

BASE PROFESSIONAL SERVICE AGREEMENT

BETWEEN

CHEROKEE NATION BUSINESSES, LLC

AND

Contract No. _____

Effective Date: _____

BASE PROFESSIONAL SERVICE AGREEMENT

THIS BASE PROFESSIONAL SERVICE AGREEMENT ("Base Agreement") is effective as of the _____ day of _____ 2016 ("Effective Date"), by and between **CHEROKEE NATION BUSINESSES, LLC, a limited liability company**, doing business as a wholly-owned tribal corporation of the Cherokee Nation, a federally recognized Indian tribe which has jurisdiction over "Indian lands" as defined in Title 25, Section 2703(4) of the United States Code, having offices at 777 West Cherokee Street, Catoosa, Oklahoma 74015 ("**Company**") and _____ a _____ with offices located at _____ ("**Contractor**").

WITNESSETH:

WHEREAS, Company desires to engage the professional services of Contractor from time to time to perform various services; and

WHEREAS, Contractor is willing, upon Company's request, to perform certain services for the Company upon the terms, agreements, conditions and covenants hereinafter set forth;

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. Term:

(a) The term of this Base Agreement shall become effective as of the date first written above and shall continue throughout the term of any Service Agreement which has been executed by both parties. Either party, upon at least thirty (30) days' prior written notice to the other party, may terminate this Base Agreement without liability to the other party, except as hereafter provided. Notwithstanding the foregoing, Company will have the right to terminate this Base Agreement immediately for cause and for any violation of Company policies of which Contractor has notice.

(b) The termination of this Base Agreement shall not terminate the obligations of Company to Contractor for charges and reimbursements due Contractor for the performance of services completed under this Base Agreement through the date of termination, nor of Contractor with respect to the protection of Company confidential information, supplied by Company to Contractor or prepared by Contractor for Company, nor any indemnity obligations for the benefit of either party, all of which obligations shall survive a termination hereof.

2. Service Agreement: The parties shall execute a Project Service Agreement ("Service Agreement") from time to time as new projects are offered to and accepted by Contractor. A form Service Agreement is attached as Exhibit A and incorporated by reference herein. The Service Agreement shall define the agreed upon Services to be performed by Contractor, the anticipated duration of such Services, the types of expenses for which Company shall reimburse Contractor, and the compensation due Contractor for such Services. The entire contract between the parties shall consist of the terms and conditions set forth in this Base Agreement and any currently effective Service Agreement(s) (the "Contract"). Each such Service Agreement shall constitute an integral part of this Base Agreement and shall be read and construed as one with this Base Agreement.

3. Services:

(a) Contractor shall commence performance of Services upon the date specified in the Service Agreement. Contractor shall furnish the labor and Company shall furnish all maps, forms and related materials necessary in the performance of Services. Company reserves the right, at any time, to order changes in the Services in the nature of additions, deletions or modifications and Company may suspend Services upon five (5) days written notice to Contractor. To the extent reasonably necessary and subject to available space, Company shall provide work space on Company's premises for Contractor's personnel involved in performing Company requested Services.

(b) Contractor shall perform the Services at its sole risk and expense in a manner consistent with the degree of care and skill exercised by other professional contractors engaged in the same profession and working under similar circumstances, satisfactory to Company. Contractor shall at all times maintain a professional manner so as to properly establish the credibility, reputation and the interest of Company and shall not do or permit to be done

any act, statement or thing of a nature contrary thereto.

(c) Any reference to Contractor in this Base Agreement shall also include, but not be limited to, any employees, agents, representatives and subcontractors of Contractor acting on behalf of Contractor.

4. Compensation:

(a) As full and complete compensation for the Services performed hereunder, Company agrees to pay Contractor and Contractor agrees to accept payment at the rates designated in the applicable Service Agreement. Company will not pay a premium for hours worked by the Contractor's employee in excess of forty (40) hours in any work week, unless specifically delineated in the Service Agreement.

