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April 2, 2026

Addendum No. 01

File Reference Number: RFQ 2026 029

**Title: Supply, Delivery, Installation, Maintenance and Removal of
Temporary Rental Trailers - Timmins**

RE: Clarifications/Questions

CLARIFICATIONS:

Item 1: Appendix A - Form of Agreement

Please see attached ONTC's Draft Agreement to include at Appendix A of the RFP Package.

This Addendum hereby forms part of the RFP.

Regards,

Nicole Laplante
Procurement Contracts Specialist
nicole.laplante@ontarionorthland.ca

THIS EQUIPMENT LEASE AGREEMENT is made effective **XXX** (the “Effective Date”)

BETWEEN:

ONTARIO NORTHLAND TRANSPORTATION COMMISSION

(“**ONTC**”)

- and-

XXX

(the “**Supplier**”)

THE PARTIES AGREE AS FOLLOWS:

Interpretation

1. **Definitions.** In this Agreement,

“**Acceptance Date**” means the date that ONTC advises that it has accepted the Equipment in accordance with Sections 19 or 20;

“**Agreement**” means this agreement and all attached schedules;

“**Applicable Laws**” means means all requirements under or prescribed by the common law, and all applicable federal, provincial, regional, local or municipal laws, statutes, codes, acts, permits, licenses, ordinances, orders, by-laws, rules and regulations, which may now, or at any time hereafter be applicable to and enforceable in relation to the matters to which this Agreement relates;

“**Change Order**” has the meaning set out in Section 31;

“**Confidential Information**” means all information of ONTC that is of a confidential nature, including all confidential information in the custody or control of ONTC, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Supplier in connection with the Agreement. For greater certainty, Confidential Information shall:

- (a) include: (i) all new information derived at any time from any such information whether created by ONTC, the Supplier or any third-party; (ii) all information (including personal information) that ONTC is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise at law; but
- (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to ONTC or to any third-party; (ii) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (iii) the Supplier can demonstrate to have been rightfully known to or in the

possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the Supplier; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Agreement or at law;

“Conflict of Interest” means any actual or potential conflict of interest including, but not limited to:

- (a) situations or circumstances that could compromise the ability of the Supplier to perform its obligations under the Agreement; and,
- (b) the offer or giving of a benefit of any kind by or on behalf of the Supplier to anyone employed by or otherwise connected with ONTC.

“Defect” or “Defective” means non-conformity to the quantity, quality, specifications, and/or other requirements set out in the Agreement;

“Delivery Date” has the meaning set out in Section 16;

“Environmental Laws” means all applicable federal, provincial, territorial, municipal and local laws, statutes, ordinances, by-laws and regulations, judgments, decrees, common laws and principles thereof, and orders, directives and decisions rendered or issued by any governmental authority relating to Environmental Contaminants or the protection of human health, natural resources or the environment;

“Environmental Contaminants” means any substance, material or waste defined, regulated, listed or prohibited by Environmental Laws.

“Equipment” has the meaning set out in Section 5;

“Force Majeure” means an event or a cause beyond the control of a party, which may include war, interference by civil or military authorities, civil insurrection, local or national emergency, blockade, seizure, riot, sabotage, vandalism, terrorism, earthquake, flood, act of God, accident, fire, nuclear or other explosion, disease, epidemic, pandemic, quarantine restriction, strike, lockout or other labour disturbance, governmental embargo, or changes to any acts, orders, legislation, regulations, directives, or priorities of any government or other public authority; provided such event is not caused by the affected party’s negligence or failure to exercise reasonable diligence. A Force Majeure event or cause does not include an inability to pay or a lack of financial resources unless it is due to a failure of the province to approve the appropriation from the Consolidated Revenue Fund for the Equipment and/or Services;

“Intellectual Property” means any improvement, invention or discovery, whether or not patented or patentable, any technical data, know-how or trade secret, any design, any computer software or any work subject to copyright, whether or not such design or copyright is registered or registrable and all Intellectual Property rights contained, embedded or disclosed in the Equipment;

“Loss” or “Losses” includes loss, liability, damage, cost, expense, legal cost and disbursement;

“**Notice**” includes notification or communication required or permitted to be given by one party to the other party under this Agreement;

“**ONTC Parties**” includes ONTC and its officers, directors, employees, contractors and agents and those for whom ONTC is in law responsible;

“**Rent**” has the meaning set out in Section 7;

“**Services**” has the meaning set out in Section 6;

“**Supplier Parties**” includes the Supplier and its officers, directors, employees, contractors and agents for whom it is at law responsible;

“**Standard of Care**” has the meaning set out in Section 11;

“**Term**” has the meaning set out in Section 10.

