



## Goods/Services Agreement

### PART A – SPECIFIC TERMS

On Month/Day, 20

**“CBC”:** CANADIAN BROADCASTING CORPORATION, a corporation duly established under the *Broadcasting Act*, S.C. 1991, c.11, having a place of business at 250 Front Street West, Toronto, ON M5V 3G5; and

**“Supplier”:** INSERT LEGAL NAME OF SUPPLIER (E.G., INC., LTD., LLC), a corporation/company duly established under the laws of Jurisdiction having its head office or place of business at Address of Supplier

GST/HST No.: QST No.:

(individually a **“Party”** and collectively the **“Parties”**).

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1. This Agreement comprises Part A – Specific Terms (including any attached schedule(s)) and Part B – Standard Terms available at <http://www.cbc.radio-canada.ca/files/cbcr/documents/accountability/2016-09-29-goods-services-agreement-part-b> (the **“Agreement”**).

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2. This Agreement is for the purchase of (select one or both, as applicable):

goods (the **“Goods”**);

services (the **“Services”**);

individually and collectively (the **“Goods/Services”**), as more fully described in section 11 of this Part A.

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3. **“Price”** (\$CAD) before applicable taxes means:

fixed price of: \$

price detail (if applicable): (e.g.: hourly rates; price breakdown per Goods)

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4. Applicable taxes:  GST/HST  QST  PST  Withholding Tax

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5. Standard invoicing frequency:  Monthly;

**OR**

Alternate invoicing frequency:  Invoicing using CBC’s accounts payable e-commerce system (**“APEC”**) (APEC details and guidelines to be provided by CBC; or

Other frequency (include details e.g.: progress payments -attach schedule if needed).

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6. **“Term”** means the period:  From Month, Day, Year to Month, Day, Year, with 0, 1, or 2 irrevocable options for CBC to renew for Month/Year period(s) under the same terms by sending written notice 30 days prior to the end of the initial term or of each option, if applicable;

**OR**

From Month, Day, Year, until Supplier has delivered the Goods and/or completed the Services to CBC’s satisfaction in accordance with the terms set out herein, as formally notified to Supplier in writing.

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7. Formal competitive process: This Agreement is signed as a result of a competitive process:  
(e.g. Request for Proposals)

Yes: RFX #                       No

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8. Insurance information (if different than section 6 b. and c. of Part B Standard Terms):

Commercial automobile liability insurance:	Amount of coverage: \$	<input type="checkbox"/> Non-Applicable
Professional liability insurance:	Amount of coverage: \$	<input type="checkbox"/> Non-Applicable
Commercial liability insurance:	Amount of coverage: \$2,000,000	

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9. Governing law and forum: This Agreement is governed by the laws of the province noted below and the federal laws of Canada applicable therein. The Parties submit to the exclusive jurisdiction of the courts of the province noted below:

Quebec                       Ontario

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10. Miscellaneous (if applicable):

(e.g. expenses; warranty; personal guarantee; corporate guarantee; performance bond; annual business reviews)

**Delete this text; insert miscellaneous terms, if applicable.**

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11. Description of Goods/Services:

(include description of the Goods and Services separately as applicable, e.g. specifications; deliverables; tasks; location; schedule of work and delivery; testing; commissioning; monthly reports; training; hours per day of work; language; details concerning personnel)

**Delete this text and insert a description of the Goods/Services. If you are attaching a detailed description of the Goods/Services as a schedule, insert a brief summary here explaining what the Goods/Services are for.**

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12. List of schedule(s) to Part A:

**Delete this text; insert list of schedules, if applicable.**

**IN WITNESS WHEREOF**, CBC and Supplier have caused this Agreement to be signed and delivered by their duly authorized representatives all as of the date first herein above written.

**CANADIAN BROADCASTING CORPORATION**

**INSERT LEGAL NAME OF SUPPLIER**

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

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

Name:

Name:

Title:

Title:

Address:

Address:

Tel.:

Tel.:

Email:

Email:

*I am duly authorized to bind the Supplier.*

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

Name: Insert name of Finance representative

Title: Insert title of Finance representative

Supplier has also read and understood the terms set out in **Part B – Standard Terms** and agrees that they form an integral part of the Agreement.

