

AGREEMENT TO PROVIDE SERVICES

BETWEEN:

THE GOVERNMENT OF MANITOBA,
as represented by Manitoba Health, Seniors and Active Living
and the Department of Finance

(called "**Manitoba**"),

- and -

MORNEAU SHEPELL

(called the "**Contractor**").

WHEREAS

- A. In March 2020, with the impacts of the COVID-19 Pandemic, Manitoba identified a critical need to support the mental health and well-being of Manitobans.
- B. A number of factors were considered to quickly provide distance-based mental health services to address COVID-19-related anxiety.
 - The service needed to be available immediately due to the emergent nature of the pandemic.
 - It needed to be delivered over the phone and internet in order to be accessible to all Manitobans from their home.
 - The system needed to have the ability to manage extremely high service volumes within a very short period of time.
- C. The Contractor has one of the largest network of therapists across Canada, and they are experienced in dealing with the psychological impact of various traumatic events, including SARS, natural disasters, and acts of terrorism or aggression. The Contractor submitted its written Proposal dated March 16, 2020.
- D. AbilitiCBT, as described in the Proposal, is an evidence-based program meant to address mild to moderate anxiety symptoms related to the COVID-19 pandemic. It is being offered to address an immediate need that previously did not exist in Manitoba, and is intended to complement the support currently provided by a number of private and community based mental health organizations. With the requirements to self-isolate and practice physical distancing, AbilitiCBT provides mental health support to Manitobans while they remain at home. Individuals who are assessed as having more severe anxiety, or other mental health issues will be referred to immediate crisis support and other mental health resources in Manitoba.
- E. Manitoba accepted the Proposal and Manitoba and the Contractor entered into a Binding Term Sheet, acknowledged and agreed to March 26, 2020.
- F. The Binding Term Sheet is replaced by this Services Agreement.

NOW THEREFORE Manitoba and the Contractor agree as follows:

SECTION 1.00 DEFINITIONS, SCHEDULES AND INTERPRETATION

1.01 In this Agreement:

- (a) **“Canadian Indigenous Business”** means a business:
- (i) that is at least 51% owned **and** controlled by one or more Indigenous persons of Canada; and
 - (ii) if it has six or more full-time employees, at least one-third of whose full time employees **must** be Indigenous persons of Canada

where “business” includes a band, as defined by the *Indian Act*, a sole proprietorship, a corporation, a cooperative, a partnership, or a not for profit organization.

- (b) **“Designated Resources”** means those of the Contractor’s personnel, and employees of the Contractor’s approved subcontractors, who will directly or indirectly provide Services under this Agreement.
- (c) **“Indigenous Business”** means Canadian Indigenous Business or Manitoba Indigenous Business or both, whichever is applicable given the context.
- (d) **“Indigenous person of Canada”** means:
- (i) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
 - (ii) a person of Inuit ancestry,

who is a Canadian citizen and resides in Canada.

- (e) **“Indigenous person of Manitoba”** means:
- (i) a person of First Nation ancestry, including treaty, status or registered Indian, non-status or non-registered Indian, and a Métis person, or
 - (ii) a person of Inuit ancestry,

who is a Canadian citizen and resides in Manitoba.

- (f) **“Manitoba Indigenous Business”** means a business:
- (i) that is at least 51% owned and controlled by one or more Indigenous persons of Manitoba; and

- (ii) if it has six or more full-time employees, at least one-third of whose full time employees must be Indigenous persons of Manitoba

where “**business**” includes a band, as defined by the Indian Act, a sole proprietorship, a corporation, a cooperative, a partnership, or a not for profit organization.

- (g) “**Personal Information**” has the meaning given to that term in Schedule “B”.
 - (h) “**Personal Health Information**” has the meaning given to that term in Schedule “B”.
 - (i) “**Program**” means AbilitiCBT, a therapist guided digital program that addresses anxiety symptoms linked to the COVID-19 pandemic.
 - (j) “**SLA Report**” means the form of report prepared by the Contractor which indicates status of service commitments and service levels.
 - (k) “**Services**” means the work and tasks which will be delivered by the Contractor in accordance with this Agreement and as more fully described in Schedule “A”.
 - (l) “**Service Level Agreement**” or “**SLA**” means the service commitments and service levels for the Program agreed to by the Contractor.
- 1.02 Words in the singular include the plural and words in the plural include the singular, as required by the context. The neuter gender includes the masculine and feminine genders as may be required.
- 1.03 The Agreement consists of this document and the following schedules:
- Schedule “A” – Services
 - Schedule “B” – Protection of Personal Information and Personal Health Information
 - Schedule “C” – Pledge of Confidentiality
 - Schedule “D” – Indigenous Business Participation Record Form
 - Schedule “E” – Security & Hosting Requirements Personnel
- 1.04 In the event of any inconsistency or contradiction,
- (a) between the terms and conditions of this document and those in the schedules, the terms and conditions of this document shall prevail over those in the schedules;
 - (b) between the terms and conditions of the schedules:
 - (i) the terms and conditions of Schedule “B” - Protection of Personal Information and Personal Health Information shall prevail of over those in Schedule “A” - Services.

SECTION 2.00 TERM

2.01 The term of this Agreement commences March 26, 2020 and shall continue in full force and effect with access to the Program until March 31, 2021 subject to its earlier termination in accordance with section 17.00 of this Agreement. Program intake will occur from March 26, 2020 to March 31, 2021 with all Services to conclude by March 31, 2022.

SECTION 3.00 SERVICES TO BE PROVIDED

3.01 The Contractor agrees to provide the Services on the terms and conditions set out in this Agreement.

3.02 Manitoba and the Contractor agree that any work performed by the Contractor outside the scope of this Agreement without the prior written approval of Manitoba shall be deemed to be gratuitous on the Contractor's part, and Manitoba has no liability with respect to such work.

SECTION 4.00 REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR

4.01 The Contractor represents and warrants that:

- (a) the Contractor and Designated Resources possess the necessary personnel, skills, expertise and experience to perform the Services in accordance with the provisions of this Agreement;
- (b) the Contractor understands and will ensure that each of its Designated Resources understands Manitoba's requirements under this Agreement and will be able to satisfy these requirements;
- (c) As a corporation:
 - (i) it is a valid and existing corporation, duly registered under the laws of Canada to carry on business in Manitoba;
 - (ii) it has the corporate power and authority to enter into and deliver, and perform the obligations of the Contractor under this Agreement; and
 - (iii) all necessary corporate actions or other proceedings have been taken to authorize the Contractor to enter into and deliver, and perform the obligations of the Contractor under this Agreement.

4.02 The Contractor acknowledges that Manitoba has entered into this Agreement relying on the above representations and warranties. The Contractor agrees to advise Manitoba of any event, condition or circumstance occurring during the term of this Agreement that would make a representation or warranty made in subsection 4.01 untrue or misleading if the Contractor were required to make it at the time of the occurrence.

SECTION 5.00 PERFORMANCE OF CONTRACTOR'S OBLIGATIONS

5.01 The Contractor agrees:

- (a) that the Services shall be provided by the Designated Resources, unless Manitoba agrees otherwise in writing;
- (b) that the Designated Resources shall devote the time, attention, abilities and expertise necessary to properly perform the Contractor's obligations under this Agreement;
- (c) that it and the Designated Resources will perform all obligations and provide the Services in a professional manner satisfactory to Manitoba;
- (d) to provide the supervision, training, equipment and all other things necessary for the performance of the Services to the satisfaction of Manitoba;
- (e) to comply with all reasonable directions and requests of Manitoba; and
- (f) to comply with, and to provide the Services in accordance with all applicable laws and regulatory requirements, whether federal, provincial or municipal.

SECTION 6.00 FEES

6.01 Subject to the following subsections, in consideration of Services performed to the satisfaction of Manitoba, Manitoba shall pay to the Contractor Four Million and Five Hundred Thousand (\$4,500,000.00) Dollars (CAD), plus PST (the "Fees") in accordance with the following:

\$2,000,000.00 on March 31, 2020
 \$625,000.00 on June 30, 2020
 \$625,000.00 on September 30, 2020
 \$625,000.00 on December 31, 2020
 \$625,000.00 on March 31, 2021

6.02 The Contractor shall provide an SLA Report to Manitoba on a monthly basis as of July, 2020, and an invoice on a quarterly basis following the commencement of Services. If the Services that are the subject of the SLA Report have been completed to the satisfaction of Manitoba, acting reasonably, Manitoba shall approve same for payment and shall pay to the Contractor those Fees set forth in the invoice within sixty (60) days of approval. All invoices shall be in writing and satisfactory to Manitoba in both form and content. The Contractor shall also provide to Manitoba such supporting documents, vouchers, statements and receipts as may be requested by Manitoba.

6.03 In the event the Contractor fails to meet the SLAs, the rights and obligations set out subsection 16.01 shall apply. Those amounts invoiced and approved that have not been

paid by Manitoba within sixty (60) days after approval shall bear interest in accordance with the provisions of the Government of Manitoba's Financial Administration Manual issued under the authority of *The Financial Administration Act* from the 61st day after the date of approval until payment is made.

