

COURT SERVICES AGREEMENT

- between -

THE CORPORATION OF THE TOWN OF ESPANOLA

(hereinafter the "SERVICE PROVIDER")

- and -

**THE CORPORATION OF THE CITY OF ELLIOT LAKE
THE CORPORATION OF THE TOWN OF BLIND RIVER
THE CORPORATION OF THE TOWN OF SPANISH
THE CORPORATION OF THE TOWNSHIP OF THE NORTH SHORE**

(hereinafter the "MUNICIPALITIES")

WHEREAS the Attorney General for the province of Ontario has entered into a Memorandum of Understanding (hereinafter the "MOU"), a copy of which is attached to this agreement as Schedule "A", and Local Side Agreement (hereinafter the "LSA"), a copy of which is attached to this agreement as Schedule "B" with the MUNICIPALITIES pursuant to the *Streamlining of Administration of the Provincial Offences Act, 1998*, S.O. 1998, c. 4 (Bill 108) (hereinafter the "Act"), with respect to the transfer of Provincial Offences Act ("POA") functions to the MUNICIPALITIES;

AND WHEREAS THE MOU and LSA combined are referred to as the "TRANSFER AGREEMENT";

AND WHEREAS the TRANSFER AGREEMENT contains terms and conditions that apply to every Court service Area in the province of Ontario;

AND WHEREAS the Attorney General has given leave for the MUNICIPALITIES to enter into an agreement with the SERVICE PROVIDER to supply the services and perform the duties required of the MUNICIPALITIES under the terms of the TRANSFER AGREEMENT, and as signed by the individual partner MUNICIPALITIES in their Intermunicipal Agreement;

NOW THEREFORE the SERVICE PROVIDER and the MUNICIPALITIES agree as follows:

A. ACKNOWLEDGEMENT

The parties hereby acknowledge that the Attorney General for the Province of Ontario must consent to the assignment by the MUNICIPALITIES to the SERVICE PROVIDER of the MUNICIPALITIES' obligations under the TRANSFER AGREEMENT.

B. DUTIES AND RESPONSIBILITIES OF THE SERVICE PROVIDER

1. The SERVICE PROVIDER, as agent for the MUNICIPALITIES, agrees to be responsible for providing all POA court services and performing all duties and responsibilities required of the MUNICIPALITIES as identified in the TRANSFER AGREEMENT, and agrees to perform all such duties and responsibilities to the same standard as required of the MUNICIPALITIES by the TRANSFER AGREEMENT.
2. The SERVICE PROVIDER agrees and shall adhere to the same confidentiality standards as those required of the MUNICIPALITIES under the terms of the TRANSFER AGREEMENT.
3. The SERVICE PROVIDER agrees to provide all services under this contract in a manner that ensures consistency and continuity in the administration of justice.
4. The SERVICE PROVIDER agrees that it shall disclose to the MUNICIPALITIES any conflict of interest the SERVICE PROVIDER may have, whether real or perceived, arising from or during the SERVICE PROVIDER's performance of this agreement.
5. The SERVICE PROVIDER shall provide the MUNICIPALITIES with copies of all annual or other reports made to the province of Ontario pursuant to the terms of the TRANSFER AGREEMENT, as and when they are provided to the Province, as well as copies of any and all notices of non-compliance with the terms of the TRANSFER AGREEMENT and/or notices pursuant to section 12.0 of the MOU received from the province of Ontario, immediately upon their receipt by the SERVICE PROVIDER.
6. The SERVICE PROVIDER shall ensure that the MUNICIPALITIES have access to all information available pursuant to the TRANSFER AGREEMENT including, without limiting the foregoing, statistical data and operational reports as identified at section 10 of the MOU. The SERVICE PROVIDER also agrees to provide an accounting to the MUNICIPALITIES of all ICON financial transactions and authorizes the MUNICIPALITIES to

review and audit such ICON records at the MUNICIPALITIES' own expense.

7. The SERVICE PROVIDER agrees that at no time during the term of this Court Services Agreement shall the SERVICE PROVIDER make any changes to operational, procedural, prosecutorial or case management guidelines without first consulting with the MUNICIPALITIES' POA Advisory Committee and obtaining approval from a majority of that Committee.

