

CONSULTANT AGREEMENT

BETWEEN:

Memorial University of Newfoundland
(referred to as the "Client")

AND:

NATION FPG INC.
d.b.a. First Peoples Group
(referred to as the "Supplier")

In consideration of their respective agreements set out herein, the parties covenant and agree as follows:

1. Contract Documents

The contract between the parties in respect of:

Consulting services related to an Indigenous-led, impartial consultation process in respect of verifying Indigenous identity for Indigenous-specific opportunities at Memorial.

is comprised of the following documents, which are collectively referred to as the "Contract":

- a) This Agreement;
- b) The Schedule of Deliverables, Rates and Specific Provisions, attached as Schedule 1; and
- c) The Standard Terms and Conditions, attached as Schedule 2.

2. Interpretive Value of Contract Documents

Any ambiguity, conflict or inconsistency between or among the documents comprising the Contract will be resolved by giving precedence to the express terms of the documents in the order in which they appear above, so that a first mentioned document shall prevail notwithstanding any term or aspect of a later mentioned document.

Schedule 1 – Schedule of Deliverables, Rates and Specific Provisions

A. Description of Deliverables

All services and deliverables as described in the “Scope of Work” attached as Appendix S1-A.

B. Rates and Disbursements

B.1. Maximum Fee

Notwithstanding anything else in the Contract, the total amount payable by the Client to the Supplier under the Contract shall not exceed **\$96,000** (excluding agreed expenses), plus any applicable taxes.

B.2. Personnel and Rates

The following individuals are responsible for the provision of the Deliverables. The Rates for these individuals are set out below (if applicable) and shall remain fixed during the Term of this Contract:

Heather Watts
291 Dalhousie Street, Suite 202
Ottawa, Ontario K1N 7E5
Tel: 647.446.6426
heather@firstpeoplesgroup.com

Hannah Martin
291 Dalhousie Street, Suite 202
Ottawa, Ontario K1N 7E5
hannah@firstpeoplesgroup.com

B.3. Allowable Expenses

In no circumstances can hospitality, food or incidental expenses be considered allowable expenses for the Supplier, or its subcontractors or agents, in this Contract. Therefore, Supplier cannot claim or request reimbursement for such expenses, including, but not limited to:

- meals, snacks and beverages
- gratuities
- laundry or dry cleaning
- valet services
- dependent care
- home management
- personal telephone calls

The following expenses ARE allowed under this Contract:

Supplier may claim actual and reasonable travel expenses incurred for flights, overnight accommodation and meals (claimed using the Client's travel rates and in accordance with the Memorial University Travel Policy). Receipted expenses will be billed at cost and will be invoiced to coincide with the timing of the second and third instalments of the consulting fee. Any travel-related expenses greater than \$5000.00 will require the prior approval of the Client.

C. Payment Terms

The payment terms for the Contract are as follows:

The Supplier shall submit invoices to the Client in accordance with the payment schedule set out in Appendix S1-A and in accordance with the payment terms stipulated therein. Invoices shall include the Supplier's GST/HST Registration Number if GST/HST is applicable and the tax amount shall be indicated as a separate line item.

Invoices are to be addressed as follows:

Catharyn Andersen
Vice-President (Indigenous)
vpindigenous@mun.ca

Payment terms are i) Net 60 days from invoice approval by Client where Supplier uses Via Payables Automation (VPA); or ii) Net 60 days from receipt of invoice by Client, where Electronic Funds Transfers (EFT) are used; Provided that Client may withhold payment of any portion of invoice which is in dispute and Client and the Supplier shall act reasonably to resolve such dispute within 30 days from receipt of such invoice by Client.

Additional pricing and payment terms may be found in Appendix S1-A where applicable.

D. Client and Supplier Representatives

The Client Representative and contact information for the Contract is:

Catharyn Andersen
Vice-President (Indigenous)
Memorial University
709-864-6243
catharyn.andersen@mun.ca

The Supplier Representative and contact information for the Contract is:

First Peoples Group

Attention: Heather Watts
 291 Dalhousie Street, Suite 202
 Ottawa, Ontario K1N 7E5
 Tel: 647.446.6426
heather@firstpeoplesgroup.com

E. Term of Contract

The Contract shall take effect on November 10, 2023 (the “**Effective Date**”) and shall be in effect for a period of 6 months from the Effective Date, with an option in favour of Client to extend the term for an additional period of 1 month, unless it is terminated earlier in accordance with the terms of Contract or otherwise by operation of law.

Appendix S1-A

Scope of Work

Acknowledging the diverse histories and cultures of the Indigenous Peoples of Newfoundland and Labrador is important in recognizing enduring connection to their traditional territories.