**PART B – STANDARD TERMS**

**1. GENERAL OBLIGATIONS**

- a) Supplier undertakes to provide the Goods/Services with diligence and in a timely manner, and agrees that time is of the essence with respect to its provision of the Goods/Services under this Agreement.
- b) Supplier will not subcontract in whole or in part its obligations under this Agreement without the prior written consent of CBC. In all circumstances, Supplier will remain responsible and liable for all subcontracted parties, including payments due to subcontractors.
- c) Supplier will ensure that its directors, agents, employees, representatives, subcontractors, and anyone for whom Supplier is responsible (collectively, “**Representatives**”) are in compliance with all relevant terms of this Agreement, including those relating to Intellectual Property (section 3) and Confidentiality and Personal Information (section 9).

**2. INVOICING AND PAYMENT**

- 2.1 Invoicing.** Supplier will submit invoices to CBC for the agreed amounts for the Services satisfactorily rendered or Goods satisfactorily delivered and accepted as per section 4.1 of this Part B.
- 2.2 Invoice Information.** Each invoice will set out (i) the amounts due, without tax; (ii) the amount of each applicable tax required by any level of government in Canada, separately; (iii) Supplier’s tax numbers; (iv) the total amount due, applicable taxes included; and (v) the CBC contract reference number, if any.
- 2.3 Payment.** Once approved by CBC, CBC will pay amounts due to Supplier within 45 days of receipt of invoice.

**3. INTELLECTUAL PROPERTY**

- 3.1 “Intellectual Property”** means any and all intellectual property of any kind whatsoever and any and all rights thereto, including patents, trade-marks, and copyright; and “**Works**” means Intellectual Property developed, designed, created, or prepared in connection with any Goods/Services.
- 3.2 Rights and Property of Works.** Supplier hereby agrees that the Works will be CBC’s sole and absolute property. Supplier hereby irrevocably assigns, transfers, and abandons all of its right, title, and interest in and to the Works to CBC and waives all moral rights in the Works.
- 3.3 Supplier Intellectual Property.** All Intellectual Property owned by or otherwise proprietary to Supplier prior to the commencement of the Term that is embedded or included in the Works or otherwise provided with the Goods/Services (“**Supplier Intellectual Property**”) will remain Supplier’s sole and absolute property. Supplier grants to CBC a non-exclusive, royalty-free licence in perpetuity to use Supplier Intellectual Property.
- 3.4 CBC Intellectual Property.** All Intellectual Property owned by or otherwise proprietary to CBC that is made available to Supplier by CBC in connection with this Agreement (“**CBC Intellectual Property**”) will remain CBC’s sole and absolute property. Supplier will not use CBC Intellectual Property without CBC’s prior written consent. Upon termination of this Agreement, and any time at CBC’s request, Supplier will cease all use of CBC’s Intellectual Property.
- 3.5 No Violation.** The provision of the Goods/Services hereunder will not cause Supplier or CBC to infringe on or violate any third party rights, including Intellectual Property owned by third parties, and Supplier has all right, title, and interest required to provide the Goods/Services under this Agreement.

- 3.6 Return of Material.** Under no circumstances may Supplier or its Representatives keep any copy whatsoever of materials belonging to CBC (which includes CBC Intellectual Property and the Works), including any copy for archiving purposes. Supplier undertakes to deliver the following, at CBC’s election, within 30 days of the end of this Agreement (or at such time as CBC may request): (i) all materials (including all copies) belonging to CBC; or (ii) a certificate of destruction signed by a senior officer of Supplier that these materials have been destroyed.

**4. INSPECTION AND WARRANTY**

- 4.1 Inspection of Goods/Services.** Goods/Services provided under this Agreement will be paid for by CBC subject to final written acceptance (according to criteria to be reasonably determined by CBC) by a person duly

authorized by CBC. Goods/Services provided to CBC and found to have patent defects or to be non-compliant with specifications or requirements set out in this Agreement will not be accepted and will be promptly corrected by Supplier at Supplier’s expense, upon request from CBC. Supplier agrees that acceptance of or payment for the Goods/Services by CBC will not release Supplier of its obligations hereunder. Nothing in this Agreement will be interpreted as an exclusion of any applicable legal warranty or conventional warranty, or as diminishing the effects of such warranties.

**4.2 Risk of Loss.** Supplier will bear all risk of loss or damage to the Goods until delivered to CBC at the delivery place agreed to in writing by the Parties.