2. **Construing this Agreement.** This Agreement is to be construed and interpreted with all changes in number and gender as may be required by the context. The obligations of the parties contained in this Agreement have, where applicable, the status of representations, warranties and covenants by the respective obligated party. Time is of the essence of this Agreement, including if any extension of time is permitted.
3. **Contract Documents.** The contract documents consist of the following:
 - (a) this Agreement;
 - (b) Schedule A (Deliverables/Specifications for Equipment);
 - (c) Schedule B (Supplier’s Proposal); and,
 - (d) any other documents incorporated by reference in any of the foregoing(the “**Contract Documents**”).
4. **Precedence.** Subject to any contrary intention elsewhere in this Agreement, in case of any inconsistency or conflict among the Schedules and the body of this Agreement, the documents shall prevail in the following order, but only to the extent necessary to resolve the conflict or inconsistency:
 - (a) the body of this Agreement;
 - (b) Schedule A (Deliverables/Specifications for Equipment);
 - (c) Schedule B (Supplier’s Proposal); and
 - (d) any other documents incorporated by reference in any of the foregoing.

Particulars of the Agreement

5. **Equipment.** The equipment to be leased under this Agreement consists of mobile trailers, as more particularly described in Schedules A and B (Supplier's Proposal) (the "**Equipment**").
6. **Services.** Supplier shall provide the delivery, installation, repositioning, connection/disconnection, orientation, maintenance, removal [**and janitorial services**] and all other services as described in Schedule A and B (the "**Services**").
7. **Rent.** ONTC shall pay the Supplier for the Equipment to be leased under this Agreement and the Services to be provided, the [**monthly**] rate of **XXX** excluding HST (the "**Rent**"). Rent shall be payable to the Supplier commencing on the Acceptance Date unless otherwise agreed in writing.
8. **Disbursements.** The Rent include all costs, expenses and disbursements required to supply the Equipment and perform the Services. ONTC will not pay any additional amount for disbursements unless the disbursements are approved in writing in advance by ONTC. The Supplier acknowledges that travel expenses will only be approved in accordance with the Management Board of Cabinet Travel, Meal & Hospitality Expenses Directive, January 2020 (<https://www.ontario.ca/page/travel-meal-and-hospitality-expenses-directive-2020>).
9. **Maximum.** The maximum amount payable by ONTC to the Supplier under this Agreement, excluding Harmonized Sales Tax, is: **XXXX** CAN.
10. **Term.** This Agreement becomes effective on the Effective Date, and, unless terminated earlier in accordance with this Agreement, lasts for 12 months from the Acceptance Date (the "**Term**").

Standard of Care

11. The Supplier shall:
 - (a) provide the Services and Equipment in accordance with Applicable Laws and the Contract Documents;
 - (b) obtain all permits required to provide the Services Equipment and provide them to ONTC upon request;
 - (c) ensure that it and its personnel have all certifications required to provide the Equipment and the Services, keep such certifications in good standing, and provide evidence of the requisite certifications to ONTC upon request.
 - (d) while being on ONTC's property, comply with ONTC's policies, including its Drug and Alcohol Policy;
 - (e) perform and cause the Supplier Parties to perform the Services with diligence and in a courteous and business-like manner;
 - (f) not subcontract the provision of the Equipment or any of the Services without the written consent of ONTC;

- (g) avoid any Conflict of Interest and disclose to ONTC any Conflict of Interest the Supplier has or potentially has that arises during the performance of its obligations hereunder; and
- (h) in performing its obligations under the Agreement, exercise the standard of care, skill and diligence that would normally be provided by an experienced and prudent Supplier providing equipment and services of a similar nature to the Equipment and Services to be provided hereunder,

(the “**Standard of Care**”).

The Supplier acknowledges and agrees that throughout the Agreement, the performance of the Supplier's obligations, duties and responsibilities shall be judged against the Standard of Care.