- 6.04 Manitoba certifies that the Services being provided by the Contractor pursuant to this Agreement are being purchased with Crown funds for the benefit of the Government of Manitoba and therefore are not subject to the payment of the federal goods and services tax ("GST"). Manitoba's GST number is R107863847. The Contractor warrants that the GST shall not be included in any invoice provided or claim for payment made under this Agreement.
- 6.05 Notwithstanding any other provision of this Agreement, the payment of Fees by Manitoba is conditional upon:
- (a) there being an appropriation of funds available from the Legislature of the Province of Manitoba for payments by Manitoba in the fiscal year in which they are required to be paid by Manitoba; and
 - (b) the Contractor complying with its obligations under this Agreement.
- 6.06 **Most Favoured Client.** In recognition that Manitoba is the first to implement the Program with coverage for the full population of Manitoba for residents over the age of sixteen (16), the Contractor grants Manitoba "Most Favoured Client Status". The Contractor guarantees that;
- (a) the Services being provided at a fee of \$4,500,0000.00 over a twelve (12) month period is the lowest per capita rate being offered. If at any time the Contractor negotiates a lower all-inclusive rate on a per capita basis, in which the Contractor is accepting all the risk on utilization rates as they are with Manitoba, that reduced rate will be passed on to Manitoba.
 - (b) No other customer shall receive more favorable Service Level Agreements (SLAs) unless the other customer is paying meaningfully higher fees per capita.

Certification: Nigel Branker
President, Health and Productivity Solutions

SECTION 7.00 REPLACEMENT RESOURCES

- 7.01 If in the opinion of Manitoba:
- (a) the Services provided by any of the Designated Resources are unsatisfactory, inadequate, or are improperly performed; or
 - (b) any of the Designated Resources has failed to comply with any term or condition of this Agreement; or

- (c) any of the Designated Resources has violated or is about to violate the security of Manitoba or the confidentiality of any of Manitoba's information; or
- (d) any of the Designated Resources has behaved or is about to behave in a manner that may adversely affect Manitoba's operations;

in addition to any other rights and remedies Manitoba may have at law or in equity or under this Agreement, Manitoba may give written notice to the Contractor and upon receipt of such written notice from Manitoba, the Contractor shall immediately discontinue the engagement of that Designated Resource for the purposes of this Agreement and the provisions of subsection 7.02 shall apply.

7.02 In the event that any of the Designated Resource's engagement for this Agreement shall be terminated or discontinued under subsection 7.01:

- (a) the Contractor shall replace that Designated Resource with an individual acceptable to Manitoba, who has like or better skills and experience than that Designated Resource within five (5) days of the date of termination or discontinuance of his or her engagement for this Agreement or provide a suitable interim replacement until a Designated Resource can be found who will meet Manitoba's needs; and
- (b) Manitoba shall have the right to interview any proposed replacement person and Manitoba may reject any such proposed replacement person if it deems that person not to have the appropriate skills and experience.

7.03 Once a proposed replacement person has been accepted by the Contractor, all reference in this Agreement to "Designated Resources" shall be deemed to include the replacement person.

7.04 It is understood by both Manitoba and the Contractor that the replacement person will acquaint himself or herself with the Services to be provided and the terms of this Agreement prior to beginning to deliver the Services. The Contractor will exercise reasonable efforts to have the outgoing person available to the replacement person before the replacement person begins to deliver Services.

SECTION 8.00 RECORDKEEPING, REPORTING AND AUDIT

8.01 The Contractor shall establish and maintain during the term of the Agreement and for a further period of at least 3 years after the termination or expiration of the Agreement, such accounting and other records (including Pledges of Confidentiality referred to in section 9.03(b) of this Agreement) as are necessary for the proper management of the Services.

8.02 Manitoba may request additional information about the ownership and control of the Contractor or its subcontractors at any time during the term of this Agreement. The Contractor agrees to promptly provide the requested information on its own behalf and on

behalf of its subcontractors, subject to any reasonable confidentiality and non-disclosure obligations.

Indigenous Business Reporting

- 8.03 At the end of each quarter, during the term of this Agreement and upon submission of its final invoice, the Contractor shall submit a completed Indigenous Business Participation Form (Schedule "D") to Manitoba certifying the actual percentage of Indigenous Business participation in providing the Services.

Audit

- 8.04 Manitoba or the Auditor General of Manitoba, or any other person on behalf of Manitoba or the Auditor General of Manitoba or their respective directors, officers, employees and representatives may perform and the Contractor must permit audits of the Services provided during regular business hours with 30 days' prior written notice. The Contractor agrees to permit such persons to have access to the Contractor's records respecting the Services for audit purposes and to co-operate fully in any audit. With respect to a quality assurance or internal audit, Manitoba agrees to share a draft copy of the audit report to ensure accuracy and provide comments. The Contractor reserves the right to refuse the use of any auditors that is a competitor of the Consultant from conducting or participating in the audit.

SECTION 9.00 CONFIDENTIAL INFORMATION

- 9.01 While this Agreement is in effect, and at all times thereafter, the Contractor and any officers, employees, subcontractors or agents of the Contractor:
- (a) shall treat as confidential all information, documents and materials, including (without limitation) all Personal Information and Personal Health Information, data, research, reports, drawings, designs, plans, photographs and other materials, acquired or to which access has been given in the course of, or incidental to, the provision or delivery of the Services or terms of the Agreement;
 - (b) shall not, without first obtaining written permission from Manitoba,
 - (i) use, or permit use of, the information, documents and materials described in clause 9.01(a) except for the proper performance of the Contractor's obligations under the Agreement, or
 - (ii) disclose, or permit disclosure of, the information, documents and materials described in clause 9.01(a) to any person, corporation or organization; and

- (c) shall comply with any rules or directions made or given by Manitoba with respect to safeguarding or ensuring the confidentiality of the information, documents and materials described in clause 9.01(a).
- 9.02 It is acknowledged that the prohibition against disclosure, as mentioned in clause 9.01(c) shall not apply where disclosure is required by Canadian law or pursuant to an order of a Canadian court of competent jurisdiction or for law enforcement purposes.
- 9.03 In addition to the requirements set out in subsection 9.01, the Contractor shall:
- (a) comply with the requirements set out in Schedule "B" - Protection of Personal Information and Personal Health Information respecting collection, use, disclosure and protection of Personal Information and Personal Health Information;
 - (b) ensure that all employees and agents of the Contractor who may have access to personal health information (as defined in Schedule "B") sign a Pledge of Confidentiality in the form and content set out in Schedule "C" and to retain such pledge in the employees' personnel files;
 - (c) comply with the security requirements in Schedule "E" - Security & Hosting Requirements Personnel.
- 9.04 Where the Contractor will have access to any Personal Information or Personal Health Information, it shall comply with the requirements respecting collection, use, disclosure and protection of Personal Information and Personal Health Information as set out in *The Freedom of Information and Protection of Privacy Act* (Manitoba) and *The Personal Health Information Act* (Manitoba) as if those Acts applied to the Contractor.

SECTION 10.00 MANITOBA NOT LIABLE FOR INJURY ETC. TO CONTRACTOR

- 10.01 Manitoba shall not be liable for any injury to the Contractor, or to any officers, employees, subcontractors or agents of the Contractor, or for any damage to or loss of property of the Contractor, or of the officers, employees, subcontractors or agents of the Contractor, caused by or in any way related to the provision or delivery of the Services or the terms of the Agreement.
- 10.02 Subsection 10.01 does not apply if the injury, damage or loss was caused by the wrongful or negligent act of an officer or employee of Manitoba while acting within the scope of his or her employment.

SECTION 11.00 INDEMNIFICATION BY CONTRACTOR

- 11.01 The Contractor shall use due care in the performance of the obligations under this Agreement to ensure that no person is injured, no property is damaged or lost and no rights are infringed.

11.02 The Contractor shall be solely responsible for

- (a) any injury to persons (including death), damage or loss to property or infringement of rights caused by, or related to, the performance of the Services or any term of this Agreement, or the breach of any term or condition of this Agreement by the Contractor, or the officers, employees, subcontractors or agents of the Contractor;
- (b) any omission or wrongful or negligent act of the Contractor, or of the officers, employees, subcontractors or agents of the Contractor; and
- (c) misuse, misappropriation, failure to protect, or unauthorized collection, use or disclosure of Personal Information or Personal Health Information by the Contractor or any of its officers, employees, subcontractors or agents in the performance of Services in breach of section 9 or Schedules B or E to this Agreement,

and shall save harmless and indemnify Manitoba, its officers, employees and agents from and against all claims, liabilities and demands with respect to clauses (a), (b) and (c).

11.03 The Contractor's liability, if any, to any person, arising out of or in any way related to the Services will for all purposes in total be limited to direct damages in an amount not to exceed the equivalent of Fees paid during the term (except as otherwise expressly provide in section 11.04). In no event shall the Contractor have any liability at any time for any indirect, special, or consequential damages, even if advised of the possibility of such damages (except as otherwise expressly provided in section 11.04).

11.04 In the event of misuse, misappropriation, failure to protect, or unauthorized access, use or disclosure of Personal Information or Personal Health Information by the Contractor or any of its officers, employees, subcontractors or agents in the performance of Services in breach of section 9 or Schedules B or E to this Agreement, the Contractor's liability for all such claims by Manitoba for such damages shall not exceed 18(1)(b) 28(1)(b) dollars per occurrence and 18(1)(b) 28(1)(b) dollars in the 18(1)(b) 28(1)(b). Despite section 11.03 above, the Contractor's liability under this section 11.03 shall include the following damages for cyber breach actually and reasonably incurred by Manitoba to remedy the effect of Contractor's or its officers, employees, subcontractors or agents misuse, misappropriation, failure to protect, or unauthorized access, use or disclosure, whether or not direct damages:

- (a) providing notices to affected individuals;
- (b) providing credit monitoring services reasonably offered by Manitoba to affected individuals to mitigate damages if applicable;
- (c) temporary increases in customer support staffing to accommodate increased call volume and provide crisis management; and
- (d) government mandated fines and penalties and similar regulatory compliance fees or assessments, provided that all such damages shall be subject to the limitation set forth in this section 11.04.