**4.3 Warranty.** Unless the Parties agree to a longer warranty period in Part A of this Agreement, Supplier warrants that the Goods/Services will be free from any deficiencies for a period of 90 days from the time they are accepted by CBC as per section 4.1 of this Part B, and Supplier will correct, at its own expense, any deficiencies in such Goods/Services, provided that these deficiencies are reported by CBC to Supplier within such 90 days. If the manufacturer’s warranty period for Goods is longer than the 90 days, Supplier will use its commercially reasonable efforts to pass on to CBC such manufacturer’s warranty, and CBC will benefit from this warranty. In addition, Supplier represents and warrants that the Goods/Services will be fit for the particular purpose(s) for which they are intended. The warranty set out in this section is in addition to any applicable legal or conventional warranties.

**5. OTHER REPRESENTATIONS, WARRANTIES, AND COVENANTS**

- 5.1** Supplier represents, warrants, and covenants to CBC that
- a) where Supplier is a corporation, partnership, or sole proprietorship, it is duly constituted and validly existing under the laws of its jurisdiction of incorporation/registration, is qualified to carry on business in the jurisdiction(s) where the Goods/Services are provided, and has the power and capacity to enter into this Agreement and to perform its obligations hereunder and has taken all necessary action to authorize the execution, delivery, and performance by it of this Agreement;
- b) it has and will continue to have sufficient skill, knowledge, expertise, and resources, including qualified and competent personnel, to provide the Goods/Services in accordance with this Agreement;
- c) it is duly registered with the relevant boards in accordance with provincial workers compensation legislation and has paid and will continue to pay all premiums and fees related thereto;
- d) it is not involved in and is not aware of any actual or potential lawsuit or circumstance which would or could materially affect its ability to perform its obligations hereunder and, upon becoming aware of such, it will immediately notify CBC and provide CBC with details of the nature of the lawsuit or circumstance;
- e) Supplier and its Representatives will comply with all applicable laws and industry standards and practices in connection with the provision of the Goods/Services; and
- f) entering into this Agreement will not cause Supplier to be in breach of any obligation to or agreement with any third party.

**6. SUPPLIER’S INSURANCE**

Unless otherwise indicated in Part A of this Agreement, Supplier agrees to provide, pay for, and maintain during the Term, insurance coverage, including applicable deductibles, in accordance with the following minimums:

- a) *commercial general liability insurance* coverage of \$2,000,000, and such insurance will (i) include CBC as an additional insured; (ii) provide for cross liability so that each insured is protected separately by the insurer; (iii) contain 30 days’ prior written notice of material change or cancellation to CBC; and (iv) waive all rights of subrogation against CBC;
- b) *commercial automobile liability insurance* coverage of \$2,000,000; and
- c) *professional liability insurance* coverage of \$2,000,000.
- Certificates of insurance evidencing proof of coverage may be required by CBC either prior to or following execution of this Agreement.

## **7. BREACH, INDEMNITY, AND DAMAGES**

**7.1 Breach.** Without limiting any other remedy available to CBC at law or in equity, Supplier agrees that breach of section 3 (Intellectual Property) or section 9 (Confidentiality and Personal Information) would cause irreparable harm and further agrees that, in case of such a breach, CBC will have the right to seek any remedy, including injunction and specific performance.

**7.2 Indemnity.** Supplier will indemnify and hold CBC harmless from and against any and all claims, legal proceedings, losses, liabilities, damages, and costs and expenses (including reasonable legal fees) arising out of or resulting from (i) Supplier's breach of any provision of this Agreement; (ii) anything done or omitted to be done by Supplier or its Representatives in connection with the Goods/Services or this Agreement; or (iii) loss or damage to property or persons caused by acts or omissions of Supplier or its Representatives or of anyone for whom Supplier may be liable.

**7.3 Damages.** In no event will either Party be liable to the other for loss of profits, business, or revenue or for any special, exemplary, indirect, incidental, consequential, or punitive damages of any kind or nature whatsoever.

## **8. TERMINATION**

**8.1 Termination for Cause.** This Agreement may be terminated by either Party ("**Non-Defaulting Party**") if the other Party ("**Defaulting Party**") commits a material breach of any of its obligations hereunder. In the event of such a breach, the Non-Defaulting Party will notify the Defaulting Party in writing. The Defaulting Party will have five days (or a longer period of time as may be agreed to by the Non-Defaulting Party) following receipt of the default notice to cure such breach. If the breach remains uncured, the Non-Defaulting Party may terminate this Agreement immediately with written notice.

**8.2 Insolvency Event.** This Agreement may be terminated by either Party immediately with written notice in case of (i) the insolvency of, the filing of a petition in bankruptcy against, or an appointment of a receiver for the other Party or (ii) an assignment for the benefit of the other Party's creditors.

