

**Zone 6 Regional Tourism Organization  
Central Counties Tourism**

**THIS ULTIMATE RECIPIENT AGREEMENT** (the “**Agreement**”) is dated as of the **XX** day of **XXX, XXXX** (the “**Effective Date**”)

**BETWEEN:**

**ZONE 6 REGIONAL TOURISM ORGANIZATION O/A CENTRAL COUNTIES  
TOURISM (“CCT”)**

**AND:**

**XXX** (the “**Ultimate Recipient**”)

**AGREEMENT NUMBER:** **FEDTRF-XXXXXXXX-X**

**PREAMBLE:**

- A. The Federal Economic Development Agency for Southern Ontario (“**FedDev**”) has developed the *Southern Ontario Prosperity Program* (the “**SOPP**”), which is intended to stimulate economic activity across Southern Ontario by supporting small and medium sized enterprises located in Southern Ontario.
- B. As part of the SOPP, FedDev established the *Tourism Relief Fund* to assist tourism businesses across Southern Ontario recover from the pandemic through investments to improve their offerings and adapt to public health measures (the “**TRF Program**”).
- C. CCT, as the initial funding recipient, and Her Majesty the Queen in Right of Canada as represented by the Minister responsible for FedDev, have entered into a Tourism Relief Fund Contribution Agreement dated April 3, 2022 (as may be amended, restated, or otherwise modified from time to time, the “**FedDev Agreement**”) for the implementation of the SOPP through the TRF Program.
- D. Pursuant to the FedDev Agreement, CCT is empowered to administer the TRF Program by selecting qualified recipients for TRF Program funding and to distribute the financial contributions made by FedDev in accordance with the FedDev Agreement.
- E. The Ultimate Recipient, having reviewed the criteria for the TRF Program, has applied to CCT to participate in the TRF Program and to receive funding for its Eligible Project (as defined herein) and the Ultimate Recipient has been approved for funding by CCT.
- F. CCT, through a review panel appointed by its Board of Directors, has selected the Ultimate Recipient to be a TRF Program participant and is therefore qualified to receive TRF Program funding in support of the Eligible Project.

**NOW THEREFORE** in consideration of the mutual covenants and agreement of the parties hereinafter contained and for other good and valuable consideration, the receipt and sufficient of which are hereby acknowledged, the parties covenant and agree as follows:

**1. Interpretation**

- 1.1 Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in Annex 6 – Definitions and Interpretation.

**2. The Agreement**

- 2.1 The purpose of this Agreement is to set out the terms and conditions under which CCT will make a financial contribution to assist the Ultimate Recipient with payment for Eligible Costs incurred for the Eligible Project as detailed in Annex 1 – Statement of Work.
- 2.2 The delivery of the TRF Program and CCT’s funding of Eligible Costs contemplated thereunder is contingent upon funding being provided to CCT under and subject to the terms of the FedDev Agreement.
- 2.3 This Agreement contains the following annexes as described below, which form an integral part of this Agreement:

### **Annex 1 – Statement of Work**

This annex is a comprehensive description of the Eligible Project including, without limitation, the scope of work, cost breakdown, location of the Eligible Project and sources of funding.

### **Annex 2 – Costing Guideline Memorandum**

This annex describes the rules for eligibility for certain costs.

### **Annex 3 – Certified Copy of Authorizing Documents**

This annex contains certified copies of the Ultimate Recipient's Authorizing Documents, which documents are to be provided to CCT upon Eligible Project approval, and which are comprised of the Ultimate Recipient's:

- Articles of Incorporation
- By-Laws
- Board/Council Resolution authorizing the organization entering into the Agreement
- Liability Insurance Certificate
- Conflict of Interest Policy
- Procurement Policy

### **Annex 4 – Final Report**

This annex contains substantially the forms to be used in order to prepare the final report.

### **Annex 5 – Federal Visibility Requirements**

This annex outlines marketing, promotional and other public visibility requirements to which the Eligible Project must adhere.

### **Annex 6 – Definitions and Interpretation**

This annex describes the definitions and rules of interpretation that apply in this Agreement.

## **3. Duration of Agreement**

3.1 This Agreement comes into force on the Effective Date first stated above and will terminate on the date on which the Eligible Project is complete, unless otherwise determined in accordance with the terms of this Agreement.

3.2 **Control Period.** Notwithstanding the provisions of Subsection 3.1 above, during the Control Period, the rights and obligations described in the following sections shall continue beyond the duration of the Agreement:

Section 0	-	Overpayment or non-entitlement
Section 8	-	Reporting, Monitoring, Audit and Evaluation
Section 10	-	Indemnification and Limitation of Liability
Section 12	-	Representations
Section 14	-	Default and Remedies
Section 15	-	Project Assets and Intellectual Property
Section 166	-	General

## **4. Terms of Participation in the TRF Program**

4.1 The Ultimate Recipient agrees to act strictly in accordance with the terms of this Agreement with respect to its participation in the TRF Program.

4.2 The Ultimate Recipient represents and warrants to CCT that it has the power to enter into this Agreement and to perform its obligations hereunder.

4.3 The Ultimate Recipient shall not have the authority to do any act on behalf of CCT or FedDev.

4.4 The Ultimate Recipient agrees to comply with instructions provided by CCT to acknowledge the support through the Government of Canada and FedDev in their communications about support received through the TRF Program, including websites, news releases, social media, success stories, and announcements.

4.5 The Ultimate Recipient warrants that it will comply with all federal, provincial, territorial, municipal and other applicable laws governing the Ultimate Recipient or the Eligible Project, or both, including without limitation, statutes, regulations, by-laws, rules, ordinances and decrees. This includes legal requirements and regulations relating to

environmental protection and the successful implementation of and adherence to any mitigation measures, monitoring or follow-up program, which may be prescribed by federal, provincial, territorial, municipal bodies.