C. FAILURE TO COMPLY

1. In the event the SERVICE PROVIDER should fail to comply with any term, condition or standard of the TRANSFER AGREEMENT or this Court Services Agreement, then the MUNICIPALITIES shall have the option, of either terminating this agreement in accordance with the paragraph below entitled "EARLY TERMINATION" or coming to some other arrangement with the SERVICE PROVIDER acceptable to the MUNICIPALITIES. The choice of which option to take shall be exercised at the sole discretion of the MUNICIPALITIES.
2. Any breach of any provision of the TRANSFER AGREEMENT or this Court Services Agreement may be waived in whole or in part by the MUNICIPALITIES, without prejudice to their rights in the event of the breach of any other provision of those agreements. A waiver shall be binding on the waiving party only if it is in writing. The waiver of any breach of any provision of the TRANSFER AGREEMENT or this Court Services Agreement shall not be taken or held to be a waiver of any further breach of the same provision or any breach of any other provision.
3. The parties hereto acknowledge that, in the event either the MUNICIPALITIES or the SERVICE PROVIDER should breach any term, condition or standard in the TRANSFER AGREEMENT, the Attorney General for the Province of Ontario has the right to withhold or withdraw its consent to the MUNICIPALITIES contracting out the POA services to the SERVICE PROVIDER.

D. REMUNERATION

In consideration of the SERVICE PROVIDER's performance of its duties and obligations under this Court Services Agreement, the MUNICIPALITIES agree to pay to the SERVICE PROVIDER during the term of this agreement a fee of Twenty-Seven Thousand, Nine Hundred and Twenty-Seven Dollars (\$27,927.00) per year plus annual adjustments in accordance to the CPI for the remainder of this contract. The parties agree that these sums are to be taken by the SERVICE

PROVIDER from the revenues collected in accordance with the TRANSFER AGREEMENT, and the SERVICE PROVIDER shall provide the MUNICIPALITIES with an annual statement detailing revenues collected and sums retained by the SERVICE PROVIDER.

E. OTHER COSTS

The SERVICE PROVIDER shall also be entitled to retain, from the revenues collected pursuant to the TRANSFER AGREEMENT, the following amounts on a cost-recovery basis, and not as remuneration, as necessary costs incurred in the administration of POA court services for the MUNICIPALITIES' POA Court Service Area only:

- a) Actual cost of retaining a prosecutor, judiciary and court clerk and having them available at court on scheduled court dates;
- b) Actual cost of travel to and from Blind River and Elliot Lake on court dates for one staff member of the SERVICE PROVIDER, calculated at the current kilometric rate listed under the Treasury Board of Canada Secretariat;
- c) Actual cost of the MUNICIPALITIES' share of court administration office and operational expenses for telephone, facsimile, photocopying, ICON line costs, materials/supplies, etc., and other actual costs as set and required by the Ministry of the Attorney General from time to time;
- d) Actual cost of rental for necessary courtroom space in Blind River and Elliot Lake;
- e)
 - i) Direct wages and benefits based on 1/2 (910) hours per year and benefits based on 30% of wages for the Court Manager; and
 - ii) 17.5 hours per week for the full time Court Administration Clerk, at her current rate plus 30% of wages as benefits. Such direct wages may be adjusted from time to time as a result of a performance evaluation process conducted for staff by the Court Manager; and
 - iii) Cover half of wages for a permanent part-time Court Administration Clerk including 15% of wages as benefits and vacation.
- f) Actual cost of any travel and training for the SERVICE PROVIDER.

The SERVICE PROVIDER shall provide the MUNICIPALITIES with an annual statement detailing the actual expenses set out above and amounts retained accordingly.

F. FINANCIAL REVIEW

1. The SERVICE PROVIDER shall provide the MUNICIPALITIES annually with a copy of the annual audited financial statements for the MUNICIPALITIES Court Services Area.

