

MASTER SERVICES AGREEMENT

This Master Services Agreement (the "**Agreement**") is made and entered into as of _____ (the "**Effective Date**") between Cumberland Group, LLC, a Georgia limited liability company, ("**Cumberland**"), and the City of North Port, Florida, a municipal corporation ("**Client**").

The parties agree as follows:

1 DEFINITIONS.

Each of the following terms has the meaning assigned to it.

- 1.1 Affiliate.** "**Affiliate**" means, with respect to either party, any entity directly or indirectly controlling, controlled by, or under common control with that party.
- 1.2 Confidential Information.** "**Confidential Information**" has the meaning assigned in Section 8.1.
- 1.3 Designs.** "**Designs**" means all inventions, processes, ideas, programs, software, and designs (including all improvements) created by Cumberland.
- 1.4 Products.** "**Products**" means the goods and other property purchased by Cumberland and resold to Client described in a Statement of Work.
- 1.5 Sales Order.** "**SO**" is an abbreviation for "**Sales Order**" and means any future agreement between Client and Cumberland which describes products and goods to be purchased, which may be evidenced by documents labeled as quotes, purchase orders, and sales orders. SO is not mutually exclusive with SOW and a single document may relate to both services and products.
- 1.6 Services.** "**Services**" means the services to be provided to Client by Cumberland described in a Statement of Work or otherwise requested by Client.
- 1.7 Statement of Work.** "**SOW**" is an abbreviation for "**Statement of Work**" and means any future agreement between Client and Cumberland which describes services to be performed for a non-recurring fee, which may be evidenced by documents labeled as statements of work, sales orders, purchase orders, invoices, and statements of professional services, but specifically excluding Service Agreements or any other agreement for which services are rendered on an on-going basis and fees are recurring. SOW is not mutually exclusive with SO and a single document may relate to both services and products.
- 1.8 Third Party Content.** "**Third Party Content**" means software applications or data provided by, licensed from, or owned by entities not party to this Agreement.
- 1.9 Work Product.** "**Work Product**" means all configurations, Designs, solutions, advice, recommendation reports, analyses, scripts, or other work results which have been delivered by Cumberland to Client and which were created within the framework of fulfilling obligations a Statement of Work in the final form delivered to the Client.

2 TERM; TERMINATION.

- 2.1 Term.** The term of this Agreement ("**Term**") will begin on the Effective Date and continue until termination. This Agreement may be terminated as described below.
- 2.2 Termination.** This Agreement may be terminated (i) at any time upon the mutual written consent of both parties; (ii) by either party, for material default or breach of this Agreement by the other party, upon 30 days' prior written notice to the other party, provided that the defaulting party has not cured the material default or breach; or (iii) by either party upon 90 days' prior written notice to the other party. This Agreement may also be terminated immediately by either party in the event the other party: (i) becomes insolvent; (ii) admits in writing its inability to pay its debts as they mature; (iii) ceases to function as a going concern or to conduct its operation



in the normal course of business; or (iv) fails to make any payment due under this Agreement and fails to cure the default within 15 days after written notice.

2.3 Result of Termination. Upon Termination, no new Statements of Work may issue between the parties; however, existing Statements of Work shall continue until terminated by the terms of such Statements of Work. Further, the terms of this Agreement shall continue to apply with respect to any continuing Statement of Work. In addition, after the termination of all Statements of Work issued hereunder, Sections 1, 5, 6, 8, 9, 10, 11, 12, and 15 shall continue to apply in accordance with their terms.

3 STATEMENTS OF WORK.

The only obligations of Cumberland to perform Services, and the only obligations of Client to pay for Services, will be as set forth in one or more written SOWs, each signed by Cumberland and Client. A SOW will describe (a) Services (b) Cumberland's compensation, and (c) any additional terms and conditions. Each SOW is to be treated as a separate agreement that incorporates this Agreement by reference, whether or not the incorporation is expressly stated. Any changes to a SOW shall be agreed upon in writing by the parties. In the event of a conflict or other inconsistency between a SOW and the Agreement, the SOW will take precedence, but only if stated explicitly and conspicuously. Whenever used in any SOW, the term "Agreement" means this Master Services Agreement.

