

RETURN BIDS TO:

RETOURNER LES SOUMISSIONS À:

Bid Receiving - PWGSC / Réception des soumissions - TPSGC

11 Laurier St. / 11, rue Laurier
Place du Portage, Phase III
Core 0A1 / Noyau 0A1
Gatineau, Québec K1A 0S5
Bid Fax: (819) 997-9776

Revision to a Request for a Standing Offer

Révision à une demande d'offre à commandes

National Master Standing Offer (NMSO)

Offre à commandes principale et nationale (OCPN)

The referenced document is hereby revised; unless otherwise indicated, all other terms and conditions of the Offer remain the same.

Ce document est par la présente révisé; sauf indication contraire, les modalités de l'offre demeurent les mêmes.

Comments - Commentaires

Vendor/Firm Name and Address

Raison sociale et adresse du fournisseur/de l'entrepreneur

Issuing Office - Bureau de distribution

Acquisition Branch, STAMS, ITSPD / Direction générale des acquisitions, SGAST, DASIT
Computer Hardware Division
Div. de l'équipement informatique
Place du Portage, Phase III, 4C2
11 Laurier Street/11, rue Laurier
Gatineau
Québec
K1A 0S5

Title - Sujet NMSO - COMPUTERS	
Solicitation No. - N° de l'invitation E60EJ-11000C/O	Date 2013-12-13
Client Reference No. - N° de référence du client E60EJ-11000C	Amendment No. - N° modif. 008
File No. - N° de dossier 436ej.E60EJ-11000C	CCC No./N° CCC - FMS No./N° VME
GETS Reference No. - N° de référence de SEAG PW-\$SEJ-436-26495	
Date of Original Request for Standing Offer 2013-10-22	
Date de la demande de l'offre à commandes originale	
Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2013-12-18	
Address Enquiries to: - Adresser toutes questions à: Hagggar, Dan	Buyer Id - Id de l'acheteur 436ej
Telephone No. - N° de téléphone (819) 956-2692 ()	FAX No. - N° de FAX () -
Delivery Required - Livraison exigée	
Destination - of Goods, Services, and Construction: Destination - des biens, services et construction:	
Security - Sécurité This revision does not change the security requirements of the Offer. Cette révision ne change pas les besoins en matière de sécurité de la présente offre.	

Instructions: See Herein

Instructions: Voir aux présentes

Acknowledgement copy required	Yes - Oui	No - Non
Accusé de réception requis	<input type="checkbox"/>	<input type="checkbox"/>
The Offeror hereby acknowledges this revision to its Offer. Le proposant constate, par la présente, cette révision à son offre.		
Signature	Date	
Name and title of person authorized to sign on behalf of offeror. (type or print) Nom et titre de la personne autorisée à signer au nom du proposant. (taper ou écrire en caractères d'imprimerie)		
For the Minister - Pour le Ministre		

The purpose of this amendment is to address a question that was omitted in a previous Q&A:

This document contains

1. A question and answer
2. Revised RFSO Document

Question# 1

The NMSO includes a requirement that hardware vendors license Canada to use operating system software (and possibly other software) pursuant to the terms found in the NMSO (rather than pursuant to the publisher's license). Section 7.7(e)(iv) reads as follows:

(iv) This Contract grants to Canada the perpetual license (i.e., the license to use the Licensed Software is not a "demo" model and does not expire) to install, copy, deploy and use the Licensed Software with the Product(s) in accordance with the terms of this Contract (which does not include any terms or conditions contained in a shrink-wrap or click-wrap license, or other form of license delivered with the Licensed Software).

Additionally, there is no process in the NMSO for directly including product licensing terms in the resulting contract.

The approach to licensing reflected in the NMSO creates a significant and avoidable intellectual property infringement issue for Canada.

Most hardware vendors do not own the software that they need to include on their devices to meet the mandatory requirements of the NMSO. Because of this, hardware vendors need specific authorization from the owner of the software before they can supply it to Canada under the NMSO terms.

Would the Crown confirm the NMSO will proceed with either (i) removal of requirement or (ii) revision of NMSO to allow operating system software to be licensed exclusively pursuant to terms approved by the software publisher?

Answer#1

The requirement remains unchanged. The Crown's requires that all Licensed Software acquired with equipment are licensed in accordance with the resulting contract and it is required that all vendors have obtained sufficient rights to do so. In this regard, please see Amendment 008 which adds a new ss. 7.7(e)(viii):

(viii) The Contractor guarantees that it has the right to license the Licensed Software and full power and authority to grant to Canada the rights to use the Licensed Software described in this section. The Contractor also guarantees that all necessary consents to that grant have been obtained

All other terms and conditions remain unchanged. Revised versions replace previous versions in their entirety.