- 4.6 The Ultimate Recipient warrants that any assets acquired, constructed, rehabilitated or improved with the Funds provided under this Agreement will not be sold or otherwise disposed of without prior written approval from CCT for the term of the Agreement.
- 4.7 CCT reserves the right to transfer to any third party all rights, title and interest in this Agreement.
- 4.8 The Ultimate Recipient acknowledges that if it is in breach of, or in default under, this Agreement, such breach or default may result in, among other things, legal action against the Ultimate Recipient by CCT. The Ultimate Recipient shall at all times have regard to and take account of CCT's risks, liabilities and obligations under the provisions of the FedDev Agreement and shall comply with the provisions of this Agreement and provide such information and documentation as may be requested by CCT from time to time so as to enable CCT to perform its obligations under the FedDev Agreement.

## 5. Funding

- 5.1 Subject to, and in accordance with, the terms and conditions of this Agreement, CCT will distribute to the Ultimate Recipient the following non-repayable performance-based contribution in respect of the Eligible Project an amount not exceeding the lesser of:
  - (a) \$XXX; and
  - (b) One hundred percent (100%) of Eligible Costs, exclusive of HST (as stated in sections 1.2 and 5.1 of this Agreement), incurred by the Ultimate Recipient as detailed in Annex 1 – Statement of Work.
- 5.2 No Funds shall be disbursed under this Agreement unless the Eligible Project meets and continues to meet the requirements of Section 11.
- 5.3 Notwithstanding any other provisions of this Agreement, CCT will, in its sole discretion, withhold ten percent (10%) of the Funds until:
  - (a) the Eligible Project is completed to the satisfaction of CCT;
  - (b) the Ultimate Recipient has satisfied all the conditions of this Agreement;
  - (c) the final report described in Subsection 7.2(d) has been submitted to the satisfaction of CCT;
  - (d) audits and site visits, where required by CCT, have been completed to the satisfaction of CCT; and
  - (e) CCT has approved the final claim described in Subsections 7.2 and 7.3.

6. **Administrative Costs.** 'Administrative Costs' are eligible up to a maximum of ten percent (10%) of the total funding disbursed. Should the project come in under budget, any assistance thereof may be adjusted accordingly to ensure that they do not exceed the ten percent (10%) limit by the Completion Date. Administrative expenses refer to the costs incurred to support the functioning of the project.

## 7. Claims and Payments.

- 7.1 The Ultimate Recipient shall maintain accounting records that account for the Funding paid to the Ultimate Recipient and the related Eligible Project costs in respect of this Agreement, separate and distinct from any other sources of funding.
- 7.2 The Ultimate Recipient shall submit weekly claims in accordance with Sections 7.4 and 7.5 of this Agreement as stated below, up to ninety percent (90%) of the maximum Funding amount, at which point CCT will withhold the remaining ten percent (10%). The remaining Funding will be released upon submission of a) a final claim by the Ultimate Recipient of Eligible Costs incurred during the Eligibility Period in a form satisfactory to CCT and in accordance with Annex 2 – Costing Memorandum Guideline, and b) a Final Report as outlined in Annex 5 – Final Agreement of this Agreement. The final claim will include the following information:

- (a) a final statement of total Eligible Project costs;
- (b) a statement of total government assistance (federal, provincial and municipal assistance) received or requested towards the Eligible Costs;
- (c) an itemized summary by cost category of Eligible Costs incurred substantially in the form prescribed by CCT;
- (d) a final report on the Eligible Project in accordance with Annex 5 – Claim Form and Final Report;
- (e) certification of the claim by the Ultimate Recipient, confirming the accuracy of the claim and all supporting information provided;
- (f) if applicable, a certification by a director or officer of the Ultimate Recipient that any environmental mitigation measures that may be set out in this Agreement have been implemented; and
- (g) any other substantiating documentation (including without limitation, any invoice or proof of payment), as may be required by CCT.

7.3 The Ultimate Recipient shall submit the final claim for reimbursement of Eligible Costs incurred to the satisfaction of CCT no later than 14 days after the Completion Date or the date the Eligible Project is completed to the satisfaction of CCT, whichever is earlier. CCT shall have no obligation to pay any claims submitted after this date.

7.4 **Payment Procedures for Pending Actual Expenses.** Subject to the maximum Funding amounts set forth in Subsection 5.1 and all other conditions contained in this Agreement, CCT shall disburse funds to the Ultimate Recipient based on actual costs procured but not yet paid. These costs shall be deemed Pending Actual Expenses. Payment procedure is as follows:

- (a) Pending Actual Expenses shall be summarized in a Claim Form to be provided to the Ultimate Recipient by CCT, and shall be submitted to CCT, along with copies of vendor or service provider invoices for the Pending Actual Expenses, on Monday of each week of the Eligibility Period (where applicable).
- (b) CCT, upon review and acceptance of this submission, shall disburse funds to the Ultimate Recipient accordingly and by direct deposit within three (3) business days. The Ultimate Recipient will then use these funds to pay vendors and service providers respectively. Payment to vendors or service providers **must not** be made by any third party. Funds must be paid from a bank or credit card account held by the Ultimate Recipient as an incorporated not-for-profit organization.
- (c) Upon payment of funds by the Ultimate Recipient, proof of payment must be submitted to CCT. Proof of payment can be one of the following:
  - a credit card or bank statement showing
    - corresponding charge, and
    - account holder name
  - a cancelled cheque
  - a statement or printout from the Ultimate Recipient's accounting system showing
    - vendor invoice entry, and
    - payment entry showing payment details
- (d) subsequent claims for Pending Actual Expenses shall be withheld until satisfactory proof of payment is received by CCT.

7.5 **Payment Procedures for Reimbursable Expenses.** Subject to the maximum Funding amounts set forth in Subsection 5.1 and all other conditions contained in this Agreement, CCT shall disburse funds to the Ultimate Recipient based on actual costs paid directly to the vendor or service provider. These costs shall be deemed Reimbursable Expenses. Payment procedure is as follows:

- (a) Reimbursable Expenses shall be summarized in a Claim Form to be provided to the Ultimate Recipient by CCT, and shall be submitted to CCT, along with copies of the paid vendor or service provider invoices for the Reimbursable Expenses on Monday

of each week of the Eligibility Period (where applicable). Claims will be accompanied by proof of payment as described above in section 7.4 (c). Payment to vendors or service providers **must not** be made by any third party. Funds must be paid from a bank or credit card account held by the Ultimate Recipient as an incorporated not-for-profit organization.

