

SERVICE AGREEMENT

1. Contract Terms.

(a) These terms and conditions (Terms) for Services (defined below) are the only terms that govern the provision of Services by Bast Durbin, Inc., a Wisconsin corporation (BD Inc.) to Wisconsin Waterfowl Association (Company).

(b) The accompanying statement of work attached hereto on Exhibit A (the Statement of Work) and these Terms (collectively, this Agreement) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. In the event of any conflict between these Terms and the Statement of Work, these Terms shall govern, provided however, that the non-inclusion of a provision or concept in either document shall not constitute a conflict or inconsistency for the purposes of this provision.

(c) This Agreement prevails over any of Company's general terms and conditions regardless of whether or when Company has submitted its request for proposal, order, or such terms. Provision of Services to Company does not constitute acceptance of any of Company's terms and conditions and does not serve to modify or amend the Agreement.

2. Services. BD Inc. shall provide the services to Company as described in the Statement of Work (the Services) in accordance with the terms and conditions of this agreement.

3. Performance Dates. BD Inc. shall use reasonable efforts to meet any performance dates specified in the Statement of Work, and any such dates shall be estimates only.

4. Change Orders.

(a) If either party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other party in writing. BD Inc. shall, within a reasonable time after such request, provide a written estimate to Company of: (i) the likely time required to implement the change; (ii) any necessary variations to the fees and other charges for the Services arising from the change; (iii) the likely effect of the change on the Services; and (iv) any other impact the change might have on the performance of this Agreement.

(b) Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change (Change Order). Neither party shall be bound by any Change Order unless mutually agreed upon in writing.

(c) Notwithstanding Section 4(a) and Section 4(b), BD Inc. may, from time to time, change the Services without the consent of Company provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Statement of Work.

5. Fees and Expenses; Payment Terms; Interest on Late Payments.

(a) In consideration of the provision of Services by BD Inc. and the rights granted to Company under this Agreement, Company shall pay the fees set forth in the Statement of Work.

(b) Company agrees to reimburse BD Inc. for all reasonable travel and out-of-pocket expenses incurred by BD Inc. in connection with the performance of the Services. Examples of such costs include, but are not limited to, printing, paper or product samples, and delivery services.

(c) Company shall pay all invoiced amounts due to BD Inc. within 30 days from the date of BD Inc.'s invoice.

(d) In the event payments are not received by BD Inc. within 30 days after becoming due, BD Inc. may, in addition to exercising all of its other rights and remedies available under this Agreement, at law and in equity: (i) charge interest on any such unpaid amounts at a rate of 1.5% per from the date such payment was due until the date paid; and (ii) suspend performance for all Services until payment has been made in full.

6. Confidential Information.

(a) All non-public, confidential or proprietary information of BD Inc., including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing (collectively Confidential Information), disclosed by BD Inc. to Company, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as confidential, in connection with the provision of Services in this Agreement is confidential, and shall not be disclosed or copied by Company for a period of five years after Company's receipt of the particular Confidential Information that is disclosed or copied. Confidential information does not include information that is: (i) in the public domain through no fault of the Company; (ii) known to Company at the time of disclosure; or (iii) rightfully obtained by Company on a non-confidential basis from a third party.

(b) Company agrees to use the Confidential Information only to make use of the Services.

(c) Company agrees that any violation or threatened violation of this section may cause irreparable injury to BD Inc., for which there would be no adequate remedy at law. Therefore, Company agrees that any such violation or threatened violation entitles BD Inc. to seek immediate injunctive relief, without the requirement for the posting of a bond, prohibiting such violation in addition to any other legal rights or remedies available.

(d) Notwithstanding the time limitation set forth in section 6(a), with respect to such Confidential Information that constitutes a trade secret as defined by Wis. Stat. § 134.90(1)(c), Company shall keep such Confidential Information confidential, and shall not disclose or make copies

of it until such Confidential Information loses its trade secret protection other than due to an act or omission of Company or its representatives.

7. Right to Work Product. Until BD Inc. is paid in full by Company, BD Inc. shall retain and maintain exclusive ownership rights in all of the documents, videos, materials, ideas, pictures, artwork, creations, improvements, and all other items in any medium, conceived, produced, prepared, or provided by BD Inc. that relate to or result from the work of BD Inc. for the Company (Work Product), and in the event Company is deemed to be the owner of the Work Product, Company hereby grants to BD Inc. the irrevocable, perpetual, exclusive, worldwide, royalty-free right and license (License) to use the Work Product, with such use to include, without limitation, the right to modify, reproduce, and display the Work Product (collectively, Use). Additionally, at all times (regardless of Company's payment), BD Inc. shall retain and maintain the right to Use the Work Product for its own marketing and promotional purposes, and in the event Company is deemed to be the owner of the Work Product, Company hereby grants to BD Inc. a License to Use the Work Product for marketing and promotional purposes. The Work Product may not be altered, amended, changed, modified, revised, reconfigured, translated, or reformatted without the express prior written consent