4 FEES; PAYMENT; TAXES.

4.1 Pricing for SOWs. The price for any work performed under a SOW is specified in the respective SOW.

4.1.1 Firm Fixed Price. For SOWs to be performed on a "Fixed Fee" basis, Client shall not be obligated to pay Cumberland in excess of the "Fixed Fee" set forth in the applicable SOW. Cumberland shall be solely responsible for all costs and expenses incurred by Cumberland in excess of the "Fixed Fee" set forth therein. The Fixed Fee will be invoiced based on any milestones listed in the SOW with any remaining portion of the Fixed Fee invoiced at completion of the SOW.

4.1.2 Time and Materials. For SOWs to be performed on a "Time and Materials" basis, Client shall pay Cumberland in accordance with the billable rates and expenses set forth in the applicable SOW and shall not be liable for payments in excess of the funding limitations, if any, set forth therein. Cumberland shall notify Client in writing at such time as the cumulative dollar amount of billable labor and expenses reaches the estimated level of effort or funding limitation set forth therein. The notification will include an estimate of any additional labor hours, costs and expenses needed to complete any requirements Client has made known to Cumberland. Time and Materials fees will be invoiced monthly during the performance of the SOW.

4.2 Travel Expenses. Client shall reimburse Cumberland for all out-of-pocket expenses actually incurred by Cumberland in rendering the Services provided that such expenses are necessary, reasonable and directly related to work specified in the applicable SOW. Unless otherwise stated in an applicable SOW, a Fixed Fee SOW shall be presumed to include any expenses in the Fixed Fee but a Time and Materials SOW shall be presumed to authorize reimbursement of expenses described in this Section. Notwithstanding the foregoing, Cumberland shall be solely liable for payment of all applicable fees, licenses, bonds, taxes, levies, duties, or other expenses required or imposed against Cumberland as a cost of doing business or by a governmental authority.

Travel expense rates are as follows:

Mileage Expense: \$0.575 per mile, subject to change as determined by current IRS guidelines.

Rental Car Expense: Billed at the actual expense.

Meals: Billed at the actual expense, not to exceed the daily meal limit of \$70.00.

Lodging: Cumberland will work with Client to acquire accommodations with a preferred Client corporate rate, if available. Otherwise, Cumberland will select accommodations near Client's designated facility and use reasonable efforts to minimize lodging expenses.

Airfare: Cumberland will use reasonable efforts to acquire the most reasonable and efficient flights available at the time of booking. Whenever possible, Cumberland will book flights more than 14 days in advance in order to reduce airfare costs, unless Client requests unscheduled on-site work inside the 14-day window.



4.3 Pricing for SOs. The price for any SO is specified in the respective SO. Client agrees to pay applicable duties, taxes, and shipping and handling fees for any agreed SO even if these fees are not explicitly stated on the signed SO.

4.4 Payments. All amounts payable under this Agreement shall be made in United States dollars, without setoff or counterclaim, and without any deduction or withholding. In accordance with the Local Government Prompt Payment Act, Florida Statutes Sections 218.70, *et seq.*, Client's payments shall be due forty-five (45) days after receipt of invoice. In the event of a dispute over the amount payable, Client shall pay the undisputed amount with 45 days and immediately notify Cumberland in writing of the dispute. Payments should be made by wire or by check to P.O. Box 93255, Atlanta, GA 31193-2555.

4.5 Taxes. Client is responsible for taxes applicable to Client arising out of this Agreement, except for taxes imposed on Cumberland's income or arising from the employment relationship between Cumberland and its personnel.

5 TRANSFER OF TITLE AND RISK OF LOSS.

5.1 Title. Title in the Products and Work Product shall transfer to the Client only after payment has been made in full under the relevant Statement of Work. In no event does this Section 5.1 cause the transfer of title in Products or Work Product which are merely licensed or rented under the terms of the applicable Statement of Work.

5.2 Risk of Loss. The risk of loss in the Products and Work Product shall pass to the Client upon receipt of the Products and Work Product. Where the Client chooses to collect the Products itself, the risk will pass when the Products are entrusted to it or set aside for its collection, whichever occurs first.

