Re: Your request for access to information under Part II of the Access to Information and Protection of Privacy Act [Our File #: HCS/036/2016]

On March 15, 2016, the Department of Health and Community Services (the Department) received your request for access to the following records:

“1. Please provide copy of the Air Ambulance Tender contract or RFP contract dated September 1, 2010 to August 31, 2012.”

“2. Please provide copy of the awarded contract to PAL with the terms of agreement, length of provision and expiry of contract.”

You further refined your request to include 1) A copy of the 2010 Air Ambulance Tender and 2) A copy of the awarded contract to PAL for 2015. The Department has reviewed your request in the context of the Access to Information and Protection of Privacy Act (the Act) and Beverley Clarke, Deputy Minister, made a decision and is pleased to inform you that access to these records has been granted, in part. In accordance with your request for a copy of the records, the appropriate copies have been enclosed. Some information has been refused in accordance with the following exceptions to disclosure, as specified in the Act:

- Section 40- Disclosure Harmful to personal privacy

As required by 8(2) of the Act, we have severed information that is unable to be disclosed and have provided you with as much information as possible.

Please be advised that you may appeal this decision and ask the Information and Privacy Commissioner to review the decision to provide partial access to the requested information, as set out in section 42 of the Act (a copy of this section of the Act has been enclosed for your reference). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner. Your appeal should identify your concerns with the request and why you are submitting the appeal.

The appeal may be addressed to the Information and Privacy Commissioner is as follows:
You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act (a copy of this section of the Act has been enclosed for your reference).

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Office of Public Engagement’s website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please contact the undersigned by telephone at 709-729-7007 or by email at angelapower@gov.nl.ca.

Sincerely,

Angela Power
ATIPP Coordinator
AIR AMBULANCE SERVICES AMENDING AGREEMENT

THIS AMENDING AGREEMENT made at St. John's, in the Province of Newfoundland and Labrador, on this 20 day of October, 2012.

BETWEEN: HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR as represented by the Minister of Health and Community Services

("the Client")

AND: PROVINCIAL AIRLINES LIMITED, a corporation incorporated under the laws of the Province of Newfoundland and Labrador

("the Contractor")

(together "the Parties")

WHEREAS:

1. The Parties entered into an agreement dated the 30 day of July, 2010 ("the Agreement") regarding the provision of Air Ambulance Services from September 1, 2010 to August 31, 2011;

2. Article VIII of the Agreement includes an option to extend the Agreement for up to twelve additional months and the Parties have agreed to extend the Agreement until March 31, 2012;

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual agreements, promises, conditions and arrangements contained herein the Parties agree as follows:

1. Article VIII of the Agreement is amended by changing the Completion Date to March 31, 2012. The Client retains the option to extend the term of the agreement by an additional six (6) months upon providing the Contractor with 45 days notice.

2. This Amending Agreement is retroactive to September 1, 2011.

3. Save as amended in this Amending Agreement all terms and conditions of the Agreement remain in full force and effect for the duration of the Agreement.

4. The Parties agree that, in the event of any conflict or inconsistency between the terms of this Amending Agreement and the Agreement, the terms of this Amending Agreement shall govern.

HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR

[Signature]

Minister of Health & Community Services on his/her authorized designate

Date: OCTOBER 20TH, 2011

PROVINCIAL AIRLINES LIMITED

[Redacted]

Authorized Signature

Date: OCTOBER 20TH, 2011
AIR AMBULANCE SERVICES AGREEMENT

THIS AGREEMENT made at the City of St. John's, in the Province of Newfoundland and Labrador, on this 30 day of July, 2010.

BETWEEN: HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as represented by the Minister of Health and Community Services

(“the Client”)

AND: PROVINCIAL AIRLINES LIMITED, a corporation incorporated under the laws of the Province of Newfoundland and Labrador

(“the Contractor”)

(“the Parties”)

WHEREAS:

(i) The Client has requested that the Contractor provide Air Ambulance Services (“Services”) in accordance with the terms and conditions set forth in this Agreement; and

(ii) The Contractor has agreed to provide the Services in accordance with the said terms and conditions and for the compensation hereinafter set forth.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, promises, conditions and arrangements contained herein, the Parties agree as follows:

I. Definitions

In addition to the terms defined in the Special Terms and Conditions attached as Schedule “B”, and the General Terms and Conditions attached as Schedule “C”, the following words and phrases shall have the following meanings:

a. “Contract Documents” shall mean and include:

i. This head agreement (the “Head Agreement”);

ii. The Scope of Services attached as Schedule “A”;

iii. The Special Terms and Conditions attached as Schedule “B”;
iv. The General Terms and Conditions attached as Schedule “C”; and

b. “Representatives” means directors, officers, employees, consultants, sub-consultants, agents, advisors or partners.

II. The Contractor’s Services
The Contractor shall do all things necessary to fulfill all of the obligations as set out in these Contract Documents (the “Services”). The Services shall be performed by the Contractor to the satisfaction of the Client.

III. Payment

1.1 Consideration
It is agreed and understood that payments made for the satisfactory performance of the Services pursuant to this Agreement shall be made as follows:

(a) The amount of $92,426.07 plus HST, payable monthly for each month of the term of the Agreement on the monthly anniversary of commencement of the Agreement; and

(b) The amount of $1.73 per statute mile for each statute mile between commencement and destination points for flights undertaken by the Contractor in accordance with the terms of this Agreement, to be billed monthly.

1.2 Reimbursement of Expenses
It is agreed and understood that reimbursements for the Contractor’s expenses pursuant to this Agreement shall be made as follows:

(a) The Client will be responsible for the following expenses related to flights undertaken by the Contractor in the performance by the Contractor of this Agreement, to be billed monthly at the cost paid by the Contractor and with supporting documentation, receipts and other information provided:

(i) landing charges as incurred at airports other than St. John’s;
(ii) other regulatory fees relating to flight operations such as NAV CANADA fees; security fees and ramp fees;
(iii) de-icing charges;
(iv) where a flight crew is caused to overnight at an airport location other than St. John's at the request of the Client or due to crew duty day requirements or severe weather, expenses related to accommodation and taxi/ground transportation expenses;

(v) meals at the lower of actual cost or the Client's applicable per diem rates for travel (copies of these rates are available on request from the Client);

(vi) fuel consumed through flight operations pursuant to this Agreement at the lower of:

1. the actual cost; or
2. if the Client has a Fuel Management Program in place, the price which the Client would pay its contracted fuel suppliers under that program;

(vii) the actual cost of any pre-approved receipted medical supplies and equipment used or consumed in operations pursuant to this Agreement; however:

1. the Client reserves the right in its sole discretion to determine if such charges are reasonable; and
2. The Client will monitor purchases to ensure the requested supplies are appropriate for service levels.

(b) Except as provided above, the Contractor is responsible for all other costs associated with the Service and it shall be presumed that all such costs are included in the monthly payment in (a).

1.3 Payment General

(a) Notwithstanding the provisions above, no consideration shall be owing to the Contractor under Articles 1.1 or 1.2 in respect of any period during which the operation of this Agreement is suspended in accordance with the terms herein.

(b) The Parties agree and confirm that as set out in section 25(6) of the Financial Administration Act, RSNL1990 cF-8, as amended, all fees payable in accordance with this Agreement are subject to there being an appropriation for the work for the fiscal year in which payment under this Agreement is due.

(c) Payment will be made within 30 calendar days from invoice date.
(d) All invoices shall clearly show the amount of HST billed by the Contractor as a separate item.

(e) The Contractor shall conform to any request that may be made by the Client to alter the form of invoice customarily used by the Contractor as may be reasonably required for the purposes of the Client’s internal accounting systems. The Contractor agrees that each invoice shall clearly show and identify the Services or service which is being charged under that invoice to the Client. The invoice shall have appended thereto any documentation required by the Client.

(f) The Client shall not be responsible to pay any amounts invoiced by the Contractor which may arise from Services, services or expenses incurred to remedy errors or omissions in the Services for which the Contractor is responsible.

(g) The Contractor shall submit invoices to:

Director of Board Services
Department of Health & Community Services
Government of Newfoundland & Labrador
P.O. Box 8700
St. John’s NF A1B 4J6

IV. Notices

Except as otherwise specifically provided for herein, all notices, claims, payments, reports and other communications required under this Agreement shall be in writing. The addresses for service are as follows:

For the Client:
Tony Wakeham
Assistant Deputy Minister
Regional Health Operations
Department of Health & Community Services
Government of Newfoundland & Labrador
Tel: 709-729-3127
Fax: 709-729-0121
Email: TonyWakeham@gov.nl.ca

For the Contractor:

Provincial Airlines Limited
Except as otherwise specifically provided for herein, notices, requests or documents shall be deemed to have been received by the addressee as follows:

(a) As of the date on which they are delivered where delivery is by a party or by messenger or special courier service;

(b) As of the date on which they are sent where delivery is by telex or other means of electronic communication; and

(c) Six (6) days after delivery to Canada Post Corporation where the postal service is used.

V. **Entire Agreement**

It is hereby agreed that these Contract Documents constitute the entire agreement between the Parties (the “Agreement”). There are no understandings, representations or warranties of any kind except as expressly set forth herein. No changes, alterations or modifications or amendments of this Agreement shall be effective unless made in writing and signed by those persons designated for such purpose. This Agreement may be amended or otherwise modified by e-mail.

VI. **Representations and Warranties**

The Contractor hereby represents and warrants that every fact stated or represented by the Contractor or its Representatives to the Client in connection with any proposal made by the Contractor in respect of the Services is true and agrees that the Client shall be conclusively deemed to have relied on each such representation or statement in entering into this Agreement.

VII. **Conflict Between Provisions**

In the event of any conflict or inconsistency between provisions in the Contract Documents, the Contract Documents shall have precedence as follows: first the Head Agreement, second the Special Terms and Conditions, third the General Terms and Conditions, fourth the Protocols for Security of Government Information on Information Technology assets of Contractors, fifth the Scope of Services, and last, any documents incorporated by reference in any of the foregoing.

VIII. **Start and Completion Date**

The Contractor shall commence activities in relation to the Services with the start and completion dates mutually agreed upon as follows:
The Client shall have the option to extend this contract for up to twelve (12) additional months, to a maximum extension expiry date of 31 August 2012, upon written notice to the Contractor at least ninety (90) days prior to 31 August 2011 or such shorter period to which the Contractor agrees. Any such extension shall continue with the same terms and conditions as this Agreement.

IX. Effective Date
The effective date of this Agreement shall be the earlier of the start date referred to in Clause VIII or the date on the first page of this Head Agreement.

X. Paragraph Numbering
In the event that the General Terms and Conditions are modified by the Special Terms and Conditions, the numbering references in the General Terms and Conditions shall remain unchanged.

XI. Counterparts
This Agreement may be executed in any number of counterparts, each of which will be considered an original of this Agreement, and which together will constitute one and the same instrument. No Party will be bound to this Agreement unless and until all Parties have executed a counterpart. A facsimile signature or an otherwise electronically reproduced signature of either Party shall be deemed to be an original.
HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR

Minister of Health & Community Services or his/her authorized designate

Date: July 30, 2010

PROVINCIAL AIRLINES LIMITED

Authorized Signature

Date: July 30, 2010
SCHEDULE “A”

SCOPE OF SERVICES

The Services to be provided by the Contractor for the Client shall be in accordance with Tender Document No. TP1100066969 including Amendments thereto and the Response of the Contractor dated July 20, 2010 to the said Tender Document, both of which form part of this Agreement by attachment and incorporation by reference.

In the event of a conflict or inconsistency between the provisions of the Tender Document and the Contractor's Response, the provisions of the Tender Document shall have priority.
SCHEDULE “B”

SPECIAL TERMS AND CONDITIONS

The Articles of the General Terms and Conditions are modified as follows:

1. The term “Consultant” in the General Terms and Conditions and in Schedule “D” is to be considered throughout to “Contractor”.

2. Article 6.2 is deleted, with the existing Article 6.3 to be renumbered to 6.2.

3. The following clauses are to be added after the renumbered Article 6.2:

   6.3 The Contractor will be in default of this contract:

   (a) If the Contractor is:

      (i) declared or adjudged bankrupt or gives notice of its intention to make a proposal under the Bankruptcy and Insolvency Act(Canada);

      (ii) proposes a compromise arrangement, reorganization or winding up under the Companies Creditors Arrangement Act(Canada) or other applicable federal or provincial legislation; or

      (iii) makes a general assignment for the benefit of its creditors or if a receiver is appointed over all or a substantial portion of its assets;

   (b) If, in the opinion of the Client, the Contractor jeopardizes the safety of a patient or health professional while performing the Services;

   (c) If the Contractor fails to provide the Services; or

   (d) If the Contractor makes any other material default in its obligations under the contract.

6.4 Without restricting any other rights of the Client, upon the occurrence of a default by the Contractor of its obligations to provide the Services under Article 6.3(c), the Client may give notice to the Contractor specifying the particulars of the default and the Contractor shall remedy the default within 3 days of receipt of the notice by the Contractor.
6.5 In the event of the Contractor being in default, and in the case of Article 6.3(c) the Contractor failing to remedy a default after receiving notice, the Client may, in addition to or in substitution for any other remedies it may have under this Agreement or in law, do any of or combination of the following:

(a) do any act it deems necessary to rectify such default and the Client may deduct or set off the cost of such rectification against payment due to the Contractor;

(b) withhold or hold back in whole or in part any payment due to the Contractor without penalty, expense or liability, and any such hold back shall continue until the default has been remedied to the satisfaction of the Client; or

(c) terminate the contract by giving written notice to that effect to the Contractor.

6.6 In addition to or in substitution for any other remedies it may have under this Agreement or in law, the Client may, if the Client determines it is in the interest of public safety to do so, require the Contractor to suspend the provision of Services for a period not to exceed 30 days by giving notice of suspension to the Contractor, and the Contractor will suspend all operations in respect to the Contract in accordance with such Notice.

6.7 The Contractor shall not terminate the Contract for any reason without six months prior written notice to the Client.

