ensure:

(a) confidential information is not disclosed to any of its team members or employees other than those who are directly providing services in accordance with this Agreement;

(b) its team members or employees to whom confidential information is disclosed under clause 6.6(a) are aware of and comply with the obligations of confidentiality as though they are parties to this Agreement; and

(c) any of the above-mentioned team members or employees who cease to be a team member or employee by **[INSERT COMPANY NAME]**  shall continue to be bound by such obligations of confidentiality.

* 1. The obligations of confidentiality imposed on **[INSERT COMPANY NAME]** and its team members or employees shall survive the termination of this Agreement and shall be binding on their permitted assigns, executors, administrators or other legal representatives.

**7. INTELLECTUAL PROPERTY AND DEVELOPMENTS**

* 1. All intellectual property and any development related to the services connected with the LVBIA and the Project, present or future, whether developed, created, generated or reduced to practice by the **[INSERT BIA NAME]** or **[INSERT COMPANY NAME]** or jointly with others, remains the property of the **[INSERT BIA NAME]** and shall be held by **[INSERT COMPANY NAME]** , in trust for the benefit of **[INSERT BIA NAME]** and no license or other rights to any intellectual property or developments is granted or implied hereby.
  2. **[INSERT COMPANY NAME]** will immediately assign and transfer (and will be deemed to assign and transfer) to the **[INSERT BIA NAME]** without further consideration upon their creation, its entire world wide right, title and interest in all such present and future intellectual property and developments related to or arising out of the services connected with the **[INSERT BIA NAME]** and the Project, including any and all financial operations manual, template, toolkit and trade secrets that the **[INSERT BIA NAME]** has or may have in Canada (hereinafter the “Assigned IP”).

**8. NON-COMPETITION AND NON-SOLICITATION**

**[INSERT COMPANY NAME]** acknowledges that during the term of this Agreement they may obtain knowledge of confidential information as prescribed by Article 6 and 7 relating to the conduct and details of the **[INSERT BIA NAME]** business and which will result in irreparable harm to the **[INSERT BIA NAME]** (which could not be adequately compensated by monetary damages) if said confidential information is shared or disclosed to **[INSERT COMPANY NAME]** clientele, *inter alia*, other **[INSERT BIA**. As such, if **[INSERT COMPANY NAME]** were to provide services to or enter the employment of or serve in any capacity for a rival or competitive concern, it is expressly prohibited from sharing or disclosing said confidential information with their clientele.

**89. TERMINATION OF AGREEMENT**

* 1. **[INSERT BIA NAME]** has the right to immediately terminate this Agreement upon notice if **[INSERT COMPANY NAME]** has breached any obligation herein that is owed by **[INSERT COMPANY NAME]** or its team members or employees and such breach (if curable) has not been cured within five (5) business days of receipt of such notice.
  2. If at any time after commencement of services required by this Agreement, should the **[INSERT BIA NAME]**, with due regard for reasonable and generally accepted accounting, consulting and project management practices and standards, determine that the services provided by **[INSERT COMPANY NAME]**, its team members or employees are inadequate, unsatisfactory or substantially not conforming to the descriptions, warranties or representations contained in this Agreement, the **[INSERT BIA NAME]** may terminate this Agreement at any time.
  3. Notwithstanding Articles 9.1 and 9.2 the **[INSERT BIA NAME]** may terminate this Agreement without additional penalty by giving RMT 10 days written notice.
  4. Upon termination of this Agreement for any reason, **[INSERT COMPANY NAME]** will deliver to the **[INSERT BIA NAME]** all information and materials in its, its team members or employees’ possession or control relating to the services that are the property of the **[INSERT BIA NAME]** and both parties shall be released from all obligations and liabilities to the other occurring or arising after the date of termination, except as provided for in this Agreement.
  5. Any termination of this Agreement shall not relieve the **[INSERT BIA NAME]** from the obligation to pay **[INSERT COMPANY NAME]** for its services rendered in accordance with reasonable and generally accepted accounting, consulting and project management practices and standards, prior to receipt of the notice of termination and during the termination notice period. If the **[INSERT BIA NAME]** terminates this Agreement, a final statement of unpaid fees and disbursements will be provided by **[INSERT COMPANY NAME]** within ten (10) days of termination.