12. **Personnel.** The Supplier shall provide the Services using the Supplier Parties proposed in their submission attached as Schedule B. The Supplier shall not change the personnel providing the Services without ONTC's prior written approval. The Supplier shall coordinate the activities of their personnel and be solely responsible for payment of all costs associated with the personnel. The Supplier shall be responsible for every act or omission of the personnel providing Services to ONTC.
13. **Vendor Performance Policy.** ONTC has a Vendor Performance Policy which requires ONTC to complete an evaluation of the Supplier's performance of its obligations under this Agreement. The performance evaluation of the Supplier for the supply of this Equipment will be used in the assessment of the Supplier's proposals in response to future procurements. The performance evaluation may also result in the Supplier being disqualified from submitting proposals in response to future procurements in accordance with the terms of the policy. The policy can be found at <http://ontarionorthland.ca/en/requests-tenders>.
14. **Inadequate Services.** ONTC shall be the sole judge of the adequacy of the Services received and their value. If ONTC determines that any Services are not in conformity with the terms and conditions of this Agreement, including the Standard of Care and Environmental Laws, ONTC shall advise the Supplier who shall, except as otherwise provided in this Agreement, immediately correct at its own cost and expense the inadequate Services, except to the extent such non-conforming Services were caused by a person who is not a Supplier Party. Provided that if the quality of the Services is such that ONTC determines that the Supplier is not able to provide the Services in accordance with the Standard of Care or within the terms of this Agreement, ONTC may terminate this Agreement in accordance with the early termination provisions of this Agreement.
15. **Discontinuance of Services.** Despite anything to the contrary contained in this Agreement, ONTC may at any time, for any reason, discontinue part of the Services. ONTC shall pay the Supplier for the chargeable amounts for the discontinued part of the Services up to the date that ONTC gives the Supplier notice of its decision to discontinue the Services, or a later date if work, already commenced by the Supplier, cannot reasonably be discontinued until such later date. This shall be the only remedy of the Supplier for discontinuance of part of the Services. The Supplier shall not be entitled to make any claim for loss of profit on the discontinued Services.

Transportation and Risk

16. The Supplier shall be responsible for delivery of the Equipment to the location set out in Schedule A (or such other location as specified by ONTC to the Supplier), on or before **May 15, 2026** (the “**Delivery Date**”). The Supplier shall pay all costs incurred in connection with the shipping and delivery of the Equipment including all duties, excise taxes and brokerage fees.
17. The Supplier shall bear the risk of loss or damage or destruction of the Equipment until the Equipment is delivered to ONTC.
18. Risk of loss or damage to or destruction of the Equipment shall pass to and be borne by ONTC upon completion of delivery of the Equipment to ONTC until the Equipment is collected by the Supplier upon the expiry or earlier termination of the Agreement.

Acceptance of Equipment

19. ONTC and the Supplier shall conduct a joint inspection and testing of the Equipment within [XXX days/hours] of the Delivery Date, as further described in Schedule A. Within two business days following the inspection and testing, ONTC shall either accept the Equipment or advise the Supplier of any Defects discovered in the Equipment and may:
 - (a) require the Supplier to remedy the Defect at ONTC’s location within a specified number of days; or
 - (b) if the Defect is unable to be remedied at ONTC’s location, require the Supplier to retrieve the Equipment and remedy the Defect at the Supplier’s location within a specified number of days.
20. Following the remediation of a Defect pursuant to the preceding section, ONTC shall inspect and test the Equipment to determine if the Defect has been remediated, and, if so, shall advise the Supplier of its acceptance of the Equipment, or, if not, follow the procedures in the preceding section.
21. If ONTC determines, prior to acceptance of the Equipment, that a Defect is unable to be remediated, ONTC may require the Supplier to retrieve the Equipment from ONTC’s location and in addition to any other remedies available to it:
 - (a) ONTC shall be relieved of any further payments of Rent; and,
 - (b) the Supplier shall refund any amounts paid by ONTC to the Supplier relating to the Equipment prior to the non-acceptance by ONTC.

Ownership and Possession

22. The Equipment shall at all times remain the property of the Supplier and ONTC shall not have a property interest in the Equipment.
23. ONTC shall have quiet enjoyment of the Equipment during the Term provided it is not in default of its obligations under this Agreement.