Beyond acknowledging, however, Client agrees that it is incumbent on the institution to make space, both literally and figuratively, to Indigenous Peoples and their knowledges, pedagogies, perspectives, and more, within the academy.

To this end, in 2021, the Board of Regents adopted a Strategic Framework for Indigenization, which outlines four strategic priorities:

- Leadership and Partnership
- Teaching and Learning
- Research
- Indigenous student success

In respect of these, Client is committed to reflecting Indigenous ways of knowing, being and doing in teaching and learning, research and administration at the University. At the core of Indigenization is having the capacity to verify Indigenous membership and citizenship.

The Client is working to develop verification protocols / guidelines to address issues as they pertain to internal processes such as targeted hires, designated seats and other Indigenous-specific opportunities.

Timeline for Work

| Task | Milestone Date |
|-----------------------------------|----------------|
| <i>Project Initiation Meeting</i> | November 2023 |
| <i>Indigenous Governments</i> | November 2023 |

| | |
|--|----------------------|
| <i>directory</i> | |
| <i>Meeting with Client, directory revisions</i> | November 2023 |
| <i>Liaising with contacts internal to the university to understand existing relationships</i> | November 2023 |
| <i>Outreach and Engagement Strategic planning session with Client</i> | December 2023 |
| <i>Engagement Outreach and communications</i> | December 2023 |
| <i>Engagement with host nations and What We Heard Reports</i> | January - March 2024 |
| <i>Engagement with Indigenous Organizations and What We Heard Reports</i> | January - March 2024 |
| <i>Engagement with Indigenous community and What We Heard Reports</i> | January - March 2024 |
| <i>Series of presentations to the Vice-President's Advisory Committee on Indigenous Affairs on What We Heard Reports</i> | April 2024 |

Budget and Payment Schedule

The total fee of **\$96,000** excluding applicable taxes, will be payable in three instalments as follows:

1. FPG will invoice Memorial University for 1/4 of the total (\$24,000) upon completion of Task 2: Strategic Planning
2. 1/2 of the total (\$48,000) upon completion of Task 3: Outreach and Engagement
3. 1/4 of the total (\$24,000) upon completion of Task 4: Final Report.

Each invoice will include a breakdown of days worked for the billing period.

Appendix S1-B – Conflict of Interest Declaration

For the purposes of this Declaration, the term “Conflict of Interest”, in relation to any part of the Contract process, includes, but is not limited to any situation or circumstance where a) in relation to the procurement process the supplier had an unfair advantage or engaged in conduct directly or indirectly that may have given it an unfair advantage including but not limited to i) having access to information that is confidential to the Client and not available to other bidders or proponents, ii) communicating with any person with a view to influencing preferred treatment in the picture meant process or iii) engaging in conduct that compromises or could be seen to compromise the integrity of the open an competitive procurement process or b) in relation to the performance of the contract the suppliers other commitments relationships or financial interests i) could be seen to exercise an improper influence over the objective unbiased an impartial exercise of its independent judgment or ii) could be seen to compromise impair or being compatible with the effective performance of the contractual obligations.

The Supplier declares:

There is no actual or potential Conflict of Interest in performing the obligations under the Contract.

The Supplier acknowledges its contractual obligation to the Client to update this Declaration immediately upon the occurrence of any change in circumstance relevant to its obligation to declare a Conflict of Interest during the Term of the Contract with the Client.

The Supplier declares that the obligations to be provided under the Contract are separate and distinct from, and do not in any way constitute any part of, the employment or other pre-existing contractual obligations of the Supplier or the above named individuals or entities, if any, to the Client.

The Supplier agrees that, upon request, the Supplier shall provide the Client with additional information from the individual, if any, identified above in a form prescribed by the Client.

Disclosure of Information

The Supplier hereby agrees that any information provided pursuant to this Declaration, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of a court or tribunal.

NATION FPG INC. (d.b.a. First Peoples Group)

 s. 40 (1)

Signature of Supplier Representative

Name: Guy Freedman
Title: Chair and Founding Partner

11/10/2023
Date

I have authority to bind the Supplier.

Schedule 2 – Standard Terms and Conditions

Term and Termination

Notwithstanding Clause E of Section 1, the Parties are entitled at any time, for any or no reason, to terminate this Contract by the delivery of at least thirty (30) days prior written notice to that effect to the other Party, and upon the effective date of termination specified in any such notice this Contract shall terminate, subject to any other provision contained herein that is expressed to survive termination or expiry of this Contract. Upon termination of this Contract, Supplier shall cease to provide any further Services. CLIENT will be under no obligation to the Supplier other than to pay, upon receipt of an invoice and satisfactory reporting documentation, such compensation as, in the reasonable opinion of CLIENT, the Contractor may be entitled to receive under this Contract for work completed to the satisfaction of CLIENT to the date of termination.