- (b) CCT, upon review and acceptance of this submission, shall disburse funds to the Ultimate Recipient accordingly and by direct deposit within three (3) business days.

7.6 **Overpayment or Non-entitlement.** Where, for any reason, the Ultimate Recipient is not entitled to all or part of the Funding or the amount paid to the Ultimate Recipient exceeds the amount to which the Ultimate Recipient is entitled, the Funding or the amount in excess, as the case may be, shall constitute a debt due to CCT and shall be recovered as such from the Ultimate Recipient. The Ultimate Recipient shall repay CCT within twenty (20) calendar days from the date of CCT's notice, the amount of the Funding disbursed or the amount of the overpayment, as the case may be, together with any interest that may be calculated in accordance with this Agreement. The Ultimate Recipient acknowledges that CCT will not be financially responsible for any ineligible expenditures or cost and schedule overruns for an Eligible Project.

7.7 **Revenue Earned.** If the Ultimate Recipient earns any interest as a consequence of any advance payment of the Funding or earns any revenue from all or part of the activities supported by the Funding, other than that interest or revenue which is used to pay for all or part of the Eligible Costs incurred by the Ultimate Recipient during the Eligible Project, CCT may in CCT's absolute discretion reduce the Funding by all or by such portion of the revenue as deemed appropriate.

## 8. **Records, Reporting, Monitoring and Audit.**

8.1 The parties agree to maintain proper and accurate accounts and records of the Eligible Project for a minimum of seven (7) years after the date of completion of the Eligible Project.

8.2 The Ultimate Recipient agrees to provide CCT with the reports in the form prescribed by CCT and satisfactory to CCT in scope and detail, in order to allow CCT to assess the progress of the Eligible Project. Reports will be submitted on the dates described in the reporting schedule provided by CCT. CCT may reassess the reporting frequency from time to time at CCT's sole discretion and notify the Ultimate Recipient of any changes.

8.3 Upon request of the Minister and at no cost to the Minister, the Ultimate Recipient shall promptly elaborate upon any report submitted or provide such additional information as may be requested.

8.4 The Minister may request a copy of any report or publication produced as a result of this Agreement or the Eligible Project, whether interim or final, as soon as it becomes available.

8.5 The Minister shall have the right to audit, or cause to have audited, the accounts and records of the Ultimate Recipient and to have a right of access to Eligible Project site and the books and accounts of the Ultimate Recipient. To this end, the Ultimate Recipient shall, at its own expense and for the duration of the Control Period:

- (a) preserve and make available for audit and examination by CCT and the Minister proper books, accounts and records of the Eligible Project costs, wherever such books and records may be located, and permit CCT and the Minister to conduct such independent audits and evaluations as CCT's or the Minister's discretion may require;
- (b) upon reasonable notice and after consultation with the Ultimate Recipient, permit CCT and the Minister reasonable access to the Eligible Project site and/or the Ultimate Recipient's premises and documents in order to inspect and assess the progress and results of the Eligible Project and compliance with the terms of this Agreement; and
- (c) supply promptly, on request, such other reports or data in respect of the Eligible Project and its results, as CCT or the Minister may require for purposes of this Agreement and for statistical and/or evaluation purposes.

8.6 **Auditor General of Canada.** The Ultimate Recipient acknowledges that the Auditor General of Canada may, at the Auditor General's cost, after consultation with CCT, conduct

an inquiry under the authority of Subsection 7.1 (1) of the *Auditor General Act* in relation to this Agreement (as defined in Subsection 42(4) of the *Financial Administration Act*) with respect to the use of funds received. For purposes of any such inquiry undertaken by the Auditor General, the Ultimate Recipient shall provide, upon request and in a timely manner to the Auditor General or anyone acting on behalf of the Auditor General:

- (a) all records held by the Ultimate Recipient or by agents or contractors of the Ultimate Recipient, relating to this Agreement and use of the Funding; and
- (b) such further information and explanations as the Auditor General, or anyone acting on behalf of the Auditor General, may request relating to this Agreement and/or the Contribution.

## **9. Public Communications.**

- 9.1 The Ultimate Recipient consents to being contacted directly by CCT and/or the Minister in relation to success stories, announcements, ceremonies and other communications activities.
- 9.2 The Ultimate Recipient acknowledges the federal government's role in the funding provided through this Agreement.
- 9.3 The Ultimate Recipient consents to a public announcement of their project by or on behalf of the Minister in the form of a news release and/or event.
- 9.4 The Minister, through FedDev and CCT, shall inform the Ultimate Recipient of the date the public announcement is to be made, and the Ultimate Recipient shall maintain the confidentiality of the funding agreement until such date.
- 9.5 The Ultimate Recipient consents to the participation of the Minister or the Minister's representatives at the announcement event of the Eligible Project, and to have the event take place on a day mutually agreed upon by the Ultimate Recipient and the Minister or its representatives.
- 9.6 The Ultimate Recipient agrees to a media/public event upon completion of the Eligible Project with the Minister or the Minister's designated representatives at mutually agreeable venue, time and date.
- 9.7 The Ultimate Recipient agrees to display promotional material and/or signage provided by FedDev at the event.