Use, Maintenance and Repair

24. ONTC shall use and operate the Equipment in accordance with Applicable Laws, in the normal and ordinary course of ONTC's business, and for the uses set out in Schedule A. ONTC shall not make any alterations, additions or improvements to the Equipment except the equipment mounting and cabling as set out in Schedule A, or as otherwise permitted by the Supplier in writing and in advance. At the expiry or termination of this Agreement, the Equipment shall be available for collection by the Supplier with any ONTC-installed equipment and cabling removed and shall be in the condition in which the Equipment was delivered, except for ordinary wear and tear and restoration of surfaces, which have been affected by installed equipment and cabling removal, performed as set out in Schedule A.
25. The Supplier shall, at its cost, maintain the Equipment in good working condition throughout the rental period. Service requests shall be responded to within 48 hours unless otherwise agreed upon with ONTC.

Liens

26. ONTC shall not permit the Equipment to become subject to any lien or encumbrance except for such lien or encumbrance created by the Supplier or its assignee.

Equipment Damage or Loss

27. If Equipment is damaged or destroyed in an accident or other occurrence or is confiscated by any governmental authority or is stolen or is abandoned (hereinafter collectively referred to as "**Equipment Loss**"), ONTC shall notify the Supplier of such occurrence as soon as possible. If the Equipment Loss renders the Equipment to be in a condition which the Supplier determines to be beyond reasonable repair, the Supplier may terminate the Agreement immediately and ONTC shall pay the Supplier the fair market value of the Equipment prior to the occurrence of the Equipment Loss, less any insurance proceeds paid to the Supplier from ONTC insurers. The fair market value of the Equipment shall be determined:
 - (a) by mutual agreement by the parties within ten (10) days after the occurrence of the Equipment Loss; or,
 - (b) failing agreement, to be the amount determined by an independent equipment appraiser agreed to by the parties.

Warranty

28. At the time of delivery and for the duration of the Agreement, the Supplier warrants that the Equipment shall: (a) be of good quality and workmanship and be free of deficiencies and defects (including latent defects) of design, material, quality, non-infringement, workmanship and title; (b) comply with industry accepted standards and practices; (c) comply with all Applicable Laws and all specifications, drawings, samples, and other description provided by the Supplier or included in Schedules A and B; and (d) be fit for the intended purposes.

29. ONTC shall benefit from all legal and manufacturer's warranties available in connection with the Equipment and the Supplier shall cooperate with ONTC in the enforcement of the warranties against the manufacturers.

Deliverables

30. The Supplier shall, at the time of delivery of the Equipment, provide the following:
 - (a) any operating manuals; and
 - (b) an orientation to the Equipment as set out in Schedule A.

Changes

31. **Changes.** Changes of any kind to the Equipment or the Services shall only be made by way of a written change order signed by an authorized member of each Party (each, a "**Change Order**") or a Change Directive (as defined below). The Change Order shall specify the details of the change in scope, any agreed adjustment to the Rent and any agreed adjustment to the time for performance. A Change Order shall represent full payment for all costs associated with the change or changes for which it was issued.
32. **Change Directive.** Prior to finalization of a Change Order, ONTC may instruct the Supplier to proceed with additional or changed work by issuing a directive signed by an authorized member of ONTC (each, a "**Change Directive**"). Upon receipt of a Change Directive, the Supplier shall immediately proceed with the changes to the Services as identified therein. The Parties shall then seek to finalize a Change Order as soon as commercially reasonable. Prior to the finalization of the relevant Change Order, the Supplier shall be entitled to payment for pre-approved, reasonable documented costs incurred in respect of a Change Directive, with any additional pre-approved proven reasonable expenses incurred pursuant to a Change Directive charged at cost.
33. **Unauthorized Changes.** ONTC shall have no liability whatsoever for any claim for payment for additional services provided or costs incurred by the Supplier which have not been authorized in advance by ONTC by way of a Change Order or a Change Directive.

Environmental Obligations

34. **Environmental.** The Supplier shall comply with all Environmental Laws in the provision of the Services. If the Supplier fails to comply with Environmental Laws relating to the provision of the Services, the Supplier shall be solely responsible for all costs, claims, fines, fees or other expenses arising from the failure by the Supplier to comply with the Environmental Laws in the provision of the Services, and be responsible for all costs incurred by ONTC and the Supplier to mitigate the damage caused due to the failure.
35. **Unknown Impacts.** The Supplier shall immediately report to ONTC any impacts relating to fish, navigable waters, species at risk, vegetation, wildlife, socio-economic and heritage that arise during performance of the Services and during performance of the Services shall take reasonable steps, including stopping the work if necessary to ensure that any potential impacts are mitigated.
36. **Environmental Contaminants.** The Supplier shall not cause or permit any Environmental Contaminants to be located, stored, disposed of, produced, processed, deposited, released, discharged or incorporated in, on or under any part of ONTC's land except as required to provide the Services. The Supplier shall remove from ONTC's land, immediately upon

