

## PROFESSIONAL SERVICES AGREEMENT

**THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement")** is made and entered as of the 1<sup>st</sup> day of July, 2018 ("**Effective Date**"), between **Matanuska Telephone Association, Incorporated. ("MTA")** with a place of business at 1740 South Chugach Street, Palmer, Alaska 99645, and ("**Consultant**") with a place of business at . Hereinafter, MTA and Consultant may be individually referred to as "**Party**", or collectively referred to as "**Parties**". In consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**1. SCOPE OF SERVICES.** Consultant shall provide all management and labor, and apply all skills, experience and knowledge, necessary to perform the following services (collectively, "**Services**"): . The Services shall commence no earlier than the Effective Date. The following attachments (if checked and identified) are included as part of this Agreement:

Attachment #1:

Attachment #2:

**2. COMPENSATION.** Consultant shall be compensated for the Services rendered pursuant to this Agreement based on . If compensation is based on a rate per hour, MTA shall be invoiced only for actual time worked. Travel time shall not be included in billable hours. There shall be no overtime premium. If working on MTA's premises, start time, lunch, and end of day times shall be jointly determined by the Parties.

**3. REIMBURSABLE EXPENSES.** Consultant will be reimbursed for allowable expenses at actual costs incurred ("Reimbursable Expenses"); provided such Reimbursable Expenses are reasonable and original receipts are provided for any item over \$25. Airfare in excess of \$1000 shall be pre-approved by MTA prior to booking. The following items, when checked, are considered Reimbursable Expenses:

Airfare (coach class)

Rental car & fuel (mid-size or smaller)

Personal vehicle mileage (IRS business rate)

Lodging, Meals & Incidentals (not to exceed GSA Per Diem for Wasilla, AK)

Other:

**4. PAYMENT TERMS.** At the end of each month or upon completion of the Services, Consultant shall submit invoice(s) to MTA to the attention of the Accounts Payable at the address above or via email to [mta-ap@mta-telco.com](mailto:mta-ap@mta-telco.com). Payment shall be made within thirty (30) days from receipt of invoice.

**5. WORKMANSHIP.** Consultant shall perform the Services efficiently and in accordance with those reasonable and generally accepted standards of its trade, profession or industry.

**6. INDEPENDENT CONTRACTOR.** The Parties are independent contractors, and nothing herein shall be construed to any other effect. Each Party alone shall determine, supervise and manage the method, details, and means of performing its obligations. Except as agreed in writing, neither Party shall act or attempt to act or represent itself, directly or by implication, as the other Party's agent. Each Party shall be solely responsible for the withholding and payment of all applicable federal, state, and local taxes for its own employees.

**7. INSURANCE.** Consultant shall maintain during the term of any SOW: (i) Workers' Compensation insurance as prescribed by the State of Alaska if working on MTA property; (ii) comprehensive automobile liability insurance if the use of a motor vehicle is required, with limits of at least \$1,000,000 combined single limit for bodily injury and property damage for each occurrence; and (iii) Commercial General Liability ("**CGL**") insurance, including Blanket Contractual Liability and Broad Form Property Damage, with limits of at least \$1,000,000

combined single limit for bodily injury and property damage for each occurrence or Professional Liability or Errors and Omissions insurance in the amount of at least \$1,000,000 for each occurrence. Consultant shall provide MTA a Certificate of Insurance evidencing the foregoing insurance prior to commencing the Services. No insurance policy shall be canceled or materially changed without at least ten (10) days prior written notice to MTA.

**8. NOT TO EXCEED.** Any "not to exceed" cost referenced in this Agreement shall be defined as the maximum expenditure authorized by MTA for the Services specified herein and shall not constitute a commitment by MTA to purchase any specific volume of Services thereof. A "not to exceed" cost is used when the exact cost of the Services cannot be determined beforehand. Consultant shall have the responsibility to render the Services in the most cost effective manner.

**9. NOTICES.** Any notice which under the terms of this Agreement must or may be given or made by either Party hereunder shall be in writing and shall be delivered personally, sent by express courier service, or sent by certified U.S. mail, return receipt requested, addressed to the respective Party at the address first written above or to such other address either Party shall designate by proper notice. Notices to MTA shall be sent to the attention of Contract Administration. Notices shall be deemed to have been received as of the earlier of the date actual receipt or, in case of notices sent via U.S. mail, three (3) days after mailing. A signed receipt shall be obtained where a notice is delivered in person.