(b) Upon receipt of Company's written notice, Contractor shall suspend or terminate all further Services in accordance with such notice, and immediately deliver to Company whatever portion of the Services are completed as of such date and shall promptly thereafter invoice Company for all amounts due for Services completed as of the date of suspension or termination.

5. Fees, Expenses and Reimbursements:

(a) Company shall reimburse, if allowed under the applicable Service Agreement, Contractor for actual and reasonable out-of-pocket expenses incurred in performing the Services. Actual travel and out-of-pocket expenses shall be limited to direct expenses and Contractor shall receive no compensation for any profit, overhead or administrative costs. All travel and related costs (including meal, lodging, toll, parking, postage and telephone expense incurred during overnight travel) to be incurred in the performance of the Services are subject to the prior written approval of Company. Reimbursable expenses shall be defined consistent with Company policies and procedures. Company will not be responsible for any Contractor expenses or pay until Contractor reports to the job for actual work assignment nor for any expenses incurred following the completion of and discharge from all work assignments. Company will reimburse Contractor for office expenses not related to travel only as set forth in the applicable Service Agreement.

(b) Contractor shall submit monthly invoices to Company for Services rendered and for reimbursable expenses incurred since the previous billing, along with full supporting documentation, including a copy of the work report signed by an authorized Company employee and expense vouchers, if any. Each invoice shall reference this contract number for this Base Agreement as well as the applicable Service Agreement number. Each work report shall indicate the number of days, or portions thereof, worked by project name. Company will pay Contractor the amounts of such invoices within thirty (30) days after receipt; provided, that if Company may have any objections to all or any portion of an invoice, the Company will notify Contractor of the same, give reasons for its objection(s) and pay only the portion of the invoice which is not in dispute. Representatives of Contractor and Company shall confer to resolve any disputed invoices.

6. Right To Audit: Contractor shall keep books and records on a consistent basis and in accordance with generally accepted accounting principles (GAAP). These books and records shall readily disclose the basis for any charges or credits, ordinary or extraordinary, billed or due to Company under this Agreement and shall be made available for examination, audit and reproduction by Company and its agents during the term of this Agreement, and for a period of two (2) years after the receipt by Contractor of final payment under this Agreement. When requested by Company, Contractor shall permit Company personnel or its duly authorized agent or representative access during normal working hours to Contractor personnel, property and records necessary to conduct Company's audit. This right to audit supercedes other sections of this Agreement. Contractor further agrees to include the above right to audit clause in all subcontracts for services and materials furnished under the terms of this Agreement entitling Company to a right to inspect books and records to validate subcontractor charges.

7. Acceptance of the Services: Company project or program manager, as designated in the Service Agreement, or such other person designated by Company in writing (the "Representative"), will determine whether the Services have been performed by Contractor in a manner satisfactory to Company and in accordance with the terms of this Base Agreement. Upon acceptance of the Services, Company will pay Contractor for Services performed in accordance with this Base Agreement. Acceptance of or payment for the Services by Company shall in no event release Contractor from liability under this Base Agreement.

8. Independent Contractor Status:

(a) Contractor hereby declares it is engaged in an independent business and agrees to perform the Services as an independent contractor with full responsibility for the control and direction of its employees and subcontractors. Contractor, in its performance of this Base Agreement, has and hereby retains the right to exercise full control and supervision over the accomplishment of the objectives set forth in the Service Agreement. Contractor shall be obligated to complete the services in a timely manner, unless a specific time schedule is agreed upon in the Service Agreement. Contractor shall not be required to work a specific number of hours per day or specific days of the week. Contractor shall not be an agent, employee or servant for and may not bind Company. This Base Agreement is not intended to and will not create a partnership, joint venture or agency of any kind or type. It is understood that Contractor is free to contract for similar services to be performed for others during the term of this Base Agreement.