G. PAYMENT OF NET REVENUE

1. The SERVICE PROVIDER shall, on an annual basis, pay to the MUNICIPALITIES all fines, fees, costs, surcharges and other revenue collected on behalf of the MUNICIPALITIES under the terms of the TRANSFER AGREEMENT, minus the following amounts:
 - a) The SERVICE PROVIDER's annual remuneration, as set out above;
 - b) monthly "other costs", as set out above; and
 - c) amounts payable to the Minister of Finance for the Province of Ontario as set out in section 6.0 of the MOU.

For the purposes of this agreement, the amounts payable to the MUNICIPALITIES, less the amounts set out above, shall be referred to as the "Net Revenue".

2. The SERVICE PROVIDER shall pay the Net Revenue directly to each of the individual member MUNICIPALITIES according to the percentages based on the 2021 Census information.

Municipality	Population	%Ratio	Households	% Ratio	% Average
Elliot Lake	11,372	71.10%	6,275	67.92%	69.51%
Blind River	3422	21.39%	2,207	23.89%	22.64%
Spanish	670	4.19%	392	4.24%	4.22%
Twp. North Shore	531	3.32%	365	3.95%	3.64%
	<u>15,995</u>		<u>9,239</u>		

3. In the event that there is a deficiency at year end, the individual member MUNICIPALITIES shall pay the SERVICE PROVIDER, their portion according to the percentages of allocations.

H. COMPLAINTS AGAINST THE SERVICE PROVIDER

1. The SERVICE PROVIDER shall immediately advise the MUNICIPALITIES of any written complaints made against the SERVICE PROVIDER regarding the SERVICE PROVIDER's provision of services pursuant to the TRANSFER AGREEMENT or this Court Service Agreement and provide the MUNICIPALITIES with a copy of the complaint. Likewise, the MUNICIPALITIES shall immediately advise the SERVICE PROVIDER of any written complaints made regarding the SERVICE PROVIDER's provision of services pursuant to the TRANSFER AGREEMENT or this Court Service Agreement and shall provide the SERVICE PROVIDER with a copy of the complaint.
2. Within thirty (30) days of receiving a written complaint referred to in the immediately preceding paragraph, the SERVICE PROVIDER shall provide the MUNICIPALITIES with a report outlining the SERVICE PROVIDER's facts and perspective on the complaint and the SERVICE PROVIDER's proposal for responding to the complaint. The MUNICIPALITIES shall have a period of ten (10) days in which to review the SERVICE PROVIDER's report and make any submissions or recommendations to the SERVICE PROVIDER. The parties shall meet to discuss such complaints if requested by any of the parties.
3. Before, and in responding to any such complaint, the SERVICE PROVIDER shall take into consideration any submissions or recommendations made by the MUNICIPALITIES. Repeated failure or refusal by the SERVICE PROVIDER to accept the submissions and/or recommendations of the MUNICIPALITIES in responding to complaints may, at the sole option and discretion of the MUNICIPALITIES, be deemed to be a breach of this Court Services Agreement entitling the MUNICIPALITIES to early termination of this agreement without cost or penalty.

I. LIMITATION OF LIABILITY

Neither the MUNICIPALITIES, nor any of them individually, shall be liable or responsible in any way for any injury or damages whether physical or economic, direct or consequential, of any kind (including death) that may be suffered or sustained by the SERVICE PROVIDER, or any member of its Council, officer, employee, agent, contractor, member of the judiciary, accused person, police officer or any other person who may be in, or in the vicinity of, a courtroom or court facility administered by the SERVICE PROVIDER, or for any loss or theft of, or damage or injury to, any property belonging to the SERVICE PROVIDER or its members of Council, officers, employees, agents, contractors, members of the judiciary, accused

persons, police officers or any other person, while such property is in, or in the vicinity of, a courtroom or court facility administered by the SERVICE PROVIDER.

J. INDEMNIFICATION

The SERVICE PROVIDER shall indemnify and save harmless the MUNICIPALITIES, both jointly and each of them individually, their councils, officers, employees, agents and contractors, from all manner of penalty, claims, losses, costs, expenses, actions or proceedings of any kind or nature whatsoever based on, occasioned by or attributable to anything done or omitted to be done by the SERVICE PROVIDER or by its members of council, officers, employees, agents or contractors in connection with the TRANSFER AGREEMENT, or with the performance of the SERVICE PROVIDER's obligations under this agreement.