## **10. Indemnification and Limitation of Liability.**

- 10.1 The Ultimate Recipient shall at all times indemnify and save harmless CCT and Her Majesty, its officers, officials, employees and agents, from and against all claims and demands, losses, costs, damages, actions, suits or other proceedings (including, without limitation, those relating to injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights) by whomsoever brought or prosecuted, or threatened to be brought or prosecuted, in any manner based upon or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights, caused by, or arising directly or indirectly from:
  - (a) the Eligible Project, its operation, conduct or any other aspect thereof;
  - (b) the performance or non-performance of this Agreement, or the breach or failure to comply with any term, condition, representation or warranty of this Agreement by the Ultimate Recipient, their officers, employees and agents, or by a third party or its officers, employees, or agents;
  - (c) the design, construction, operation, maintenance and repair of any part of the Eligible Project; and
  - (d) any omission or other wilful or negligent act or delay of the Ultimate Recipient or a third party and their respective employees, officers, or agents, except to the extent to which such claims and demands, losses, costs, damages, actions, suits, or other proceedings relate to the negligent act or omission of an officer, official, employee, or agent of CCT or of Her Majesty, in the performance of his or her duties.

10.2 CCT shall have no liability under this Agreement, except for payments of the Funding in accordance with and subject to the provisions of this Agreement. Without limiting the generality of the foregoing, CCT and the Minister shall not be liable for any direct, indirect, special or consequential damages, or damages for loss of revenues or profits of the Ultimate Recipient.

## **11. Environmental.**

11.1 The Ultimate Recipient represents and warrants that the Eligible Project is not a “designated project” or a “project” under the applicable federal environmental and impact assessment legislation.

11.2 Construction or any other physical activity that is carried out in relation to the Eligible Project, including site preparation, will not be undertaken or will be suspended and no funds or additional funds will be payable by CCT to the Ultimate Recipient for the Eligible Project unless and until the requirements under the applicable federal environmental or impact assessment legislation are met and continue to be met:

(a) where the Eligible Project is a “designated project” under the applicable federal environmental or impact assessment legislation,

(i) a decision pursuant to that legislation is made indicating that no environmental or impact assessment is required for the Eligible Project; or

(ii) a decision statement in respect of the Eligible Project is issued to the Ultimate Recipient indicating that:

A. the Eligible Project is not likely to cause significant adverse environmental effects;

B. the Eligible Project is likely to cause significant adverse environmental effects that the Governor in Council decides are justified in the circumstances, which decision statement may contain conditions in respect of the Eligible Project; or

C. the adverse effects with respect to the impact assessment of the Eligible Project are in the public interest,

(b) where the Eligible Project is a “project” under the applicable federal environmental or impact assessment legislation, a determination that the carrying out of the Eligible Project:

(i) is not likely to cause significant adverse environmental effects; or

(ii) is likely to cause significant adverse environmental effects and the Governor in Council decides that those effects are justified in the circumstances, and

(c) where relevant the requirements under any applicable agreements between Her Majesty and Indigenous groups.

11.3 The Ultimate Recipient will provide the Minister with reasonable access to any Eligible Project site, for the purpose of ensuring that the terms and conditions of any environmental approval are met, and that any required conditions, mitigation measures, monitoring or program follow up have been carried out.

11.4 If, as a result of changes to the Eligible Project or otherwise, the Minister is of the opinion that an environmental or impact assessment or a subsequent determination is required for the Eligible Project, the Ultimate Recipient agrees that construction of the Eligible Project or any other physical activity that is carried out in relation to the Eligible Project, including site preparation, will not be undertaken or will be suspended and no funds or additional funds will become or will be payable by CCT or the Minister to the Ultimate Recipient for the Eligible Project unless and until:

(a) where the Eligible Project is a “designated project” under the applicable federal environmental or impact assessment legislation;

(i) a decision pursuant to that legislation is made indicating that no environmental or impact assessment is required for the Eligible Project; or

- (ii) a decision statement in respect of the Eligible Project is issued to CCT or Ultimate Recipient indicating that:
  - A. the Eligible Project is not likely to cause significant adverse environmental effects;
  - B. the Eligible Project is likely to cause significant adverse environmental effects that the Governor in Council decides are justified in the circumstances, which decision statement may contain conditions in respect of the Eligible Project; or
  - C. the adverse effects with respect to the impact assessment of the Eligible Project are in the public interest,
- (b) where the Eligible Project is a “project” under the applicable federal environmental or impact assessment legislation, a determination that the carrying out of the Eligible Project:
  - (i) is not likely to cause significant adverse environmental effects; or
  - (ii) is likely to cause significant adverse environmental effects and the Governor in Council decides that those effects are justified in the circumstances, and
- (c) where relevant the requirements under any applicable agreements between Her Majesty and Indigenous groups are met and continue to be met:

11.5 **Indigenous consultation.** The Ultimate Recipient acknowledges that CCT’s obligation to provide the Funding is conditional upon Her Majesty satisfying any obligation that Her Majesty may have to consult with or to accommodate any Indigenous groups, which may be affected by the terms of this Agreement.

## 12. Representations and Covenants.

12.1 **Representations.** The Ultimate Recipient represents and warrants that:

- (a) it is a not-for-profit organization, duly incorporated and validly existing and in good standing under the laws of the Province of Ontario, and it has the power and authority to carry on its business, to hold its property and to enter into this Agreement. The Ultimate Recipient warrants that it shall remain as such for the duration of this Agreement;
- (b) the execution, delivery and performance of this Agreement have been duly and validly authorized by the necessary corporate actions of the Ultimate Recipient and when executed and delivered by the Ultimate Recipient, this Agreement constitutes a legal, valid and binding obligation of the Ultimate Recipient, enforceable against it in accordance with its terms;
- (c) this Agreement constitutes a legally binding obligation of the Ultimate Recipient, enforceable against it in accordance with its terms, subject as to enforcement of remedies to applicable bankruptcy, insolvency, reorganization and other laws affecting generally the enforcement of the rights of creditors and subject to a court’s discretionary authority with respect to the granting of a decree, ordering specific performance or other equitable remedies;
- (d) the execution and delivery of this Agreement and the performance by the Ultimate Recipient of its obligations hereunder will not, with or without the giving of notice or the passage of time or both:
  - (i) violate the provisions of the Ultimate Recipient’s by-laws, any other corporate governance document subscribed to by the Ultimate Recipient or any resolution of the Ultimate Recipient;
  - (ii) violate any judgment, decree, order or award of any court, government agency, regulatory authority or arbitrator; or
  - (iii) conflict with or result in the breach or termination of any material term or provision of, or constitute a default under, or cause any acceleration under, any license, permit, concession, franchise, indenture, mortgage, lease,



equipment lease, contract, permit, deed of trust or any other instrument or agreement by which it is bound.