(b) Contractor hereby accepts full and exclusive liability for the payment of its employees' compensation and benefits including any and all contributions or taxes for unemployment insurance, old age retirement benefits, pensions or annuities now or hereafter imposed by or under the laws of the United States or laws of the States in which this Base Agreement is to be performed and which are measured by the wages, salaries or other remuneration paid to the persons employed by Contractor on services performed under the terms of this Base Agreement. Contractor further warrants that it will comply with all other applicable federal, state or local laws or regulations applicable to Contractor as an employer regarding compensation, hours of work or other conditions of employment, including those applicable to minimum wage and overtime wages.

(c) Neither Contractor, nor its employees providing services under this Base Agreement, shall be entitled to participate in or receive benefits under any Company programs maintained for its employees, including, without limitation, life, medical and disability benefits, pension, profit sharing or other retirement plans or other fringe benefits. Nor shall Contractor's employees be entitled to any direct or indirect compensation or remuneration of any kind from Company as a result of the Services performed under this Base Agreement.

9. Assigned Employees: Company may, upon verbal notice to Contractor, (with written notification to follow) demand from time to time that Contractor immediately remove any or all of Contractor's employees from Company's project. In such event, Contractor's employee shall immediately deliver all Company information and materials to Company Representative. If Company demands that Contractor replace individual(s), Contractor shall promptly replace the individual(s) for the remainder of the assignment. Company reserves the right to approve any suitable replacement.

10. Indemnification:

(a) Contractor shall defend, protect, indemnify and hold harmless Company from and against all claims, demands, causes of action, liabilities, loss, or expense (including, without limitation, reasonable attorneys' fees, costs and expenses) of every kind and character arising from or related to (i) actual or asserted failure of Contractor and its employees or subcontractors to comply with any law, ordinance, code, regulation, rule, or order of any governmental body; (ii) injury to or death of persons (including, without limitation, the employees of Company, Contractor and its employees and subcontractors and any third party); or (iii) damage to or loss of property (including, without limitation, the property of Company); all arising directly or indirectly out of the acts or omissions of Contractor, its employees or subcontractors incident to the Services to be performed and operations to be conducted, except injury or death of persons or damage or loss of property caused by the sole negligence or willful misconduct of Company.

(b) Contractor shall defend, protect, indemnify and hold Company harmless for all taxes, contributions, penalties, fees and expenses (including, without limitation, reasonable attorneys' fees, costs and expenses) incurred by Company because of Contractor's failure to withhold federal and state income taxes, FICA taxes, or FUTA taxes or any other such taxes or governmental charges, federal, tribal, or state which Company may be required to pay on account of Contractor.

(c) Contractor shall defend, protect, indemnify and hold harmless Company from and against any and all claims, demands, causes of action, liabilities, fines, penalties, injuries (including death) or expenses (including, without limitation, reasonable attorneys' fees, costs and expenses) of any kind or whatsoever nature arising out of, resulting from, or relating to, all obligations and liabilities of Contractor with respect to Contractor's employees

arising out of employment by Contractor or during the period of such employment or which accrue under any employee plan or benefit arrangement otherwise, including without limitation, all obligations of Contractor for salaries, vacation, and holiday pay, severance payments, bonuses and other forms of compensation, benefits or other payments; and all costs and expenses with respect to any termination by Contractor of its employees who performed services under this Base Agreement.

All obligations to defend, protect, indemnify, and hold Company harmless shall extend to Company officers, directors, employees, agents, shareholders, affiliates, and the officers, directors and agents of any corporate shareholder of Company and shall continue for so long as any of the named indemnitees may be subjected to claims or suits calling for such obligations, notwithstanding the completion, acceptance, or payment for services. {Note: The term "indemnitees" refers to those entities or persons to which an indemnity is owed. }

11. Insurance: Contractor shall carry or cause to be carried and maintained in force throughout the entire term of this Base Agreement insurance coverage as described in subsections (a) through (d) below with insurance companies acceptable to Company. Non-renewal or cancellation of policies described below will be effective only after written notice is received by Company from the insurance company, thirty (30) days in advance of any such non-renewal or cancellation. Prior to commencing the services hereunder, Contractor shall deliver to Company certificates of insurance on an Acord 25 or 25S form evidencing the existence of the following insurance coverage. All costs and deductible amounts will be for the sole account of Contractor.