8. Representations & Warranties. The Company and BD Inc. expressly warrant, represent and covenant to each other that, respectively, each has the full right, power, legal capacity and authority to enter into this Agreement, to carry out the terms hereof and to grant to each other the rights and privileges herein granted. OTHER THAN THE REPRESENTATIONS AND WARRANTIES CONTAINED IN THESE TERMS, BD INC. MAKES NO OTHER REPRESENTATIONS OR WARRANTIES REGARDING THE WORK PRODUCT OR SERVICES AND ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, ARE HEREBY DISCLAIMED INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. Indemnification. Company shall defend, indemnify and hold harmless BD Inc. and its officers, members, employees, successors and assigns from and against all losses, claims, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind (including reasonable attorneys' fees) arising out of or resulting from Company's acts or omissions or the acts or omissions of any third party hired, retained, or engaged by Company.

10. Dispute Resolution, Arbitration. Any dispute arising with respect to this Agreement, its making or validity, its interpretation, or its breach shall be settled by arbitration in West Bend, Wisconsin, by a single arbitrator mutually agreed to by the disputing parties pursuant to chapter 788 Wisconsin Statutes. The Arbitrator shall use Wisconsin law. Such arbitration shall be the sole and exclusive remedy for such disputes except as otherwise provided in this Agreement. Any award rendered shall be final and conclusive upon the parties, and a judgment may be entered in any court having jurisdiction. In any proceeding with respect to any dispute arising under or to collect any benefits due under this Agreement, the prevailing party in the proceeding shall be entitled to recover the costs of the proceeding and reasonable attorney fees from the other party.

11. Customer's Acts or Omissions. If BD Inc.'s performance of its obligations under this Agreement is prevented or delayed by an act or omission of Company or its agents, consultants, contractors or employees, BD Inc. shall not be deemed in breach of its obligations under this Agreement or otherwise liable for costs, charges or losses sustained or incurred by Company, in each case, to the extent arising directly or indirectly from such prevention or delay.

12. Relationship of Parties. Nothing herein shall be construed to create a joint venture or partnership between the parties hereto or an employee/employer relationship. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement or undertaking with any third party.

13. Exclusion of Certain Damages/ Limitation of Liability. In no event shall BD INC. be liable to the Company or to any other person or entity with respect to any subject matter of the Agreement, under any equity, common law, tort, contract, estoppel, negligence, strict liability or other theory, for any incidental, special, punitive, consequential or indirect damages, including, without limitation, damages resulting from loss of sale, business, profits, data, opportunity or goodwill, even if the remedies provided for in the Agreement fail of their essential purpose and even if such party has been advised of the possibility of any of the foregoing damages.

14. Termination. This Agreement may be terminated by BD Inc. or the Company at any time for any reason or no reason by providing the other party with at least thirty days prior written notice. Upon termination, Company agrees to immediately pay BD Inc. in immediately available funds for all of the expenses, charges, costs and fees BD Inc. had incurred or charged up to the effective date of the termination, and furthermore, Company shall immediately pay BD Inc. in immediately available funds for all expenses BD Inc. incurred for dates beyond the effective date of termination and other advance payments. In addition to any remedies that may be provided under this Agreement, BD Inc. may terminate this Agreement with immediate effect upon written notice to Company, if Company fails to pay any amount when due under the Agreement; has not performed or complied with any terms of the Agreement, in whole or in part; or becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization or assignment for the benefit of creditors.

15. Miscellaneous.

A. Severability. If any term or provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction or under any circumstance, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction or under any other circumstance.

B. Entire Agreement. The Agreement constitutes the sole and entire agreement of the parties to the Agreement, and supersedes all prior understandings, agreements, representations and warranties, both written and oral, between the parties.

C. Amendment. The Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party to the Agreement.

D. Waiver. Any failure to enforce any provision of the Agreement shall not on that or any other occasion constitute a waiver thereof or of any other provision hereof.

E. Assignment. Company may not assign, sell, transfer, delegate, or subcontract any rights or obligations under the Agreement without BD Inc.'s prior written consent. Subject to the limits on assignment stated above, the Agreement will inure to the benefit of, be binding upon, and be enforceable against, each of the parties hereto and their respective successors and permitted assigns.

F. No Third-Party Beneficiaries. Except for the people and entities described in section 16, this Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever.

G. Survival. Provisions of the Agreement, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of the Agreement.

H. Counterparts. The Agreement may be executed in multiple counterparts and signatures may be contained in a facsimile, PDF, or other electronically stored document, each of which shall be deemed an original and all of which together shall constitute one document

Dated this ¹⁸ day of Sept. 2024

Company: _____

By: _____

Name: _____

Title: _____

Bast Durbin, Inc.

By:  _____
President