PART 1 GENERAL INFORMATION

1.1 INTRODUCTION

- (a) The Request for Standing Offers (RFSO) template is divided into seven parts:
 - (i) Part 1, General Information;
 - (ii) Part 2, Offeror Instructions;
 - (iii) Part 3, Offer Preparation Instructions;
 - (iv) Part 4, Evaluation Procedures and Basis of Selection;
 - (v) Part 5, Certifications;
 - (vi) Part 6, Resulting Standing Offer Clauses;
 - (vii) Part 7, Resulting Contract Clauses; and,
 - (viii) the Annexes.
- (b) Part 1: provides a general description of the requirement;
- (c) Part 2: provides the instructions applicable to the clauses and conditions of the RFSO and states that the Offeror agrees to be bound by the clauses and conditions contained in all parts of the RFSO;
- (d) Part 3: provides Offerors with instructions on how to prepare their offer to address the evaluation criteria specified;
- (e) Part 4: indicates how the evaluation will be conducted, the evaluation criteria which must be addressed in the offer, the security requirement, if applicable, and the basis of selection;
- (f) Part 5: includes the certifications to be provided;
- (g) Part 6: includes the Standing Offer containing the offer from the Offeror and the applicable clauses and conditions;
- (h) Part 7: includes the clauses and conditions that will apply to any contract resulting from a call-up made pursuant to the Standing Offer.
- (i) The Annexes include:
 - (i) Annex A: Technical Specifications
 - (ii) Annex B: List of Products
 - (iii) Annex C: Call-up Limitations
 - (iv) Annex D: RVD Process
 - (v) Annex E: Request for Product Substitution / Price Revision Sheet
 - (vi) Annex F: List of Authorized Resellers and Service Outlets
 - (vii) Annex G: Standing Offer Activity Report
 - (viii) Annex H and H1: Benchmark Procedures and Set-up Instructions
 - (ix) Annex I: Ratings Analysis
 - (x) Annex J: Intertek/Offeror Agreement
 - (xi) Annex K: Technical Offer
 - (xii) Annex L: Financial Offer
 - (xiii) Annex M: Basis of Selection

(xiv) Annex N: Offer Forms

1.2 SUMMARY

This solicitation is being issued to satisfy the Government of Canada's requirement for the supply, delivery, configuration, installation, integration and implementation of Computer Systems, including System Upgrades, System Components, Unevaluated Options, warranty, maintenance, software support services and documentation, all of which is to be provided on an "as-and-when-requested" basis to locations throughout Canada, excluding any locations in areas subject to any of the Comprehensive Land Claims Agreements, when a Call-up is made in accordance with any resulting NMSOs. Any resulting standing offers may be used by any Government Department, Departmental Corporation or Agency, or other body of the Government of Canada (including all those described in the *Financial Administration Act*, as amended from time to time) or any other party for which the Department of Public Works and Government Services has been authorized to act from time to time under section 16 of the *Department of Public Works and Government Services Act*. This solicitation does not preclude Canada from using another method of supply for entities of the Government of Canada with the same or similar needs.

The requirement is subject to the provisions of the World Trade Organization Agreement on Government Procurement (WTO-AGP), the North American Free Trade Agreement (NAFTA), the Canada-Chile Free Trade Agreement (CCFTA), the Canada-Peru Free Trade Agreement (CPFTA), the Canada-Columbia Free Trade Agreement, the Canada-Panama Free Trade Agreement and the Agreement on Internal Trade (AIT).

Offerors are not required to obtain security clearance in order to be issued a Standing Offer, because most Call-ups will be unclassified – see the article in the Resulting Contract Clauses entitled "Security Requirement". However, the Standing Offer Authority or Identified User making a Call-up may, in its discretion, substitute an alternative Security Requirement for individual requirements. In those cases, the Call-up will only be issued to an Offeror who, at the time of the Call-up, satisfies the Security Requirement specified by the Identified User. It is recommended that suppliers (and key individuals within suppliers) who do not currently hold a security clearance at the level of Secret consider upgrading their security clearance status, since procurements will not be delayed in order to provide time for suppliers to obtain required security clearances.

The series of resulting NMSOs, as a whole, will have no expiry date (unless PWGSC determines, in its sole discretion, to set aside this procurement vehicle). As demand for new computer technologies develops, new Categories will be competed on the GETS, allowing new suppliers to qualify or existing suppliers to add Categories to their Standing Offer. Each individual Category will be valid for a period of two years, plus two optional one-year extension periods from the date it is originally awarded. Each time a Category is subsequently awarded after publishing a new competition on the GETS, this two-year period plus the two one-year extension periods will begin running again. As a result, different Categories may be subject to different end dates. At the time individual Categories are re-competed, or new Categories are added, suppliers who already hold NMSOs may be exempted from providing certain information that they have previously provided in order to obtain their existing NMSO (for example, if the experience requirements remain unchanged, existing Offerors may not be required to re-demonstrate that they have the necessary experience).