(a) Workers' Compensation insurance complying with the law of the State or States having jurisdiction over each employee, whether or not Contractor is required by such laws to maintain such insurance, and Employer's Liability with limits of \$500,000 each accident, \$500,000 disease each employee, and \$500,000 disease policy limit.

(b) Commercial or Comprehensive General Liability insurance on an occurrence form with a combined single limit of \$1,000,000 each occurrence, and annual aggregates of \$2,000,000 each, for bodily injury and property damage, including coverage for blanket contractual liability, broad form property damage, personal injury liability, independent contractors, and products/completed operations.

(c) Automobile Liability insurance with a combined single limit of \$1,000,000 each occurrence for bodily injury and property damage to include coverage for all owned, non-owned and hired vehicles.

(d) Professional Liability insurance with limits of not less than \$2,000,000 for each claim and an annual aggregate of not less than \$5,000,000.

With respect to any insurance policy required by this Section which provides coverage on a "claims made" basis, such policy shall, if possible, be maintained for a period of not less than two years after termination of the applicable Service Agreement with retroactive coverage to the effective date of the applicable Service Agreement. If any such policy is terminated, Contractor shall provide a substitute insurance policy with the same terms, conditions, and policy limit including retroactive coverage to the effective date of the applicable Service Agreement. Said substitute policy shall be maintained in full force and effect for at least two years or provide for a two year discovery period from the date Company finally accepts work.

In each of the above described policies, Contractor agrees to waive and will require its insurers to waive any rights of subrogation or recovery they may have against Company its parent, or affiliated companies.

Under the policies described in subsections (b) and (c) above, Company, its parent, and affiliated companies will be named as additional insured as respects any work performed under this Base Agreement. Any costs associated with naming these additional insured are included in the compensation as designated on the Service Agreement.

The policies described in subsections (b) and (c) above shall include the following "other insurance" amendment: "This insurance is primary insurance with respect to Company its parent, subsidiary and affiliated companies, and any other insurance maintained by Company its parent, or affiliated companies is excess and not contributory with this insurance."

In the event coverage is denied or reimbursement of a properly presented claim is disputed by the carrier for insurance provided in subsections (a) through (d) above, Contractor shall, upon written request, provide Company

with a certified copy of the involved insurance policy or policies within ten (10) business days of receipt of such request.

Neither the insurance required herein or the amount and type of insurance maintained by Contractor, shall limit or affect the extent of Contractor's liability hereunder for injury, death, loss or damage.

Company will not insure nor be responsible for any loss or damage, regardless of cause, to property of any kind, including loss of use thereof, owned, leased or borrowed by Contractor, or its employees, servants or agents, other than property which becomes a part of the services under this Base Agreement.

12. Confidentiality:

(a) Any written information, drawings or data disclosed by Company to Contractor as well as the results of the Services performed by Contractor for Company and all information becoming known to Contractor concerning Company's inventions, discoveries, improvements, methods, business plans, ventures, practices, enterprises, or operation, or any other information affecting the business operations of Company shall be deemed to be confidential and proprietary information of Company, and shall be protected by Contractor in the same manner and with the same degree of care Contractor treats its own confidential or proprietary information after the termination of this Base Agreement. Contractor agrees to and shall be fully responsible for all confidential or proprietary information of Company in Contractor's possession and Contractor shall promptly upon completion of the services, or on demand, return all such information and reproductions therefrom to Company.

(b) Such proprietary or confidential information shall not be disclosed, except to the extent required by law, to any third person or entity without the prior written consent of Company. Except in the case of a disclosure required by law, prior to disclosure to any such third person or entity, such third person or entity must have agreed in writing to treat the information as confidential in the same manner as set forth in subsection (a) herein.