4. The following clauses are to be added after Article 7.3 as Articles 7.4 and 7.5:

7.4 Insurance and Property Damage

7.4.1 The Contractor shall, at its own cost, secure and maintain in effect throughout the term of the Contract (occurrence basis, not claims made basis), a Liability Insurance Policy covering the agreed upon aircraft or any substitute thereof, and their operation, in respect of claims arising from death, personal and bodily injury (including loss of use thereof), passenger liability and including but not limited to all liabilities assumed under this Agreement, with a limit of not less than $1,000,000 inclusive per individual, per occurrence. The Insurance Policies shall include the Client as an additional named insured with a cross-liability clause and shall also insure the Client's interest regardless of any breach or
violation by the Contractor of any warranties, declarations, or conditions of such policies.

7.4.2 The Contractor shall, at its own cost, arrange for the completion of a Certificate of Liability Insurance and submit such Certificate to the Client prior to the commencement of the Services to be provided hereunder. Such Certificate of Liability Insurance shall include a provision acknowledging the provisions of the Agreement and requiring the insurer to give 60 days prior written notice to the Client in the manner set forth in the policy conditions in the event that the policy is changed to the prejudice of the Client or cancelled.

7.4.3 Except for damage caused by the negligence of the Client or those for whom the Client is responsible for in law, the Contractor shall assume full responsibility and shall hereby release the Client from any responsibility during the term of this Contract for any physical damage, however caused to the aircraft, any substitute therefore provided hereunder, and all equipment, including both aircraft and medical supplies therewith. Such release on behalf of the Client shall be binding upon the Client's insurer and the Client's successors and assigns.

7.5 Notwithstanding the provisions of 7.1 and 7.3 above, the Consultant shall not be liable for any negligence of the Client or those for whom the Client is responsible for in law.

5. The following Clauses are to be added after Article 8.2 as Articles 8.3 and 8.4:

8.3 If a permit, licence, consent or authorization is required by law for the carrying on of the Services:

(a) it is the Contractor's responsibility to obtain all necessary permits, licenses, consents and authorizations; and

(b) the Contractor shall provide a copy of the said permits, licenses, consents or authorizations at the request of the Client.

8.4 Article 8.3 does not apply to any permit, licence, consent or authorization required to be obtained by the Client, employees, agents or representatives of the Client, or a patient.

6. The following clauses are to be added after Article 14:

Article 15 - AIR FLIGHT DISPATCHING
15.1 Notice to the Contractor of the dispatching of required services (for the purposes of this Article a "Notice") will originate from a designate of the Client. The Client will advise the Contractor of the designated individual or organization for such Notices as quickly as practicable after the commencement of this Agreement.

15.2 The aircraft will be available on a Hot Standby basis such that it will be airborne in less than one (1) hour from Notice, subject to acceptable weather conditions. Each Notice will include the intended destination of the flight, the required departure time, as well as any other required information in the circumstances. The Contractor will maintain a 24 hour dispatch centre with phone and e-mail coverage for receipt of Notices.

15.3 A Notice will be provided to the Contractor’s dispatch centre; the Contractor will provide the contact details for this centre immediately after execution of the Agreement. The Contractor will have appropriate messaging systems in place to ensure that the Contractor is immediately aware of notice once it is received, and take all reasonable efforts to ensure the reliability of that system.

15.4 The Client may change the designated individual or organization source of the Notices, and the form of the Notice provided, from what is set out above on a temporary or permanent basis upon written notice of such changes to the to the Contractor.

Article 16 - MAINTENANCE

16.1 All scheduled maintenance will be coordinated with the availability of the Client’s other air ambulance aircraft and approved by the Client or its designate in advance of any such maintenance. The Client and the Contractor acknowledge the Contractor has provided the details and anticipated duration of each service outage for all planned maintenance over the 24 months commencing 30 July 2010, which is included in the attached Contractor proposal referred to in the Scope of Work.

16.2 Should the Contractor’s designated aircraft be unavailable due to unscheduled maintenance, the Contractor shall supply an alternate aircraft with specifications as deemed acceptable at the sole discretion of the Client or its designate within 48 hours.
SCHEDULE "C"

GENERAL TERMS AND CONDITIONS

Article 1 - Information Supplied By The Client
Article 2 - Confidentiality, Materials and Copyright
Article 3 - Employees of the Consultant
Article 4 - Access to Facilities
Article 5 - Records and Audit
Article 6 - Termination
Article 7 - Liability
Article 8 - Compliance with Law
Article 9 - Arbitration
Article 10 - Laws Governing
Article 11 - Use of Work
Article 12 - Conflict of Interest
Article 13 - Subcontractors
Article 14 - General
GENERAL TERMS AND CONDITIONS

Article - 1. INFORMATION SUPPLIED BY THE CLIENT

1.1 The Client will furnish to the Consultant all available information necessary for the performance of the Work. The Client makes no guarantee either expressed or implied as to the accuracy of the information supplied. The Consultant shall review the information for accuracy and applicability.

1.2 Where discrepancies, omissions or obscurities in the information are evident, the Consultant shall bring them to the attention of the Client and secure written instructions from the Client before proceeding with any work.

Article - 2. CONFIDENTIALITY, MATERIALS AND COPYRIGHT

2.1 For the purposes of this Article “Confidential Information” means:

(a) all communications and instructions from the Client respecting the Services, including the fact of this Agreement;

(b) all information acquired by the Consultant, his/her employees, servants and/or agents respecting policy consideration and development, business decisions, internal deliberations, discussions and considerations and any other aspect of the decision-making process of the Client;

(c) all oral, written, electronic, and machine readable information and data and any accompanying supporting materials and documentation, including without limitation, materials, documents, reports, databases, information and data of whatever nature and kind concerning the affairs of the Client, disclosed directly or indirectly to the Consultant, his/her employees, servants and/or agents during the performance of the Services or in any way related thereto;

(d) all personal information, as defined from time to time under the Access to Information and Protection of Privacy Act, SNL2002 cA-1.1, to mean recorded information about an identifiable individual, including

   (i) the individual’s name, address or telephone number,

   (ii) the individual’s race, national or ethnic origin, colour, or religious or political beliefs or associations,

   (iii) the individual’s age, sex, sexual orientation, marital status or family status,

   (iv) an identifying number, symbol or other particular assigned to the individual,
(v) the individual's fingerprints, blood type or inheritable characteristics,

(vi) information about the individual's health care status or history, including a physical or mental disability,

(vii) information about the individual's educational, financial, criminal or employment status or history,

(viii) the opinions of a person about the individual, and

(ix) the individual's personal views or opinions

for any individual, which is, directly or indirectly, disclosed to or collected by the Consultant, its, his/her employees, servants and/or agents during the performance of the Services or in any way related thereto;

(e) all information that is developed based upon Confidential Information including the work product of the Consultant, its, his/her employees, servants and/or agents; and

(f) Confidential Information shall not include any information which:

(i) at the time such information was provided to the Consultant was or thereafter became part of the public domain through no act or omission of the Consultant or its, his/her Representatives; or

(ii) is information which the Consultant can show possession of prior to the date of this Agreement and which was received or developed by the Consultant free of obligations of confidentiality to the Client.

2.2 The Consultant shall treat all Confidential Information acquired by the Consultant in the performance of the Services as privileged and confidential and shall not divulge the same to any person or persons at any time without the express written approval of the Client, unless required to do so by law, which may include a subpoena or other similar process or in connection with litigation, arbitration or other proceeding or by virtue of an Act or Regulations. In the event that such disclosure is required, the Consultant shall give the Client prompt notice of the requirement upon becoming aware that such disclosure is required. Where circumstances did not permit the Consultant to provide such notice prior to disclosure, the Consultant shall provide such notice to the Client immediately after the required disclosure.

2.3 The Consultant shall only use the Confidential Information acquired in the performance of the Services for the purposes specified in the Scope of Work and this Agreement, and shall not permit the use of the Confidential Information for any other purposes.

2.4 All materials, data, designs, plans, drawings, specifications, research, reports, notes, estimates, summaries, calculations, surveys, papers, completed work, and work in progress and such other information and materials or parts thereof as are compiled, drawn and produced by the Consultant in performing the Services, including without limitation, computer printouts and computer models and all copyrights thereto and all patents, trademarks and industrial designs arising therefrom, are the sole and exclusive property of the Government of Newfoundland and Labrador and the contents thereof are privileged and confidential. Nothing in this Agreement shall give the Consultant a right, however
arising, to assert any lien, claim, demand, property right, remedy or security right of any kind over the information provided to the Consultant pursuant to the terms of this Agreement. The Consultant acknowledges that the Client’s right to this information shall at all times be paramount to any rights of the Consultant, at law or in equity, and that the Consultant’s remedies against the Client for the Consultant’s breaches under this Agreement do not include the right to deprive the Client of access to the Client’s information in the Consultant’s possession.

2.5 The Consultant shall provide to the Client and solely to the Client upon completion of the Services or upon earlier termination of this Agreement all Confidential Information acquired during the performance of the Services, or shall, at the request of the Client, destroy any and all copies and versions of the Confidential Information in the possession of the Consultant, his/her employees, servants and/or agents, and shall certify the destruction of same to the Client.

2.6 The Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Consultant, its employees, servants and/or agents in the performance of the Services and in particular personal information, is subject to privacy legislation in various jurisdictions, including but not limited to the Access to Information and Protection of Privacy Act, the Management of Information Act, S.N.L.2005, cM-1.01, and the Privacy Act, R.S.N.L.1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Consultant’s operation. The Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Consultant, its, his/her employees, servants and/or agents.

2.7 The Consultant shall ensure that it, his/her employees, servants and/or agents have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all Confidential Information, including but not restricted to the following:

(a) at a minimum, using the same level of physical and electronic security as the Consultant employs to avoid disclosure or dissemination of the Consultant’s own confidential information, to prevent the disclosure of any of the Confidential Information to any third party, or to any of its employees, servants or agents other than those who are required to have access to properly perform the Services under this Agreement;

(b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the Confidential Information;

(c) ensure all employees, servants and/or agents of the Consultant comply with all policies, standards and safeguards established under this Article;

(d) advise the Client of any changes in its, his/her security systems, procedures, standards and practices that may affect the Confidential Information and seek the Client’s consent prior to such changes; and

(e) satisfaction of the foregoing commitments includes, but is not restricted to, compliance with the requirements set out in Schedule "D", unless otherwise advised by the Client, and this includes:
(i) complying with all alterations or updates of Schedule "D" as may be provided to the Consultant from time to time; and

(ii) adhering to any additional instructions (including oral instructions) from the Client as they relate to the subject matter contained in Schedule "D" and this Article.

2.8 The Consultant shall only disclose confidential information to persons other than its employees, servants and/or agents with the prior written consent of the Client, and then only to those persons who need to know the information in order to carry out the duties associated with this Agreement and only after confirming that such persons agree to comply with the provisions of this Article including the requirements set out in Schedule "D".

2.9 The Consultant shall:

(a) notify the Client promptly of any unauthorized possession, use or knowledge, or attempt thereof, of the Client’s information in the possession of the Consultant, including but not limited to data processing files, transmission messages or other confidential information by any person or entity which may become known to the Consultant;

(b) promptly furnish to the Client full details of the unauthorized possession, use or knowledge, or attempt thereof, and assist the Client in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of confidential information;

(c) use reasonable efforts to cooperate with the Client in any litigation and investigation against third parties deemed necessary by the Client to protect its proprietary rights;

(d) promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of confidential information; and

(e) refer to and follow the privacy breach protocol of the Government of Newfoundland and Labrador as it exists at the time of the breach and located on the Department of Justice website at: http://www.justice.gov.nl.ca/just/CIVIL/stipp/default.htm

Article - 3. EMPLOYEES OF THE CONSULTANT

3.1 The Consultant shall provide employees who are competent in their field of specialization. The Client will have the right to have the Consultant remove from the Work any person, who by misconduct or by failure to properly perform his/her duties is considered by the Client to be unfit for employment on the Work. If the Consultant fails to remove any unfit person from the Work as requested by the Client, then the Client may void this Agreement or refuse to accept subsequent Work in which the person was involved and may refuse to approve payment for such Work.
3.2 The Consultant shall not alter, remove or replace the employees or Representatives indicated in the Scope of Work without prior written approval by the Client.

Article - 4. ACCESS TO FACILITIES

4.1 The Client agrees to provide, where it is deemed by the Client, in its absolute and sole discretion to be necessary for the reasonable performance of the Work, working space and equipment access for the Consultant to perform the Work during Client office hours.

4.2 When using or accessing the premises of the Client, the Consultant and all officers, employees and agents of the Consultant shall comply with all security regulations and workplace policies and procedures in effect from time to time at the Client's facilities.

Article - 5. RECORDS AND AUDIT

5.1 The Consultant shall keep records, books of account and supporting documents in accordance with accepted accounting procedures and practices. The records shall be made available to the Client or its authorized representative for observation or audit at mutually convenient times and up to one year after discharge of this Agreement.

5.2 The Consultant shall furnish reports as required by the Client for the purpose of monitoring the progress of the Work.

Article - 6. TERMINATION

6.1 This Agreement is deemed to be concluded once the Work has been completed to the satisfaction of the Client and payment(s), as stipulated in the Agreement, has been issued to the Consultant.

6.2 Notwithstanding the provisions of this Agreement, either of the Parties may at any time by way of fourteen (14) days written notice to the other, terminate this Agreement.

6.3 Where this Agreement is terminated prior to the mutually agreed upon completion date, the Consultant shall thereupon be entitled to payment in accordance with this Agreement in respect of that part of the Work completed up to the date of termination, provided however, that the Consultant shall not be entitled to any other payment in respect of such termination, including, without prejudice to the generality of the foregoing, any payment for any consequential loss or damage or loss of profits arising from termination of this Agreement or in any other way related thereto. The Client shall retain the right of set off with respect to any earned but unpaid proceeds then owing pursuant to this Agreement.
Article - 7. LIABILITY

7.1 The Consultant agrees that in performance of the Work neither the Consultant nor any Consultant's Representative shall be or be deemed to be an officer, servant, agent or partner of the Client.