SECTION 12.00 INSURANCE

- 12.01 The Contractor agrees to obtain and maintain, at its cost, throughout the term of the Agreement:
- (a) commercial general liability insurance covering claims for personal and bodily injury, death or damage to property arising out of the Contractor or its officers, employees, subcontractors or agents providing Services under the Agreement, or as a result of any negligent acts or omissions of the Contractor or its officers, employees, subcontractors or agents. Such insurance shall provide coverage of not less than ^{18(1)(b) and 28(1)(b)} [REDACTED] dollars per occurrence.
- 12.02 Without limiting or restricting the generality of subsection 12.01 above, such insurance shall:
- (a) name Manitoba, its Ministers, officers, employees and agents as additional insureds with respect to the commercial general liability relating to the Services provided under the Agreement; and be underwritten by insurers licensed in Canada and be reputable and financially creditworthy insurers with an A.M. Best financial strength rating of "A-" or higher, or equivalent rating by alternate insurance credit rating agency.
- 12.03 The Contractor agrees that it will not cancel, materially alter, cause or allow the insurance coverage required under this Agreement to lapse without giving 30 days prior written notice to Manitoba. The Contractor will provide a letter confirming its commitment to these requirements.
- 12.04 The Contractor acknowledges that it has the sole responsibility to determine the appropriate amount and terms of insurance coverage required under subsection 12.01 and whether any other insurance is necessary or advisable but the amounts and terms must be consistent with the requirements of subsections 12.01 and 12.02.
- 12.05 The Contractor shall ensure that any subcontractors engaged by the Contractor to perform the Services under this Agreement obtain and maintain coverage appropriate for that subcontractor, taking into account the nature of the services that subcontractor performs and the scope of its operations.
- 12.06 If Manitoba requests the Contractor to do so at any time during the term of this Agreement, the Contractor must submit to Manitoba a certificate of insurance for itself and for all its subcontractors evidencing the required insurance.
- 12.07 The Contractor must not do or omit to do anything or permit anything to be done or not to be done which will in any way impair or invalidate its insurance coverage.

SECTION 13.00 WORKERS COMPENSATION

- 13.01 Where the Contractor's industry is included in the scope of *The Workers Compensation Act* (Manitoba) C.C.S.M. c. W200 and the Contractor is required under the Act to maintain coverage:
- (a) the Contractor shall be registered with the Workers Compensation Board of Manitoba; and
 - (b) shall provide and maintain in good standing workers compensation coverage throughout the term of the Agreement.
- 13.02 At the written request of Manitoba, at any time during the term of the Agreement, the Contractor must provide Manitoba with evidence, in a form satisfactory to Manitoba, of coverage and standing.
- 13.03 The Contractor must ensure that, where a subcontractor is required under *The Workers Compensation Act* to maintain worker's compensation coverage, the subcontractor is registered with the Workers Compensation Board of Manitoba and provides and maintains in good standing workers compensation coverage throughout the term of this Agreement.

SECTION 14.00 RESTRICTION ON OTHER WORK AND ADVERTISING

- 14.01 While the Agreement is in effect, the Contractor and any officers, employees, subcontractors or agents of the Contractor shall not perform services or deliver goods to any other person, firm, corporation or organization in any manner which might interfere or conflict with the Contractor's performance of its obligations or undertakings under the Agreement.
- 14.02 The Contractor must not refer to, or permit any reference to, the Agreement or the Services in any advertising or promotional material except with the prior written authorization of Manitoba.

SECTION 15.00 SUSPENSION OR EXTENSION

- 15.01 Manitoba may, at its sole option, from time to time, delay or suspend Services being provided under this Agreement, in whole or in part, in writing for such period of time as may, in the opinion of Manitoba, be necessary.
- 15.02 Manitoba may, at its sole option, extend the time in which the Services are to be provided in writing if necessary by reason of circumstances beyond the control of the Contractor or through no fault of the Contractor.
- 15.03 Where there is a delay or suspension under subsection 15.01 or an extension of time under subsection 15.02, all terms and conditions of this Agreement shall continue in full

force and effect against the Contractor. The Contractor shall not be entitled to make any claim for damages by reason of the delay, suspension or extension.

SECTION 16.00 18(1)(b) 28(1)(b)(c)(ii)

16.01 The Contractor will 18(1)(b) 28(1)(b)(c)(ii) in Fees in the first quarter of the Term, and 18(1)(b) 28(1)(b)(c)(ii) in Fees for each quarter of the Term thereafter that the Contractor 18(1)(b) 28(1)(b)(c)(ii) as more fully described in Schedule A):

(a) 18(1)(b) 28(1)(b)(c)(ii)

(b) 18(1)(b) 28(1)(b)(c)(ii)

SECTION 17.00 TERMINATION

17.01 Either Party may terminate this Agreement upon written notice to the other party for a material breach by the other party that is not cured within thirty (30) days of such party's receipt of written notice of such breach.

17.02 For the purposes of this Agreement, a "material breach" includes a period of two consecutive months following the application of Section 16.00 where the Contractor has continued to fail in a material respect to meet the same Service Level (a "Repeated Failure").

17.03 In the event of a material breach that constitutes a Repeated Failure, Manitoba shall notify the Contractor of the Repeated Failure and provide the Contractor with an opportunity to correct the Repeated Failure. If the Repeated Failure cannot be cured within the five (5) day period, Manitoba shall request an executive review involving a senior representative from each party. If the parties cannot agree on a plan within five (5) business days, Manitoba shall have the right, in its sole discretion, to: (i) terminate the Program, immediately, or (ii) suspend the Program. During such suspension, Manitoba will not be responsible for payment of Fees.

17.04 Manitoba may also, in its sole discretion, immediately terminate the Agreement in writing if:

- (a) the Contractor becomes bankrupt or insolvent or liquidates;
- (b) a receiver, trustee or custodian is appointed for the assets of the Contractor, or any partner thereof;
- (c) the Contractor or any partner thereof makes a compromise, arrangement, or assignment with or for the benefit of the creditors of the Contractor or of that partner, as the case may be;
- (d) the Contractor fails to secure or renew any license or permit for the Contractor's business required by law; or any such license or permit is revoked or suspended;

- (e) the Contractor or any partner, officer or director of the Contractor is found guilty of an indictable offence;
- (f) the Contractor fails to comply with any law or regulation relating to the employment of its employees;
- (g) the Contractor at any time engages in any activities or trade practices which, in the opinion of Manitoba, are prejudicial to the interests of Manitoba, or a department or agency thereof; and
- (h) the Contractor or any of its officers, employees, subcontractors or agents misuse, misappropriate, fail to protect, or access, use or disclose Personal Information or Personal Health Information in an unauthorized manner in breach of section 9 or Schedules B or E to this Agreement.

17.05 Upon the expiry or earlier termination of the Agreement, the Contractor shall cease to provide or deliver any further Services. Manitoba shall be under no obligation to the Contractor other than to pay, upon receipt of an invoice and supporting documentation satisfactory to Manitoba, such compensation as the Contractor may be entitled to receive under the Agreement completed to the satisfaction of Manitoba up to the effective date of termination. In the event of early termination of the Agreement, a proration adjustment of Fees will be required. Manitoba and the Contractor shall cooperate and act reasonably to make a final determination of proration and reconcile final payment.

SECTION 18.00 OWNERSHIP OF INTELLECTUAL PROPERTY

- 18.01 The Contractor shall retain all rights, including intellectual property rights, in all materials, software, documentation, tools, know-how, techniques, processes and methodologies supplied to Manitoba or created or used by Morneau Shepell in the performance of the Services ("**Contractor IP**"). The Contractor grants Manitoba, for the Term of this Agreement a non-exclusive, non-transferable, license to use Contractor IP for which it owns the intellectual property rights for the purposes specified in this Agreement. This Agreement shall not be construed as precluding or limiting in any way Contractor's right to (i) provide services of any kind or nature to any person or entity or (ii) develop for Contractor, or for others, anything that is competitive with Contractor IP or anything created or used by Contractor to perform its services.
- 18.02 All reports produced for Manitoba by the Contractor, or any officers, employees, subcontractors or agents of the Contractor, in the performance of, or incidental to the performance of the Services or the terms of the Agreement (the "Deliverables"), and all intellectual property rights therein (including, without limitation, all copyright, patent, trade mark rights), shall be the exclusive property of Manitoba, and shall be delivered or assigned without cost to Manitoba upon request or when the Agreement is terminated or expires or when the Services have been completed, whichever is the earliest.

18.03 During the term of the Agreement, and at all times thereafter, the Contractor, and any officers, employees, subcontractors or agents of the Contractor, shall not use, publish or disclose the Deliverables without first obtaining written permission from Manitoba.