(c) Confidential or proprietary information shall be treated in the manner specified in subsection (a) herein until such time as: (i) such information is otherwise available in the public domain; (ii) such information shall be established to have been lawfully known by Contractor prior to receipt of such information from Company or becomes known by Contractor through a third party not subject to the non-disclosure requirements of this Base Agreement; or (iii) such information is required to be released by a valid law, regulation or court order, and sufficient notice is given by Contractor to Company of any such requirement or request to permit Company to seek an appropriate protective order or exemption from such requirement or request.

(d) Contractor shall ensure that the maintenance of confidentiality and restriction on use set forth in this Base Agreement are observed by its employees and subcontractors, if any.

13. Liability: The Company shall not be liable to Contractor or its employees in any event or for any reason for any special, indirect, incidental or consequential damages or loss of profits arising out of or related to this Base Agreement. Contractor shall not be liable to Company in any event or for any reason for any special, indirect, incidental or consequential damages or loss of profits arising out of or related to this Base Agreement.

14. Property Rights: All materials whether furnished to Contractor by Company, or prepared, compiled or acquired by Contractor during the performance of Services for Company, shall be the sole property of Company. At any time upon request of the Company, and in any event promptly upon the termination of this Base Agreement, Contractor shall deliver all such materials to Company.

15. Notices: All notices, requests, demands and other communications required or permitted under this Base Agreement shall be in writing and shall be deemed to have been duly given or served for the purposes hereof if delivered personally to the party, or if sent by registered or certified mail, postage and charges prepaid, or by facsimile (confirmation received), addressed to the party as set forth below or to such other address as one party may have directed in writing to the other party prior to the mailing of any such notice.

(Contractor)
Attn:
(Address)
(City, State)

Cherokee Nation Businesses, LLC
Attn: Contract Management
777 West Cherokee Street
Catoosa, OK 74015

Fax #:
Phone #:

Fax #: 918-266-3984
Phone #: 918-384-7892

Either party may change its address for purposes of this section by giving the other party written notice of its new address.

16. Improper Payments: Contractor shall not use any funds received under this Base Agreement for illegal or otherwise “improper” purposes, nor pay any commissions, fees or rebates to any employee of Company, nor favor any Company employee with gifts or Businesses of significant cost or value. Throughout the term of this Agreement, Contractor agrees: a) to immediately advise Company of any pre-existing business relationship with any individual or company whose performance Contractor will be evaluating on behalf of Company or services Contractor will be recommending to Company, and b) not to enter into any business relationship nor accept any funds from any individual or company whose performance Contractor will be evaluating on behalf of Company or services Contractor will be recommending to Company. If Company has reasonable cause to believe that one of the above provisions has been violated, Company or its representative may audit the records of Contractor for the purpose of establishing compliance with such provisions. For purposes of this Section 16, Company shall include all affiliated companies of Company as well.

17. Compliance with Law: Contractor shall strictly observe, comply with, and give all notices required by, all local, municipal, state, tribal and federal laws, ordinances, rules, directives, orders, and regulations related to the Services, including, without limitation: a) the Cherokee Nation Employment Rights Act, including all payment requirements, subcontracting requirements and Indian preference requirements contained therein, as such Act is administered by the Tribal Employment Rights Office (“TERO”) of the Cherokee Nation, and b) the Cherokee Nation Gaming Commission Rules and Regulations and Minimum Internal Control Standards.

18. Waiver: For any waiver of any right, option or privilege to be binding, the same must be in writing and signed by the party against whom such waiver is sought to be enforced. A waiver by either party of any one or more defaults by the other party hereunder shall not operate as a waiver of any future default or defaults, whether of a like or different character.

19. Assignment: Contractor shall not assign rights, delegate obligations or otherwise dispose of this Base Agreement or any part hereof or any right or obligation hereunder without the prior written consent of Company, which consent may be withheld for any reason. This Base Agreement shall be binding upon Contractor and its employees, its successors and permitted assigns.