- (e) there are no actions, suits, investigations or other proceedings pending or, to the knowledge of the Ultimate Recipient, threatened and there is no order, judgment or decree of any court or governmental agency, which could materially and adversely affect the Ultimate Recipient's ability to carry out the activities contemplated by this Agreement;
- (f) it has obtained or will obtain all necessary licences and permits in relation to the Eligible Project, which satisfy the requirements of all regulating bodies of appropriate jurisdiction;
- (g) it owns or holds sufficient rights in any intellectual property required to carry out the Eligible Project;
- (h) the description of the Eligible Project in Annex 1 – Statement of Work is complete and accurate; and
- (i) it is located in the regions of York, Durham and/or Headwaters.

12.2 **Covenants.** The Ultimate Recipient covenants and agrees that:

- (a) it shall use the Funding solely and exclusively to support the Eligible Costs of the Eligible Project, and shall carry out the Eligible Project in accordance with the description in Annex 1 – Statement of Work, in a diligent and professional manner, using qualified personnel;
- (b) it shall obtain the prior written consent of CCT before making any material change to any aspect of the Eligible Project or to the management of the Eligible Project or the Ultimate Recipient; and
- (c) it shall acquire and manage all equipment, services and supplies required for the Eligible Project in a manner that ensures the best value for funds expended.

12.3 **Renewal of Representations.** It is a condition precedent to any disbursement under this Agreement that the representations and warranties contained in this Agreement are true at the time of payment and that the Ultimate Recipient is not in default of compliance with any terms of this Agreement.

### 13. **Official Languages.**

13.1 The Ultimate Recipient acknowledges and understands that:

- (a) any public acknowledgment of FedDev's support for the TRF Program must be expressed in both official languages;
- (b) all TRF Program information must be developed and made available in both official languages; and
- (c) all signage related to the TRF Program must be in both official languages.

13.2 The Ultimate Recipient agrees that it will consider the needs of the official language minority community in developing the Eligible Project and related services, acknowledge FedDev's support for the Eligible Project in English and French, and specifically invite the official language minority community to participate in the development and implementation of the Eligible Project, if applicable.

### 14. **Default and Remedies.**

14.1 **Event of Default.** CCT may declare that an Event of Default has occurred if:

- (a) the Ultimate Recipient has failed or neglected to pay CCT any amount due in accordance with this Agreement;
- (b) the Eligible Project is not meeting its objectives or milestones as set out in Annex 1 – Statement of Work, is not completed to CCT's satisfaction by the Completion Date or the Eligible Project is abandoned in whole or in part;

- (c) the Ultimate Recipient makes a materially false or misleading statement concerning support by CCT, FedDev or the Minister in any internal and/or public communication, other than in good faith;
- (d) the Ultimate Recipient becomes bankrupt or insolvent, goes into receivership, or takes the benefit of any statute, from time to time in force, relating to bankrupt or insolvent debtors;
- (e) an order is made or the Ultimate Recipient has passed a resolution for the winding up of the Ultimate Recipient, or the Ultimate Recipient is dissolved;
- (f) the Ultimate Recipient has, in the opinion of CCT, ceased to carry on business or has sold, disposed or transferred all or substantially all of its assets;
- (g) the Eligible Project is carried out outside of York, Durham and/or Headwaters, unless an exception is set out in Annex 1 – Statement of Work;
- (h) the Ultimate Recipient has submitted false or misleading information, or has made a false or misleading representation to CCT in this Agreement or in its application for the Funding;
- (i) the Ultimate Recipient has not, in the opinion of CCT, met or satisfied a term or condition of this Agreement;
- (j) the Ultimate Recipient has not met or satisfied a term or condition under any other agreement of any kind with CCT;
- (k) the Ultimate Recipient is not eligible or is otherwise not entitled to the Funding; or
- (l) the Ultimate Recipient has not complied with the reporting, monitoring, audit and evaluation requirements, specified in this Agreement.

14.2 **Notice of Breach and Rectification Period.** CCT will not declare that an Event of Default has occurred unless it has given prior written notice to the Ultimate Recipient of the occurrence, which in CCT's opinion constitutes an Event of Default. The Ultimate Recipient shall, within such period of time as CCT may specify in the notice, either correct the condition or event or demonstrate, to the satisfaction of CCT, that it has taken such steps as are necessary to correct the condition, failing which CCT may declare that an Event of Default has occurred. During the period of time specified in the notice, CCT may suspend payment of any claim submitted before or after the date of notice.

14.3 **Remedies.** If CCT declares that an Event of Default has occurred, CCT may immediately exercise any one or more of the following remedies, in addition to any remedy available at law:

- (a) terminate the Agreement, including any obligation by CCT to make any payment under this Agreement, including any obligation to pay an amount owing prior to such termination;
- (b) suspend any obligation by CCT to make any payment under this Agreement, including any obligation to pay an amount owing prior to such suspension; and
- (c) require the Ultimate Recipient to repay forthwith to CCT all or part of the Funding, and that amount is a debt due to CCT and may be recovered as such.

## 15. Project Assets and Intellectual Property.

15.1 Title to and ownership of any assets the cost of which has been contributed to by Funding under this Agreement shall be determined by CCT in accordance with the FedDev Agreement, CCT's policy on intellectual property, and any applicable Canadian law.

## 16. General.

16.1 **No Assignment of Agreement.** Neither this Agreement nor any part thereof shall be assigned by the Ultimate Recipient, without the prior written consent of CCT.

16.2 **Successors and Assigns.** This Agreement is binding upon the Ultimate Recipient, its successors and permitted assigns.