SECTION 19.00 INDEPENDENT CONTRACTOR

19.01 The Contractor is an independent contractor, and the Agreement shall not create the relationship of employer and employee, or of principal and agent, between Manitoba and the Contractor or between Manitoba and any officers, employees, subcontractors or agents of the Contractor.

19.02 The Contractor shall be responsible for any deductions or remittances, which may be required by law.

19.03 In the event it is determined that the Contractor is not an independent contractor and that the Agreement creates the relationship of employer and employee between Manitoba and the Contractor, the Contractor agrees to be solely responsible and to save harmless and indemnify Manitoba, its officers, employees and agents from and against all claims, liabilities, orders, costs and demands resulting from such a determination, to the extent that such an indemnity is not prohibited by law. Should such a determination be made, the Contractor agrees that any amount Manitoba has paid to the Contractor under the Agreement shall constitute an all-inclusive payment of the Contractor's wages, vacation pay, overtime pay, benefits or other remuneration whatsoever, regardless of the day of the week on which the Services were performed or the number of hours worked in a day or week.

SECTION 20.00 EXCUSABLE DELAY

20.01 The Contractor shall notify Manitoba, in writing, if it will, or believes it will be unable to provide or deliver the Services when promised or required, and the reasons therefore. The Contractor shall not be liable for failure to provide or deliver the Services to the extent that such failure is, in the opinion of Manitoba, beyond the reasonable control of the Contractor.

20.02 Neither Party shall be liable for delays resulting from circumstances or causes beyond its control, including without limitation, fire or other casualty, act of God, strike or labour dispute, war or other violence, another epidemic or pandemic, or any law, order or requirement of any governmental agency or authority.

20.03 Manitoba agrees that the Contractor will not be liable for failure to perform any of its obligations under the Agreement, if and to the extent its performance is prevented or delayed by a COVID-19 Event (as defined below). The occurrence of a COVID-19 Event will not release the Contractor from its obligations under the Agreement, but will merely suspend the performance of any obligation so prevented or delayed during the period of continuance of the COVID-19 Event. During such suspension, Manitoba will not be responsible for payment of any Fees.

20.04 "COVID-19 Event" means the occurrence of an event caused directly by the coronavirus disease (COVID-19) pandemic that is beyond the reasonable control of the Contractor, and that delays or prevents performance of the obligations of the Contractor under the Agreement, provided that they are without fault in causing or failing to prevent such occurrence, and such occurrence could not have been prevented or circumvented through the use of reasonable alternative measures, health and safety plans, business continuity plans or other similar means. A COVID-19 Event does not include an event that merely renders fulfillment of the Contractor's obligation under the Agreement more difficult such as financial hardship, or changes in market conditions.

20.05 The Contractor after alleging a COVID-19 Event will:

- (a) immediately notify Manitoba of the particulars of the COVID-19 Event, including details of the nature of the event, its expected duration, and the obligations under the Agreement that will be affected by the COVID-19 Event;
- (b) provide status reports to Manitoba on a timely basis; and
- (c) use reasonable efforts to mitigate the effects of the COVID-19 Event and to resume, as soon as reasonably possible, the performance of those of its obligations under the Agreement affected by the COVID-19 Event.

20.06 If a COVID-19 Event has a material adverse impact on the performance of the Program for a period of thirty (30) consecutive days or more, the Contractor may terminate the Agreement upon written notice to Manitoba. The Contractor will consult with Manitoba to discuss the Contractor's circumstances, concerns and potential work-arounds before exercising this right of termination. In the event of termination, Fees will be reconciled per 17.05.

SECTION 21.00 ASSIGNMENT

21.01 The Contractor shall not assign or transfer the Agreement or any of the rights or obligations under the Agreement without first obtaining written permission from Manitoba. Manitoba may, in its sole discretion, refuse to grant such permission.

SECTION 22.00 TIME OF ESSENCE

22.01 Time shall be of the essence of the Agreement.

SECTION 23.00 AMENDMENTS

23.01 No amendment or change to, or modification of, the Agreement shall be valid unless in writing and signed by both parties.

SECTION 24.00 GOVERNING LAW

24.01 The Agreement shall be interpreted, performed and enforced in accordance with the laws of the Province of Manitoba and of Canada as applicable therein.

SECTION 25.00 ENTIRE AGREEMENT

25.01 This Agreement constitutes the entire agreement between the parties. There shall be no undertakings, representations or promises, express or implied, other than those contained in the Agreement.

SECTION 26.00 SURVIVAL OF TERMS

26.01 Those sections containing obligations and indemnifications that by their very nature are intended to survive the termination or expiration of this Agreement, including section 9.00 (Confidential Information), section 10.00 (Manitoba not Liable), section 11.00 (Indemnification by Contractor) section 14.00 (Restriction on other Work and Advertising) and section 18.00 (Ownership of Intellectual Property), Schedule B and Schedule E shall survive the expiration or termination of this Agreement.

SECTION 27.00 WAIVER

27.01 Any waiver by Manitoba of any failure, default or breach under this Agreement by the Contractor shall not be effective unless given in writing by an authorized person and shall not constitute a subsequent waiver of a similar or any other failure, default or breach.

SECTION 28.00 SEVERABILITY

28.01 If any provision of the Agreement is for any reason invalid, that provision shall be considered separate and severable from the Agreement, and the other provisions of the Agreement shall remain in force and continue to be binding upon the parties as though the invalid provision had never been included in the Agreement.

SECTION 29.00 NOTICES

29.01 Any notice or other communication under this Agreement shall be in writing and shall be sufficiently given if delivered or sent by pre-paid registered mail by personal service or electronically as specified below:

(a) To Manitoba:

(b) To the Contractor:

29.02 If mail service is disrupted by labour controversy, notice shall be delivered or sent electronically.


Any notice given by mail shall be deemed to have been received by the Party to who it is addressed on the third business day following such mailing. Any such notice given by personal service or email shall be deemed to have been received on the first business day following such service or transmission, as the case may be.

THIS SPACE LEFT BLANK INTENTIONALLY

29.03 Any party may change its address or particulars for purposes of the receipt of any notices or other communications pursuant to the Agreement by giving seven days' prior written notice of such change to the other party.

THIS AGREEMENT has been executed on behalf of The Government of Manitoba by its duly authorized representative(s) and on by behalf of the Contractor, by its duly authorized representative(s), on the dates noted below.

FOR THE GOVERNMENT OF MANITOBA

original signed by Paul Beauregard


Paul Beauregard
Secretary of Treasury Board

July 27, 2020

Date signed

FOR THE CONTRACTOR

17(1) and 17(3)(e)


Authorized Signature

Nigel Branker, EVP & President

Print Name and Title

I have the authority to bind the Contractor

Date signed

July 30, 2020

Schedule “A” – Services

This is Schedule "A" to the Agreement for Services between the Government of Manitoba and Morneau Shepell (the "Contractor").

Program Overview

The Contractor's AbilitiCBT is a cognitive behaviour therapy (CBT) program guided by a Contractor-provided therapist through a digital platform **accessible from home**. Combining the convenience of virtual access with the same benefits of in-person CBT, the AbilitiCBT program will provide meaningful support to Manitobans struggling with anxiety related to the COVID-19 pandemic (or potentially, other pandemics).

The AbilitiCBT program for anxiety related to a pandemic is clinically effective and includes:

- Online health screening upon case opening that assesses suicide risk, depression, anxiety, mania, PTSD, and alcohol/drug use.
- Assignment of a dedicated therapist for the duration of the AbilitiCBT program for anxiety related to a pandemic. The therapists are Registered Social Workers, Registered Psychotherapists or Psychologists with a minimum Master's level education. The dedicated therapist will review the online health screening, complete an initial telephonic assessment with the individual, determine program fit, support initial goal development, monitor, encourage, and direct the individual throughout the program, and connect with the individual by phone, video or through messaging, as required and as is appropriate.

Anxiety is a general term for disorders that cause nervousness, fear, apprehension, and worrying. The Contractor's program will help Manitoba's population to:

- Learn what anxiety is and how it affects one's emotions, mind, body and behavior
- Reduce anxiety by learning CBT skills and using them to change responses to triggers
- Develop coping strategies to track and reduce anxiety and better manage daily activities

The Contractor's program content is tailored to address anxiety symptoms related to the uniquely challenging aspects of pandemics (and specifically in relation to COVID-19): uncertainty, isolation, caring for family and community members, information overload and stress management. The Contractor's therapists are trained to support and ask precise questions that will guide Manitobans through the program's modules in the context of a pandemic.

The program is supported by Contractor professional therapists and a crisis line with continuous support, 24 hours a day, 7 days a week. Note that the dedicated therapist does not handle crisis requests.

The Program and its use by individuals is completely confidential. Personal information is never shared with the Contractor's personnel or within its organization, other businesses, governments or agencies whatsoever.

Contractor will provide promotional communication support and materials based on Manitoba's needs, subject to Manitoba's review and approval, provided the requests can be reasonably accommodated by the Contractor. Materials could include, but are not limited to, an

announcement, an FAQ, posters, banners, a promotional video, social media posts, etc. in alignment with Manitoba's communication plan.

Program Content Description

Program participants have access to 10 modules (see details below) that they can complete at their own pace, while the Contractor's dedicated therapist tracks and monitors progress. Individuals can adjust the pace and module progression to fit their schedule. Progress is saved, so individuals can pick up where they left off the next time they access the Program.