6 ACCEPTANCE.

Client shall accept or reject Products and Work Product in writing within 10 business days from receipt and accept or reject Services in writing within 10 business days of completion. If Client does not accept or reject in writing within 10 business days, the applicable Services, Products, and Work Product shall be deemed accepted by Client. Client shall clearly state in writing the reasons for any rejection. Client may not reject any Service, Product, or Work Product by reason of (i) Client's use of a Product or Work Product other than in accordance with applicable documentation or instructions provided by Cumberland, (ii) modification of any Product or Work Product other than by Cumberland, (iv) erroneous information supplied by Client to Cumberland that is included in or relied upon to provide any Service, Product, or Work Product, or (v) Client's gross negligence, breach or willful misconduct. Within 10 business days of a notice of a proper rejection, Cumberland shall present a commercially reasonable corrective plan of action to Client. Cumberland, at no additional expense to Client, shall then make the corrections (and Client shall permit Cumberland to make such corrections) to Cumberland's reasonable expense and, where applicable, Cumberland shall resubmit the corrected Product, Work Product, or Service to Client.

7 OBLIGATIONS.

7.1 Obligations of Cumberland. Cumberland shall ensure its employees and subcontractors follow all policies and procedures of Client when accessing and using Client systems and when on Client premises. Cumberland shall ensure that its employees and subcontractors assigned to perform Services are trained and competent to perform the Services. At Client's request, Cumberland shall re-assign any employee or subcontractor with which Client is not satisfied.

7.2 Obligations of Client. Client shall provide space, equipment, and supplies for Services performed on Client premises. Client shall provide to Cumberland information necessary to perform the Services.

8 CONFIDENTIALITY.

This Section shall survive and remain in effect for a period of two years beyond the expiration or termination of this Agreement; provided, however, that any Confidential Information that is a trade secret under applicable law shall survive in perpetuity, or the greatest duration allowable under applicable law.

8.1 Confidential Information. "Confidential Information" means all confidential or proprietary information of a party disclosed to the other party, whether orally or in writing, that is designated as confidential or that



reasonably should be understood to be confidential given the nature of the information and the circumstance of the disclosure, but does not include: (i) information that was publicly available at the time of disclosure or that subsequently becomes publicly available other than by a breach of this provision, (ii) information previously known by or developed by the receiving party independent of the Confidential Information or (iii) information that the receiving party rightfully obtains without restrictions on use and disclosure. Each party may use the other party's Confidential Information only in connection with the Services as permitted under this Agreement. For avoidance of doubt, Confidential Information includes, but is not limited to, this Agreement, including pricing, policies and other terms.

8.2 Non-Disclosure. To the extent that Confidential Information is exchanged and received in connection with the Services, and except as otherwise required by Florida's Public Records Law, Chapter 119 Florida Statutes, each party agrees not to use the other party's Confidential Information except in the performance of, or as authorized by, this Agreement, and not to disclose, sell, license, distribute or otherwise make available such information to third parties. Each party will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of the other party's Confidential Information, including, at a minimum, those measures the receiving party takes to protect its own confidential information of a similar nature. Each party will disclose Confidential Information only to those employees and subcontractors who have a need to know and who have signed a confidentiality agreement no less restrictive than this Section 8.

8.3 Compelled Disclosure. Each party may disclose Confidential Information of the other party to the extent compelled by law to do so, provided the disclosing party gives the other party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure. If a party is compelled by law to disclose the other party's Confidential Information as part of a civil proceeding to which the other party is a party, and the other party is not contesting the disclosure, the other party will reimburse the disclosing party for its reasonable cost of compiling and providing secure access to that Confidential Information.