demand, at its cost, any Environmental Contaminants introduced thereto by the Supplier that are not required to provide the Services. If there is remediation work required on ONTC's land or adjacent land or watercourse due to environmental contamination that occurred as a result of the Supplier's entry onto ONTC's land to provide the Services, the Supplier shall be responsible for all costs incurred to complete remediation work on ONTC's land and adjacent land or watercourse and shall reimburse ONTC or any public authority or any third party for any reasonable costs incurred as a result of the requirement to complete the remediation work.

37. **Spills and Releases.** All spills and releases of Environmental Contaminants in the course of the work must be immediately reported by the Supplier to ONTC and the Ministry of the Environment, Conservation & Parks ("MOECP") Spills Action Centre ("SAC"). If the ONTC Representative is not available, the Supplier shall report the incident to the MOECP SAC and the ONTC RTC at 800-558-4129 X 141. The Supplier shall take immediate steps to mitigate the damage to the environment and contain the spill or release. If the Supplier does not take timely action or, if the Supplier is not available, ONTC may direct others to remedy the situation. If the spill or release was the fault of the Supplier, the remedial work shall be completed at the cost of the Supplier and with no additional cost to ONTC and ONTC shall be entitled to seek reimbursements for all costs associated with the remedial work including the cost of work done by third parties. If the spill or release was not the fault of the Supplier, ONTC shall pay for the remedial work.

Intellectual Property

38. The Supplier is responsible for obtaining all approvals and licenses with regarding to any Intellectual Property rights related to the Equipment.
39. The Supplier shall be liable for and fully indemnify and hold harmless ONTC against any liability, whether direct or indirect, arising out of a claim by any third party against ONTC alleging that the Equipment and their use by ONTC, infringes any Intellectual Property rights. In the event that an injunction is obtained against ONTC's use of the Equipment because of patent or copyright infringement, or, if such Equipment is likely to become the subject of a claim of infringement, the Supplier shall replace the Equipment, to the satisfaction of ONTC, so that it becomes non-infringing.

Early Termination

40. ONTC may, for cause, terminate this Agreement if the Supplier defaults in the performance of any of the terms and conditions of this Agreement upon providing written Notice to the Supplier of the particulars of the default. If the Supplier fails to remedy the default within 14 days from the date of delivery of the Notice, ONTC shall have the right, at its sole option, to terminate this Agreement forthwith by providing Notice to the Supplier.
41. The Supplier may terminate this Agreement if ONTC fails to make payment that is due and payable within the payment period in accordance with the Agreement and ONTC failing to remedy such breach within 14 days of receiving Notice of the breach.
42. The parties may, by agreement, terminate this Agreement at any time.
43. This Agreement will terminate immediately upon:
- (a) the dissolution of the Supplier; or

- (b) subject to the provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, the Supplier making an assignment for the benefit of its creditors, becoming bankrupt or insolvent, undergoing reorganization, making a proposal to its creditors, or otherwise becoming financially unable to perform its obligations under this agreement.

Confidential Information

44. **General Confidentiality Requirements.** The Supplier shall:

- (a) ensure that all Supplier Parties comply with all the provisions of this Agreement relating to Confidential Information and the Supplier shall be responsible for any failure by any Supplier Party to do so;
- (b) use Confidential Information only for the purposes of performing its obligations hereunder;
- (c) not copy or transcribe into another form, any Confidential Information received from ONTC except as reasonably necessary; and,
- (d) upon the termination of this Agreement, or earlier upon the request of ONTC, promptly destroy or return (as directed by ONTC) all Confidential Information disclosed to the Supplier.

45. **Keeping Confidential Information Confidential.** Except as provided in this Agreement, the Supplier shall keep confidential all Confidential Information collected on behalf of ONTC or disclosed to it by ONTC and shall protect the Confidential Information disclosed to it by ONTC, in the same manner and to the same extent that it protects its own Confidential Information. This obligation shall survive the termination of this Agreement.