For the definition of some of the terms used in this Article, refer to Article 6.1, "Offer".

This RFSO includes the following Group and Categories of equipment:

Systems Group

- (a) 1.0N - Classic Thin and Light – 14 inch (XP compatible)
- (b) 2.0N - Thin and Light Ultrabook – 13.3/14 inch
- (c) 3.0N - Performance – 15.6 inch
- (d) 4.0N - Ultra-Portable Ultrabook – 12.5 inch
- (e) 5.0N - Hybrid Tablet – 10.6 inch

-
- (f) Within the Group, each Category is then divided in 4 Sections:
- (i) Default System
 - (ii) System Upgrade
 - (iii) System Components
 - (iv) Unevaluated Options

All potential suppliers capable of meeting the requirements of this RFSO are invited to make offers. Suppliers are not required to be the Manufacturer of any Products to submit an offer, although the Manufacturer must certify non-manufacturer suppliers. The Annex entitled "Technical Specifications" describes the detailed technical specifications for all Categories.

All offers must consist of a technical offer and a financial offer. The detailed requirements for these offers are contained in Annexes entitled "Technical Offer" and "Financial Offer" and include mandatory requirements. Offerors are limited to a maximum of two (2) Systems per Category (the first System listed in the Category will be titled System A, the second System listed in the same Category will be titled System B); also, the same System will not be included in one Category more than once; furthermore, no more than two (2) Systems from any given Manufacturer will be included in one Category.

The basis of selection is described in detail in the Annex entitled "Basis of Selection" and consists of four phases: Confirmation of Compliance to Mandatory Requirements, Evaluation of Financial Offer, Benchmark Testing and Offeror Selection. Only offers that satisfy all the mandatory requirements and pass the financial evaluation will be considered.

For each Category, Canada anticipates qualifying up to eight (8) Systems that meet the requirements of this RFSO. If fewer Systems are qualified in a given Category than Canada considers advantageous, Canada reserves the right, in its sole discretion, to issue a further RFSO in order to identify additional offers eligible for standing offer issuance.

Offers will be evaluated on a "Category" basis. Therefore, if an Offeror wishes to submit an offer in only one specific Category, then it has the opportunity to do so. It is not mandatory to make an offer or be selected in all Categories to be issued a Standing Offer.

For each System proposed, all items listed in the Annex entitled "List of Products" (for the Category of System offered) must be offered in order for the offer to be considered for that Category.

Call-up Limitations for each Category and Section are defined in the Annex entitled "Call-up Limitations". Pre-determined discount percentages will apply to orders exceeding certain dollar values.

During the Standing Offer Period for a given Category, as technology evolves, Offerors will have the opportunity to propose substitute Products that offer equal or better value to Canada. Periodically, all Offerors will also have the opportunity to refresh their prices.

After any resulting Standing Offers have been issued, all Offerors will be notified in writing regarding the outcome of this solicitation.

1.3 RFSO SCHEDULE

- | | | |
|-----|--|--------------------------------|
| (a) | Deadline for first set of questions, Q1 (by noon EST): | November 5th 2013 |
| (b) | Release of answers to Q1 (estimated): | November 15 th 2013 |
| (c) | Deadline for second set of questions, Q2 (by noon EST): | December 3rd 2013 |
| (d) | Release of answers to Q2 (estimated): | December 9th 2013 |
| (e) | RFSO closing date (2PM EST): | December 18th 2013 |
| (f) | Systems from Categories 1.0N to 4.0N delivered for Benchmark testing (by 2PM EST): | January 2 nd 2014 |

-
- (g) Systems from Category 5.0N delivered for Benchmark testing (by 2PM EST): January 17th 2014
(h) NMSO award (estimated): January 31st 2014

1.4 COMMUNICATIONS NOTIFICATION

As a courtesy, Canada requests that successful Offerors notify the Standing Offer Authority in advance of their intention to make any public announcement related to the issuance of a standing offer.

1.5 DEBRIEFINGS

After issuance of a standing offer, unsuccessful Offerors will be provided with information about the way in which their offers were evaluated. Offerors are requested to follow up with further questions about the procurement process within 15 working days of receiving notification that their offer was unsuccessful.