**10. FORCE MAJEURE.** Neither Party shall be liable to the other in the event that it is unable to perform, in whole or in part, any one or more of its obligations hereunder as a result of labor dispute, governmental action, war, terrorist attack, fire, flood, earthquake, act of God, or any cause that is beyond the reasonable control of such Party.

**11. NONPERFORMANCE.** To the extent any nonperformance by either Party of its obligations under this Agreement results from or is caused by the other Party's failure to perform its obligations under this Agreement, such nonperformance shall be excused.

**12. TERMINATION.** MTA may terminate this Agreement at any time, without cause. If MTA terminates this Agreement through no fault of Consultant, Consultant shall be compensated for Services satisfactorily completed and accepted by MTA up to the date of termination, provided that: (i) compensation to Consultant shall be in the same proportion to the total compensation indicated in Section 2 of this Agreement as the Services satisfactorily completed and accepted by MTA are to the total Services; and (ii) the total sum to be paid to Consultant shall not exceed that amount set forth in Section 2 of this Agreement as reduced by the amount of payments, if any, otherwise made, and as further reduced by the cost of Services yet uncompleted.

**13. DISPUTES.** The Parties agree to resolve any dispute hereunder through good faith negotiations, but if such dispute cannot be resolved within thirty (30) days after commencement of such negotiations, then either Party shall be free to take legal action.

**14. CONFIDENTIAL INFORMATION.** Consultant agrees to preserve the secrets and confidences of MTA, including, without limitation, all information and data that may be obtained from MTA or other party in a contract or agency relationship with MTA (“**Confidential Information**”). Except for such disclosure as may be needed to perform the Services under this Agreement and as may be allowed by MTA with prior written approval, Consultant shall not: (i) reveal any Confidential Information; or (ii) use any Confidential Information for the advantage of Consultant or a third party. The obligations of Consultant and the rights of MTA under this Section are continuing obligations and rights, and termination or expiration of this Agreement shall not terminate such obligations and rights.

**15. WAIVER.** Waiver by either Party of any breach or default hereunder by the other Party shall not constitute a continuing waiver or a waiver of any other breach or default.

**16. SEVERABILITY.** In the event any provision of this Agreement shall be held or found to be invalid or unenforceable under any applicable law or court decision, such invalidity or enforceability shall not render this Agreement invalid or unenforceable as a whole.

**17. SUCCESSORS; ASSIGNS.** Each Party agrees to bind itself, its partners, successors, assigns and legal representatives to the other Party hereto with respect to its obligations under this Agreement. Consultant shall not assign this Agreement without the prior written consent of MTA.

**18. INDEMNIFICATION.** Consultant agrees to indemnify and hold harmless MTA, its respective directors, officers, agents, and employees, from and against any and all third party claims, including without limitation any claims for loss, damage, liability, costs, and expenses (including reasonable attorneys’ fees and expenses) for physical injury or death or damage to real property to the extent caused by Consultant’s willful misconduct or negligent acts or omissions.

**19. GOVERNING LAW.** This Agreement shall be construed and governed by the laws of the State of Alaska, without regard to

conflict of laws principles. The Parties agree that all actions brought to enforce any provision of this Agreement or arising out of or related to this Agreement shall be brought in a state court of competent jurisdiction in the Third Judicial District in Palmer, Alaska. The prevailing Party in any such action shall be entitled to its costs and fees (including reasonable attorneys’ fees and court costs) incurred in connection with any such action.

**20. COUNTERPARTS.** This Agreement together with any Attachment referenced herein may be executed in two or more counterparts, each of which shall be considered an original, but all of which together shall constitute the Agreement. This Agreement may also be executed and delivered by facsimile or electronically and such execution and delivery shall have the same force and effect of an original document with original signatures.

**21. HEADINGS.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

**22. CONFLICTING TERMS.** Should any terms and conditions of any Attachment to this Agreement conflict with any terms and conditions contained in this Agreement, the terms and conditions of this Agreement shall take precedence.

**23. SETOFF.** MTA reserves the right to offset amounts payable hereunder by any past due amount owed or payable by Consultant to MTA or its affiliates. This right extends to any past due account held in the name of Consultant or Consultant’s owner(s).

**24. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement and understanding between the Parties with respect to the subject matter herein and supersedes any previous agreements or understandings, whether verbal or written, between the Parties with respect to the subject matter herein. This Agreement may not be amended or altered in any way except in a writing executed by an authorized representative of each Party.

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed as of the Effective Date by their respective authorized agents.

**MATANUSKA TELEPHONE ASSOCIATION, INCORPORATED.**

By: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

By: \_\_\_\_\_  
(signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_