- 16.3 **Entire Agreement.** This Agreement comprises the entire agreement between the parties. No prior document, negotiation, provision, undertaking or agreement in relation to the subject matter of this Agreement has legal effect. No representation or warranty, whether express, implied or otherwise, has been made by CCT to the Ultimate Recipient, except as expressly set out in this Agreement.
- 16.4 **Confidentiality.** Subject to the law and this Agreement, the Parties shall keep confidential and shall not disclose the contents of this Agreement or the transactions contemplated hereby, without the consent of all Parties.
- 16.5 **Governing Law.** This Agreement shall be subject to and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 16.6 **Dispute Resolution.** If a dispute arises concerning the application or interpretation of this Agreement, the Parties shall attempt to resolve the matter through good faith negotiation, and may, if necessary and the Parties consent in writing, resolve the matter through mediation or by arbitration, by a mutually acceptable mediator or arbitration in accordance with the Commercial Arbitration Code set out in the schedule to the *Commercial Arbitration Act* (Canada), and all regulations made pursuant to that Act.
- 16.7 **No Amendment.** No amendment to this Agreement shall be effective unless it is made in writing and signed by the parties hereto.
- 16.8 **No Agency.** No provision of this Agreement or action by the Parties will establish or be deemed to establish any partnership, joint venture, principal-agent or employer-employee relationship in any way, or for any purpose, between CCT and the Ultimate Recipient, or between CCT and a third party. The Ultimate Recipient is not in any way authorized to make a promise, agreement or contract and to incur any liability on behalf of CCT, nor shall the Ultimate Recipient make a promise, agreement or contract and incur any liability on behalf of CCT, and shall be solely responsible for any and all payments and deductions, required by the applicable laws.
- 16.9 **No Waiver.** Any tolerance or indulgence demonstrated by one Party to the other, or any partial or limited exercise of rights conferred on a Party, shall not constitute a waiver of rights, and unless expressly waived in writing the Parties shall be entitled to exercise any right and to seek any remedy, available under this Agreement or otherwise at law. Either Party may, by notice in writing, waive any of its rights under this Agreement.
- 16.10 **Public Dissemination.** All reports and other information that CCT or the Minister collects, manages or has a right to receive or produce in accordance with this Agreement, or that the Ultimate Recipient collects, creates, manages and shares with CCT or the Minister, shall be deemed to be "**Canada Information**". The Minister shall have the right, subject to the provisions of the *Access to Information Act*, to release to the public, table before Parliament, or publish by any means, any Canada Information, including such excerpts or summaries of the Canada Information as he may, from time to time, decide to make.
- 16.11 **No conflict of interest.** The Ultimate Recipient and its consultants and any of their respective advisors, partners, directors, officers, shareholders, employees, agents and volunteers shall not engage in any activity where such activity creates a real, apparent or potential conflict of interest in the sole opinion of CCT, with the carrying out of the Eligible Project. For greater certainty, and without limiting the generality of the foregoing, a conflict of interest includes a situation where anyone associated with the Ultimate Recipient owns or has an interest in an organization that is carrying out work related to the Eligible Project.
- 16.12 **Disclose potential conflict of interest.** The Ultimate Recipient shall disclose to CCT without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest.
- 16.13 **Severability.** If for any reason a provision of this Agreement that is not a fundamental term of the agreement between the Parties is found to be or becomes invalid or unenforceable, whether in whole or in part, such provision or part thereof declared invalid or unenforceable shall be deemed to be severable and shall be deleted from this Agreement and all remaining terms and conditions of this Agreement will continue to be valid and enforceable.
- 16.14 **Business Information.** Notwithstanding anything else contained in this Agreement, CCT and the Minister shall be given the right to the use of any of the Ultimate Recipient's publicly available business information about the Eligible Project (e.g. brochures, awareness, packages, etc.).

16.15 **Tax.** The Ultimate Recipient acknowledges that financial assistance from government programs may have tax implications for its organization and that advice should be obtained from a qualified tax professional.

**17. Notices.**

17.1 Any notice, information or document required under this Agreement shall be effectively given, if delivered or sent by letter or email (postage or other charges prepaid). Any notice that is delivered shall be deemed to have been received on delivery; any notice sent by email shall be deemed to have been received when sent, any notice that is mailed shall be deemed to have been received eight (8) calendar days after being mailed.

17.2 All notices must be sent to the following addresses:

<b>To CCT:</b>	<b>To the Ultimate Recipient:</b>
Central Counties Tourism PO Box 98003, 2727 Courtice Rd., Courtice, ON L1E 3A0  <b>Attention:</b> Chuck Thibeault Executive Director Phone: 905.940.9999 x 1 Email: <a href="mailto:cthibeault@centralcounties.ca">cthibeault@centralcounties.ca</a>	Toronto and Region Conservation Authority 5 Shoreham Drive Downsview, ON M3N 1S4  <b>Attention:</b> Laura Vanderluit Project Manager, Marketing Phone: 647.388.5211 Email: <a href="mailto:lvanderluit@trca.on.ca">lvanderluit@trca.on.ca</a>

17.3 Each of the parties may change the address, which they have stipulated in this Agreement by notifying in writing the other party of the new address, and such change shall be deemed to take effect fifteen (15) calendar days after receipt of such notice.

**18. Counterparts and Electronic Signature**

18.1 This Agreement, including any agreement, document, instrument or certificate delivered by or on behalf of any party in connection with this Agreement, may be executed by the parties in counterparts and all such counterparts shall together constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including portable document format or any electronic signature complying with applicable law, e.g., [www.docuSign.com](http://www.docuSign.com)) or other transmission method and any counterpart so delivered is deemed to have been duly and validly delivered and be valid and effective for all purposes.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement through authorized representatives.

**ZONE 6 REGIONAL TOURISM  
ORGANIZATION  
O/A CENTRAL COUNTIES TOURISM**

By: \_\_\_\_\_

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

Name: Chuck Thibeault

Title: Executive Director

I have authority to bind the Corporation.

**[ ]**

By: \_\_\_\_\_

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

Name:

Title:

I have authority to bind the Corporation.