The rights and remedies in this Section are cumulative and in addition to any other right or remedy available under this Contract, at law or equity.

Relationship

This Contract shall not create or confer upon the Parties hereto, in any way or for any purpose, any relationship except that of contracting parties, and in particular does not create a partnership, principal and agent, a joint venture relationship between CLIENT and Supplier or an employer-employee relationship or dependant contractor relationship between CLIENT and the Supplier. The Supplier acknowledges that it is an independent contractor and that it supplies any and all professional services elaborated herein as an independent contractor, separate and apart from CLIENT's operations. The Supplier shall be responsible for any and all legally required employer and employee contributions and deductions for the Supplier and any staff of the Supplier, including Worker's Compensation, Canada Pension Plan, Employment Insurance, federal and provincial income tax, and medical coverage.

Performance Standards

Without limitation to any other section of this Contract, Supplier covenants and agrees to perform their obligations hereunder with the degree of care, skill and diligence consistent with the highest industry standards for Supplier's industry in North America. Without limiting the generality of the foregoing, Supplier covenants and agrees to diligently perform the Services in a professional and timely manner and to meet all requirements for the Services as set forth in this Contract.

Covenants, Representations and Warranties

Supplier covenants, represents and warrants, which representations and warranties will remain true and accurate throughout the Term, that Supplier in connection with the services and/or the performance of its obligations hereunder will (at Supplier's sole cost and expense):

- (a) conduct the services in a safe, ethical and professional manner;

- (b) comply with the service performance standards as set out herein including, without limitation, all applicable requirements for the services described in this Contract; and
- (c) not take any action or make any omission that may injure or damage CLIENT's reputation or business.

Confidentiality and Ownership of Materials

Supplier acknowledges that certain information made available to them from time to time by CLIENT is confidential in nature. For the purposes of this Contract, confidential information (“**Confidential Information**”) means information received by Supplier that (i) is not generally known in the industry in which CLIENT is engaged, (ii) is “personal information” within the context of the *Access to Information and Protection of Privacy Act, 2015* (ATIPPA 2015), S.N.L. 2015, c. A-1.2, as amended from time to time, or such other provincial legislation as is applicable, (iii) would logically be considered confidential and/or proprietary, (iv) would do CLIENT harm if divulged, or (v) is marked “Confidential” or “Proprietary”, and shall include all reporting documentation provided by Supplier in accordance with this Contract and all information disseminated at any CLIENT management or other meeting held at any Site or other CLIENT location. Supplier agrees (a) to hold any Confidential Information received in confidence by using the same degree of care to safeguard such Confidential Information as it would use to protect its own information of like character, but in no event less than a reasonable degree of care; (b) to use the Confidential Information solely and exclusively in accordance with the terms of this Contract; and (c) advise CLIENT promptly in writing of any unauthorized disclosure or use of Confidential Information.

The Supplier acknowledges that CLIENT is subject to *ATIPPA, 2015* and any records that Supplier supplies to CLIENT, including this Contract, may be subject to requests under the *ATIPPA, 2015*. In the event of a request to CLIENT for third party business information in its custody and control, information can be withheld only if it meets all parts of the 3-part harms test for non-disclosure as stated in section 39 of the *ATIPPA, 2015*.

The Parties agree that CLIENT will be the owner of the copyright or other intellectual property to any work product created by the Supplier in the performance of the services (the “Intellectual Property”). Without limiting this acknowledgment, the Supplier assigns, grants, and delivers exclusively to CLIENT all rights, titles, and interests in and to any such work product that are in any way connected with or related to this Contract, and all copies and versions, including all copyrights and renewals.

Without limitation to the foregoing, the Supplier hereby waives in whole all moral rights which the Supplier may have in the Intellectual Property, including the right to the integrity of the Intellectual Property, the right to be associated with the Intellectual Property, the right to restrain or claim damages for any distortion, change or other modification of the Intellectual Property, and the right to restrain use or reproduction of the Intellectual Property in any context and in connection

with any product, service, cause or institution. The Supplier agrees to confirm any such waiver from time to time as requested by CLIENT.

The provisions of this Section shall survive and remain in full force and effect following the expiry or termination of this Contract.

Default

If a Material Default (as defined below) occurs, CLIENT will be entitled at any time thereafter to terminate this Contract by the delivery of written notice to Supplier. The Parties acknowledge and agree that the occurrence of a Material Default will be incapable of rectification by Supplier. For the purposes of this Contract, a material default ("Material Default") means:

- (a) any unauthorized assignment by the Supplier with respect to which CLIENT's prior written consent has not been obtained;
- (b) failure of Supplier to fully comply with any obligation under this Contract, the result of which, in CLIENT's sole, absolute and unfettered discretion, could have a material adverse effect on CLIENT's operations or reputation.