46. **Disclosing Confidential Information.** The Supplier may disclose Confidential Information if:

- (a) ONTC approves the disclosure in writing;
- (b) the Supplier is required by law to disclose it, in which case it shall promptly notify ONTC to allow ONTC the opportunity to intervene to prevent the disclosure;
- (c) the Confidential Information is generally and publicly available;
- (d) the Confidential Information was disclosed to the Supplier on a non-confidential basis from a source other than ONTC which the Supplier believes is not prohibited from disclosing such information as a result of an obligation in favour of ONTC;
- (e) is developed by the Supplier independently of, or was known by the Supplier prior to, any disclosure of such information made by ONTC; or
- (f) to the extent required by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or other administrative or legal process, or by applicable regulatory or professional standards or in connection with any judicial or other proceeding relating to Supplier's Equipment to ONTC or this Agreement.

47. **FIPPA.** The Supplier specifically acknowledges that ONTC is subject to FIPPA, and that ONTC may be compelled by law to disclose certain information provided by the Supplier. Where the Supplier is collecting Personal Information on behalf of ONTC, the Supplier must comply with the provisions in FIPPA regarding the collection, retention, use, disclosure and disposal of Personal Information.
48. **Breach of Confidentiality.** The Supplier acknowledges and expressly agrees that any breach by it of this Agreement which does or may result in loss of confidentiality of the Confidential Information or an unauthorized release of Personal Information would cause ONTC irreparable harm for which damages would not be an adequate remedy. If the Supplier breaches the confidentiality provisions of this Agreement, ONTC shall have the right to seek injunctive relief against the continuing or further breach by the Supplier, without the necessity of proof of actual damages. The right to seek injunctive relief without the necessity of proof of damages shall be in addition to any other right which ONTC may have under this Agreement or otherwise in law or in equity. This section shall continue to bind the Supplier after the expiry or termination of this Agreement.
49. This part Confidential Information shall survive the expiry or termination of this Agreement.

Indemnification and Limitation of Liability

50. **General Indemnity.** The Supplier shall indemnify and hold harmless ONTC and ONTC Parties from and against all Losses, by whomever made, sustained, incurred, brought or prosecuted, arising out of, or in connection with, anything done or omitted to be done by the Supplier in the course of the performance of the Supplier's obligations under this Agreement or otherwise in connection with this Agreement. The Supplier shall, at ONTC's election, either assume the defence of every proceeding brought in respect of such Loss, or cooperate with ONTC in the defence, including providing ONTC with prompt Notice of any possible Loss and providing ONTC with all information and material relevant to the possible Loss. For the purpose of enforcement of this indemnity, ONTC is acting as agent and trustee for the ONTC Parties.
51. **Bodily Injury and Property Damage.** The Supplier shall make full and complete compensation for any bodily injury or death to any person and for any damage caused to ONTC's or a third party's physical property by the Supplier's act or omission or that of a Supplier Party.
52. **Supplier Losses.** The Supplier shall be liable for any claims arising from any personal injuries to or death of any of the Supplier Parties or from any loss of or damage to any property belonging to the Supplier or Supplier Parties during the supply of the Equipment unless caused by the negligent act or omission of ONTC or ONTC Parties.
53. **Limitation of Liability.** Notwithstanding any other provision of this Agreement,
- (a) neither party shall be responsible for indirect, consequential, special, incidental or contingent damages of any nature whatsoever, including loss or revenue or profit or damages resulting from interruption of service or transmission. This limitation shall apply regardless of the form of action, damage, claim, liability, cost, expense or loss, whether in contract (including fundamental breach), statute, tort (including negligence), or otherwise, and regardless of whether a party has been advised of the possibility of such damages; and

- (b) any express or implied reference to ONTC providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of ONTC, whether at the time of execution of this Agreement or at any time during the performance of the Work and the Warranty Period, shall be void and of no legal effect in accordance with s.28 of the *Financial Administration Act*, R.S.O. 1990, c. F.12.

Specific Indemnities

54. The Supplier shall indemnify ONTC and ONTC Parties and save them harmless from and against all Loss incurred by ONTC arising from:
- (a) a claim by any third party against ONTC alleging that the Equipment and its use by ONTC, infringes any Intellectual Property rights;
 - (b) safety infractions committed by the Supplier under the *Occupational Health and Safety Act* or any other Applicable Laws, guidelines or public health orders regulating health and safety at the ONTC delivery location;
 - (c) any claims against ONTC for the failure of the Supplier to protect the confidentiality of Confidential Information; and
 - (d) exposure to, or the presence of, toxic or hazardous substances or materials which were either brought on to the ONTC delivery location by the Supplier or a Supplier Party and mishandled or handled negligently or improperly.
55. The parts Indemnification and Limitation of Liability and Specific Indemnities shall survive the expiry or termination of this Agreement.