9 RIGHTS IN WORK PRODUCT.

9.1 Grant of Copyright or License Rights in Work Product. Subject to Sections 9.2 and 9.3 below, and subject to Client's payment of all amounts due to Cumberland, the parties agree (i) Client shall own all copyright rights to the portion of Work Product that consists solely of written reports, analyses, and other working papers prepared and delivered by Cumberland to Client in the performance of Cumberland's obligations under a Statement of Work, and (ii) for the portion of Work Product that consists of scripts, configurations, and code, Cumberland grants Client a non-exclusive, non-transferable, irrevocable (except in case of breach of this Agreement or any Statement of Work) perpetual right to use, copy and create derivative works from such (without the right to sublicense) for Client's internal business operations, as contemplated hereunder. The license granted in this section does not apply to (a) Client furnished materials, (b) any Cumberland Designs or other items licensed under a separate agreement, and (c) materials that Cumberland acquires under license from a third party and resells to Client.

9.2 License in Pre-Existing Information. Any Cumberland proprietary or Confidential Information used to perform the Services, included in any Work Product, or acquired, conceived, or developed at any time independent of Cumberland's work under any Statement of Work, including but not limited to methodologies, designs, configurations, templates, tools, policies, records, working papers, knowledge, data, know-how, architectures, concepts, techniques, templates, works of authorship or other intellectual property, written or otherwise (collectively, "Pre-Existing Information"), shall remain the exclusive property of Cumberland. To the extent that Cumberland incorporates any Pre-Existing Information into the Work Product, Cumberland hereby grants to Client a perpetual, royalty-free, non-exclusive, non-transferable license to use such Cumberland Information solely for Client's internal business purposes, in accordance with the limitations set forth in this Agreement and any applicable Statement of Work.

9.3 Reservation of Rights and License for Internal Copies. Client acknowledges that Cumberland provides similar services to other Clients and that nothing in this Agreement shall be construed to prevent Cumberland from carrying on such business or from acquiring, licensing, marketing, distributing, developing for itself or others or having others develop for it similar products, services, or materials performing the same or similar functions as



the Services and Work Product contemplated by this Agreement or any Statement of Work. Therefore, notwithstanding Section 9.1, Cumberland has the right to retain and use internally copies of the Work Product, *provided, however*, that the foregoing does not include rights to distribute, disclose, or create derivative works from Client's Confidential Information that is incorporated into the Work Product. Similarly, notwithstanding Section 9.1, Client acknowledges that the Work Product is not a "work made for hire." To the extent necessary to preserve Cumberland's right to use its Work Product, Client hereby grants to Cumberland a perpetual, royalty-free, non-exclusive, non-transferable license to use the Work Product solely for Cumberland's internal business purposes, in accordance with the limitations set forth in this Agreement and any applicable Statement of Work.

10 WARRANTIES.

Cumberland warrants that Services will be performed in a professional and workmanlike manner in accordance with industry standards. Client's sole remedy for a failure to meet the warranted standard is to reject the Work Product under the Acceptance Section above.

EXCEPT AS EXPRESSLY DESCRIBED ABOVE, CUMBERLAND AND ITS AFFILIATES AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE SERVICES AND ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, THAT ANY CONTENT, INCLUDING CLIENT CONTENT OR THIRD PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. EXCEPT TO THE EXTENT PROHIBITED BY LAW, CUMBERLAND AND ITS AFFILIATES AND LICENSORS DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, ANY OTHER WARRANTY ARISING BY STATUTE, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE.