There are scheduled check-ins along the way, which are arranged in collaboration with the participant, by phone, video or messaging. The online health assessment is repeated through the program to measure symptom improvement and case progress. Access to all features, except messaging, is granted for a full twelve (12) months from the date the participant signs up. Messaging access and therapist support ends upon completion of the Program.

The Program is offered in both English and French.

Overview of 10 Modules


The 10 modules of the Program contain activities, videos and assignments to help participants learn, develop and practice new skills.

Module 1: Welcome to AbilitiCBT

- Introduction to AbilitiCBT, the app's features and how to navigate the program.
- Overview of cognitive behavioral therapy and goal-setting ("SMART" goals)


Module 2: Understanding Your Symptoms

18(1)(b) and 28(1)(b)




Module 3: Foundational Skills for Self Care

18(1)(b) and 28(1)(b)




Module 4: The Link Between Thoughts and Feelings

18(1)(b) and 28(1)(b)




Module 5: Repeated Thoughts (Rumination)

18(1)(b) and 28(1)(b)




Module 6: Unhealthy Thinking Traps

18(1)(b) and 28(1)(b)




Module 7: Behavior Mood Links (Part One)

18(1)(b) and 28(1)(b)




Module 8: Behavior Mood Links (Part Two)

18(1)(b) and 28(1)(b)




Module 9: Mindfulness

18(1)(b) and 28(1)(b)



Module 10: Putting it all Together

18(1)(b) and 28(1)(b)



Therapist Support

Contractor's AbilitiCBT therapists are regulated Canadian health professionals or members of a Canadian professional college/association in the province in which they practice.

All Contractor AbilitiCBT therapists:

- Are Registered Social Workers, Registered Psychotherapists or Psychologists with a minimum Master's level education.
- Have successfully completed an intensive screening process with reference checks, including criminal record checks.
- Are well-versed and experienced CBT practitioners.

Accessibility

Contractor's AbilitiCBT is accessed through its free AbilitiCBT app, using a smartphone or tablet, and complies with Web Content Accessibility Guideline (WCAG) 2.0.

Access to the Contractor's sign up page is through the Government of Manitoba website Manitoba.ca/covid19.

AbilitiCBT Sign Up Process Flow

1. Individual visits Manitoba.ca/covid19 and selects “Care for Your Mental Health”
2. Individual clicks on “Learn more about a new virtual therapy program available to you from home”
3. Individual clicks on “Sign up for the AbilitiCBT program now”
4. Individual is directed to custom url to sign up: <https://abiliticbtmanitoba.ca>; individual can choose English or French
5. Individual signs up for the program (name, email, phone number, password)
6. Individual is asked to complete the online health screening questionnaire
7. Upon completing the questionnaire the individual will be contacted by the Contractor to invite them to download the AbilitiCBT mobile app to their smartphone or tablet at which time they will have access to Module 1.
8. The Contractor will then connect them with a therapist who will remain with the individual throughout the 10 modules.

Service Level Agreement (SLAs)

During the Term, the Contractor agrees to the following service commitments and service levels (collectively referred to as the “Service Levels”):

1. **Access to Platform:** All residents of Manitoba over the age of sixteen (16) for one year from 24 March 2020 to 31 March 2021. Availability is 99% of the time during the Term.
2. **Access to Modules:** All residents of Manitoba over the age of sixteen (16) to gain immediate access to Module 1 upon date of sign up and completion of online health questionnaire: 99% of the time.
3. **Consent:** Consent completed before Program access: 99% of the time
4. **Access to Therapist:** Upon assignment, an initial call with the therapist will be offered to the user:
18(1)(a)(b) and 28(1)(b)
5. **Website Continuity:** Website continuity throughout the term: 99% of the time

Reporting on SLAs: Reports will be provided by the Contractor at the end of Quarter 1 after which monthly Reports will be provided by the 15th day of the following month. The monthly Reports to include the following information as shown in the Report template provided in this Services Schedule.



Government of Manitoba

AbilitiCBT Activity Report

Date



AbilitiCBT
by Morneau Shepell

Reporting period: Date - Date

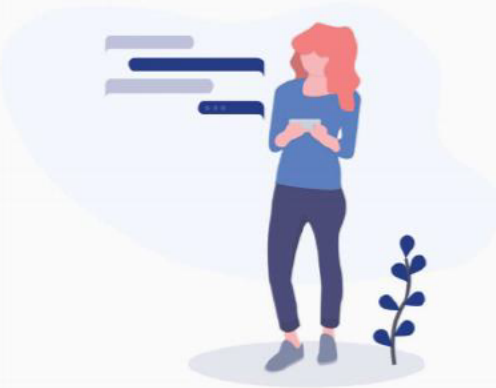
Table of Contents

Executive Summary



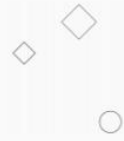
Client Testimonial

Appendix

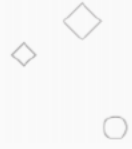


Executive Summary

- Bullet 1
- Bullet 2
- Bullet 3



18(1)(b) and 28(1)(b)



Total new cases by month

Jun. '20

May '20

Apr. '20

18(1)(b) and 28(1)(b)



18(1)(b) and 28(1)(b)



18(1)(b) and 28(1)(b)



- Bullet 1
- Bullet 2
- Bullet 3



18(1)(b) and 28(1)(b)



18(1)(b) and 28(1)(b)

18(1)(b) and 28(1)(b)



Access to Platform: Availability is 99% of the time during the Term



Access to Modules: Age 16+ to gain immediate access to Module 1 upon date of signing and completion of mental health screening: 99% of the time

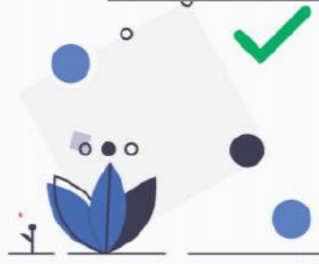


Consent: Consent completed before program access: 99% of the time



Website Continuity: Website continuity throughout the term: 99% of the time

18(1)(b) and 28(1)(b)



Client Testimonial

Reporting period

Appendix

AbilitiCBT overview

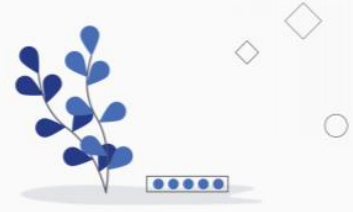
Why use AbilitiCBT?

It works.

AbilitiCBT is clinically effective. It starts with a needs assessment through an online questionnaire and consultation with a professional therapist — either by phone or video chat. You move through 10 modules, at your own pace, while the therapist tracks and monitors your progress. There are scheduled check-ins along the way by phone, video chat or messaging.

It's accessible from home.

AbilitiCBT is a convenient way to get support while at home. You access AbilitiCBT through the AbilitiCBT app, using a smartphone or tablet. AbilitiCBT complies with Web Content Accessibility Guideline (WCAG) 2.0.



It's supported by experts.

AbilitiCBT therapists are regulated health professionals or members of a professional college/association.

It's convenient.

Tackle as much or as little of a module as you want — your progress is saved, so you can pick up where you left off the next time you access the program.

It's confidential.

Morneau Shepell handles your request and tracks your progress — your personal information will never be shared.

Schedule “B” – Protection of Personal Information

This is Schedule "B" to the Agreement for Services between the Government of Manitoba and Morneau Shepell (the "Contractor").

Definition of personal information

1.01 In this Schedule, “personal information” has the meaning given to that term in *The Freedom of Information and Protection of Privacy Act* of Manitoba (C.C.S.M. c. F175) (FIPPA), and includes:

- personal information about an identifiable individual, which is recorded in any manner, form or medium; and
- personal health information about an identifiable individual as defined in *The Personal Health Information Act* of Manitoba (C.C.S.M. c. P33.5) (PHIA).

These statutory definitions are attached at the end of this Schedule.

1.02 The requirements and obligations in this Schedule:

- (a) apply to all personal information received, collected or otherwise acquired by the Contractor or authorized subcontractor in the course of carrying out its obligations under this Agreement, in whatever manner, form or medium;
- (b) apply whether the personal information was received, collected or acquired before or after the commencement of this Agreement; and
- (c) continue to apply after the termination or expiration of this Agreement.

1.03 Where the Contractor’s authorized subcontractors will have access to any personal information in performing the services under the Agreement, then the Contractor shall have its subcontractors comply with the requirements and obligations contained in this Schedule. The Contractor agrees that a breach of a requirement or obligation contained in this Schedule by an authorized subcontractor is a breach on the part of the Contractor.

Collection of personal information by the Contractor

1.04 The Contractor recognizes that, in the course of carrying out its obligations under this Agreement, the Contractor may receive personal information from Manitoba and may collect, acquire, be given access to and may otherwise come into possession of personal information about individuals.

1.05 Where the Contractor receives, collects, acquires, is given access to or otherwise comes into possession of personal information, the Contractor shall collect only as much personal information about an individual as is reasonably necessary to carry out the Contractor’s obligations under this Agreement.

- 1.06 Where the Contractor collects or acquires personal information directly from the individual it is about, the Contractor shall ensure that the individual is informed of:
- (a) the purpose for which the personal information is collected;
 - (b) how the information is to be used and disclosed;
 - (c) who in the Contractor's organization can answer questions the individual may have about his or her personal information; and
 - (d) his or her right of access to the information, as set out in the Contractor's policies under subsection 1.07 of this Schedule.