7.2 The Client shall not be liable for, and the Consultant shall indemnify and save harmless the Client and the Client's Representatives against all losses, costs, charges, or expenses incurred by the Client and its agents as a result of actions, claims or awards for compensation at law, equity or under any applicable legislation, made or brought by, against, suffered by or imposed upon the Client, or its Representatives by a third party, as a result of or related to the performance of this Agreement by the Consultant or the Consultant's Representatives.

7.3 The Consultant shall defend any and all such actions and pay all legal charges, costs and other expenses arising therefrom. Notwithstanding the foregoing, the Client may at its own discretion retain its own solicitors to defend its interests in any such suit or claim, and the legal costs of that defense shall be paid by the Consultant.

Article - 8. COMPLIANCE WITH LAW

8.1 In respect of any work within the Province of Newfoundland and Labrador connected with or arising from this Agreement, the Consultant shall provide (where requested by the Client) evidence of compliance with all requirements of the Province of Newfoundland and Labrador with respect to Worker's Compensation and or Occupational Health and Safety, including without limitation, any payments or compliance orders due or issued thereunder.

8.2 The Consultant shall ensure that the Consultant and its Representatives comply with all requirements of any governing federal, provincial or municipal legislation, by-laws or regulations applicable to the Consultant or the Consultant's Representatives in the performance of the Work.

Article - 9. ARBITRATION

9.1 In the case of a dispute arising between the Client and the Consultant as to their respective rights and obligations under this Agreement, the parties shall first attempt to resolve all matters through friendly negotiation by a meeting between their representatives upon notice. A resolution reached in this way must be reached within 10 days of both parties having knowledge and notice of the dispute and be reduced to writing.

9.2 In the case of a dispute arising between the Client and the Consultant as to their respective rights and obligations under this Agreement, (that has not been resolved pursuant to Article 9.1), either party may give the other notice of such dispute and to request arbitration thereof. If both parties agree, the parties shall, with respect to the particular matters then in dispute, submit the same to arbitration in accordance with the provisions of the Arbitration Act, RSNL1990 cA-14, including such provisions for the appointment of arbitrators.
Article - 10. LAWS GOVERNING

10.1 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Newfoundland and Labrador and all actions, suits or proceedings arising out of this Agreement shall be determined in a court of competent jurisdiction in Newfoundland and Labrador subject to any right of appeal.

Article - 11. USE OF WORK

11.1 The Client shall have the right to use the Work or variations thereof in other operations of the Client.

Article - 12. CONFLICT OF INTEREST

12.1 No public employee or member of the House of Assembly of the Province of Newfoundland and Labrador shall be admitted to any part or share of the payments made pursuant to this Agreement or to any benefits arising therefrom except in accordance with the Conflict of Interest Act or the House of Assembly Act.

12.2 The Consultant and the Consultant's Representatives:

(a) shall conduct all duties related to this Agreement with impartiality;

(b) shall not influence, seek to influence, or otherwise take part in a decision of the Client, knowing that the decision might further their private interests;

(c) shall not accept any commission, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of any duties related to this Agreement, that causes, or would appear to cause, a conflict of interest; and

(d) shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of any duties related to this Agreement.

Article - 13. SUBCONTRACTORS

13.1 The Consultant shall not subcontract all or a portion of the Work without the prior written approval of the Client.

13.2 The entry into any subcontract shall not relieve the Consultant of any of its obligations under the terms of this Agreement.
Article - 14. GENERAL

(a) Articles 2 and 7 of this Agreement shall survive the termination or expiration of this Agreement.

(b) Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered, or prevented by force majeure. Force majeure shall be any cause beyond the control of the parties hereto which they could not reasonably have foreseen and guarded against.

(c) Time shall be of the essence of this Agreement.

(d) The failure of the Client to insist upon or enforce in any instance strict performance by the Consultant of any of the terms of this Agreement or to exercise any rights herein conferred shall not be construed as a waiver or a relinquishment to any extent of the Client's right to assert or rely upon any such terms or rights on any future occasion.

(e) If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall attach only to such provision, and all other provisions hereof shall continue in full force and effect.

(f) The division of this Agreement into Articles and Clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(g) This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their respective heirs, legal representatives, successors and assigns.

(h) The Consultant shall not assign this Agreement in whole or in part to any third party without the prior written approval of the Client.

END OF SCHEDULE C
SCHEDULE “D”

Protocols for Security of Government Information on Information Technology assets of Contractors

The Consultant shall confirm with the client Department whether the Consultant will be required to use information technology resources, including computers, of the Government of Newfoundland and Labrador in the conduct of the work under the Agreement. The following requirements apply where the Consultant will not be using such assets, but will instead have access to confidential information (including personal information) (“Confidential Information”) received from the Government of Newfoundland and Labrador (“Government”) and will be storing, manipulating or accessing that Confidential Information on the Consultant’s own information technology resources.

- All portable storage devices or media (e.g., flash drives, memory sticks, portable hard drives, writeable compact discs or digital video discs, etc.) may only be used to transport and/or store Confidential Information where either the Confidential Information or the device or media is encrypted.

- Unless specifically separately authorized by the Agreement or otherwise, the Consultant is not permitted to attach non-government computers or other information technology systems to any Government network.

- Consultants are expected to implement and maintain up to date versions of all ordinary business software for the reasonable protection of information on computers attached to the Internet which will have access to or store Confidential Information, including security firewall and anti-viral software.

- Consultants are not permitted to use any Peer to Peer file sharing program (e.g., Limewire, etc.) or chat program (i.e., MSN, Skype) on any information technology asset which will contain Confidential Information, or which will be connected via a network to any computer which will contain Confidential Information.

- Email should not be used as a method to transmit Confidential Information across public networks such as the Internet unless the e-mail and/or its attachments are encrypted or zipped in a secure manner.

- The Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Consultant, its employees, servants and/or agents in the performance of the Services and in particular personal information, is subject to privacy legislation in various jurisdictions, including but not limited to the Access to Information and Protection of Privacy Act, and Management of Information Act, SLN2005, cM-1.01, and the Privacy Act, RSNL1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Consultant’s operation. The Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Consultant, its employees, servants and/or agents.
• Where a Consultant will be granted access to the Government computer network during the course of the work, in addition to the requirements noted above, the Consultant shall not:
  o Share personal computer drives or folders on a computer accessing the network; or
  o Access the network remotely, either through wired or wireless connections, except through the use of secure ID and virtual private network systems.

• These requirements apply to the Consultant and all agents, employees or permitted sub-Consultants of the Consultant, and it is the responsibility of the Consultant to ensure that all such agents, employees or permitted sub-Consultants are aware of these restrictions and are in compliance with them.

END OF SCHEDULE D
July 8, 2010

RE: TENDER # TP110006919 – Air Ambulance Service

CLOSING: July 20, 2010 at 4:00 PM
OPENING: June 21, 2010 at 10:00 AM

AMENDMENT # 1

Please note the following:

DELETE: Tender shall be opened at 10:00 am, June 21, 2010
ADD: Tender shall be opened at 10:00 am, July 21, 2010

For further information, please contact Mike Martin at (709) 729-3532 or e-mail: mikemartin@gov.nl.ca

Sincerely yours,

[Signature]

Mike Martin
Procurement Officer III
July 14, 2010

RE: TENDER # TP110006919 – Air Ambulance Service

CLOSING: July 20, 2010 at 4:00 PM
OPENING: July 21, 2010 at 10:00 AM

AMENDMENT # 2

Please note the following change:

Bidders shall include with their tender documents “a bid price that shall indicate separately a monthly retainer fee for the aircraft and a flying rate per statute mile, excluding Fuel and Allowable Expenses”.

For further information, please contact Mike Martin at (709) 729-3532 or e-mail: mikemartin@gov.nl.ca

Sincerely yours,

[Signature]

Mike Martin
Procurement Officer III

30 Strawberry Marsh Road, St. John’s, NL, Canada A1B 4R4 t 709.729.3348 f 709.729.5817
AMENDMENT # 3

Page 5
Question: YT direct to YZ with how many people on board and what equipment with the total weight.
Response: Four people; Total Weight 1200 lbs, including medical personnel and equipment.

Page 5
Question: What exactly does Hot Standby mean. (In accordance to the Canadian Aviation Regulations all commercial work is a on Call or on Standby regime) there is a huge difference.
Response: Aircraft is dedicated to customer and available to be airborne in one hour.

Page 5
Question: The tender states: "the aircraft must be able to fly at a minimum cruising rate of 400 Knots and have a flight ceiling of at least 38,000 feet" Can you please confirm if this means the aircraft you are tendering for must be able to achieve 400 Knots per hour while flying at 38,000 feet above sea level for the full duration of the non stop flight from St John's NL to Toronto Ontario?
Response: The speed of 400 knots and flying at 38,000 feet above sea level do not need to be achieved at the same time.

Page 5
Delete: "Height of loading deck should be no higher than 4 feet"
Add: "Height of loading deck shall be no higher than bottom of aircraft door".

Page 6
Question: What constitutes Jeopardizing Patient or health care professional safety?
Response: This will be determined at the sole discretion of the Department of Health and Community Services or its designate.

Page 8
Question: Item 17 What colour?
Response: Bidders are to specify colour of aircraft.

Question: Item 21. What size of life raft?
Response: Life Raft must be able to accommodate all personnel on board aircraft.

Page 9
Question: What does any pre approved receipted medical supplies and Equipment mean?
Response: The Department of Health & Community Services will pay for any pre-approved medical supplies and equipment not already required and to be supplied by the contractor as outlined in the tender specification.

For further information, please contact Mike Martin at (709) 729-3532 or e-mail: mikenmartin@gov.nl.ca
Sincerely yours,

Mike Martin
Procurement Officer III
Proposal to
Department of Health and Community Services

Newfoundland
Labrador

Government of Newfoundland and Labrador

Fixed Wing Air Ambulance Charter Service

Tender No.: TP110006919
Closing Date: July 20, 2010
Closing Time: 4:00 P.M.
July 20, 2010

Government of Newfoundland and Labrador
Government Purchasing Agency
30 Strawberry Marsh Rd.
St. John's, NL
A1B 4R4

Subject: Tender No. TP110006919
Fixed Wing Air Ambulance Charter Service

We are pleased to tender for your consideration our proposal to provide fixed wing air ambulance charter services for the Department of Health and Community Services. It has been our pleasure to provide air ambulance services to the Government of Newfoundland and Labrador for the past three decades and look forward to having the opportunity to continue this relationship with the provision of dedicated jet services. If you have any questions or require any additional information, please do not hesitate to contact us.

Yours truly,

Provincial Airlines Limited

Tel 709-576-1800
Cell 709-576-7363
Email provair.com
Enclosure

ML_AirAmbulanceProposal_July2010.doc
Potential copyright material

If you wish to obtain a copy please contact the ATIPP Office at (709) 729-7072 or atipoffice@gov.nl.ca.
Air Ambulance Services for the Department of Health and Community Services, Government of Newfoundland & Labrador

INSTRUCTIONS TO BIDDERS

Her Majesty the Queen in Right of Newfoundland and Labrador as represented by the Minister of Health and Community Services (the "Department") is seeking a fixed wing air ambulance charter service to transport ill or injured patients to locations where the required health care can be provided. This Air Ambulance Service will be used to supplement existing air ambulance services provided by the Government of Newfoundland and Labrador. The Air Ambulance Service will be provided in accordance with the following specification.

The following fundamental principles are features that shall apply to this tender:

(a) safety is to be of paramount importance in the provision of the Air Ambulance Service; and
(b) the Selected Supplier shall be capable of delivering the Air Ambulance Service on demand as and when required.

The Supplier selected shall provide the Air Ambulance Service using fixed wing aircraft as specified. Paramedic and medical staffing will be provided by NL Regional Health Authorities. The Supplier will provide the aircraft and all required aircraft personnel needed to operate and maintain the proposed aircraft in accordance with the rules and regulations stipulated by Transport Canada.

The Department shall use the Air Ambulance Service (as defined in this Specification) on demand as and when required, but shall be under no obligation to provide or guarantee any minimum level of flight activity, air time hours or statute mile volume to the Supplier.

The Department will be responsible for administering the Air Ambulance Service including determination of who will coordinate, monitor and control the Service as well as reimburse the Supplier for the Service and any reimbursable expenses.

No flight shall take place or be considered a flight for the purpose of this tender unless it was first authorized by the Department or its authorized designate. Because of the nature of the Service to be provided, no standard routings can be forecast nor are they contemplated.

The Supplier is not permitted to sub-contract this Air Ambulance Service without the prior written approval of the Department, in its sole discretion.
The Air Ambulance Service will be provided for a twelve(12) month period on a 24 hour per day, 365 days per year basis; with the option to extend the term for up to 12 additional months.

The Department requires a dedicated fixed wing aircraft equipped with a LifePort Medivac System or approved equivalent as defined in the Specification. Approved equivalents, in order to be capable of being accepted, must be established by the Supplier to the satisfaction of the Department in advance of Tender Closing otherwise it will be understood that the Supplier is quoting based on the provision of the LifePort Medivac System. In the event an approved equivalent is accepted for use, this fact will be communicated to all bidders in the form of an addendum.

The Air Ambulance Service will be based in St. John's, Newfoundland and will be available on a Hot Standby basis such that it will be airborne in less than 1 hour from notice, subject to acceptable weather conditions.

The Supplier shall include complete technical documents describing the aircraft proposed and relevant pilot information as indicated in Appendix A. The Department reserves the right to clarify any aspect of any bid submitted with the relevant suppliers and to consider such information received in evaluating such bids.

This tender will be publicly opened at:

Government Purchasing Agency
30 Strawberry Marsh Road
St. John's, Newfoundland
A1B 4R4

At the time and date specified below ("Tender Closing").

Tender Opening on XXXX XX, 2010 at XX:XX a.m.

Responses shall be returned to:

Government Purchasing Agency
30 Strawberry Marsh Road
St. John's, Newfoundland
A1B 4R4

Prices are exclusive of HST. Applicable taxes shall be applied at the invoicing stage and are to be listed separately on each purchase invoice.