**Statement of work in the form of application to be added here**

**CENTRAL COUNTIES TOURISM RELIEF FUND PROGRAM ULTIMATE RECIPIENT  
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**ANNEX 2 – COSTING MEMORANDUM GUIDELINE**

**1. General Conditions.**

- 1.1 Costs are Eligible Costs for the purposes of this Agreement only if they are, in the opinion of CCT and FedDev:
- (a) directly related to the intent of the Eligible Project;
  - (b) reasonable;
  - (c) appear in Annex 1 – Statement of Work; and,
  - (d) are incurred between the Eligibility Date and the Completion Date.
- 1.2 Costs submitted for payment or reimbursement must be net of any refund or eligible tax credits (including HST).
- 1.3 Costs incurred by way of the exercise of an option to purchase or hire are eligible, only if the exercise of the option is at the sole discretion of the Ultimate Recipient and the option has been exercised and the costs incurred between the Eligibility Date and the Completion Date.
- 1.4 The costs of all goods and services acquired from an entity which, in the opinion of CCT, is not at arm's length from the Ultimate Recipient, shall be valued at the cost which, in the opinion of CCT, represents the fair market value of such goods or services, which cost shall not include any mark up for profit or return on investment.
- 1.5 No cost described in Subsection 1.4 above shall be eligible for inclusion in Eligible Costs, unless the Ultimate Recipient causes the supplying entity to maintain proper books, accounts and records of the costs related to the Sub- Project, and to provide CCT and FedDev access to such books, accounts and records.

**2. Consultants**

- 2.1 The direct costs of studies and/or services carried out by a private contractor or consultant are Eligible Costs.
- 2.2 Where a particular contractor or consultant has been specified in the Agreement, and the Ultimate Recipient wishes to proceed with the Eligible Project using another contractor or consultant, prior consultation with CCT is advised to ensure eligibility.
- 2.3 The cost of the services of any consultant that is not, in the opinion of CCT, at arm's length from the Ultimate Recipient, shall not be Eligible Costs.

**3. Calculation of Direct Labour**

- 3.1 Labour and benefit costs claimed by the Ultimate Recipient as direct Eligible Costs toward the Eligible Project will include only that time worked directly on the Eligible Project at the payroll rate and excludes indirect time, non-project related time, holidays, vacation, bonuses, paid sickness, etc., except as noted below. Paid overtime, where considered reasonable in the opinion of CCT, may be claimed. Time off in lieu of payment is not eligible. Time claimed will normally be expressed in hours.

- 3.2 The payroll rate is the actual gross pay rate for each employee (normal periodic remuneration before deductions). The payroll rate excludes all premiums (e.g. overtime, payment in lieu of vacation), shift differentials and any reimbursement or benefit conferred in lieu of salaries or wages except those noted below.
- 3.3 Claims relating to the employer's portion of the Ontario Workplace Safety and Insurance Board (WSIB), statutory benefits (e.g., Canada Pension Plan (CPP), Employment Insurance (EI) and vacation) and discretionary benefits (i.e., dental, extended health, disability and life insurance, pension plans, holiday and paid leave) negotiated as part of collective agreements or other salary and benefit packages shall be limited to the lesser of:
- (a) actual cost; and
  - (b) twenty percent (20%) of the payroll rate of each employee.
- 3.4 Benefits such as car allowances and other benefits beyond those listed above are not eligible.
4. Labour and benefit costs may not be claimed by the Ultimate Recipient as direct Eligible Costs toward the Eligible Project if these costs are being funded by another governing body, grant or partnership program, or charitable organization. To claim these labour and benefit costs as Eligible Costs, the Ultimate Recipient must show proof to CCT's satisfaction, which proof will be deemed acceptable at CCT's sole discretion, that these funds are being reallocated to other costs or projects not associated with the Eligible Project.

## **5. Sales Taxes**

- 5.1 Eligible Costs do not include any harmonized sales tax (HST) unless the Ultimate Recipient does not claim Input Tax Credits. Where this is the case, Eligible Costs may include the portion of HST that is net any refund.

## **6. Ineligible Costs**

- 6.1 For greater certainty, any costs that do not qualify as Eligible Costs in accordance with section 1 of this Annex, shall be ineligible for inclusion in the Eligible Costs. By way of example only, ineligible costs include, but are not limited to, the following:
- (a) costs of land, building or vehicle purchase;
  - (b) refinancing;
  - (c) costs of intangible assets such as goodwill, whether capitalized or expensed;
  - (d) depreciation or amortization expenses;
  - (e) interest on invested capital, bonds, debentures, or mortgages;
  - (f) bond discount;
  - (g) losses on investments, bad debts and any other debts;
  - (h) fines or penalties;



- (i) costs related to litigation;
- (j) non-incremental wages;
- (k) fees for administrators, including payments to any member or officer of the Ultimate Recipient's board of directors;
- (l) opportunity costs; and
- (m) lobbyist fees.

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**Authorizing documents to be added here**

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**CENTRAL COUNTIES TOURISM RELIEF FUND PROGRAM ULTIMATE RECIPIENT  
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**ANNEX 4 –FINAL REPORT**

The Ultimate Recipient will be required to submit a Final Report that will include (without being limited to) the following information:

- Confirmation of total cash investment into the Eligible Project
- A list confirming all Project activity (milestones) successfully achieved by the Ultimate Recipient during the duration of the Eligible Project
- A narrative description of how the Eligible Project strengthened the Ultimate Recipient's position
- A list of new partnerships created as a result of the Eligible Project
- The number of Full Time Equivalent (FTE) jobs maintained/created and employees trained as a result of the Eligible Project
- Sales performance metrics including forward sales projections for one year (may not apply to select not-for-profit organizations)

and which may include, at CCT's discretion, the Ultimate Recipient's rating of the Funding Initiative in the form of a satisfaction survey.

This Final Report shall be submitted by the Ultimate Recipient no later than 14 days after the Completion Date or the date the Eligible Project is completed to the satisfaction of CCT, whichever is earlier.