Access to personal information by the individual it is about

- 1.07 The Contractor shall establish a written policy consistent with Part 2 of FIPPA and Part 2 of PHIA, and acceptable to Manitoba, providing individuals whose personal information is received, collected or acquired by the Contractor under this Agreement with:
- (a) a right to examine personal information about themselves which is maintained by the Contractor, subject only to specific and limited exceptions; and
 - (b) a right to request corrections to this personal information.

Restrictions respecting use of personal information by the Contractor

- 1.08
- (a) The Contractor shall keep the personal information in strict confidence and shall use the personal information only for the purpose of properly carrying out the Contractor's obligations under this Agreement and not for any other purpose.
 - (b) The personal information shall be used solely by Contractor personally, or (where the Contractor is a corporation, business, organization or other entity) by the officers, employees and authorized subcontractors of the Contractor, except as otherwise specifically permitted by Manitoba in writing.
 - (c) The Contractor shall:
 - (i) limit access to and use of the personal information to those of the Contractor's officers, employees and authorized subcontractors who need to know the information to carry out the obligations of the Contractor under this Agreement,
 - (ii) ensure that every use of and access to the personal information by the Contractor and by the authorized officers, employees and subcontractors of the Contractor is limited to the minimum amount necessary to carry out the obligations of the Contractor under this Agreement,
 - (iii) ensure that each officer, employee and authorized subcontractor of the

Contractor who has access to the personal information is aware of and complies with

- (A) the requirements, obligations and fair information practices in this Schedule,
 - (B) the privacy and security policies, procedures, safeguards and measures of the Contractor,
 - (C) any additional reasonable requirements or directions established or given by Manitoba respecting the protection, retention or destruction of the personal information or ensure the confidentiality of the personal information;
- (iv) ensure that each officer, employee and authorized subcontractor who has access to the personal information signs a pledge of confidentiality, in the form attached as Schedule "D" to this Agreement.

1.09 The Contractor shall ensure that:

- (a) no person can make unauthorized copies of the personal information;
- (b) no person shall disclose the personal information except as authorized under subsection 1.12 of this Schedule; and
- (c) no person can modify or alter the personal information in a manner which is not authorized.

1.10 The Contractor shall not link or match the personal information with any other personal information, except where necessary to carry out the obligations of the Contractor under this Agreement.

1.11 Notwithstanding any other term of this Agreement, Manitoba acknowledges and agrees that the Contractor may use personal information in a de-identified, aggregated form for the purpose of reporting on the use of the Program and on Program outcomes. The Contractor shall ensure that this form of reporting will not allow any individuals to be identified personally.

Restrictions respecting disclosure of personal information by the Contractor

1.12 The Contractor shall not give access to, reveal, disclose or publish, and shall not permit anyone to give access to, reveal, disclose or publish, the personal information to any person, corporation, business, organization or entity outside the Contractor's organization, except as follows:

- (a) to Manitoba, and to Manitoba's officers, employees and agents, for the purposes of this Agreement where Manitoba is permitted to collect the personal information under FIPPA or PHIA, including where the individual the information is about provides their voluntary, informed consent;
- (b) an authorized subcontractor;

- (c) to the individual the personal information is about, upon satisfactory proof of identity;
- (d) to any person, corporation, business, organization or entity with the voluntary, informed consent of the individual the information is about;
- (e) where disclosure is required or authorized by legislation;
- (f) where disclosure is required by an order of a court, person or body with jurisdiction to compel production of the personal information or disclosure is required to comply with a rule of court that relates to the production of the personal information; or
- (g) where disclosure is necessary to prevent or lessen a risk of harm to the health or safety of a minor, or a risk of serious harm to the health or safety of the individual the information is about or another individual, or to public safety.

1.13 Without limiting subsection 1.12 of this Schedule, the Contractor shall not:

- (a) sell or disclose the personal information, or any part of the personal information, for consideration; or
- (b) exchange the personal information for any goods, services or benefit; or
- (c) give the personal information to any individual, corporation, business, agency, organization or entity for any purpose, including (but not limited to) solicitation for charitable or other purposes;
- (d) and shall not permit any of these activities to take place.

Protection of the personal information by the Contractor

1.14 The Contractor shall protect the personal information by putting in place reasonable administrative, technical and physical safeguards that ensure the confidentiality, security, accuracy and integrity of the personal information and protect the personal information against such risks as use, access, disclosure or destruction that are not authorized under this Schedule. These security arrangements shall take into account the sensitivity of the personal information and the medium in which the information is stored, handled, transmitted or transferred.

1.15 Without limiting subsection 1.14 of this Schedule:

- (a) where personal information is in paper form, or other removable electronic storage media, the Contractor shall ensure that:
 - (i) the paper records and removable electronic storage media (including USB memory devices) used to record the personal information are kept in a physically secure area and are subject to appropriate safeguards and shall not be left unattended in an unsecured or public area,

- (ii) the personal information is accessible only to those of the Contractor's officers, employees and authorized subcontractors who need to know the personal information to carry out the obligations of the Contractor under this Agreement, and
 - (iii) the paper records, removable electronic storage media used to record the personal information are stored securely when not in use;
- (b) where personal information is collected through a computer software application (including the *AbilitiCBT* online app) or stored in an electronic information system or computer network, the Contractor shall:
 - (i) ensure that the software application or electronic information system or computer network is secure and is accessible only to officers, employees and authorized subcontractors of the Contractor who need to know the personal information to carry out the obligations of the Contractor under this Agreement,
 - (ii) ensure that the personal information is protected by a series of passwords to prevent unauthorized access,
 - (iii) limit access to and use of encryption keys and passwords to those of the Contractor's officers, employees and authorized subcontractors who need to know the personal information to carry out the obligations of the Contractor under this Agreement,
 - (iv) ensure that any electronic information system or computer network hosting or storing personal information must be hosted and located in Canada, including servers and backup servers; and
 - (v) ensure that any personal information cannot be accessed remotely from outside of Canada, such as administrator or privileged access, unless prior written approval is given by Manitoba.

- (c) the Contractor shall implement the following encryption and related key management practices:
- (i) encrypt personal information at rest and in transit (including personal information stored on laptop computers, tablets and removable electronic storage media such as USB memory devices) using approved algorithms. The initial algorithm will be the Advanced Encryption Standard (AES) using 256 bit cipher keys as defined in the National Institute of Standards and Technology publication FIPS-140-3 and FIPS PUB 197 or their superseding versions. Such algorithms will support TLS 1.2 or higher and key exchanges that offer perfect forward secrecy (DHE/ECDHE);
 - (ii) use only strong hashing algorithms such as SHA256 or greater in accordance with the National Institute of Standards and Technology publication FIPS-180-4 and FIPS-202 or superseding version;
 - (iii) disable all weak or deprecated algorithms and ciphers described in any of the above stated National Institute of Standards and Technology publications or their superseding versions;
 - (iv) encrypt personal information that is transmitted over public networks; and
 - (v) restrict access to personal information in media leaving a secure designated area referred to in clause (d) below through the use of encryption.
- (d) the Contractor shall
- (i) ensure that personal information is maintained in a designated area or areas and is subject to appropriate security safeguards,
 - (ii) limit physical access to designated areas containing personal information to authorized officers, employees and subcontractors,
 - (iii) take reasonable precautions to protect personal information from fire, theft, vandalism, deterioration, accidental destruction or loss and other hazards,
 - (iv) implement controls that limit the officers, employees and authorized subcontractors who may use personal information maintained by the Contractor to those specifically authorized by the Contractor to do so,
 - (v) implement controls to ensure that personal information maintained by the Contractor cannot be used unless
 - (A) the identity of the officer, employee or authorized subcontractor seeking to use the information is verified as an officer, employee or authorized subcontractor the Contractor has authorized to use it, and

- (B) the proposed use is verified as being authorized for the purpose of properly carrying out the Contractor's obligations under this Agreement and not for any other purpose.
 - (e) The Contractor shall create and maintain, or have created and maintained, a Record of User Activity for any electronic information system it uses to maintain personal information relating to residents of Manitoba who have accessed the AbilitiCBT program. For the purposes of this section, "Record of User Activity" means a record about an electronic information system, which identifies the following:
 - (i) individuals whose personal information has been accessed,
 - (ii) persons who accessed personal information,
 - (iii) when personal information was accessed, and
 - (iv) the electronic information system or component of the system in which the personal information was accessed.
- 1.16 When disposing of any paper records and media containing a record of the personal information, the Contractor shall destroy the paper records or erase or destroy any personal information contained on the media in a manner which adequately protects the confidentiality of the personal information.
- 1.17 The Contractor shall establish and comply with written policies and procedures respecting the use of, access to, disclosure, storage, protection and destruction of the personal information which shall be consistent with and reflect the requirements of this Schedule. These security policies and procedures shall include, but are not limited to:
- (a) measures to ensure the security of the personal information when a record of the information is removed from a secure designated area,
 - (b) measures to ensure the security of the personal information in electronic form when the computer hardware or removable electronic storage media on which it has been recorded is being disposed of or used for another purpose,
 - (c) provisions for identifying and recording security breaches and attempted security breaches; and
 - (d) corrective procedures to address security breaches.
- 1.18 The Contractor shall, immediately upon becoming aware of any of the following, notify Manitoba in writing of any security breach, or use of, access to, disclosure or destruction of personal information that is not authorized by this Schedule, with full details of the unauthorized use, access, disclosure or destruction. The Contractor shall immediately take all reasonable steps to prevent the recurrence of any security breach, unauthorized use, access, disclosure or destruction of the personal information and shall notify Manitoba in writing of the steps taken.
- 1.19 The Contractor shall provide orientation and ongoing training for its officers, employees

and authorized subcontractors about the requirements of this Schedule and the Contractor's security policies and procedures.