Period of Acceptance: 90 days after closing date.
The lowest cost or any tender may not be necessarily accepted. The Department reserves the right to reject any or all bids in its sole discretion.

Suppliers are responsible for all costs related to preparing its submission for participating in this opportunity. The Department shall not defray any tender preparation costs.

Bids received after Tender Closing as specified above shall not be considered. If only a portion of the bid is received by Tender Closing, the bid in its entirety shall be considered incomplete and will not be evaluated.

The Department will not accept written questions relating to the tender within two (2) days prior to Tender Closing. In order to be binding on the parties, responses to questions must be in writing. Verbal responses shall not be binding on either party.

Unacceptable Tenders

- Tenders not submitted on the Tender Form provided will not be considered.
- Tenders submitted by facsimile will not be accepted.
- Tenders received after Tender Closing will not be considered.
- Incomplete Tenders will be rejected.
- Tenders containing qualifications or additional clauses to the Tender Form will be rejected.
- Incorrectly prepared tenders may be rejected.

Properly documented amendments to the Tender will be permitted up to Tender Closing. Amendments documented by facsimile will be acceptable.

Bids may be withdrawn without penalty at any time prior to Tender Closing.

**Specification**

The following specifications shall apply:

A crewed, dedicated fixed wing twin engine aircraft capable of IFR flight that is equipped with a minimum of a single LifePort Medivac System or approved equivalent and based in St. John's NL.

A suitable hanger in St. John's for the aircraft is to be provided.

The aircraft must be able to fly at a minimum cruising rate of 400 knots and have a flight ceiling of at least 38,000 feet. The aircraft must have the ability to fly from St. John's, NL to Toronto, ON non-stop without re-fueling.
The Air Ambulance Service will be available on a monthly retainer fee basis inclusive of all costs, except as noted below, in Hot Standby mode 24 hours per day, 365 days per year such that it can be airborne in less than 1 hour from notice, subject to acceptable weather conditions.

The Air Ambulance Service will include but not be limited to:

- Dual pilot configuration
- Pilots Trained and Certified to fly the aircraft supplied in all weather conditions.
- Pressurized cabin.
- Capacity to accommodate a minimum of one stretcher patient, and 3 seated positions in main cabin.
- Life Port equipped or "compatible" with air-sleds from the LifePort system.
- On-board oxygen system with capacity for minimum of 8 hours of high-flow medical oxygen available on all flights.
- In-cabin storage area.
- Height of loading deck should be no higher than 4 feet.
- In-cabin intercom/communications system.
- Satellite phone equipped.
- Enclosed toilet facilities.

If a permit, licence, consent or authorization is required by law for the carrying on of an activity contemplated in this tender:
(a) it is the Respondent’s responsibility to obtain all necessary permits, licenses, consents and authorizations;
(b) the Respondent shall provide a copy of the said permits, licenses, consents or authorizations at the request of the Department.

The monthly retainer fee will remain fixed throughout the full term of the contract and will be specified in Appendix A. No allowance for increases to operating costs shall be entertained or considered as all Suppliers are expected to have accounted for the potential of such increases in their bid.

All scheduled maintenance will be coordinated with the availability of government-owned air ambulance aircraft and approved by the Department or its designate in advance of any such maintenance. Details and anticipated duration of each service outage for all planned maintenance over the next 24 months for the proposed aircraft shall to be described in Appendix A.

Should the proposed aircraft be unavailable due to unscheduled maintenance, the Supplier shall supply an alternate aircraft with specifications as deemed acceptable at the sole discretion of the Department or its designate within 48 hours.
The Supplier will be in default:

a. If the Supplier is:

i. declared or adjudged bankrupt or gives notice of its intention to make a proposal under the Bankruptcy and Insolvency Act (Canada);

ii. proposes a compromise arrangement, reorganization or winding up under the Companies Creditors Arrangement Act (Canada) or other applicable federal or provincial legislation; or

iii. makes a general assignment for the benefit of its creditors or if a receiver is appointed over all or a substantial portion of its assets;

b. If the Supplier jeopardizes the safety of a patient or health professional while performing the Services;

c. If the Supplier fails to provide the Services; or

d. If the Supplier makes any other material default in its obligations under the tender.

Without restricting any other rights of the Department, upon the occurrence of a default by the Supplier of its obligations to provide the Services, the Department may give notice to the Supplier specifying the particulars of the default and the Supplier shall remedy the default within 3 days of receipt of the notice by the Supplier.

In the event the Supplier fails to remedy a default after receiving notice, the Department may:

a. in addition to or in substitution for any other remedies it may have under this tender or in law, do any act its deems necessary to rectify such default and the Department may deduct or set off the cost of such rectification against payment due to the Supplier; and/or

b. withhold or hold back in whole or in part any payment due to the Supplier without penalty, expense or liability. Any such hold back shall continue until the default has been remedied to the satisfaction of the Department.

In addition to or in substitution for any other remedies it may have under this tender or in law, the Department may, when it is in the interest of public safety to do so, require the Supplier to suspend the provision of Services for a period not to exceed 30 days by giving notice of suspension to the Supplier, and the Supplier will forthwith suspend all operation in respect to the Contract.

Without restricting any other right of the Department, in the event the Supplier is in the sole opinion of the Department in default in respect of any of the obligations under the Tender hereunder the Department may do any act it deems necessary to rectify such default and the Department may deduct or set off the cost of such rectification against payment due to the Supplier.
If the Supplier is deemed to be in default, the Department may terminate the Contract without penalty by giving written notice to that effect to the Supplier.

The Contract shall terminate on the day set out in the written notice of termination, and the Supplier shall forthwith invoice the Department for the work performed to date of the termination. Unless the Contract is terminated due to default, the Supplier shall provide the Services to the Department. The Supplier shall not terminate the Contract for any reason without six months prior notice to the Department.
AIRCRAFT FEATURES

A) The aircraft must provide the following:

1. Interior space to normally carry two pilots, one or two attendants (as required by level of care), and patient(s), allow the positioning of the attendant behind the patient's head, with sufficient room to work on the patient, and to maintain accessibility to all life support equipment and all vital areas of the patient.

2. Interior space to allow the patient to lie flat, or be supported semi-sitting, sitting, or in the Trendelenberg (feet up) position on the stretcher.

3. Interior space to allow the application of traction to the patient's head and/or legs.

4. Headroom to allow administration of intravenous fluids.

5. Patients to be transported aboard on a 19" x 75" stretcher (No. 9 stretcher) without tilting or tipping from the horizontal position during loading/unloading.

6. Sufficient space for storage of all medical equipment and supplies in a hazard free manner, while being easily accessible by flight paramedics within this aircraft.

7. A Jones plug and other electrical services located in a manner to service a neonatal incubator or other electrically driven medical equipment

8. Proper access to all medical equipment and supplies in a position where it is readily available for patient care.

9. An interior designed to maximize personal safety.

10. An interior that is covered with non-absorbent or readily washable material which will not support bacterial and fungus growth and is easily cleaned, disinfected or removed by the Supplier.

11. A floor, particularly at the door edges, that is skid proof.

12. A passenger compartment that is separated from the cockpit in such a fashion as to allow the pilots night vision, and to protect the pilots and flight instruments from distractions and foreign materials.

13. A passenger compartment that has sufficient lighting to enable reading at the head of the patient(s), with controls within easy reach of the attendant.
14. Two independent heat sources to provide heat for the passenger compartment.

15. An aircraft heating/cooling system that is controllable to maintain a cabin temperature of 22 degrees Celsius, plus or minus 1 degree Celsius. This temperature must be attained within five minutes of engine start-up.

16. An interior that is sufficiently ventilated to allow for the venting of obnoxious odours, and venting of all medical equipment to prevent contamination of the aircraft and the occupants.

17. A colour scheme in the patient(s) area which provides a calm, cool, and clean appearance.

18. Passenger compartment windows equipped with blinds, secured drapes, or special devices to prevent the entry of direct sunlight.

19. Toilet (bed pan) facilities and fresh drinking water for the patient(s).

20. On board communications equipment capable of air to ground communications.

21. A floatation device (life vest) for each occupant of the aircraft plus a life raft, with a compressed gas canister for quick inflation, which will be carried in the passenger compartment of the aircraft on all flights.

Reimbursement for Allowable Expenses

In addition to the Bid Price, the Supplier will be paid as follows:

Published airport fees, which must be provided to the Department for the aircraft type by the Operator and other approved regulatory fees such as NAV CANADA fees (ONLY IF NOT EXEMPT) will be reimbursed at cost when supported by receipts and back-up documentation;

Security Fees and Ramp fees will be reimbursed at cost when supported by receipts and back-up documentation;

De-icing charges will be reimbursed at cost when supported by receipts and back-up documentation;

Landing charges as incurred outside of home base;

Overnight Flight Crew Expenses will be reimbursed as per the following terms:

- Where a flight crew is caused to overnight due to crew duty day
requirements, or severe weather and with approval of the Department or its
designate, the Department will reimburse flight crew expenses related to
accommodation and taxi/ground transportation expenses at cost when supported
by receipts and back-up documentation.

- Receipted lunch, dinner and/or breakfast costs will be reimbursed to a
  maximum of the prevailing Government rates. Copies of these rates are
  available on request from the Department.

Fuel Charges will be reimbursed as per the following terms:

If the Government has a Fuel Management Program in place which provides
access to contracted fuel suppliers at various airports, Air Operators are required
to have their pilots obtain fuel from the contracted sources where available.

Where contracted fuel is not available, the Department will pay the Air
Operator for non-contracted fuel burned, at the purchased price, when
supported by proper third-party receipts.

If fuel is purchased from a non-contracted source where a contracted
source is available, the Department will only reimburse the Air Operator at
the price which the Department would pay its contracted fuel suppliers.

Medical Consumable and Drug Charges will be reimbursed as per the following terms:

The Department will reimburse the Air Operator for the actual cost of any pre-
approved receipted medical supplies and equipment.

The Department reserves the right in its sole discretion to determine if such
charges are reasonable. The Department will monitor purchases to ensure the
requested supplies are appropriate for service levels.

Except as provided above, the Supplier is responsible for all other costs
associated with the service and it shall be presumed that all such costs are
captured in its bid price.
# APPENDIX A

## PROPOSED AIRCRAFT

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<th>Aircraft Type:</th>
<th>Colour:</th>
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### BID PRICE:

$ \text{Per Month}$

## AIRCRAFT TYPE SPECIFICATION SHEET

### TYPE:

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### GROSS WEIGHT MAXIMUM

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<tr>
<td>Climb Speed:</td>
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### FLIGHT PLAN

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<td>Number of Baggage Areas:</td>
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### INDICATE IF FUEL UNITS ARE LITRES
OF AVIATION GAS
OR JET FUEL

HOUR 1 FUEL
FLOW:
HOUR 2 FUEL FLOW:  lit/hr
HOUR 3 FUEL FLOW:  lit/hr
HOUR 4 FUEL FLOW:  lit/hr

* ALL BLANKS ARE
REQUIRED TO BE
COMPLETED

Describe all planned Maintenance of the specified aircraft until December 31, 2013 and indicate expected duration of unavailability of the aircraft for each planned outage.

SIGNATURE OF
AUTHORIZED
OFFICER:

I certify that I am authorized to submit this tender on behalf of the Supplier noted.

Name:  
Position:  
Date:  
FLIGHT CREW INFORMATION

This form will be completed by all aircraft personnel who will operate the aircraft. Government reserves the right to reject any pilot at its sole discretion.

Pilot Name: _______________________ Licence: ______________________

Base Location:

Medical Exp. Date: _______________ IFR Exp. Date: _______________

A/C Type No. 1 PPC/PCC Expiry Date Total On Type Hours Position

A/C Type No. 1 PPC/PCC Expiry Date Total On Type Hours Position

A/C Type No. 1 PPC/PCC Expiry Date Total On Type Hours Position

TTL FT Time Multi Eng. Time Turbine Time

TTL PIC Time Multi PIC Time TTL IFR Time

Total Simulator Training Hours TDGC Expiry date (Transport of Dangerous Goods Training Certificate)

List full details of all aircraft accidents or incidents the above crew member has been involved in.

I certify that the above information is true and correct.

AIR OPERATOR REPRESENTATIVE COMPANY TITLE

SIGNATURE DATE
I hereby authorize Transport Canada to release any and all information pertaining to my personal file to the NL Department of Health and Community Services.

Flight Crew Member Name:

Signature:
License #
Date Signed

INCLUDE PHOTOCOPIES OF
ALL CURRENT PILOT DOCUMENTS INCLUDING:
1. PILOT LICENCE, ENDORSEMENTS AND RATINGS
2. MEDICAL CERTIFICATE
3. PILOT PROFICIENCY CARD (PPC or PCC)
4. DANGEROUS GOODS CERTIFICATE
5. IMMUNIZATION CERTIFICATES FOR:
   - TETANUS,
   - DIPHTHERIA
   - HEPATITIS B,
   - POLIOMYELITIS,
   - CHICKEN POX
   - INFLUENZA
6. RADIO LICENCE
7. CREW RESOURCE MANAGEMENT CERTIFICATE
8. A CRIMINAL RECORD SEARCH OR A VALID AIRPORT SECURITY CLEARANCE
PROVISION OF A FIXED WING AIR AMBULANCE SERVICE TO TRANSPORT ILL OR INJURED PATIENTS TO LOCATIONS WHERE HEALTH CARE CAN BE PROVIDED. TERM OF THE CONTRACT SHALL BE FOR A 12 MONTH PERIOD WITH AN OPTION TO EXTEND FOR A FURTHER 12 MONTH PERIOD AT THE SAME PRICES, TERMS AND CONDITIONS.

AS PER SPECIFICATIONS ATTACHED - 13 PAGES

THIRTEEN (13) PAGE SUPPLEMENT ATTACHED. APPENDIX "A", PAGES 10 THROUGH 13, SHALL BE COMPLETED "IN FULL" AND RETURNED WITH THE TENDER DOCUMENTS. FAILURE TO DO SO SHALL RESULT IN THE BID BEING REJECTED.