11 INDEMNIFICATION.

EACH PARTY COVENANTS AND AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE OTHER PARTY AND THEIR RESPECTIVE OWNERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AND THEIR SUCCESSORS AND ASSIGNS FROM AND AGAINST ALL LIABILITIES, COSTS, AND OTHER DAMAGES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, FROM CLAIMS ASSERTED BASED ON: (I) ALLEGED PATENT, TRADEMARK, COPYRIGHT INFRINGEMENT, OR UNFAIR COMPETITION OF THE INDEMNIFYING PARTY; (III) THE FAILURE BY THE INDEMNIFYING PARTY TO COMPLY WITH APPLICABLE LAWS IN CONNECTION WITH THE EXERCISE OF ANY OF ITS RIGHTS OR THE PERFORMANCE OF ANY OF ITS OBLIGATIONS HEREUNDER; OR (IV) ACTS OR OMISSIONS OF ANY FIRM EMPLOYED BY THE INDEMNIFYING PARTY TO PERFORM ANY PORTION OF THE DUTIES OR OBLIGATIONS OF THIS AGREEMENT. NOTWITHSTANDING THE FOREGOING, CUMBERLAND WILL HAVE NO OBLIGATIONS UNDER THIS SECTION 11(II) WITH RESPECT TO CLAIMS TO THE EXTENT ARISING OUT OF: (A) ANY INSTRUCTION, INFORMATION, DESIGNS, SPECIFICATIONS OR OTHER MATERIALS PROVIDED BY CLIENT TO CUMBERLAND; (B) USE OF THE WORK PRODUCT IN COMBINATION WITH ANY MATERIALS OR EQUIPMENT NOT SUPPLIED TO CLIENT OR SPECIFIED BY CUMBERLAND IN WRITING; (C) ANY MODIFICATIONS OR CHANGES MADE TO THE WORK PRODUCT BY OR ON BEHALF OF ANY PERSON OR ENTITY OTHER THAN CUMBERLAND; (D) THE USE OF ANY VERSION OF THE HOSTED WORK PRODUCT OTHER THAN THE MOST CURRENT RELEASE MADE AVAILABLE BY CUMBERLAND; (E) CLIENT DATA; OR (F) CLIENT'S BREACH OF THIS AGREEMENT, THE DOCUMENTATION, OR THE APPLICABLE SOW(S). IF A WORK PRODUCT, OR ANY PART THEREOF, BECOMES, OR IN THE OPINION OF CUMBERLAND MAY BECOME, THE SUBJECT OF A CLAIM OF INFRINGEMENT OR MISAPPROPRIATION, CUMBERLAND MAY, AT ITS OPTION: (X) OBTAIN A LICENSE FOR CLIENT'S CONTINUED USE OF THAT WORK PRODUCT IN ACCORDANCE WITH THIS AGREEMENT; (Y) REPLACE OR MODIFY THE WORK PRODUCT SO THAT THEY ARE NO LONGER CLAIMED TO INFRINGE OR MISAPPROPRIATE; OR (Z) TERMINATE THIS AGREEMENT AND REFUND TO CLIENT ANY PORTION OF THE FEES PREPAID BY CLIENT FOR THE INFRINGING WORK PRODUCT.

NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO AFFECT THE RIGHTS, PRIVILEGES, AND IMMUNITIES OF THE CLIENT AS SET FORTH IN FLORIDA STATUTES SECTION 768.28. THE TERMS OF THIS SECTION SURVIVE THE TERMINATION OF THIS AGREEMENT.



12 LIMITATION OF LIABILITY.

EXCEPT WITH RESPECT TO MATTERS FOR WHICH A PARTY IS OBLIGATED UNDER SECTION 11 TO PROVIDE INDEMNIFICATION, TO THE FULLEST EXTENT PERMITTED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE TOTAL LIABILITY, IN THE AGGREGATE, OF EACH PARTY AND ITS OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES AND SUBCONTRACTORS TO THE OTHER PARTY AND ANYONE CLAIMING BY OR THROUGH THE OTHER PARTY, FOR ANY AND ALL CLAIMS, LOSSES, COSTS, OR DAMAGES, INCLUDING ATTORNEYS' FEES, COSTS, EXPERT-WITNESS FEES, AND COSTS OF ANY NATURE WHATSOEVER OR CLAIMS EXPENSES RESULTING FROM OR IN ANY WAY RELATED TO THE AGREEMENT OR ANY STATEMENT OF WORK FROM ANY CAUSE OR CAUSES SHALL NOT EXCEED THE TOTAL COMPENSATION RECEIVED BY CUMBERLAND UNDER THIS AGREEMENT FOR THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE 6 MONTHS PRECEDING THE CLAIM, OR THE TOTAL AMOUNT OF \$50,000, WHICHEVER IS GREATER.

NOTWITHSTANDING THE ABOVE LIMIT, TO THE FULLEST EXTENT PERMITTED BY FLORIDA LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY AMOUNT OF INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO LOST PROFITS OR BUSINESS INTERRUPTION, EVEN IF THE PARTY IS NOTIFIED IN ADVANCE OF A POSSIBILITY OF SUCH DAMAGES.