Insurance

56. **Supplier's Insurance.** The Supplier shall obtain, and for as long as this Agreement is in effect, maintain, pay for and, upon request by ONTC from time to time, provide evidence, satisfactory to ONTC, of the following insurance coverages, all taken out with insurers licensed to transact insurance business in Ontario, bearing original signatures of authorized insurance representatives and satisfactory to ONTC:
- (a) Commercial General Liability Insurance to a limit of not less than five million dollars (\$5,000,000) inclusive per occurrence, including "Ontario Northland Transportation Commission" as an additional insured, with no limitations on or exclusions from coverage arising from working on or around railway property, covering bodily injury, personal injury, death and damage to property, including loss of use of such property, containing cross liability coverage and preclude subrogation claims by the insurer against ONTC and endorsed to provide ONTC with not less than thirty (30) days' notice, in advance, of any cancellation, change or amendment restricting coverage;
 - (b) Automobile Liability Insurance with respect to licensed vehicles, to a limit of not less than two million dollars (\$2,000,000) inclusive per occurrence, including bodily injury, death and damage to property, endorsed to provide "Ontario Northland Transportation Commission" with not less than thirty (30) days' notice, in advance, of any cancellation, change or amendment restricting coverage and in the following forms: standard owner's form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned or

operated by or on behalf of the Supplier, and standard non-owned automobile form policy including standard contractual liability endorsement; and

- (c) Environmental (Pollution) Insurance providing protection for third party bodily injury and property damage resulting from an environmental incident, in the amount of not less than two million dollars (\$2,000,000) per occurrence (per accident or incident or claim) and including ONTC as additional insured.

The Supplier shall ensure that all the insurance is primary and does not call into contribution any other insurance coverage available to ONTC. The Supplier shall not do or omit to do anything which would impair or invalidate the insurance policies.

- 57. **ONTC's Insurance.** ONTC, at its expense, shall maintain during the entire term of this Agreement Commercial General Liability insurance with a limit of not less than \$5,000,000 per occurrence and in the aggregate.

Force Majeure

- 58. **Force Majeure.** Whenever and to the extent either party is unable to fulfil, or is delayed or restricted in fulfilling, any of its obligations under this Agreement by reason of a Force Majeure event, the time for fulfilling such obligation is extended for such reasonable time as may be required by that party to fulfil such obligation, provided that any such inability, delay or restriction does not relate to any extent to any act or omission by that party. No extension of time will be given unless the party seeking the extension submits to the other party within five business days after the date on which the party ought reasonably to have been aware of the Force Majeure event a Notice requesting the extension of time, the cause of the Force Majeure event, the expected duration of the extension and mitigation efforts being undertaken by the party.

Communications

- 59. **Communication.** ONTC or the Government of Ontario will lead and make any announcements relating to this Agreement. The Supplier shall not make any announcement of any kind, including press releases, social media posts, public declarations, or any form of publication or announcement, in relation to this Agreement unless prior written consent is given by ONTC. Should the Supplier be contacted by any media outlet or other person or entity wishing to make any form of publication or announcement, or seeking any information, in relation to this Agreement, the Supplier shall provide no comment and shall immediately notify ONTC. The Supplier shall immediately notify ONTC if it becomes aware of any publication or announcement relating to the Agreement.

Other warranties

- 60. **Anti-Corruption.** The Supplier warrants that no bribe, gift or other inducement has been paid, promised or offered to any official or employee of ONTC, the Ministry of Transportation, the Government of Ontario or any other government official relating to ONTC entering into the Agreement with the Supplier.
- 61. **Bribery.** The Supplier warrants that it will take reasonable steps to ensure that its officials and employees do not extort, accept or pay bribes or illicit payments, charge or accept fees that are not legally due or are in excess of those legally due, or unreasonably delay or obstruct

the granting of permits, licences, or other such approvals in relation to the project. If the Supplier becomes aware of an actual or attempted bribe, extortion, delay or obstruction relating to the Agreement, the Supplier shall report the incident to ONTC immediately.