THIS TENDER WILL BE PUBLICLY OPENED AT:

GOVERNMENT PURCHASING AGENCY
30 STRAWBERRY MARSH ROAD
ST. JOHN'S, NL, CANADA
A1B 4R4

AT THE TIME AND DATE INDICATED ON THIS DOCUMENT

TENDER SHALL BE OPENED AT 10:00 AM, JUNE 21, 2010

UNLESS STATED OTHERWISE IN THE INVITATION, BIDS MUST REMAIN OPEN AND ARE IRREVOCABLE FOR A PERIOD OF 90 DAYS AFTER THE INVITATION CLOSING DATE

PRICES QUOTED ARE TO BE EXCLUSIVE OF HST AND GST. EFFECTIVE
Bidder hereby offers to sell and/or supply, upon the terms and conditions set out herein (and on any enclosed sheets, or made reference to the supplies and/or services listed above (and on any attached sheets) at the prices quoted. All prices are accepted as net prices. The bidder hereby certifies that the prices are not in excess of those charged anyone else, including their most favoured customer, for like quantity and like items. "Atlantic Provinces Standard Terms and Conditions" form part of this tender and are made available by way of the Internet at www.gpa.gov.nl or by phoning the Government Purchasing Agency at (709) 729-3348.

IMPORTANT: All referenced terms and conditions and any attached additional documentation constitute part of this tender.
Government of Newfoundland and Labrador

Government Purchasing Agency
30 Strawberry Marsh Rd.
St. John’s NL
A1B 4R4

TO: VENDOR
CA

BILL TO: Financial Services Division
Health & Community Services
Box 8700 Confed Bldg, Main Flo.
St. John’s
NL A1B 4J6
CA

Customer No. Supplier No. Created Date: Revised / Buyer:
40000003 29-JUN-10 29-JUN-10 M Martin

Payment Terms: On Invoice Approval Carrier / Shipment:
Prepaid F.O.B: DESTINATION

Freight: Reply Via:
Prepaid Contact:

Issue Date: Closing Date:
29-JUN-10 20-JUL-10

Company Official Signature: Date: Delivery Date:

Phone: Facsimile:

TENDER CLOSING IS 4:00 P.M. UNLESS OTHERWISE STATED IN THIS DOCUMENT

RESPONSES MAY BE RETURNED BY FAX AT (709) 729-5817 UNLESS OTHERWISE INDICATED HEREIN.

UNLESS OTHERWISE STATED IN THIS DOCUMENT, PRICES QUOTED SHALL BE FOB DESTINATION.

THIS PROCUREMENT OPPORTUNITY IS SUBJECT TO THE PROVISIONS OF THE AGREEMENT ON INTERNAL TRADE AND THE ATLANTIC PROCUREMENT AGREEMENT.

101 - Brand Names & Numbers (Alternates)

Brand names & numbers are used for reference purposes only. Quotations on similar products will be considered.

109 - Brand Names and Numbers (Literature)

If no change is indicated on your Invitation to Tender/Request for Quotation, it is understood that you are quoting on the brand name(s) and...
BIDDER hereby offers to sell and/or supply, upon the terms and conditions set out herein (and on any enclosed sheets, or made reference to) the supplies and/or services listed above (and on any attached sheets) at the prices quoted. All prices are accepted as net prices. The bidder hereby certifies that the prices are not in excess of those charged anyone else, including their most favoured customer, for like quantity and like items. "Atlantic Provinces Standard Terms and Conditions" form part of this tender and are made available by way of the Internet at www.gpa.gov.nu.ca or by phoning the Government Purchasing Agency at 729-3343. IMPORTANT: All referenced terms and conditions and any attached additional documents relate in part to this tender.

**End of Document**
Air Ambulance Services for the Department of Health and Community Services, Government of Newfoundland & Labrador

INSTRUCTIONS TO BIDDERS
Her Majesty the Queen in Right of Newfoundland and Labrador as represented by the Minister of Health and Community Services (the "Department") is seeking a fixed wing air ambulance charter service to transport ill or injured patients to locations where the required health care can be provided. This Air Ambulance Service will be used to supplement existing air ambulance services provided by the Government of Newfoundland and Labrador. The Air Ambulance Service will be provided in accordance with the following specification.

The following fundamental principles are features that shall apply to this tender:
(a) Safety is to be of paramount importance in the provision of the Air Ambulance Service; and
(b) the Selected Supplier shall be capable of delivering the Air Ambulance Service on demand as and when required.

The Supplier selected shall provide the Air Ambulance Service using fixed wing aircraft as specified. Paramedic and medical staffing will be provided by NL Regional Health Authorities. The Supplier will provide the aircraft and all required aircraft personnel needed to operate and maintain the proposed aircraft in accordance with the rules and regulations stipulated by Transport Canada.

The Department shall use the Air Ambulance Service (as defined in this Specification) on demand as and when required, but shall be under no obligation to provide or guarantee any minimum level of flight activity, air time hours or statute mile volume to the Supplier.

The Department will be responsible for administering the Air Ambulance Service including determination of who will coordinate, monitor and control the Service as well as reimburse the Supplier for the Service and any reimbursable expenses.

No flight shall take place or be considered a flight for the purpose of this tender unless it was first authorized by the Department or its authorized designate. Because of the nature of the Service to be provided, no standard routings can be forecast nor are they contemplated.

The Supplier is not permitted to sub-contract this Air Ambulance Service without the prior written approval of the Department, in its sole discretion.

The Air Ambulance Service will be provided for a twelve(12) month period on a 24 hour per day, 365 days per year basis; with the option to extend the term for up to 12 additional months.

The Department requires a dedicated fixed wing aircraft equipped with a LifePort Medivac System or approved equivalent as defined in the Specification. Approved equivalents, in order to be capable of being accepted, must be established by the
Supplier to the satisfaction of the Department in advance of Tender Closing otherwise it will be understood that the Supplier is quoting based on the provision of the LifePort Medivac System. Should bidders wish to bid on an equivalent system, a request including manufacturer's specifications shall be submitted the Government Purchasing Agency no later than 4:00 P.M., July 13, 2010. In the event an approved equivalent is accepted for use, this fact will be communicated to all bidders in the form of an addendum.

The Air Ambulance Service will be based in St. John's, Newfoundland and will be available on a Hot Standby basis such that it will be airborne in less than 1 hour from notice, subject to acceptable weather conditions.

The Supplier shall include complete technical documents describing the aircraft proposed and relevant pilot information as indicated in Appendix A. The Department reserves the right to clarify any aspect of any bid submitted with the relevant suppliers. Such information shall be obtained as a matter of clarification only and shall not be interpreted by bidders as a means of submitting additional information or changing the bid in any fashion. The Department reserves the right to consider any such information received in evaluating such bids.

This tender will be publicly opened at:
Government Purchasing Agency
30 Strawberry Marsh Road
St. John's, Newfoundland
A1B 4R4
At the time and date specified below (“Tender Closing”).

Tenders shall be delivered to the Government Purchasing Agency by hand, mail or courier and received no later than 4:00 P.M., July 20, 2010. Tenders are to be placed in a sealed envelope/package and clearly labeled, including the following information:

From: Bidder's name and address

To: Government Purchasing Agency
30 Strawberry Marsh Road
St. John's, Newfoundland
A1B 4R4

Tender #: TP_____________
Closing date: ___________

Tenders must be received in full on or before the Closing Time. Proposals received after that time shall not be considered and shall be returned unopened. Proposals must be signed by an authorized representative of the proponent.

Tenders shall be publicly opened July 21, 2010 at 10:00 A.M. at the Government Purchasing Agency.
Prices are exclusive of HST. Applicable taxes shall be applied at the invoicing stage and are to be listed separately on each purchase invoice.

Period of Acceptance: 90 days after closing date.

The Department of Health will evaluate all tenders and issue a contract for any subsequent awards.

The lowest cost or any tender may not be necessarily accepted. The Department reserves the right to reject any or all bids in its sole discretion.

Suppliers are responsible for all costs related to preparing its submission for participating in this opportunity. The Department shall not defray any tender preparation costs.

Bids received after Tender Closing as specified above shall not be considered. If only a portion of the Bid is received by Tender Closing, the Bid in its entirety shall be considered incomplete and will not be evaluated.

All inquiries and requests for clarification are to be directed in writing and addressed to:

Mike Martin, Procurement Officer III
Government Purchasing Agency
30 Strawberry Marsh Road
P.O. Box 8700
St. John's, NL A1B 4R4
Fax: (709) 729-3327

Written inquiries and requests for clarification will be accepted up to two (2) days prior to the Closing Time. Inquiries and requests for clarification received after this date will not be addressed.

Verbal information or representations shall not be binding upon the Customer. Only written changes, alterations, modifications or clarifications are binding. In order to be valid all such changes, alterations, modifications or clarifications shall be issued in the form of addenda and all such addenda shall become a part of the Invitation to Tender.

All addenda that have been issued in relation to this tender will be available on the GPA website at www.goa.gov.nl.ca/availabletenders.htm, or by contacting the Government Purchasing Agency. Bidders can either access the website at their own discretion for addenda, or may use the registration process available on the site to receive notification of addenda. Bidders are responsible for ensuring that they have received all addenda pertaining to this Invitation to Tender and shall be deemed to have received same through their submission of a bid in response to this Invitation to Tender.
Facsimile or electronic proposals are not acceptable and shall not be considered. It is permissible to submit a faxed tender in a sealed envelope (i.e., tenders faxed to a third party sealed in an envelope and delivered by hand, mail or courier). Facsimile amendments to tenders, signed by a company representative, will be permitted if received prior to the Closing Time.

Bids may be withdrawn without penalty at any time prior to Tender Closing.
Specifications
The following specifications shall apply:

A crewed, dedicated fixed wing twin engine aircraft capable of IFR flight that is equipped with a minimum of a single LifePort Medivac System or approved equivalent and based in St. John's NL.

A suitable hanger in St. John's for the aircraft is to be provided.

The aircraft must be able to fly at a minimum cruising rate of 400 knots and have a flight ceiling of at least 38,000 feet. The aircraft must have the ability to fly from St. John's, NL to Toronto, ON non-stop without re-fueling.

The Air Ambulance Service will be available on a monthly retainer fee basis inclusive of all costs, except as noted below, in Hot Standby mode 24 hours per day, 365 days per year such that it can be airborne in less than 1 hour from notice, subject to acceptable weather conditions.

The Air Ambulance Service will include but not be limited to:
- Dual pilot configuration
- Pilots Trained and Certified to fly the aircraft supplied in all weather conditions.
- Pressurized cabin.
- Capacity to accommodate a minimum of one stretcher patient, and 3 seated positions in main cabin.
- Life Port equipped or "compatible" with air-sleds from the LifePort system.
- On-board oxygen system with capacity for minimum of 8 hours of high-flow medical oxygen available on all flights.
- In-cabin storage area.
- Height of loading deck should be no higher than 4 feet.
- In-cabin intercom/communications system.
- Satellite phone equipped.
- Enclosed toilet facilities.

If a permit, licence, consent or authorization is required by law for the carrying on of an activity contemplated in this tender:
(a) it is the Respondent's responsibility to obtain all necessary permits, licenses, consents and authorizations;
(b) the Respondent shall provide a copy of the said permits, licenses, consents or authorizations at the request of the Department.

The monthly retainer fee will remain fixed throughout the full term of the contract and will be specified in Appendix A. No allowance for increases to operating costs shall be entertained or considered as all Suppliers are expected to have accounted for the potential of such increases in their bid.
All scheduled maintenance will be coordinated with the availability of government-owned air ambulance aircraft and approved by the Department or its designate in advance of any such maintenance. Details and anticipated duration of each service outage for all planned maintenance over the next 24 months for the proposed aircraft shall be described in Appendix A.

Should the proposed aircraft be unavailable due to unscheduled maintenance, the Supplier shall supply an alternate aircraft with specifications as deemed acceptable at the sole discretion of the Department or its designate within 48 hours. The Supplier will be in default:

a. If the Supplier is:
   i. declared or adjudged bankrupt or gives notice of its intention to make a proposal under the Bankruptcy and Insolvency Act (Canada);
   ii. proposes a compromise arrangement, reorganization or winding up under the Companies Creditors Arrangement Act (Canada) or other applicable federal or provincial legislation; or
   iii. makes a general assignment for the benefit of its creditors or if a receiver is appointed over all or a substantial portion of its assets;
   b. If the Supplier jeopardizes the safety of a patient or health professional while performing the Services;
   c. If the Supplier fails to provide the Services; or
   d. If the Supplier makes any other material default in its obligations under the tender.

Without restricting any other rights of the Department, upon the occurrence of a default by the Supplier of its obligations to provide the Services, the Department may give notice to the Supplier specifying the particulars of the default and the Supplier shall remedy the default within 3 days of receipt of the notice by the Supplier.

In the event the Supplier fails to remedy a default after receiving notice, the Department may:

a. In addition to or in substitution for any other remedies it may have under this tender or in law, do any act its deems necessary to rectify such default and the Department may deduct or set off the cost of such rectification against payment due to the Supplier; and/or
b. withhold or hold back in whole or in part any payment due to the Supplier without penalty, expense or liability. Any such hold back shall continue until the default has been remedied to the satisfaction of the Department.

In addition to or in substitution for any other remedies it may have under this tender or in law, the Department may, when it is in the interest of public safety to do so, require the Supplier to suspend the provision of Services for a period not to exceed 30 days by giving notice of suspension to the Supplier, and the Supplier will forthwith suspend all operation in respect to the Contract.

Without restricting any other right of the Department, in the event the Supplier is, in the sole opinion of the Department, in default in respect of any of the obligations under the Tender hereunder the Department may do any act it deems necessary to rectify such default and the Department may deduct or set off the cost of such rectification against payment due to the Supplier.
If the Supplier is deemed to be in default, the Department may terminate the Contract without penalty by giving written notice to that effect to the Supplier.

The Contract shall terminate on the day set out in the written notice of termination, and the Supplier shall forthwith invoice the Department for the work performed to date of the termination. Unless the Contract is terminated due to default, the Supplier shall provide the Services to the Department. The Supplier shall not terminate the Contract for any reason without six months prior notice to the Department.