IT IS INTENDED THAT THESE LIMITATIONS APPLY TO ANY AND ALL LIABILITY OR CAUSE OF ACTION HOWEVER ALLEGED OR ARISING, UNLESS OTHERWISE PROHIBITED BY FLORIDA LAW.

13 INSURANCE.

Cumberland shall maintain at its expense minimum insurance coverage as detailed in this Section 13. Cumberland shall provide evidence of all policies to Client within thirty days of any notice requesting evidence from Client.

13.1 Minimum Insurance Coverage.

13.1.1 Workers' Compensation Insurance. Cumberland shall purchase Worker's Compensation Insurance which shall cover all Cumberland employees, officers, and owners with at least statutory limits as required by law and Employer's Liability with a least a limit of \$1,000,000 for each accident, \$1,000,000 for disease aggregate, and \$1,000,000 for disease per employee. The insurance shall waive subrogation in favor of Client.

13.1.2 Business Auto Liability Insurance. Cumberland shall purchase Business Auto Liability Insurance of at least the amount of \$1,000,000 combined single limit for bodily injury and property damage liability, covering any vehicle including all owned, non-owned, and hired vehicles. The insurance shall include Client as an Additional Insured.

13.1.3 General Liability Insurance. Cumberland shall purchase General Liability Insurance on an Occurrence basis of at least the amount of \$1,000,000 each occurrence and \$2,000,000 general aggregate, \$2,000,000 products and completed operations aggregate. The insurance shall be primary and non-contributory, include Client as an Additional Insured, and waive subrogation in favor of Client.

13.1.4 Professional Liability Insurance. Cumberland shall purchase Professional Liability Insurance of at least the amount of \$2,000,000 for each claim.

13.2 No Limit on Other Provisions. The insurance requirements do not limit Cumberland's obligations under this Agreement in any manner. The requirements merely represent the minimum amounts of insurance coverage required to be maintained by Cumberland.

13.3 Effect of Failure to Insure. If Cumberland has failed to acquire and maintain the appropriate levels of insurance, Client may secure insurance in the name of Cumberland, provided that Client must give 30 days' prior written notice of its intent to purchase insurance after failing to receive evidence of insurance within 30 days of its notice requesting evidence. Cumberland shall reimburse the costs of any insurance purchased under this Section within 30 days of notice requesting payment from Client. If Cumberland does not reimburse the costs to Client



within 30 days, Client may deduct the amounts from payments due to Cumberland. This right does not create an obligation on the part of Client to purchase insurance for Cumberland.

14 RESTRICTION ON HIRING AND SOLICITATION.

Each party agrees that there is no non-solicitation covenant during the term of this agreement. Either party may solicit for employment any employee of the other party without penalty, except as prohibited by Florida law.

15 GENERAL.

Cumberland will ensure that its personnel obey all reasonable instructions and directions issued by Client when on Client's premises.

15.1 Force Majeure. Neither party shall be liable for failure to fulfill any obligations under this Agreement or any Statement of Work for delays in delivery or payment due to causes beyond its reasonable control, including, but not limited to, acts of God, acts of terrorism, acts or omissions of the other party, man-made or natural disasters, material shortages, strikes, delays in transportation or inability to obtain labor or materials through its regular source. The time for performance of any such obligation shall be extended to account for the time period lost by reason of the delay.

15.2 Assignment. Neither party may assign or transfer this Agreement, or delegate or sublicense any of its rights under this Agreement. An assignment of this Agreement by operation of law, in the case of a merger, consolidation, amalgamation, or other transaction or series of transactions, requires consent. A putative assignment made without such required consent will have no effect. The assigning or transferring party must provide prompt notice of not more than thirty days after such merger, consolidation, amalgamation, or other transaction occurs.

15.3 Trademarks. Neither party is authorized to use any trademarks, service marks, or trade names in which the other party holds right, title, or interest for any purpose.

15.4 No Publicity. Neither party will issue any press release or make any other public communication with respect to this Agreement except as expressly permitted by this Agreement or with the other party's prior written consent. In no event shall either party misrepresent the relationship between Cumberland and Client.