K. INSURANCE

1. The SERVICE PROVIDER shall protect itself from and against all claims that might arise from anything done, purported to be done or omitted to be done under the TRANSFER AGREEMENT by the SERVICE PROVIDER, its members of council, officers, employees, agents or contractors.
2. For the purposes of the preceding paragraph, and without restricting the generality of that paragraph, the SERVICE PROVIDER shall, at its own expense, maintain in full force and effect during the term of this agreement, a policy of comprehensive general liability insurance, in form and substance acceptable to the MUNICIPALITIES and the Attorney General for the Province of Ontario, and written by a responsible carrier or carriers acceptable to the MUNICIPALITIES and the Attorney general for the province of Ontario, providing coverage for a limit of not less than five million dollars (\$5,000,000.00) per occurrence for any cause of action, demand or claim with respect to personal injury (including death) or property damage, including loss of use thereof, and for any cause of action, demand or claim arising out of or occurring in connection with the obligations of the SERVICE PROVIDER under this agreement, including, but not limited to, a cause of action, demand or claim with respect to defamation; false arrest, detention, imprisonment; malicious prosecution; contravention of rights guaranteed under the *Canadian Charter of Rights and Freedoms*; and errors and omissions insurance.
3. The policy of insurance referred to in preceding paragraphs 1 and 2 shall include the following terms:

- a) a clause adding the MUNICIPALITIES, their councils, officers, employees, agents and contractors as additional named insureds;
 - b) a clause adding Her Majesty the Queen in Right of Ontario as represented by the Attorney general, its officers, employees, agents and contractors as additional named insureds;
 - c) a cross-liability insurance clause endorsement acceptable to the MUNICIPALITIES and Ontario;
 - d) a clause requiring the insurer to provide 30 days' prior written notice to the MUNICIPALITIES and Ontario in the manner set forth in the policy in the event of the termination, expiry, variation or non-renewal of the policy;
 - e) a clause providing that the protection for the MUNICIPALITIES and Ontario under the policy will not be affected in any way by any act or omission of the SERVICE PROVIDER, its members of council, officers, employees, agents or contractors; and
 - f) a clause including liability arising out of contract or agreement.
4. The SERVICE PROVIDER shall, immediately upon request, provide the MUNICIPALITIES and Ontario with proof of the insurance coverage in the form of a certificate, and a copy of the relevant portion or portions of the policy that incorporate the terms and clauses set out paragraph 3 (a) – (f) above and paragraph 16.3 of the MOU.

L. TERM

This Court Services Agreement shall have a term of five (5) years, commencing June 5, 2023, subject to renewal for another term or terms by the parties upon their mutual agreement. Each of the parties agrees to provide the other with notice, no less than twelve (12) months prior to the expiry of the term of this contract, of whether or not they intend to renew this agreement.

M. EARLY TERMINATION

1. In the event of a substantial breach by the SERVICE PROVIDER of the terms and conditions of either the TRANSFER AGREEMENT or this Court Services Agreement, then this agreement may be terminated by the MUNICIPALITIES prior to the end of the term referred to above, by giving the SERVICE PROVIDER 30 days written notice of their intention to do so.

2. Where termination notice is given, or where notice of intention to not renew this agreement is given by the SERVICE PROVIDER, then:
 - a) the parties agree that they shall work in cooperation with the Office of the Attorney General for the Province of Ontario to effect a transfer of responsibility for the services required under the TRANSFER AGREEMENT back to the MUNICIPALITIES in a manner that ensures consistency and continuity in the administration of justice;
 - b) the SERVICE PROVIDER shall provide the MUNICIPALITIES with unfettered access to such systems, records, data, information and material in the possession or control of, or owned by the SERVICE PROVIDER as may be required to ensure the continued effective administration of justice;
 - c) all records, data, information and material accumulated by the SERVICE PROVIDER with respect to the court services area of the MUNICIPALITIES during the performance of this Court Services Agreement shall vest in and become the property of the MUNICIPALITIES, and the SERVICE PROVIDER shall immediately transfer such property to, and as directed by, the MUNICIPALITIES;
 - d) the SERVICE PROVIDER shall be entitled to access all transferred property, including the right to make copies of documents, where the SERVICE PROVIDER is named or otherwise becomes a party to any legal proceedings, or is put on notice that it will be named as a party in legal proceedings, arising from or in connection with the performance by the SERVICE PROVIDER of its functions under this Court Services Agreement.