**AIRCRAFT FEATURES**

A) The aircraft must provide the following:

1. Interior space to normally carry two pilots, one or two attendants (as required by level of care), and patient(s), allow the positioning of the attendant behind the patient's head, with sufficient room to work on the patient, and to maintain accessibility to all life support equipment and all vital areas of the patient.
2. Interior space to allow the patient to lie flat, or be supported semi-sitting, sitting, or in the Trendelenberg (feet up) position on the stretcher.
3. Interior space to allow the application of traction to the patient's head and/or legs.
4. Headroom to allow administration of intravenous fluids.
5. Patients to be transported aboard on a 19" x 75" stretcher (No. 9 stretcher) without tilting or tipping from the horizontal position during loading/unloading.
6. Sufficient space for storage of all medical equipment and supplies in a hazard free manner, while being easily accessible by flight paramedics within this aircraft.
7. A Jones plug and other electrical services located in a manner to service a neonatal incubator or other electrically driven medical equipment.
8. Proper access to all medical equipment and supplies in a position where it is readily available for patient care.
9. An interior designed to maximize personal safety.
10. An interior that is covered with non-absorbent or readily washable material which will not support bacterial and fungus growth and is easily cleaned, disinfected or removed by the Supplier.
11. A floor, particularly at the door edges, that is skid proof.
12. A passenger compartment that is separated from the cockpit in such a fashion as to allow the pilots night vision, and to protect the pilots and flight instruments from distractions and foreign materials.
13. A passenger compartment that has sufficient lighting to enable reading at the head of the patient(s), with controls within easy reach of the attendant.
14. Two independent heat sources to provide heat for the passenger compartment.
15. An aircraft heating/cooling system that is controllable to maintain a cabin temperature of 22 degrees Celsius, plus or minus 1 degree Celsius. This temperature must be attained within five minutes of engine start-up.
16. An interior that is sufficiently ventilated to allow for the venting of obnoxious odours, and venting of all medical equipment to prevent contamination of the aircraft and the occupants.
17. A colour scheme in the patient(s) area which provides a calm, cool, and clean appearance.
18. Passenger compartment windows equipped with blinds, secured drapes, or special devices to prevent the entry of direct sunlight.
19. Toilet (bed pan) facilities and fresh drinking water for the patient(s).
20. On board communications equipment capable of air to ground communications.
21. A flotation device (life vest) for each occupant of the aircraft plus a life raft, with a compressed gas canister for quick inflation, which will be carried in the passenger compartment of the aircraft on all flights.

**Reimbursement for Allowable Expenses**

In addition to the Bid Price, the Supplier will be paid as follows:

- Published airport fees, which must be provided to the Department for the aircraft type by the Operator and other approved regulatory fees such as NAV CANADA fees (ONLY IF NOT EXEMPT) will be reimbursed at cost when supported by receipts and back-up documentation;
- Security Fees and Ramp fees will be reimbursed at cost when supported by receipts and back-up documentation;
- De-icing charges will be reimbursed at cost when supported by receipts and back-up documentation;
- Landing charges as incurred outside of home base;

**Overnight Flight Crew Expenses** will be reimbursed as per the following terms:

- Where a flight crew is caused to overnight due to crew duty day requirements, or severe weather and with approval of the Department or its designate, the Department will reimburse flight crew expenses related to accommodation and taxi/ground transportation expenses at cost when supported by receipts and back-up documentation.
- Receipted lunch, dinner and/or breakfast costs will be reimbursed to a maximum of the prevailing Government rates. Copies of these rates are available on request from the Department.

**Fuel Charges** will be reimbursed as per the following terms:

If the Government has a Fuel Management Program in place which provides access to contracted fuel suppliers at various airports, Air Operators are required to have their pilots obtain fuel from the contracted sources where available. Where contracted fuel is not available, the Department will pay the Air Operator for non-contracted fuel burned, at the purchased price, when supported by proper third-party receipts.
If fuel is purchased from a non-contracted source where a contracted source is available, the Department will only reimburse the Air Operator at the price which the Department would pay its contracted fuel suppliers.

Medical Consumable and Drug Charges will be reimbursed as per the following terms:
The Department will reimburse the Air Operator for the actual cost of any pre-approved receipted medical supplies and equipment.

The Department reserves the right in its sole discretion to determine if such charges are reasonable. The Department will monitor purchases to ensure the requested supplies are appropriate for service levels.

Except as provided above, the Supplier is responsible for all other costs associated with the service and it shall be presumed that all such costs are captured in its bid price.
## APPENDIX A

### PROPOSED AIRCRAFT

<table>
<thead>
<tr>
<th>Aircraft Type:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Aircraft Registration:</td>
<td></td>
</tr>
<tr>
<td>Date of Manufacture:</td>
<td></td>
</tr>
<tr>
<td>BID PRICE:</td>
<td>$ Per Month</td>
</tr>
</tbody>
</table>

### AIRCRAFT TYPE SPECIFICATION SHEET

| TYPE: |   |
| REGISTRATION/CALL SIGN: |   |
| Max. Fuel Capacity: | lit |
| Service Ceiling: | ft |
| Total Oil Capacity: | qts |
| Endurance Fuel Flow: | lit/hr |
| Equipment Code: |   |
| Apr & Landing Fuel: | lit |
| Start, Taxi, T/O Fuel: | lit |
| Apr & Landing Time: | mins |

### GROSS WEIGHT MAXIMUM

| Takeoff Ground Roll: | ft |
| Gross Weight: | lbs |
| Rotate Speed: | knots (IAS) |
| Equipped Weight: | lbs |
| Climb Rate: | ft/min |
| Climb Speed: | knots (IAS) |
| Climb Fuel Flow: | lit/hr |
| Number of Fuel Tanks: |   |

### FLIGHT PLAN

| Average Flight Cruise Speed: | kts (TAS) |
| Plan Cruise Altitude: | ft |
| Cruise Fuel Flow: | lit/hr |
| Number of Baggage Areas: |   |

INDICATE IF FUEL UNITS ARE LITRES OF AVIATION GAS
OR JET FUEL

HOUR 1 FUEL FLOW: [lit/hr]
HOUR 2 FUEL FLOW: [lit/hr]
HOUR 3 FUEL FLOW: [lit/hr]
HOUR 4 FUEL FLOW: [lit/hr]

* ALL BLANKS ARE REQUIRED TO BE COMPLETED
FAILURE TO DO SO SHALL RESULT IN REJECTION OF THE TENDER

Describe all planned maintenance of the specified aircraft until December 31, 2013 and indicate expected duration of unavailability of the aircraft for each planned outage.

SIGNATURE OF AUTHORIZED OFFICER:

I certify that I am authorized to submit this tender on behalf of the Supplier noted.

<table>
<thead>
<tr>
<th>Name:</th>
<th>Date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Position:</td>
<td></td>
</tr>
</tbody>
</table>
FLIGHT CREW INFORMATION

This form will be completed by all aircraft personnel who will operate the aircraft. Government reserves the right to reject any pilot at its sole discretion.

Pilot Name: __________________________ Licence: __________________________

Base Location:

Medical Exp. Date: _______________ IFR Exp. Date: _______________

A/C Type No. 1 PPC/PCC Expiry Date Total On Type Hours Position

A/C Type No. 1 PPC/PCC Expiry Date Total On Type Hours Position

A/C Type No. 1 PPC/PCC Expiry Date Total On Type Hours Position

TTL FT Time Multi Eng. Time Turbine Time

TTL PIC Time Multi PIC Time TTL IFR Time

Total Simulator Training Hours TDGC Expiry date
(Transport of Dangerous Goods Training Certificate)

List full details of all aircraft accidents or incidents the above crew member has been involved in.

I certify that the above information is true and correct.

AIR OPERATOR REPRESENTATIVE COMPANY TITLE

SIGNATURE DATE
I hereby authorize Transport Canada to release any and all information pertaining to my personal file to the NL Department of Health and Community Services.

Flight Crew Member Name:

Signature:
License #
Date Signed

INCLUDE PHOTOCOPIES OF ALL CURRENT PILOT DOCUMENTS INCLUDING:
1. PILOT LICENCE, ENDORSEMENTS AND RATINGS
2. MEDICAL CERTIFICATE
3. PILOT PROFICIENCY CARD (PPC or PCC)
4. DANGEROUS GOODS CERTIFICATE
5. IMMUNIZATION CERTIFICATES FOR:
   • TETANUS,
   • DIPHTHERIA
   • HEPATITIS B,
   • POLIOMYELITIS,
   • CHICKEN POX
   • INFLUENZA
6. RADIO LICENCE
7. CREW RESOURCE MANAGEMENT CERTIFICATE
8. A CRIMINAL RECORD SEARCH OR A VALID AIRPORT SECURITY CLEARANCE
AIR AMBULANCE AIRCRAFT AND AVIATION SERVICES AGREEMENT

THIS AGREEMENT made at the City of St. John's, in the Province of Newfoundland and Labrador, on this 15th day of September, 2015.

BETWEEN: HER MAJESTY IN RIGHT OF NEWFOUNDLAND AND LABRADOR, as represented by the Minister of Health and Community Services

("the Client")

AND: PAL AEROSPACE LTD., a corporation continued under the Canada Business Corporations Act and extra-Provincially registered under the laws of the Province of Newfoundland and Labrador

("the Contractor")

(together "the Parties")

WHEREAS:

(i) The Client has requested that the Contractor provide Air Ambulance Services ("Services") in accordance with the terms and conditions set forth in this Agreement; and

(ii) The Contractor has agreed to provide the Services in accordance with the said terms and conditions and for the compensation hereinafter set forth.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, promises, conditions and arrangements contained herein, the Parties agree as follows:

I. Definitions

In addition to the terms defined in the Special Terms and Conditions attached as Schedule "B", and the General Terms and Conditions attached as Schedule "C", the following words and phrases shall have the following meanings:

a. "Contract Documents" shall mean and include:

   i. This Head Agreement (the "Head Agreement");
   ii. The Scope of Services attached as Schedule "A";
   iii. The Special Terms and Conditions attached as Schedule "B";
iv. The General Terms and Conditions attached as Schedule “C”; and

b. “Representatives” includes directors, officers, employees, Contractors, sub-Contractors, agents, advisors or partners.

II. The Contractor’s Services

The Contractor shall do all things necessary to fulfill all of the obligations as set out in these Contract Documents (the “Services”). The Services shall be performed by the Contractor to the satisfaction of the Client.

III. Payment

3.1 Consideration

It is agreed and understood that payments made for the satisfactory performance of the Services pursuant to this Agreement shall be made as follows:

(a) The amount of $68,000.00, payable monthly for each month of the term of the Agreement on the monthly anniversary of commencement of the Agreement; and

(b) The amount of $2.20 per statute mile for each Medical Personnel/Patient Onboard statute mile between commencement and destination points for flights undertaken by the Contractor in accordance with the terms of this Agreement, to be billed monthly.

3.2 Reimbursement of Expenses

It is agreed and understood that reimbursements for the Contractor’s expenses pursuant to this Agreement shall be made as follows:

(a) The Client will be responsible for the following reimbursable expenses related to flights undertaken by the Contractor in the performance by the Contractor of this Agreement, to be billed monthly at the cost paid by the Contractor and with supporting documentation, receipts and other information provided:

   (i) landing charges as incurred at airports other than St. John’s;
   (ii) other regulatory fees relating to flight operations such as NAV CANADA fees; security fees and ramp fees;
   (iii) Aircraft parking fees at airports other than St. John’s International Airport;
(iv) Aircraft handling fees at airports other than St. John's International Airport;
(v) de-icing charges;
(vi) where a flight crew is caused to overnight at an airport location other than St. John's due to crew duty day requirements or severe weather:
   1. expenses related to accommodation and taxi/ground transportation expenses; and
   2. meals at the lower of actual cost or the Client's applicable per diem rates for travel (copies of these rates are available on request from the Client);
(vii) If the aircraft and pilots are repositioned at the Client's or its authorized delegates' request, the Contractor may also invoice as a direct pass through the following additional flight costs (with proof of invoice):
   - Repositioning statute flight miles (Direct Point to Point);
   - Hangar Fees;
   - Hotel;
   - Pilot Per Diem at the lower of actual cost or the Client's applicable per diem rates for travel (copies of these rates are available on request from the Client);
   - Rental Car; and
   - Taxi/ground transportation.
(viii) fuel consumed through flight operations pursuant to this Agreement at the lower of:
   1. the actual cost; or
   2. if the Client has a Fuel Management Program in place, the price which the Client would pay its contracted fuel suppliers under that program;
(ix) the actual cost of any pre-approved receipted medical supplies and equipment used or consumed in operations pursuant to this Agreement; however:
   1. The Client reserves the right in its sole discretion to determine if such charges are reasonable; and
   2. The Client will monitor purchases to ensure the requested supplies are appropriate for service levels.
(b) Except as provided above, the Contractor is responsible for all other costs associated with the Service and it shall be presumed that all such costs are included in the monthly payment in (a).

3.3 Payment General

(a) Notwithstanding the provisions above, no consideration shall be owing to the Contractor under Articles 3.1 or 3.2 in respect of any period during which the operation of this Agreement is suspended in accordance with the terms herein.

(b) The Parties agree and confirm that as set out in section 25(6) of the Financial Administration Act, RSNL1990 cF-8, as amended, all fees payable in accordance with this Agreement are subject to there being an appropriation for the work for the fiscal year in which payment under this Agreement is due.

(c) Payment will be made within thirty (30) calendar days of receipt of a properly documented invoice.

(d) All prices are exclusive of HST. Applicable taxes are extra and shall be billed as a separate item on each invoice. The Contractor shall conform to any request made by the Client to alter the form of invoice customarily used by the Contractor. The Contractor agrees that each invoice shall clearly show and identify the Service(s) being charged. The invoice shall have appended thereto any documentation required by the Client.

(f) The Client shall not be responsible to pay any amounts invoiced by the Contractor which may arise from Services or expenses incurred to remedy errors or omissions in the Services for which the Contractor is responsible.