**10. INDEMNIFICATION**

* 1. **[INSERT COMPANY NAME]** agrees that if it or its team members or employees breach any of their covenants or obligations under this Agreement, the **[INSERT BIA NAME]** shall be entitled to claim and exercise all remedies available to it at law or in equity or otherwise under this Agreement.
  2. The **[INSERT BIA NAME]** and **[INSERT COMPANY NAME]** agree to defend and, jointly and severally, indemnify and hold harmless one another against and in respect of:

1. any and all losses and damages arising out of or resulting from, any misrepresentation or breach of any warranty, covenant or Agreement made or contained in this Agreement;
2. injuries or death or damage to property, including theft, on account of performance or work or services pursuant to this Agreement; and
3. any and all actions, suits, proceedings, claims, demands, judgements, costs and expenses (including reasonable lawyer’s fees) incident to the foregoing.

**11. RECITALS**

The parties hereby acknowledge and agree that the recitals set out in the preamble to this Agreement are true and correct.

**12. COMPLETE AGREEMENT**

The foregoing contains the entire Agreement of the parties hereto with respect to consulting and advisory services and supersedes and replaces any existing Agreement, whether written or oral, between the parties relating generally to the same subject matter.

**13. HEADINGS**

Descriptive headings are inserted solely for convenience of reference, do not form part of this Agreement, and are not to be used as an aid in the interpretation of this Agreement.

**14. SEVERABILITY**

The invalidity of any particular provision of this Agreement shall not affect any other provision of it, but the Agreement shall be construed as if the invalid provision had been omitted.

**15. PROPER LAW**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the parties hereto hereby submit to the exclusive jurisdiction of the courts of Ontario (and those of Canada applicable therein).

**16. ASSIGNMENT**

Neither this Agreement nor any rights or obligations hereunder shall be assigned by either party hereto without the prior written consent of the other party which consent, which consent may be arbitrarily refused or withheld.

**17. WAIVER**

No waiver of any provision of this Agreement shall be binding unless it is in writing. No indulgence or forbearance by a party shall constitute a waiver of such party’s right to insist on performance in full and in a timely manner of all covenants in this Agreement. Waiver of any provision shall not be deemed to waive the same provision thereafter or any other provision of this Agreement at any time.

**18. FURTHER ASSURANCES**

The parties agree to sign all such documents and to do all such things as may be necessary or desirable to more completely and effectively carry out the terms and intentions of this Agreement.

**19. BINDING EFFECT**

The provisions hereof, where the context permits, shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.

**20. DELIVERY OF SIGNED AGREEMENT**

Each of the parties shall be entitled to rely on delivery by hand, scan or fax an executed copy of this

Agreement, and such copy shall be legally effective to create a valid and binding Agreement between the

parties in accordance with the terms hereof. In addition, this Agreement may be executed by the parties

in separate counterparts each of which when so executed and delivered shall be an original, but all such

counterparts shall together constitute one and the same instrument.

**21. ACCEPTANCE AND APPROVAL**

The undersigned agrees to the foregoing terms and those in the attached Appendix as of the date services were first provided.

**<signature page follows>**

**IN WITNESS WHEREOF the parties have attested by the hands of their respective officers duly authorized in that behalf this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023.**

**[INSERT BIA NAME]**

per\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[INSERT COMPANY NAME]**

per\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Title:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

I have the authority to bind the Limited Liability Partnership.

**SCHEDULE “A”**

1. Describe Scope of Work
2. Overview of Service Required
3. Project Deliverables
4. Plan & Timeline submitted by the consultant

**SCHEDULE “B”**

1. **Proposed project fees**
2. **Include consultant’s hourly rate**
3. Any information on additional charges and billing procedures