The rights and remedies in this Section are cumulative and are in addition to and not in substitution for any other rights or remedies available under this Contract, at law or in equity.

Indemnity

Supplier shall indemnify and save CLIENT, its directors, officers, employees and agents, harmless from and against any and all claims, damages, losses, liabilities, demands, judgments, causes of action, legal proceedings, economic loss, penalties or other sanctions and any and all costs and expenses arising in connection therewith (including legal fees and disbursements on a solicitor-Client basis) that may, directly or indirectly, result from, arise out of or be in relation to (i) the performance by Supplier of the services; (ii) any breach, violation or non-performance by Supplier of any term, condition, representation, warranty or covenant contained in this Contract; (iii) any failure or delay by Supplier to make or maintain any registration, coverage or payments or file any return or information required by any law; and/or (iv) any negligent act or omission of Supplier or any of its employees, subcontractors or other persons for whom it is responsible at law or in equity.

The provisions of this Section shall survive and remain in full force and effect following any termination or expiry of this Contract.

Marketing/Publicity

Supplier shall not use any trade mark owned or licensed by CLIENT the name of CLIENT or otherwise refer to CLIENT in any advertising, marketing or promotion undertaken by or on behalf of

Supplier, including, without limitation, any such advertising, marketing or promotion undertaken on behalf of CLIENT as part of the Services provided to CLIENT hereunder, without the prior written permission of CLIENT, which may be withheld for any or no reason.

General Provisions

Entire Contract: This Contract, and its Schedules, constitute the entire Contract between the parties regarding the subject matter hereof. It is understood and agreed that there are no Contracts, conditions, warranties, terms, representations or arrangements, oral or written, statutory or otherwise, other than those contained herein, and that all prior conversations, understandings, arrangements, statements, communications or Contracts, oral or written, with respect to this Contract are hereby superseded. No change, amendment or supplement to any provision of this Contract shall be binding unless it is in writing and signed by both parties hereto.

No Assignment: Supplier shall not assign or otherwise transfer any part of this Contract without the prior written consent of CLIENT, which may be withheld for any or no reason.

Subcontractors: Supplier may not use any subcontractors or agents in connection with the performance of its obligations hereunder without CLIENT's prior written approval. In the event that **Supplier** performs the Services by use of any subcontractors or agents, Supplier shall be fully responsible for ensuring that such subcontractor and/or agent complies with all of the obligations hereunder. For greater certainty, Supplier shall remain responsible for compliance with all obligations hereunder notwithstanding the use of a subcontractor or agent.

Governing Law: This Contract shall be governed by and construed in accordance with the laws of the Province of Newfoundland & Labrador and the laws of Canada applicable therein. The Parties hereby irrevocably attorn to the jurisdiction of the courts of the Province of Newfoundland & Labrador. The provisions of this Section shall survive and remain in full force and effect following any termination or expiry of this Contract.

Interpretation: This Contract shall be read with all changes in gender and number required by the context. The headings contained in this Contract are for convenience of reference only and shall not affect the interpretation of this Contract.

No Waiver: No condoning or waiver by CLIENT of any default or breach by Supplier at any time or times in respect of any of the obligations, terms, covenants and conditions contained in this Contract to be performed or observed by Supplier shall be deemed or construed to operate as a waiver of CLIENT's rights under this Contract in respect of any continuing or subsequent default or breach nor so as to defeat or affect in any way the rights and remedies of CLIENT under this Contract in respect of any such continuing or subsequent default or breach.

Severability: If for any reason any term, covenant or condition of this Contract, or the application thereof to any person or circumstance, is to any extent held or rendered invalid, unenforceable or illegal, then such term, covenant or condition (i) shall be deemed to be independent of the remainder of the Contract and severable and divisible therefrom, and its invalidity, unenforceability or illegality

shall not affect, impair or invalidate the remainder of the Contract or any part thereof; and (ii) shall continue to be applicable to and enforceable to the fullest extent permitted by law against any person and circumstance other than those to which it has been held or rendered invalid, unenforceable or illegal.

Force Majeure: No Party hereto shall be held responsible or liable or deemed to be in default or in breach of this Contract for its delay, failure or inability to meet any of its obligations under this Contract caused by or arising from any cause which is unavoidable or beyond the reasonable control of such Party, including war, warlike operations, riots, insurrection, orders from government, strikes, lockouts, public health emergencies, quarantines, disturbances or any act of God or other cause which frustrates the performance of this Contract.