(g) The Contractor shall submit invoices to:

Wayne Young  
Manager, Air & Road Ambulance Programs  
Department of Health & Community Services  
Government of Newfoundland & Labrador  
P.O. Box 8700  
St. John's NF A1B 4J6

IV. Notices

Except as otherwise specifically provided for herein, all notices, claims, payments, reports and other communications required under this Agreement
shall be in writing. The addresses for service are as follows:

For the Client:
Beverly Griffiths
Director
Acute Health Services and Emergency Response
Department of Health & Community Services
Government of Newfoundland & Labrador
Tel: 709-729-0717
Fax: 709-729-4009
Email: bgriffiths@gov.nl.ca

For the Contractor:
Provincial Aerospace Ltd.
Tel: 709-576-1803
Cell: [Redacted]
Email: [Redacted]

Except as otherwise specifically provided for herein, notices, requests or documents shall be deemed to have been received by the addressee as follows:

(a) As of the date on which they are delivered where delivery is by a party or by messenger or special courier service;
(b) As of the date on which they are sent where delivery is by telecopier or other means of electronic communication; and
(c) Six (6) days after delivery to Canada Post Corporation where the postal service is used.

V. Entire Agreement
It is hereby agreed that these Contract Documents constitute the entire agreement between the Parties (the "Agreement"). There are no understandings, representations or warranties of any kind except as expressly set forth herein. No changes, alterations or modifications or amendments of this Agreement shall be effective unless made in writing and signed by those persons designated for such purpose. This Agreement may be amended or otherwise modified by e-mail.

VI. Representations and Warranties
The Contractor hereby represents and warrants that every fact stated or represented by the Contractor or its Representatives to the Client in connection with any proposal made by the Contractor in respect of the Services is true and agrees that the Client shall be conclusively deemed to have relied on each such representation or statement in entering into this Agreement.
VII. **Conflict Between Provisions**

7.1 In the event of any conflict or inconsistency between provisions in the Contract Documents, the Contract Documents will have precedence as follows: first the Head Agreement, second the Special Terms and Conditions, third the General Terms and Conditions, fourth the Protocols for Security of Government Information on Information Technology assets of Contractors, fifth the Scope of Services, and last, any documents incorporated by reference in any of the foregoing.

7.2 With regard to the RFP Documents and Contractor's Response referenced in Schedule A, in a case where the Contractor's Response is inconsistent with the RFP Documents, the RFP Documents will have precedence.

VIII. **No Assignment**

The Contractor is not permitted to assign this Agreement without the prior written approval of the Client, in its sole discretion.

IX. **Start and Completion Date**

The Contractor shall commence activities in relation to the Services with the start and completion dates mutually agreed upon as follows:

- **Start Date:** September 1, 2015
- **Completion Date:** August 31, 2017

The Client shall have the option to extend this contract for up to twelve (12) additional months, upon mutual written consent of both parties. Any such extension shall continue with the same terms and conditions as this Agreement.

X. **Effective Date**

The effective date of this Agreement shall be the earlier of the start date referred to in Clause IX or the date on the first page of this Head Agreement.

XI. **Paragraph Numbering**

In the event that the General Terms and Conditions are modified by the Special Terms and Conditions, the numbering references in the General Terms and Conditions shall remain unchanged.

XII. **Counterparts**

This Agreement may be executed in any number of counterparts, each of which will be considered an original of this Agreement, and which together will constitute one and the same instrument. No Party will be bound to this
Agreement unless and until all Parties have executed a counterpart. A facsimile signature or an otherwise electronically reproduced signature of either Party shall be deemed to be an original.

HER MAJESTY IN RIGHT OF
NEWFOUNDLAND AND LABRADOR

Minister of Health & Community Services or his/her authorized designate

Date: __________________________   Date: September 15, 2015
SCHEDULE "A"

SCOPE OF SERVICES

1.1 The Services to be provided by the Contractor for the Client shall be in accordance with RFP Document No. HCS Air 2014-001 including Addenda thereto (the "RFP Documents") and the Response of the Contractor dated January 28, 2015 to the said RFP Documents, both of which form part of this Agreement by attachment and incorporation by reference.

1.2 In the event of any conflict or inconsistency between provisions in the RFP Document and the Response of the Contractor, the provisions of the RFP Documents shall have priority.
SCHEDULE “B”
SPECIAL TERMS AND CONDITIONS

The Articles of the General Terms and Conditions are modified as follows:

1. The term “Consultant” in the General Terms and Conditions and in Schedule “D” is to be considered to be changed throughout to “Contractor”.

2. Article 6.2 is deleted, with the existing Article 6.3 to be renumbered to 6.2.

3. The following clauses are to be added after the renumbered Article 6.2:

6.3 The Contractor will be in default of this contract:

(a) If the Contractor is:

   (i) declared or adjudged bankrupt or gives notice of its intention to make a proposal under the Bankruptcy and Insolvency Act (Canada);

   (ii) proposes a compromise arrangement, reorganization or winding up under the Companies Creditors Arrangement Act (Canada) or other applicable federal or provincial legislation; or

   (iii) makes a general assignment for the benefit of its creditors or if a receiver is appointed over all or a substantial portion of its assets;

(b) If, in the opinion of the Client, the Contractor jeopardizes the safety of a patient or health professional while performing the Services as and when required;

(c) If the Contractor fails to provide the Services subject to Article 14(b) Force Majeure; or

(d) If the Contractor makes any other material default in its obligations under the contract.

6.4 Without restricting any other rights of the Client, upon the occurrence of a default by the Contractor of its obligations to provide the Services under Article 6.3(c), the Client may give notice to the Contractor specifying the particulars of the default and the Contractor shall remedy the default within three (3) days of receipt of the notice by the Contractor.
6.5 In the event the Contractor fails to remedy a default after receiving written notice, the Client may, in addition to or in substitution for any other remedies it may have under this Agreement or in law, do any of or a combination of the following:

(a) do any act it deems necessary to rectify such default and the Client may deduct or set off the cost of such rectification against payment due to the Contractor;

(b) withhold or hold back in whole or in part any payment due to the Contractor without penalty, expense or liability, and any such hold back shall continue until the default has been remedied to the satisfaction of the Client; or

(c) terminate the contract by giving written notice to that effect to the Contractor.

6.6 In addition to or in substitution for any other remedies it may have under this Agreement or in law, the Client may, if the Client determines it is in the interest of public safety to do so, require the Contractor to suspend the provision of Services for a period not to exceed thirty (30) days by giving notice of suspension to the Contractor, and the Contractor will suspend all operations in respect to the Contract in accordance with such Notice.

6.7 The Contractor shall not terminate the Contract for any reason without six months prior written notice to the Client.

4. The following clauses are to be added after Article 7.3 as Article 7.4:

7.4 Insurance and Property Damage

7.4.1 The Contractor shall, at its own costs, secure and maintain in effect throughout the term of the Contract (occurrence basis, not claims made basis), a Liability Insurance Policy covering the agreed upon aircraft or any substitute thereof, and their operation, in respect of claims arising from death, personal and bodily injury (including loss of use thereof), passenger liability and including but not limited to all liabilities assumed under this Agreement, with a limit of not less than twenty million dollars ($20,000,000) inclusive per occurrence. The Insurance Policies shall include the Client as an additional named insured with a cross-liability clause and shall also insure the Client’s interest regardless of any breach or violation by the Contractor of any warranties, declarations, or conditions of such policies.
7.4.2 The Contractor shall, at its own cost, arrange for the completion of a Certificate of Liability Insurance and submit such Certificate to the Client prior to the commencement of the Services to be provided hereunder. Such Certificate of Liability Insurance shall include a provision acknowledging the provisions of the Agreement and requiring the insurer to give sixty (60) days prior written notice to the Client in the manner set policy conditions in the event that the policy is changed to the prejudice of the Client or cancelled.

7.4.3 The Contractor shall assume full responsibility and shall hereby release the Client from any responsibility during the term of this Contract for any physical damage, however caused to the aircraft, any substitute therefore provided hereunder, and all equipment, including both aircraft and medical supplies therewith except for any act of gross negligence by the Client or its representatives. Such release on behalf of the Client shall be binding upon the Client’s insurer and the Client’s successors and assigns.

7.4.4 Subject to 14(b) Force Majeure, in the event that the Contractor fails to provide a Mission Ready aircraft the Contractor will pay resulting damages to the Client calculated based upon a daily charge of 1/30 of the monthly fee prorated hourly. Damages will begin to be assessed on the twenty-fifth (25th) hour of the Contractor’s failure to provide the Ambulance Program with an Aircraft for scheduled maintenance periods, and on the forty-ninth (49th) hour of the Contractor’s failure to provide the Air Ambulance Program with an Aircraft during unscheduled maintenance.

7.4.5 The Contract shall terminate on its natural expiry date, according to the contract term. In the event of default by the Contractor, the Contract shall terminate on the day set out by the Client in its written notice of termination, and the Contractor shall forthwith invoice the Client for the work performed to date of the termination.

7.4.6 Notwithstanding the provisions of 7.1 and 7.3 above, the Consultant shall not be liable for any negligence of the Client or those for whom the Client is responsible for in law.

5. The following Clauses are to be added after Article 8.2 as Article 8.3:

8.3 If a permit, licence, consent or authorization is required by law for the carrying on of the Services:
(a) it is the Contractor's responsibility to obtain all necessary permits, licenses, consents and authorizations; and

(b) the Contractor shall provide a copy of the said permits, licenses, consents or authorizations at the request of the Client.

6. The following clauses are to be added after Article 14:

Article 15 - AIR FLIGHT DISPATCHING

15.1 Notice to the Contractor of the dispatching of required services (for the purposes of this Article a "Notice") will originate from a designate of the Client. The Client will advise the Contractor of the designated individual or organization for such Notices as quickly as practicable after the commencement of this Agreement.

15.2 Each Notice will include the intended destination of the flight, the required departure time, as well as any other required information in the circumstances. Each Notice will be provided to the Contractor at the contact below via phone or e-mail; where the Notice is provided by phone an e-mail confirmation will follow. The one (1) hour minimum period for the provision of services commences with the time of the phone call or e-mail which constitutes Notice above, even if Notice via phone call results in a message being left for the Contractor or notice via e-mail does not result in positive confirmation of receipt of the e-mail notice by the Contractor. The Client does not have to receive positive confirmation of the receipt of the Notice, if provided in accordance with the Agreement, for the one (1) hour minimum period to commence.

15.3 A Notice will be provided to the following Client contact:

- Individuals:
  - Phone #:
  - Alternate phone #:
  - E-mail address:

The Contractor will have appropriate messaging systems in place to ensure that the Contractor is immediately aware of notice once it is received, and take all reasonable efforts to ensure the reliability of that system.

15.4 The Client may change the designated individual or organization source of the Notices, and the form of the Notice provided, from what is set out above on a temporary or permanent basis upon written notice of such changes to the Contractor.
Article 16 - MAINTENANCE

16.1 All scheduled maintenance will be coordinated with the availability of the Client’s other air ambulance aircraft and approved by the Client or its designate in advance of any such maintenance. The Client and the Contractor acknowledge the Contractor has provided the details and anticipated duration of each service outage for all planned maintenance over the 24 months commencing September 1\textsuperscript{st}, 2015, which is included in the attached Contractor proposal referred to in the Scope of Work.

16.2 Should the Contractor’s designated aircraft be unavailable due to unscheduled maintenance, the Contractor shall supply an alternate aircraft with specifications as deemed acceptable at the sole discretion of the Client or its designate within 48 hours.
Schedule "C"
GENERAL TERMS AND CONDITIONS

Article - 1. INFORMATION SUPPLIED BY THE CLIENT

1.1 The Client will furnish to the Consultant all available information necessary for the performance of the Work. The Client makes no guarantee either expressed or implied as to the accuracy of the information supplied. The Consultant shall review the information for accuracy and applicability.

1.2 Where discrepancies, omissions or obscurities in the information are evident, the Consultant shall bring them to the attention of the Client and secure written instructions from the Client before proceeding with any work.

Article - 2. CONFIDENTIALITY, MATERIALS AND COPYRIGHT

2.1 For the purposes of this Article "Confidential Information" means:

(a) all communications and instructions from the Client respecting the Services, including the fact of this Agreement;

(b) all information acquired by the Consultant, his/her employees, servants and/or agents respecting policy consideration and development, business decisions, internal deliberations, discussions and considerations and any other aspect of the decision-making process of the Client;

(c) all oral, written, electronic, and machine readable information and data and any accompanying supporting materials and documentation, including without limitation, materials, documents, reports, databases, information and data of whatever nature and kind concerning the affairs of the Client, disclosed directly or indirectly to the Consultant, his/her employees, servants and/or agents during the performance of the Services or in any way related thereto;

(d) all personal information, as defined from time to time under the Access to Information and Protection of Privacy Act, SNL2002 cA-1.1, or the Personal Health Information Act, SNL2008 cP-7.01, to mean recorded information about an identifiable individual, including

(i) the individual's name, address or telephone number,

(ii) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,

(iii) the individual's age, sex, sexual orientation, marital status or family status,

(iv) an identifying number, symbol or other particular assigned to the individual,
(v) the individual's fingerprints, blood type or inheritable characteristics,
(vi) information about the individual's health care status or history, including a physical or mental disability,
(vii) information about the individual's educational, financial, criminal or employment status or history,
(viii) the opinions of a person about the individual, and
(ix) the individual's personal views or opinions

for any individual, which is, directly or indirectly, disclosed to or collected by the Consultant, its, his/her employees, servants and/or agents during the performance of the Services or in any way related thereto;

(e) all information that is developed based upon Confidential Information including the work product of the Consultant, its, his/her employees, servants and/or agents; and

(f) Confidential Information shall not include any information which:

(i) at the time such information was provided to the Consultant was or thereafter became part of the public domain through no act or omission of the Consultant or its, his/her Representatives; or

(ii) is information which the Consultant can show possession of prior to the date of this Agreement and which was received or developed by the Consultant free of obligations of confidentiality to the Client.