# CENTRAL COUNTIES TOURISM RELIEF FUND PROGRAM ULTIMATE RECIPIENT AGREEMENT

## ANNEX 5 – FEDERAL VISIBILITY REQUIREMENTS

1. The Recipient agrees that its name, the amount of the Contribution and a description of the general nature of the activities supported under this Agreement may be made publicly available by the Minister for reasons of transparency and proactive disclosure.
2. The Recipient agrees to work together with CCT to develop a mutually agreed-upon Communications Plan, as determined, intended to maximize visibility of the support received from the Minister. The plan will include Government of Canada acknowledgment in public facing materials, including digital and other media/marketing content.
3. Specifically, the Ultimate Recipient agrees that website and marketing/communication materials for the Project will note the support from the Government of Canada through the Federal Economic Development Agency for Southern Ontario (FedDev Ontario). Results, success stories, and a breakdown in the distribution of funding provided under all activities of the Project will be included on the relevant websites (including blog posts) and social media content.
4. To promote the support received from the Minister, and to raise awareness of the Agency's ongoing work and impact across Southern Ontario, the Ultimate Recipient agrees to, at the request of the Agency:
  - Participate in and assist with the coordination of a public announcement of the Project in the form of an event and/or news release, as determined by the Minister. The Ultimate Recipient shall maintain the confidentiality of this Agreement until the public announcement takes place;
  - Highlight project achievements and milestones in the form of public events and/or news releases;
  - Celebrate Project completion/milestones in the form of a public event and/or news release, social media posts and/or success stories; and
  - Participate in and assist with activities and projects intended to demonstrate the Agency's impact across Southern Ontario, including, but not limited to: photo opportunities, site visits, success stories (in written and/or video formats), and promotion across available traditional and digital media platforms.

All public events requested by the Recipient are at the discretion of the Minister and will be supported by the Agency's Communications Branch. Notice of fifteen (15) business days must be given to the Minister for any public event.

For the activities listed above, the Minister may require access to the Recipient's location(s), but only insofar as trades secrets or sensitive material, such as intellectual property or proofs of concept that may exist under or be in the patent process, are not divulged.

5. The Ultimate Recipient agrees to include the appropriate "Government of Canada" wordmark and/or Agency funding acknowledgment in all publications and activities that describe or promote the products and services funded in whole or in part by this Agreement, including, but not limited to, news releases, web sites, social media, digital and print media marketing content. Official government identifiers are available on the Agency's website, and all use of these identifiers and funding acknowledgment must be approved by the Agency prior to publication. The Ultimate Recipient will provide the Agency with no less than ten (10) business days for the approval of all material prior to its release, unless otherwise agreed upon. The Ultimate Recipient will acknowledge the support received from Her Majesty in all

communication and promotional activities until twelve (12) months following the Project Completion Date.

FedDev Ontario has launched the Promotional guidelines and graphics webpage to provide resources and instruction to help funding recipients meet federal visibility requirements. All visibility inquiries can be directed to [cthibeault@centralcounties.ca](mailto:cthibeault@centralcounties.ca).

The Minister may, by notice in writing given to the Ultimate Recipient, require that recognition of the support provided by the Minister not be made in any public communication of the Ultimate Recipient.

Visibility requirements may be exempted in circumstances where public acknowledgment of Ministerial support is detrimental to the Recipient and/or the Project. These cases must be made known to the Minister.

**CENTRAL COUNTIES TOURISM RELIEF FUND PROGRAM ULTIMATE RECIPIENT  
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**ANNEX 6 – DEFINITIONS AND INTERPRETATION**

1. **Definitions and Interpretation.** The following definitions and rules of interpretation apply in this Agreement unless otherwise specified:
  - 1.1 **“Agreement”** means this ultimate recipient agreement, including any preamble, recitals, schedules, annexes and appendices to this agreement, as amended, supplemented or restated from time to time.
  - 1.2 **“Completion Date”** means the Eligible Project completion date, December 31, 2022.
  - 1.3 **“Control Period”** means the period of four (4) years following the period determined herein as the duration of the Agreement.
  - 1.4 **“Effective Date”** means the later of the last date of signature on the signature page of this Agreement.
  - 1.5 **“Eligible Costs”** means those costs incurred by the Ultimate Recipient which, in the opinion of CCT, are reasonable and required to carry out the Eligible Project.
  - 1.6 **“Eligible Project”** means the Ultimate Recipient’s Eligible Project as described in Annex 1 – Statement of Work.
  - 1.7 **“Eligibility Period”** means April 19, 2021<sup>1</sup> to December 31, 2022.
  - 1.8 **“FedDev”** has the meaning given to it in the Preamble.
  - 1.9 **“FedDev Agreement”** has the meaning given to it in the Preamble.
  - 1.10 **“Fiscal Year”** means the Government of Canada’s fiscal year beginning on April 1 of a year and ending on March 31 of the following year.
  - 1.11 **“Funds and Funding”** mean the funds initially contributed to CCT pursuant to the FedDev Agreement and subsequently delivered by CCT to the Ultimate Recipient on behalf of FedDev for the carrying out of the Eligible Project.
  - 1.12 **“Minister”** means the Minister responsible for FedDev, or any one or more of the Minister’s representatives.
  - 1.13 **“SOPP”** has the meaning given to it in the Preamble.
  - 1.14 **“TRF Program”** has the meaning given to it in the Preamble.
  - 1.15 **Singular/Plural.** Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural.
  - 1.16 **Inconsistency.** In case of inconsistency or conflict between a provision contained in the part of the Agreement preceding the signatures and a provision contained in any

of the annexes to this Agreement, the provision contained in the part of the Agreement preceding the signatures will prevail.

- 1.17 **Captions and Headings.** Captions and headings of the paragraphs of this Agreement are for convenience and reference only, and the words contained in those captions shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement. The language in all parts to this Agreement, in all cases, shall be construed in accordance with the fair meaning of that language as if that language was prepared by all parties and not strictly for or against any party.