**8.3 Termination Without Cause.** This Agreement may be terminated by CBC at any time, without cause and without liability to Supplier (except for payment as per section 8.4 of this Part B) by sending Supplier prior written notice of (i) 30 days if the Term of the Agreement, prior to any renewal option, is one year or less or (ii) 60 days if the Term of the Agreement, prior to any renewal option, is longer than one year.

**8.4 Termination Obligations.** Upon termination, Supplier will be paid in accordance with this Agreement for the Goods/Services rendered or delivered to CBC's satisfaction up to the termination date. In addition, at CBC's request, Supplier will collaborate with CBC to assist with the orderly termination process or transfer of the Agreement to another supplier or to CBC, without disrupting CBC's operations or business. CBC may, if necessary in CBC's sole opinion to achieve such transition, extend the Term of this Agreement up to a maximum of three months on the same terms and conditions.

## **9. CONFIDENTIALITY AND PERSONAL INFORMATION**

**9.1 "Confidential Information"** means any and all information and material, whether commercial, technical, personal, or otherwise, in any form whatsoever, made available to Supplier by CBC or in connection with this Agreement (including the existence of this Agreement and its terms), whether or not marked "Confidential", but does not include information or material that

- a) at the time of disclosure to Supplier was readily available to the public;
- b) was or is lawfully obtained or available on a non-confidential basis from a third party who was lawfully in possession of the same and free to disclose it;
- c) was already in Supplier's rightful possession prior to disclosure to Supplier, as evidenced by written record pre-dating such disclosure; or
- d) Supplier can demonstrate was independently developed by Supplier with no use of or access to the Confidential Information.

**9.2 Treatment of Confidential Information.** All right, title, and interest in and to the Confidential Information will remain the exclusive property of CBC. Supplier agrees that all Confidential Information (i) will be used solely for the purpose of fulfilling its obligations under this Agreement and (ii) will

not be disclosed by Supplier or its Representatives, in whole or in part. Supplier may transmit Confidential Information only to those of its Representatives who need to know such Confidential Information, who are informed of the confidential nature of the Confidential Information, and who agree to be bound by the terms of confidentiality in this Agreement. CBC will not be held liable for any error or omission with respect to the Confidential Information, nor for any consequence resulting from the use of such Confidential Information. Supplier will not apply for or obtain any intellectual property protection in respect of the Confidential Information.

**9.3 Breach of Confidence.** Supplier will notify CBC immediately upon becoming (i) legally compelled to disclose any Confidential Information or (ii) aware of any actual or threatened unauthorized use or disclosure of any Confidential Information and will give all necessary assistance in connection with any steps that CBC wishes to take to prevent, stop, or obtain compensation for such disclosure or unauthorized use.

**9.4 Personal Information.** In this Agreement, "Personal Information" has the meaning ascribed to it in the *Privacy Act*, R.S.C., 1985, c. P-21, as may be amended from time to time, and "CBC Personal Information" means all Personal Information that Supplier accesses or collects in connection with this Agreement. Supplier undertakes to treat all CBC Personal Information in accordance with the CBC privacy policy available at <http://www.cbc.radio-canada.ca/en/reporting-to-canadians/acts-and-policies/management/corporate-secretariat/2-9-2/>, as may be amended from time to time ("**CBC Privacy Policy**"), and the provisions of this section. Access to CBC Personal Information by Supplier must be restricted to Supplier's Representatives who need to have access to such information for the provision of the Goods/Services. If Supplier becomes aware of a breach or potential breach of the CBC Privacy Policy, it will (i) immediately take all action possible to limit and contain such breach or potential breach; (ii) immediately inform CBC's Privacy Coordinator of the same; and (iii) provide full cooperation to CBC in connection with the breach or potential breach (including allowing an audit by a person appointed by CBC of Supplier's privacy practices and implementing all requested improvements). Supplier agrees that no public communication related to such breach or potential breach will be made by Supplier without CBC's prior written consent. Supplier will inform CBC immediately of any complaint received by Supplier regarding the handling of CBC Personal Information and will consult with CBC before replying to such complaint. Failure to comply with this section 9.4 will be considered a material breach of this Agreement.

**9.5 Return/Destruction of Information.** Supplier agrees that on termination of this Agreement or written notice by CBC, it will, at CBC's election, (i) return to CBC all material in any form containing or representing Confidential Information or CBC Personal Information or (ii) destroy all copies of same and provide to CBC a certificate of destruction signed by a senior officer of Supplier no later than the 10<sup>th</sup> business day after written notice by CBC. Supplier will retain only such CBC Personal Information as required by law and will immediately destroy such CBC Personal Information when retention is no longer required by law.