2.2 The Consultant shall treat all Confidential Information acquired by the Consultant in the performance of the Services as privileged and confidential and shall not divulge the same to any person or persons at any time without the express written approval of the Client, unless required to do so by law, which may include a subpoena or other similar process or in connection with litigation, arbitration or other proceeding or by virtue of an Act or Regulations. In the event that such disclosure is required, the Consultant shall give the Client prompt notice of the requirement upon becoming aware that such disclosure is required. Where circumstances did not permit the Consultant to provide such notice prior to disclosure, the Consultant shall provide such notice to the Client immediately after the required disclosure.

2.3 The Consultant shall only use the Confidential Information acquired in the performance of the Services for the purposes specified in the Scope of Work and this Agreement, and shall not permit the use of the Confidential Information for any other purposes.

2.4 All materials, data, designs, plans, drawings, specifications, research, reports, notes, estimates, summaries, calculations, surveys, papers, completed work, and work in progress and such other information and materials or parts thereof as are compiled, drawn and produced by the Consultant in performing the Services, including without limitation, computer printouts and computer models and all copyrights thereto and all patents, trademarks and industrial designs arising therefrom, are the sole and exclusive property of the Government of Newfoundland and Labrador and the contents thereof are privileged and confidential. Nothing in this Agreement shall give the Consultant a right, however arising, to assert any lien, claim, demand, property right, remedy or security right of any kind over the information provided to the Consultant pursuant to the terms of this Agreement. The Consultant acknowledges that the Client's right to this information shall at all times be paramount to any rights of the Consultant, at law or in equity, and
that the Consultant’s remedies against the Client for the Client’s breaches under this Agreement do not include the right to deprive the Client of access to the Client’s information in the Consultant’s possession.

2.5 The Consultant shall provide to the Client and solely to the Client upon completion of the Services or upon earlier termination of this Agreement all Confidential Information acquired during the performance of the Services, or shall, at the request of the Client, destroy any and all copies and versions of the Confidential Information in the possession of the Consultant, his/her employees, servants and/or agents, and shall certify the destruction of same to the Client.

2.6 The Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Consultant, its employees, servants and/or agents in the performance of the Services and in particular personal information, is subject to privacy legislation in this jurisdiction, including but not limited to the Access to Information and Protection of Privacy Act, the Management of Information Act, SNL2005, cM-1.01, the Privacy Act, RSNL1990 cP-22, and Personal Health Information Act, SNL2008 cP-7.01, as well as other legislation which may apply in the jurisdiction of the Consultant’s operation. The Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Consultant, its, his/her employees, servants and/or agents. The Client may be compelled to disclose financial information pursuant to the first cited Act.

2.7 The Consultant shall ensure that it, his/her employees, servants and/or agents have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all Confidential Information, including but not restricted to the following:

(a) at a minimum, using the same level of physical and electronic security as the Consultant employs to avoid disclosure or dissemination of the Consultant’s own confidential information, to prevent the disclosure of any of the Confidential Information to any third party, or to any of its employees, servants or agents other than those who are required to have access to properly perform the Services under this Agreement;

(b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the Confidential Information;

(c) ensure all employees, servants and/or agents of the Consultant comply with all policies, standards and safeguards established under this Article;

(d) advise the Client of any changes in its, his/her security systems, procedures, standards and practices that may affect the Confidential Information and seek the Client’s consent prior to such changes; and

(e) satisfaction of the foregoing commitments includes, but is not restricted to, compliance with the requirements set out in Schedule “D”, unless otherwise advised by the Client, and this includes:

(i) complying with all alterations or updates of Schedule “D” as may be provided to the Consultant from time to time; and
adhering to any additional instructions (including oral instructions) from
the Client as they relate to the subject matter contained in Schedule "D"
and this Article.

2.8 The Consultant shall only disclose confidential information to persons other than its
employees, servants and/or agents with the prior written consent of the Client, and then
only to those persons who need to know the information in order to carry out the duties
associated with this Agreement and only after confirming that such persons agree to
comply with the provisions of this Article including the requirements set out in Schedule
“D”.

2.9 The Consultant shall:

(a) notify the Client promptly of any unauthorized possession, use or knowledge, or
attempt thereof, of the Client's information in the possession of the Consultant,
including but not limited to data processing files, transmission messages or other
confidential information by any person or entity which may become known to the
Consultant;

(b) promptly furnish to the Client full details of the unauthorized possession, use or
knowledge, or attempt thereof, and assist the Client in investigating or preventing
the recurrence of any unauthorized possession, use or knowledge, or attempt
thereof, of confidential information;

(c) use reasonable efforts to cooperate with the Client in any litigation and
investigation against third parties deemed necessary by the Client to protect its
proprietary rights;

(d) promptly use all reasonable efforts to prevent a recurrence of any such
unauthorized possession, use or knowledge of confidential information; and

(e) refer to and follow the privacy breach protocol of the Government of
Newfoundland and Labrador as it exists at the time of the breach and located on
the Department of Justice website at:
http://www.justice.gov.nl.ca/just/CIVL/atipp/default.htm

Article - 3. EMPLOYEES OF THE CONSULTANT

3.1 The Consultant shall provide employees who are competent in their field of
specialization. The Client will have the right to have the Consultant remove from the Work
any person, who by misconduct or by failure to properly perform his/her duties is
considered by the Client to be unfit for employment on the Work. If the Consultant fails to
remove any unfit person from the Work as requested by the Client, then the Client may
void this Agreement or refuse to accept subsequent Work in which the person was
involved and may refuse to approve payment for such Work.

3.2 The Consultant shall not alter, remove or replace the employees or Representatives
indicated in the Scope of Work without prior written approval by the Client.
Article - 4. ACCESS TO FACILITIES

4.1 The Client agrees to provide, where it is deemed by the Client, in its absolute and sole discretion to be necessary for the reasonable performance of the Work, working space and equipment access for the Consultant to perform the Work during Client office hours.

4.2 When using or accessing the premises of the Client, the Consultant and all officers, employees and agents of the Consultant shall comply with all security regulations and workplace policies and procedures in effect from time to time at the Client's facilities.

Article - 5. RECORDS AND AUDIT

5.1 The Consultant shall keep records, books of account and supporting documents in accordance with accepted accounting procedures and practices. The records shall be made available to the Client or its authorized representative for observation or audit at mutually convenient times and up to one year after discharge of this Agreement.

5.2 The Consultant shall furnish reports as required by the Client for the purpose of monitoring the progress of the Work.

Article - 6. TERMINATION

6.1 This Agreement is deemed to be concluded once the Work has been completed to the satisfaction of the Client and payment(s), as stipulated in the Agreement, has been issued to the Consultant.

6.2 Notwithstanding the provisions of this Agreement, either of the Parties may at any time by way of fourteen (14) days written notice to the other, terminate this Agreement.

6.3 Where this Agreement is terminated prior to the mutually agreed upon completion date, the Consultant shall thereupon be entitled to payment in accordance with this Agreement in respect of that part of the Work completed up to the date of termination, provided however, that the Consultant shall not be entitled to any other payment in respect of such termination, including, without prejudice to the generality of the foregoing, any payment for any consequential loss or damage or loss of profits arising from termination of this Agreement or in any other way related thereto. The Client shall retain the right of set off with respect to any earned but unpaid proceeds then owing pursuant to this Agreement.

Article - 7. LIABILITY

7.1 The Consultant agrees that in performance of the Work neither the Consultant nor any Consultant's Representative shall be or be deemed to be an officer, servant, agent or partner of the Client.

7.2 The Client shall not be liable for, and the Consultant shall indemnify and save harmless the Client and the Client's Representatives against all losses, costs, charges, or expenses incurred by the Client and its agents as a result of actions, claims or awards for compensation at law, equity or under any applicable legislation, made or brought by, against, suffered by or imposed upon the Client, or its Representatives by a third party,
as a result of or related to the performance of this Agreement by the Consultant or the Consultant’s Representatives.

7.3 The Consultant shall defend any and all such actions and pay all legal charges, costs and other expenses arising therefrom. Notwithstanding the foregoing, the Client may at its own discretion retain its own solicitors to defend its interests in any such suit or claim, and the legal costs of that defense shall be paid by the Consultant.

Article - 8. COMPLIANCE WITH LAW

8.1 In respect of any work within the Province of Newfoundland and Labrador connected with or arising from this Agreement, the Consultant shall provide (where requested by the Client) evidence of compliance with all requirements of the Province of Newfoundland and Labrador with respect to Worker’s Compensation and or Occupational Health and Safety, including without limitation, any payments or compliance orders due or issued thereunder.

8.2 The Consultant shall ensure that the Consultant and its Representatives comply with all requirements of any governing federal, provincial or municipal legislation, by-laws or regulations applicable to the Consultant or the Consultant’s Representatives in the performance of the Work.

Article - 9. ARBITRATION

9.1 In the case of a dispute arising between the Client and the Consultant as to their respective rights and obligations under this Agreement, the parties shall first attempt to resolve all matters through friendly negotiation by a meeting between their representatives upon notice. A resolution reached in this way must be reached within 10 days of both parties having knowledge and notice of the dispute and be reduced to writing.

9.2 In the case of a dispute arising between the Client and the Consultant as to their respective rights and obligations under this Agreement, (that has not been resolved pursuant to Article 9.1), either party may give the other notice of such dispute and to request arbitration thereof. If both parties agree, the parties shall, with respect to the particular matters then in dispute, submit the same to arbitration in accordance with the provisions of the Arbitration Act, RSNL1990 cA-14, including such provisions for the appointment of arbitrators.

Article - 10. LAWS GOVERNING

10.1 This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Newfoundland and Labrador and all actions, suits or proceedings arising out of this Agreement shall be determined in a court of competent jurisdiction in Newfoundland and Labrador subject to any right of appeal.
Article - 11. USE OF WORK

11.1 The Client shall have the right to use the Work or variations thereof in other operations of the Client.

Article - 12. CONFLICT OF INTEREST

12.1 No public employee or member of the House of Assembly of the Province of Newfoundland and Labrador shall be admitted to any part or share of the payments made pursuant to this Agreement or to any benefits arising therefrom except in accordance with the Conflict of Interest Act or the House of Assembly Act.

12.2 The Consultant and the Consultant's Representatives:
   (a) shall conduct all duties related to this Agreement with impartiality;
   (b) shall not influence, seek to influence, or otherwise take part in a decision of the Client, knowing that the decision might further their private interests;
   (c) shall not accept any commission, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of any duties related to this Agreement, that causes, or would appear to cause, a conflict of interest; and
   (d) shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of any duties related to this Agreement.

Article - 13. SUBCONTRACTORS

13.1 The Consultant shall not subcontract all or a portion of the Work without the prior written approval of the Client.

13.2 The entry into any subcontract shall not relieve the Consultant of any of its obligations under the terms of this Agreement.

Article - 14. GENERAL

(a) Articles 2 and 7 of this Agreement shall survive the termination or expiration of this Agreement.

(b) Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered, or prevented by force majeure. Force majeure shall be any cause beyond the control of the parties hereto which they could not reasonably have foreseen and guarded against.

(c) Time shall be of the essence of this Agreement.
(d) The failure of the Client to insist upon or enforce in any instance strict performance by the Consultant of any of the terms of this Agreement or to exercise any rights herein conferred shall not be construed as a waiver or a relinquishment to any extent of the Client's right to assert or rely upon any such terms or rights on any future occasion.

(e) If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall attach only to such provision, and all other provisions hereof shall continue in full force and effect.

(f) The division of this Agreement into Articles and Clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.

(g) This Agreement shall inure to the benefit of and be binding upon the Parties hereto, their respective heirs, legal representatives, successors and assigns.

(h) The Consultant shall not assign this Agreement in whole or in part to any third party without the prior written approval of the Client.

END OF SCHEDULE "C"
SCHEDULE “D”

Protocols for Security of Government Information on Information Technology assets of Contractors

The Consultant shall confirm with the client Department whether the Consultant will be required to use information technology resources, including computers, of the Government of Newfoundland and Labrador in the conduct of the work under the Agreement. The following requirements apply where the Consultant will not be using such assets, but will instead have access to confidential information (including personal information) (“Confidential Information”) received from the Government of Newfoundland and Labrador (“Government”) and will be storing, manipulating or accessing that Confidential Information on the Consultant’s own information technology resources.

- All portable storage devices or media (e.g., flash drives, memory sticks, portable hard drives, writeable compact discs or digital video discs, etc.) may only be used to transport and/or store Confidential Information where either the Confidential Information or the device or media is encrypted.

- Unless specifically separately authorized by the Agreement or otherwise, the Consultant is not permitted to attach non-government computers or other information technology systems to any Government network.

- Consultants are expected to implement and maintain up to date versions of all ordinary business software for the reasonable protection of information on computers attached to the Internet which will have access to or store Confidential Information, including security firewall and anti-viral software.

- Consultants are not permitted to use any Peer to Peer file sharing program (e.g., Limewire, etc.) or chat program (i.e., MSN, Skype) on any information technology asset which will contain Confidential Information, or which will be connected via a network to any computer which will contain Confidential Information.

- Email should not be used as a method to transmit Confidential Information across public networks such as the Internet unless the e-mail and/or its attachments are encrypted or zipped in a secure manner.

- The Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Consultant, its employees, servants and/or agents in the performance of the Services and in particular personal information, is subject to privacy legislation in various jurisdictions, including but not limited to the Access to Information and Protection of Privacy Act, and Management of Information Act, SNL2005, cM-1.01, and the Privacy Act, RSNL1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Consultant’s operation. The Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Consultant, its employees, servants and/or agents.
Where a Consultant will be granted access to the Government computer network during the course of the work, in addition to the requirements noted above, the Consultant shall not:

- Share personal computer drives or folders on a computer accessing the network; or
- Access the network remotely, either through wired or wireless connections, except through the use of secure ID and virtual private network systems.

These requirements apply to the Consultant and all agents, employees or permitted sub-Consultants of the Consultant, and it is the responsibility of the Consultant to ensure that all such agents, employees or permitted sub-Consultants are aware of these restrictions and are in compliance with them.

END OF SCHEDULE D