- 1.20 The Contractor shall comply with any regulations made, policies issued and reasonable requirements established by Manitoba respecting the protection, retention or destruction of the personal information of which it is informed by Manitoba.

Records kept by the Contractor

- 1.24 While this Agreement is in effect and for a period of at least three (3) years after expiry or termination, the Contractor shall maintain the following records and shall provide Manitoba with copies of the records referenced in clauses listed, as soon as practicable upon request:
- (a) records confirming that the Contractor's officers, employees and authorized subcontractors having access to the personal information have signed or completed a Pledge of Confidentiality required under subsection 1.08(c)(iv) of this Schedule;
 - (b) a list of names of the Contractor's officers, employees and authorized subcontractors who will have access to the personal information;
 - (c) records of the Contractor's security and privacy policies and procedures;
 - (d) reports of all security and privacy breaches and corrective procedures put in place that relate to Manitoba, as required under subsections 1.17(c) and (d), 1.18 and 1.27 of this Schedule; and
 - (e) the Record of User Activity, as referred to in section 1.15(e).

Destruction of personal information by the Contractor

- 1.25 After the personal information has been used for its authorized purpose, or where destruction of the personal information is requested by Manitoba or is required by this Agreement, the Contractor shall destroy the personal information (and all copies of the personal information in any form or medium) in a manner that adequately protects the confidentiality of the personal information. Notwithstanding the foregoing and further to subsection 1.28, the Contractor may: (1) retain copies of personal information that is required to be retained by law or regulation, (2) retain copies of work product that contains personal information for defence purposes; and (3) in accordance with legal, disaster recovery and records retention requirements, store such copies and derivative works in an archival format (e.g. tape backups), which may not be returned or destroyed. The Contractor shall destroy copies of personal information and derivative works stored in an archival format (e.g. tape backups) ten years after the creation of that media in a manner which adequately protects the confidentiality of the personal information.

Inspections by Manitoba

- 1.26 Manitoba and its representatives may carry out such inspections or investigations respecting the Contractor's and authorized subcontractors' information practices and security arrangements as Manitoba considers necessary to ensure the Contractor and authorized subcontractors are complying with the terms and conditions of this Schedule and that the personal information is adequately protected. The Contractor and authorized subcontractors shall co-operate in any such inspection or investigation, and shall permit Manitoba and its representatives access, at all reasonable times, to the Contractor's and authorized subcontractors' premises and to records and information relating to the Contractor's or authorized subcontractors' information practices and security arrangements or to this Schedule for these purposes. Manitoba will provide the Contractor or authorized subcontractors with no less than 30 business days prior written notice of any such inspection or investigation unless in the opinion of Manitoba the circumstances are such that a lesser notice period is warranted due to the need to respond to an actual or suspected incident involving the privacy and security of personal information.
- 1.27 If an inspection or investigation identifies deficiencies in the Contractor's or authorized subcontractors' information practices or security arrangements which expose the personal information to risk of unauthorized use, disclosure or destruction, the Contractor shall take reasonable steps to promptly correct the deficiencies to Manitoba's satisfaction.

Destruction of personal information on expiration or termination of Agreement

- 1.28 On expiration or termination of this Agreement for any reason, the Contractor shall, unless otherwise directed by Manitoba, destroy the personal information (including all copies of the personal information in any form or medium) in a manner which adequately protects the confidentiality of the personal information. Notwithstanding anything contrary to this Agreement, the Contractor may: (1) retain copies of personal information that is required to be retained by law or regulation, (2) retain copies of work product that contains personal information for defence purposes; and (3) in accordance with legal, disaster recovery and records retention requirements, store such copies and derivative works in an archival format (e.g. tape backups), which may not be returned or destroyed. The Contractor shall destroy copies of personal information and derivative works stored in an archival format (e.g. tape backups) ten years after the creation of that media in a manner which adequately protects the confidentiality of the personal information.

Statutory definitions of personal information and personal health information

1. **"personal information"** means recorded information about an identifiable individual, including
 - (a) the individual's name,
 - (b) the individual's home address, or home telephone, facsimile or e-mail number,

- (c) information about the individual's age, sex, sexual orientation, marital or family status,
- (d) information about the individual's ancestry, race, colour, nationality, or national or ethnic origin,
- (e) information about the individual's religion or creed, or religious belief, association or activity,
- (f) personal health information about the individual,
- (g) the individual's blood type, fingerprints or other hereditary characteristics,
- (h) information about the individual's political belief, association or activity,
- (i) information about the individual's education, employment or occupation, or educational, employment or occupational history,
- (j) information about the individual's source of income or financial circumstances, activities or history,
- (k) information about the individual's criminal history, including regulatory offences,
- (l) the individual's own personal views or opinions, except if they are about another person,
- (m) the views or opinions expressed about the individual by another person, and
- (n) an identifying number, symbol or other particular assigned to the individual.

2. **"personal health information"** means recorded information about an identifiable individual that relates to

- (a) the individual's health, or health care history, including genetic information about the individual,
 - (b) the provision of health care to the individual, or
 - (c) payment for health care provided to the individual,
- and includes
- (d) the PHIN and any other identifying number, symbol or particular assigned to an individual, and
 - (e) any identifying information about the individual that is collected in the course of, and is incidental to, the provision of health care or payment for health care.

"health care" means any care, service or procedure

- (a) provided to diagnose, treat or maintain an individual's physical or mental condition,

- (b) provided to prevent disease or injury or promote health, or
- (c) that affects the structure or a function of the body,
and includes the sale or dispensing of a drug, device, equipment or other item pursuant to a prescription.

"PHIN" means the personal health identification number assigned to an individual by the minister to uniquely identify the individual for health care purposes.

Schedule “C” – Pledge of Confidentiality**I UNDERSTAND THAT:**

1. I may or will have access to personal information and personal health information for the purposes of carrying out the services under the Agreement.
2. “personal information”, for the purposes of the Agreement and this Pledge of Confidentiality, is defined in *The Freedom of Information and Protection of Privacy Act* of Manitoba;
3. “personal health information”, for the purposes of the Agreement and this Pledge of Confidentiality, is defined in *The Personal Health Information Act* of Manitoba; and
4. I am bound by the requirements of the Agreement and by the policies and procedures established by Morneau Shepell respecting the collection, use, disclosure, protection, alteration, retention and destruction of any personal information or personal health information to which I may have access in the course of carrying out the services under the Agreement.

I UNDERTAKE AND AGREE not to collect, use, disclose, alter, retain or destroy personal information or personal health information except in accordance with the Agreement and any applicable policies and procedures of Morneau Shepell.

I FURTHER UNDERTAKE AND AGREE THAT:

1. I will treat all personal information and personal health information to which I have access under the Agreement as strictly confidential and will use such personal information and personal health information solely for the purpose of carrying out the Agreement and for no other purpose;
2. I will limit my access to personal information and personal health information that I am authorized by Morneau Shepell to use and that I need to know to carry out my obligations under the Agreement;
3. I will not retain or make unauthorized copies of any personal information or personal health information, in any form or medium;
4. I will not modify or alter any personal information or personal health information in any manner; and
5. I will not disclose any personal information or personal health information, in any form or medium, to any person, corporation, organization or entity, except as specifically authorized in writing under the Agreement.

I acknowledge that failure to comply with the undertakings in this Pledge of Confidentiality may result in my being prohibited from providing services under the Agreement or in other proceedings being taken against me.

DATED this _____ day of _____, 20__.

Name (Printed)

Name of Witness (Printed)

Signature

Signature

Schedule "D" – Indigenous Business Participation Form

RFP for:		RFP #:
Contractor: <i>[Name of Contractor awarded the contract by Manitoba]</i>		
Indigenous Business/Entity (name)	Description of Work	Value (\$) of Work
Total		\$ _____

Printed name of Authorized Representative

Signature

Date

Schedule “E” – Security & Hosting Requirements Personnel

Relationships with Subcontractors

1. The Contractor must disclose to Manitoba the use of subcontractors to satisfy Manitoba’s requirements and must include details related to the capacity in which the subcontractor will be used for the delivery of services to Manitoba.
2. All changes to subcontracting arrangements must be made in writing and approved by Manitoba before applying them to service in support of Manitoba’s requirements.
3. The Contractor must have documented, and provide to Manitoba upon request, how Manitoba requirements flow to all sub contactors and how requirements satisfaction is determined.
4. The Contractor must have documented, and provide to Manitoba upon request, what Manitoba information is shared with and used by sub contactors. This must include procedures in place for protecting this information.
5. The Contractor must ensure that security risks associated with sub contactors are defined and monitored.