N. ASSIGNMENT

The SERVICE PROVIDER has no right to assign, sublease, subcontract, transfer, cede, offer for sale, deal or offer to deal in or with this agreement, or any rights or obligations hereunder, in whole or in part (the foregoing collectively called an "assignment") unless the MUNICIPALITIES have given or are deemed to have given consent to such assignment. In the event such an assignment is consented to by the MUNICIPALITIES, the SERVICE PROVIDER shall ensure that any assignee undertaking any of the SERVICE PROVIDER's obligations to the MUNICIPALITIES shall be bound by the terms of the TRANSFER AGREEMENT and this Court Services Agreement. The SERVICE PROVIDER shall not be released of its obligations to the MUNICIPALITIES by reason of the assignment, and

the SERVICE PROVIDER shall be deemed liable for any breaches of the TRANSFER AGREEMENT or this Court Services Agreement, or of any legislation or regulations by the assignee.

O. SEVERABILITY OF TERMS

Unless otherwise provided herein, all terms of this agreement are severable from each other and will survive the invalidity of any other term of this agreement.

P. AMENDMENTS

This agreement, or provisions thereof, may be amended from time to time, in writing, provided that all parties to the agreement and the Attorney General for the Province of Ontario must consent to the amendment.

Q. COMMUNICATION

1. Any written communication between the parties shall be given by personal service, by facsimile transmission or electronic mail, or by prepaid first class mail. If personally served or transmitted by facsimile or electronic mail, a communication shall be deemed to be validly given to and received by the addressee on the date of such service or transmission. A transmission completed after 4:30 p.m., or on a weekend or holiday, shall be deemed to have been delivered on the next business day. A communication sent by prepaid first class mail shall be deemed to be validly given to and received by the addressee on the fifth business day after the day on which it was mailed in Canada.
2. The SERVICE PROVIDER's address and facsimile number for communication are:

**Corporation of the Town of Espanola
100 Tudhope Street, Suite 4
Espanola, Ontario P5E 1S6
Attention: Manager-POA Court Services
FAX: (705) 862-7876**

3. The MUNICIPALITIES address and facsimile number for communications are:

**Corporation of the City of Elliot Lake
45 Hillside Drive North
Elliot Lake, Ontario P5A 1X5
Attention: Chief Administrative Officer
FAX: (705) 461-7269**

**The Town of Blind River
11 Hudson Street
Blind River, Ontario
P0R 1B0
FAX: (705) 356-7343**

**Town of Spanish
8 Trunk Road, P.O. Box 70
Spanish, Ontario
P0P 2A0
FAX: (705) 844-2622**

**Township of the North Shore
1385 Hwy 17, P.O. Box 108
Algoma Mills, Ontario
P0R 1A0
FAX: (705) 849-2428**

4. When either party changes its address, phone or facsimile number, it shall forthwith give notice to the other party. Each party shall keep the other informed of the names of their contact person for the purposes of this agreement.

R. SCHEDULES

The following Schedules are attached and shall form a part of this Court Services Agreement:

Schedule "A": MEMORANDUM OF UNDERSTANDING

Schedule "B": LOCAL SIDE AGREEMENT

IN WITNESS WHEREOF the parties have executed this Court Services Agreement.

DATED AT ELLIOT LAKE, ONTARIO THIS DAY OF , 2023.

**THE CORPORATION OF THE
TOWN OF BLIND RIVER**

MAYOR

CLERK

**THE CORPORATION OF THE
CITY OF ELLIOT LAKE**

MAYOR

CLERK

**THE CORPORATION OF THE
TOWN OF SPANISH**

MAYOR

CLERK

**THE CORPORATION OF THE
TOWNSHIP OF THE NORTH
SHORE**

MAYOR

CLERK

DATED AT ESPANOLA, ONTARIO THIS DAY OF , 2023.

**THE CORPORATION OF THE
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MAYOR

CLERK