**9.6 Access to Information.** CBC is subject to the *Access to Information Act*, R.S.C. 1985, c. A-1, as amended from time to time. As a consequence, records held by CBC may be subject to a request for access and may be disclosed if no exclusion or exemption provided for in the Act applies. This paragraph will not be interpreted as a waiver of the confidentiality obligations of this Agreement.

## **10. MISCELLANEOUS**

**10.1 CBC Premises.** While on CBC premises, Supplier and its Representatives will abide by all directions and policies that may be in effect from time to time at CBC, including those related to health, safety, and access to CBC premises.

**10.2 Force Majeure.** Neither Party will be held responsible for damages caused by delay or failure to perform or observe any term of this Agreement when such delay or failure is due to an act of God, fire, flood, lockout or strike, riot or civil unrest, war, or an act of a public authority (including a law enactment) beyond the control of the Parties ("**Force Majeure**"). Should either Party be unable to comply with any term of this Agreement for more than 14 consecutive days due to a Force Majeure, the other Party may terminate this Agreement immediately with written notice.

**10.3 No Agency and Independent Contractor Status.** Nothing in this Agreement will be construed to create any relationship between the Parties other than an independent contractor relationship. Supplier agrees it will not hold CBC responsible for deductions, contributions, or payments of any nature whatsoever concerning Supplier or its Representatives.

**10.4 Notices.** Any notice given under this Agreement must be given in writing to the recipient at its address indicated at the signature lines in Part A of this Agreement. Such address may be changed at any time upon notice. Notices will be delivered by registered mail, hand, or e-mail. Notice will be deemed effective two business days after it is sent, except that notice by e-mail is effective the business day after it is sent.

**10.5 Public Communications and Press Releases.** Supplier will not make any public communication in relation to this Agreement, including to the media, without CBC's prior written consent. Without limiting the foregoing, Supplier will submit to CBC for prior review and approval in writing all materials bearing or containing CBC's name, logos, trade-marks, or official marks, including all press releases, advertising, sales promotions, and other publicity matters related directly or indirectly to this Agreement. Supplier understands and agrees that CBC is under no obligation to provide such consent or approval.

**10.6 No Assignment.** Supplier may not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of CBC. Any assignment or transfer in contravention of this section will be void and of no force or effect. This Agreement will be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

**10.7 Severability.** If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions apply to the full extent permitted by law.

**10.8 No Waiver.** The Parties recognize that failure or delay on the part of either Party to exercise a right, power, or privilege under this Agreement will not operate as a waiver thereof, and that any exercise of a right, power, or privilege in whole or in part will not preclude any future exercise thereof.

**10.9 Survival.** Any provision of this Agreement whose survival is necessary for the Parties to fully exercise their rights and fulfill their obligations under this Agreement will survive the Term, including section 3 (Intellectual Property); section 7 (Breach, Indemnity, and Damages); and section 9 (Confidentiality and Personal Information).

**10.10 Execution.** This Agreement may be executed in counterparts and, whether delivered by mail, hand, or e-mail, each will be deemed an original and all of which taken together will constitute one and the same instrument.

**10.11 Interpretation.** Where they are used in this Agreement, the words "includes" and "including" mean "includes without limitation" and "including without limitation", respectively.

**10.12 Further Assurances.** Supplier will, at its sole expense or as otherwise agreed to by CBC, do, execute, and deliver, or cause to be done, executed, and delivered, such further acts and documents as CBC may from time to time reasonably require for the purpose of giving effect to this Agreement or carrying out the intention or facilitating the performance of the terms of this Agreement.

**10.13 Entire Agreement and Amendments.** This Agreement, including schedules hereto, represents the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, proposals, and agreements, whether written or oral. Notwithstanding the above, if this Agreement is signed as a result of a request for proposals, price quotation, or other competitive bidding process as indicated in Part A of this Agreement, the document(s) issued by CBC to initiate such process (the "Request") and the response(s) received from Supplier (the "Response") are deemed to be integral parts of this Agreement. In the event of a conflict between the terms of the documents listed below, the following order of priority will apply to resolve the conflict: (i) Part B of this Agreement; (ii) Part A of this Agreement; (iii) schedules to Part A of this Agreement; (iv) the Response; and (v) the Request. Any amendment to this Agreement must be in writing and signed by both Parties. The *United Nations Convention on Contracts for the International Sale of Goods* does not apply to this Agreement.