Datacenter

1. The Contractors must identify the locations of the datacenters that will be used to deliver services to Manitoba.
2. The Contractor must identify if the datacenters used in the delivery of services are dedicated to the Contractor’s services or if the Contractor leverages a shared data centre or a sub contracted datacenter provider. If shared the Contractor must secure Manitoba’s data from other customers.
3. The Contractor must identify the certified Tier classification of the datacenter used to provide services to Manitoba as defined by the Uptime Institute (Tier 1-4).
4. The Contractor must have physical controls in place to control access to information assets and IT services and resources based on their importance including the approval process for the Identification and authentication of Contractor staff members who have physical access to assets providing Manitoba services including temporary access.
5. The Contractor must ensure protection from unauthorized physical access including Logging of physical access.
6. The Contractor must have documented, and provide to Manitoba upon request, a description the physical security attributes of the datacenter systems such as uninterruptible power supplies, backup generators, redundant climate control systems, card access systems, and a data-center-grade fire control system for prevention and protection.
7. The Contractor must maintain the physical security of the data center systems and they must be monitored, maintained and audited for proper operating efficiency.

Service Scalability

1. The Contractor must ensure the solution handles increased capacity demands such as sudden increases in capacity demands as result of an event impacting multiple clients leveraging your service ensuring Manitoba's services are maintained.

Contingency Planning; Operational and Disaster Recovery

1. The Contractor must have business continuity and disaster recovery (BC/DR) plans for critical assets and must be able to demonstrate that plans are tested on an annual basis. The Contractor must indicate if they completed self-testing or if testing was completed by an independent third party.
2. The Contractor must have BC/DR plan and procedures applicable to the requested services and the site(s) where these services are operated
3. The Contractor must have BC/DR plans, including testing, for all subcontractors involved in delivering the requested services.

Security Policies, Procedures, and Practices

1. The Contractor must exercise appropriate standards of due care with respect to securing information assets, primarily accomplished through security policies, procedures, and practices that are documented, auditable, enforced, reviewed and updated annually.
2. The Contractor must provide to Manitoba a completed SOC1, SOC2 Type 2 and PCI-DSS attestation and/or independent report as applicable, which was completed within the last 12 months or less.
3. The Contractor must agree to address any significant finding to the satisfaction of Manitoba.
4. The Contractor must have a comprehensive set of documented, current policies demonstrating how they are periodically reviewed, updated, audited and enforced.

Access Control

1. The Contractor must have access control policies which ensure that only duly authorized staff members who use and support requested service systems have access to the operating system, applications, and databases to be used in providing the requested services.
2. The Contractor must monitor and enforce all access control policies.
3. The Contractor must have access control policies enforced for all subcontractors who are engaged in the delivery of the services to Manitoba.
4. The Contractor must have access controls and processes for access request, access review, and access termination that are auditable.
5. The Contractor requires the use of at least two-factor authentication for staff and the use of encrypted virtual private networks for remote access into the Contractor network including any staff participating in any Work-At-Home programs or initiatives.

6. The Contractor must have policies that are enforced and monitored to ensure appropriate levels of user authentication and control of user access.
7. The Contractor must have policies that ensure development and operations staff have segregated roles and responsibilities.
8. The Contractor must ensure that developers are limited to the testing, training, and user acceptance testing (UAT) environments.
9. The Contractor must ensure that all users including administrators, super users, database administrators, etc. are uniquely identified at all times.
10. The Contractor must ensure that all system, process, or database passwords be changed from default settings, systems are locked if not in use, and passwords are changed a minimum of one time per year.
11. The Contractor must ensure that clear text passwords will not be transmitted across the network at any time.
12. The Contractor must implement a range of security controls to protect service systems and networks to include:
 - a. Access controls at the level of networks, systems, files, and applications.
 - b. Perimeter and internal firewalls that implement security policy.
 - c. Network security monitoring in the form of intrusion detection or event monitoring.
 - d. System disposal process that securely wipes all data prior to disposal.
 - e. A means for client data, system, network, and performance protection from exposure to other clients when the service executes on shared servers or devices.
 - f. That all the above processes are recorded and auditable.

Software Integrity

1. The Contractor must ensure the integrity of installed software by ensuring they are regularly checking for all viruses, worms, Trojan horses, and other malicious software and eradicating them in a timely manner.
2. The Contractor must ensure up-to-date virus signatures and other relevant signatures such as those for intrusion detection systems.

Secure Asset Configuration

1. The Contractor deployed and documented, using documented procedures and processes, secure configuration of all client information assets throughout their life cycle (installation, operation, maintenance, retirement) by addressing all items listed below.
2. The Contractor must ensure that all hardware and software used in the delivery of services to Manitoba are supported by the hardware manufacturer, or developer of the software components, used in the delivery of services.
3. The Contractor must ensure that a vulnerability management program is in place and that patches are applied to correct security and functionality problems.

4. The Contractor must ensure that vulnerability scans are performed on a monthly basis and new systems are scanned once implemented.
5. The Contractor must have , and provide upon request to Manitoba, their schedule for patching the software on service systems including a scheduled time periods for systems patches (i.e. a time period on a specific day of the week where routine, non-critical patches are applied to service systems) ensuring no interruption of services provided to Manitoba.
6. The Contractor must apply critical security patches on systems, firewalls, routers and switches within 30 days, or sooner, of release by supporting vendor.
7. The Contractor must provide Manitoba with a monthly report listing the patches applied.
8. The Contractor must have a standard including minimum essential configuration for each type of computer and each type of service, storing this as a trusted base configuration. The standard must include removing or disabling all unnecessary applications and services (producing a minimum essential configuration), removing default accounts, and patching known vulnerabilities.
9. The Contractor must have a process for securely configuring service systems prior to deployment, and for keeping the system security configuration up to date
10. The Contractor must identify which infrastructure components are shared in the delivery of the service to Manitoba.
11. The Contractor must test configurations in a non-production environment prior to deployment
12. The Contractor must have architectural diagrams of their solution with Manitoba and provide them upon request.
13. The Contractor must have configuration management and change control procedures including test procedures that are exercised when changes are made. This must include an ability to recover from upgrade and patch installation problems, a back out plan that allows safe restoration of systems to their pre-patch state must be devised prior to any patch rollout in the event that the patch has unforeseen effects.
14. The Contractor must allow Manitoba to approve changes, if warranted, and notification when changes are made that are outside the communicated maintenance windows and can affect Manitoba's service processing, performance, and data so that testing may be performed.
15. The Contractor must consider security during the implementation of all changes to Contractor's systems and networks.
16. The Contractor must have a process(s) for conducting penetration tests on a regular basis including steps demonstrating how weaknesses are addressed in a timely manner when identified.

17. The Contractor must ensure Manitoba that no undocumented, unreported configuration changes will occur to the service provided.
18. The Contractor must maintain a secure firewall configuration to Manitoba standards to isolate the System from the Contractor systems and from the Internet.
19. The Contractor must ensure that Firewall logging is enabled and reviewed through manual or automated tools.
20. The Contractor must have in place text and graphics, describing how your services will be implemented and must include a description as to how Manitoba data and the supporting systems including networking connections are protected from exposure to other clients.
21. The Contractor must have descriptions as to how you manage the systems and the supporting tools used as part of the provided services.

Monitoring:

The Contractor must monitor for, all systems used in the delivery of services to Manitoba:

1. Availability, performance and security in real time.
2. Ensure the monitoring team, Network Operations and IT operating have appropriate separation of duty designed into their reporting structure.
3. Minimum performance baselines.
4. All network traffic entering and leaving the network.
5. The entire network (firewalls, intrusion detection systems, routers, servers, niche security products, customer applications) including all core Infrastructure and relevant sensors. This must include interface state, throughput, packet loss, environmental, CPU, memory, fan speed of all physical hardware, power state.
6. That significant monitoring results are reported and actioned accordingly
7. Perform automated audit logging security related events, including individual access.
8. Ensure audit logs are accessible to authorized individuals, protected from unauthorized access, and periodically reviewed.
9. If required due to a breach, the Contractor will provide Manitoba with a report of relevant audit logs.

Breaches of Security

1. The Contractor must notify Manitoba immediately, in writing, of any security breach or attempted security breach with the potential to impact Manitoba's security or the security of confidential or sensitive Manitoba information maintained by the Contractor.
2. The Contractor must identify what steps are being taken to prevent a recurrence and provide a root cause analysis for breaches of security.

Site Visit

1. The Contractor must grant access to Manitoba, or an authorized third party retained by Manitoba to conduct a site visit, at Manitoba's discretion, including all physical facilities involved in service delivery such as the datacenter where client data are secured.
2. The Contractor, during site visits, must provide reviews and demonstrations of Contractor capabilities as represented in the proposal. Manitoba may, at its discretion, provide additional scenarios or requirements that may be examined. These will be communicated in writing prior to such a visit. Expenses incurred by the Contractor during the site visit are the Contractor's responsibility.
3. The Contractor must specify any limitations or constraints on site visits.

Application Design and Testing

1. The application must be protected against invalid connections.
2. The application must be protected against invalid input by assuming input from other systems, such as Web Services and other applications, and from clients, untrusted and potentially malicious, and the input must be validated using industry standards.
3. The application must be designed to authenticate communication between all tiers by authenticating all communication sessions, and only accepting communications from authenticated and authorized components.
4. Web applications accessible through a web browser must be designed to protect application sessions against hijacking or cloning by aligning with the OWASP top 10 standards or equivalent coding standards.
5. Web applications accessible through a web browser must be coded in alignment with the OWASP top 10 standards or similar.
6. Applications must be designed to handle all errors to limit the potential for the exposure of information to clients, such as software versions, database schema details, the nature of the data store, or code fragments.
7. All applications must have undergone dynamic testing prior to deployment in production.