15.5 Independent Contractors. Cumberland and Client are independent contractors. Neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other. Nothing in this Agreement should be deemed or construed to create a joint venture, partnership, agency, or employer-employee relationship between the parties.

15.6 No Third-Party Beneficiaries. Nothing in this Agreement shall confer or be construed as conferring on any other third party any benefit or the right to enforce any express or implied term of this Agreement.

15.7 Import and Export Compliance. Client is solely responsible for compliance with all applicable import, re-import, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control. Client's compliance responsibility encompasses the manner in which Client chooses to use the Work Product, including Client's transfer, processing, and provision to end users.

15.8 Notice. Any notice provided for or permitted in this Agreement may be delivered by personal service, facsimile, e-mail, certified return receipt requested or registered mail, postage prepaid, or by Federal Express or other nationally recognized commercial courier, charges prepaid, to the address listed below, or any notice address subsequently provided to the other party by means of these notice requirements. Any such notice, demand, request or other communication shall be deemed to have been delivered upon the earlier of personal delivery thereof, upon the date of facsimile or e-mail, or three business days after having been mailed as provided above, or one business day after deliver through a commercial courier, as the case may be.

For Cumberland:

Cumberland Group, LLC
Attn: General Counsel



300 Galleria Parkway, Suite 1600
Atlanta, GA 30339

For Client:
City of North Port, Florida
Attn: City Manager
4970 City Hall Boulevard
North Port, Florida 34286

With copy to:
City of North Port, Florida
Attn: City Attorney
4970 City Hall Boulevard
North Port, Florida 34286

15.9 Waiver. Failure by either party to enforce any provision of this Agreement will not constitute a present or future waiver of such provision nor limit either party's right to enforce such provision at a later time. All waivers by either party must be in writing to be effective.

15.10 Severability. If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. If application of this Severability provision should materially and adversely affect the economic substance of the transactions contemplated hereby, the Party adversely impacted shall be entitled to compensation for such adverse impact, provided the reason for the invalidity or unenforceability of a term is not due to serious misconduct by the party seeking such compensation.

15.11 Governing Law; Venue. The laws of the State of Florida govern the rights, obligations, and remedies of the Parties under this Agreement. The exclusive venues for any legal or judicial proceedings in connection with the enforcement or interpretation of this Agreement are the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County, Florida and the United States District Court for the Middle District of Florida.

15.12 Conflicts. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between Cumberland and Client, whether written or verbal, regarding the subject matter of this Agreement. Cumberland specifically objects to any term or condition submitted by Client which is different from the provisions of this Agreement whether or not it would materially alter this Agreement. The parties agree that the terms and conditions of this Agreement shall prevail, notwithstanding contrary terms in any other document issued by either party.

15.13 Paragraph Headings. The headings in this Agreement are solely for convenience or reference and shall not be given effect in the construction or interpretation of this Agreement.

15.14 Enforcement Costs. In the event of any litigation between the parties to enforce any provisions or rights of this Agreement, the unsuccessful party to the litigation shall pay to the successful party all costs and expenses including, but not limited to reasonable attorneys' fees and court costs, which shall be included in any judgment rendered.

15.15 Non-Discrimination. The City of North Port, Florida does not discriminate on the basis of race, color, national origin, sex, age, disability, family, or religious status in administration of its programs, activities, or services. Cumberland shall not administer this Agreement in an unlawfully discriminatory manner, nor deny participation in or the benefits of same to any individual based on that individual's race, color, national origin, sex, age, disability, family or religious status, marital status, sexual orientation, gender identity or expression, or physical characteristic.

This Agreement is executed by the parties as of the Effective Date listed in the preamble.

CUMBERLAND GROUP, LLC

By: _____



Name: _____
Title: _____
Date: _____

Approved by the City Commission of the City of North Port, Florida on _____, 2022.

CITY OF NORTH PORT, FLORIDA

By: _____
A. Jerome Fletcher, II, ICMA-CM, MPA
City Manager

ATTEST

Heather Taylor, MMC
City Clerk

APPROVED AS TO FORM AND CORRECTNESS

Amber L. Slayton
City Attorney