20. Subcontractors: In the performance of this contract, Company and Contractor and its subcontractor(s) shall, to the greatest extent feasible, give preference in the selection of suppliers and subcontractor(s) to Indian organizations, Indian owned enterprises and individuals as certified by TERO. Contractor agrees to bind every subcontractor it engages to perform services for Company to the provisions of this Base Agreement insofar as the same shall be applicable to the subcontractor's performance of such services. Contractor shall be fully responsible to Company for the acts or omissions of its subcontractors, and of persons either directly or indirectly employed by them.

21. Cherokee Nation Gaming Commission Licensing: As a result of Contractor’s provision of goods and/or services under this contract, Contractor may be required to apply for and obtain a gaming license from the Cherokee Nation Gaming Commission (“CNGC”). If so required, and Contractor is unable to obtain or maintain its gaming license throughout the term of this Contract, upon written notification of such failure from CNGC and/or Company, Company may cancel this Contract without penalty, paying only for the goods and/or services provided to Company prior to such notification.

22. Alcohol and Drug Policy: Contractor, while on Company premises or engaged in Company work, shall refrain from the consumption or possession of alcoholic beverages and the possession, sale, use or distribution of unauthorized drugs. Contractor agrees to ensure a drug-free workforce whereby Contractor maintains an Alcohol and Drug Abuse Prevention Program which will include, but not be limited to, drug testing and certification of such testing of Contractor employees as appropriate and to the extent permitted by law. Company is granted the right to request and receive written verification from Contractor of the Contractor drug testing of its employees.

23. No Smoking Policy: Company maintains a smoke-free workplace and does not permit smoking or the use

of any type of smoking material in any of its office facilities or vehicles. Contractor shall abide by these no smoking rules and inform its employees of such rules.

24. Non-Exclusive Agreement: Nothing herein contained shall be construed to prevent Company from engaging other contractors or other persons during the term of this Base Agreement to perform the services herein.

25. No Third Party Beneficiary: Nothing in this Base Agreement provides any legal rights to, or create any liability for, anyone not an executing party of this Base Agreement.

26. Headings: All headings used herein are inserted for convenience only and shall not affect any construction or interpretation of this Base Agreement.

27. Severability: If any term or provision of this Base Agreement shall to any extent be invalid or unenforceable, said term or provision shall be severable and the remainder of this Base Agreement shall be valid and enforceable to the fullest extent permitted by law.

28. Entire Agreement: This Base Agreement comprises the entire agreement between the parties with respect to the subject matter hereof and there are no agreements, understandings, conditions, warranties, or representations, oral or written, expressed or implied, that are not merged herein or superseded hereby.

29. Amendments: Any amendment to this Base Agreement shall be valid only if made in writing and duly executed by the parties' authorized representatives.

30. Acknowledgement: The parties acknowledge that they have had an adequate opportunity to review this Base Agreement and any thereto and to consult legal counsel knowledgeable in Federal Indian Law and Cherokee Nation Law regarding the legal effect of this Base Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Base Professional Service Agreement as of the day and year first above written.

CHEROKEE NATION BUSINESSES, LLC

(CONTRACTOR NAME)

Signed: _____

Signed: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

PROJECT SERVICE AGREEMENT

Cherokee Nation Businesses, LLC

Contract No. _____
Service Agreement No. _____
Company Location:
Company Representative:

This Project Service Agreement ("Service Agreement") is effective as of _____ ("Effective Date"), by and between CHEROKEE NATION BUSINESSES, LLC ("Company") and _____ Contractor"). This Service Agreement is entered into pursuant to the Base Professional Service Agreement between Company and Contractor effective , _____ Contract No. _____ (Base Agreement"), and is subject to the Terms and Conditions of such Base Agreement.

Contractor is hereby authorized to perform the following services:

Contractor agrees that without the express written approval of an authorized Company representative, the total compensation to Contractor under this Project Service Agreement shall not exceed \$_____.

CHEROKEE NATION BUSINESSES, LLC

(CONTRACTOR NAME)

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____