62. **Forced Labour.** The Supplier warrants that it is unaware of any forced labour or child labour being used at any step of the production of goods produced or services purchased or distributed by it in Canada or elsewhere or for the production of goods or services imported by the Supplier. The Supplier warrants that it has undertaken the appropriate due diligence to ensure its business and its supply chains do not use forced labour or child labour, including an assessment of its business and supply chains that may carry a risk of forced labour or child labour being used and the management of the risk. If applicable, the Supplier shall comply with the reporting requirements under the *Fighting Against Forced Labour and Child Labour in Supply Chains Act, S.C. 2023 c.9*.
63. **Sanctions.** In compliance with its international obligations or with United Nations obligations, Canada imposes restrictions on trade, financial transactions or other dealings with a foreign country or its nationals. These sanctions may be implemented by regulation under such acts as the *United Nations Act*, the *Special Economic Measures Act (SEMA)*, or the *Export and Import Permits Act*. The text of any such regulations is published in the Canada Gazette, Part II. It is the only text which is authoritative. The Supplier shall comply with any such regulations that are in force on the effective date of the Agreement and will require such compliance by its first-tier subcontractors.
64. **Reliance.** ONTC relies on the warranties from the Supplier in this section “Other Warranties” in entering into the Agreement, and any breach of such undertaking shall entitle ONTC to terminate the Agreement for default and to recover damages from the Supplier, including excess re-procurement costs.

GENERAL

65. **Assignment.** Neither party may assign their respective rights and obligations under this Agreement without first obtaining the written consent of other party, provided, however, that either party may assign this Agreement to an affiliate or the successor of its business upon written Notice to the other party. This Agreement shall enure to the benefit of, and be binding upon, the parties and their respective successors (including any successor by reason of amalgamation, merger or statutory arrangement of any party) and permitted assigns.
66. **Notice.** Any Notice under this Agreement shall be given in writing and delivered personally or by email or prepaid courier addressed as follows:

To ONTC at:
Ontario Northland Transportation Commission
555 Oak Street
North Bay ON P1B 8L3
Attention: xxx
T: xxx
E: xx
And to:
Legal Services & Corporate Governance
Legal@ontarionorthland.ca

To the Supplier at:

xxx

Attention: xxx

T: xxx

E: xxx

or at such other address or addresses as ONTC and the Supplier may designate from time to time. The date of receipt of a Notice if sent by email or personal delivery shall be the date of delivery and if sent by prepaid courier shall be the second day after pick-up by the courier.

67. **No Waiver.** No waiver by a party of any breach by the other party of any of its covenants, agreements or obligations in this Agreement shall be a waiver of any subsequent breach or the breach of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be a waiver by the party of its rights and remedies with respect to such breach or any subsequent breach.
68. **Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties nor by any third party as creating the relationship of principal and agent, landlord and tenant, or of partnership or of joint venture between the parties.
69. **Governing Law.** This Agreement shall be governed by and constituted in accordance with the laws in force in the Province of Ontario, excluding any conflict of laws principles. The Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario for any legal proceedings arising out of this Agreement or the performance of the obligations hereunder.
70. **Severability.** Should any section or part or parts of any section in this Agreement be illegal or unenforceable, it or they shall be considered separate and severable from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon ONTC and the Supplier as though such section or part or parts thereof had never been included in this Agreement.
71. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties and supersedes all prior understandings, discussions, negotiations, commitments, representations, warranties, and agreements, written or oral, express or implied between them with respect to the subject of this Agreement. No amendment, variation or change to this Agreement shall be binding unless the same shall be in writing and signed by the parties.
72. **Survival.** In addition to those provisions which are expressly stated to survive the termination or expiration of this Agreement, the provisions of this Agreement that are by their nature intended to survive termination or expiration of this Agreement shall continue in full force and effect subsequent to and notwithstanding termination or expiration until or unless they are satisfied.
73. **Electronic Signatures, Electronic Delivery, and Counterparts.** This Agreement may be executed with electronic signatures and delivered by electronic transmission and the Parties may rely upon all such signatures as though they were original signatures. This Agreement may be executed in counterpart and all such counterparts shall, for all purposes, constitute one agreement binding on the parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have duly executed this agreement.

**ONTARIO NORTHLAND
TRANSPORTATION COMMISSION**

Per: _____

Name: **XXX**

Title: **XXX**

Date: _____

I have authority to bind the corporation.

XXX

Per: _____

Name:

Title:

Date: _____

I have authority to bind the corporation.

Schedule A

Deliverables/Specifications for the Equipment

Schedule B
Supplier's Proposal