PART 2 OFFEROR INSTRUCTIONS

2.1 STANDARD INSTRUCTIONS, CLAUSES AND CONDITIONS

- (a) All instructions, clauses and conditions identified in the Request for Standing Offer (RFSO) by number, date and title are set out in the Standard Acquisition Clauses and Conditions Manual (<http://buyandsell.gc.ca/policy-and-guidelines>) issued by Public Works and Government Services Canada (PWGSC).
- (b) Offerors who submit an offer agree to be bound by the instructions, clauses and conditions of the RFSO and accept the clauses and conditions of the Standing Offer and resulting contract(s).
- (c) The 2006 (2013-03-21) Standard Instructions - Request for Standing Offers - Goods or Services - Competitive Requirements are incorporated by reference into and form part of the RFSO.
- (d) Subsection 5.4 of Standard Instructions - Request for Standing Offers - Goods or Services - Competitive Requirements 2006 is amended as follows:
 - (i) Delete: sixty (60) days
 - (ii) Insert: one hundred and eighty (180) days
- (e) Section 4 of Standard Instructions - Request for Standing Offers - Goods or Services - Competitive Requirements 2006 is augmented with Subsection 4.8 as follows:

“An Offer cannot be assigned or transferred in whole or in part.”

2.2 SUBMISSION OF OFFERS

- (a) Offers must be submitted only to Public Works and Government Services Canada Bid Receiving Unit by the date, time and place indicated on page 1 of the RFSO.
- (b) Due to the nature of the Request for Standing Offers, offers transmitted by facsimile or electronic mail to Public Works and Government Services Canada will not be accepted.

2.3 ENQUIRIES - SOLICITATION

- (a) **Where to Direct Enquiries:** All enquiries and other communications with government officials relating to this Request for Standing Offers must be directed ONLY to the Standing Offer Authority named below.

Standing Offer Authority: Dan Haggar
E-mail Address: dan.haggar@tpsgc-pwgsc.gc.ca
Phone: (819) 956-2692
- (b) **Time for Making Enquiries:** All questions and other communications with Canada throughout the RFSO period and until any resulting Standing Offers are issued must be submitted by e-mail and must be received in accordance with the RFSO Schedule identified above. Enquiries received after the Q2 deadline may not be answered.
- (c) **Enquiries to be in Writing:** All enquiries must be submitted in writing.
- (d) **Content of Enquiries:** Offerors should reference as accurately as possible the numbered item of the solicitation to which the enquiry relates. Care should be taken by Offerors to explain each question in sufficient detail in order to enable Canada to provide an accurate answer. Technical enquiries that are of a “proprietary” nature must be clearly marked “proprietary” at each relevant item. Items identified as proprietary will be treated as such except where Canada determines that the enquiry is not of a proprietary nature. Canada may edit the questions or may request that the Offeror do so, so that the proprietary nature of the question is eliminated, and the enquiry can be answered with copies to all

Offerors. Enquiries not submitted in a form that can be distributed to all Offerors may not be answered by Canada

- (e) **Failure to Make Enquiries:** Offerors should make enquiries as early as possible and should not make assumptions regarding the nature of the requirements of this solicitation. Offerors who do not raise issues and questions they may have during the solicitation period do so at their own risk. Offerors who, instead of raising issues during the enquiries period, deviate from the mandatory requirements of this solicitation in their Offers, will be disqualified as non-responsive.

2.4 APPLICABLE LAWS

- (a) The Standing Offer and any contract resulting from the Standing Offer must be interpreted and governed, and the relations between the parties determined, by the laws in force in Ontario.
- (b) Offerors may, at their discretion, substitute the applicable laws of a Canadian province or territory of their choice without affecting the validity of its offer, by deleting the name of the Canadian province or territory specified and inserting the name of the Canadian province or territory of its choice. If no change is made, it acknowledges that the applicable laws specified are acceptable to the Offerors.

***Note to Offerors:** Offerors are requested to indicate the Canadian province or territory they wish to apply to any resulting contract in their Offer Submission Form.*

PART 3 OFFER PREPARATION INSTRUCTIONS

3.1 OFFER PREPARATION INSTRUCTIONS

- (a) Offerors are requested to organize and to provide copies of their offers in separately bound sections as follows:
 - (i) Section I: Technical Offer (1 hard copy and 2 soft copies).
The requirements for the technical offer are described in the Annex entitled “Technical Offer”.
 - (ii) Section II: Financial Offer (1 hard copy and 1 soft copy)
The requirements for the financial offer are described in the Annex entitled “Financial Offer”.
- (b) If there is a discrepancy between the wording of the soft copy and the hard copy, the wording of the hard copy will have priority over the wording of the soft copy.
- (c) Prices must appear in the financial offer only. No prices must be indicated in any other section of the offer.
- (d) Canada requests that Offerors follow the format instructions described below in the preparation of their Offer:
 - (i) use 8.5 x 11 inch (216 mm x 279 mm) paper;
 - (ii) use a numbering system that corresponds to the solicitation;
 - (iii) include a title page at the front of each volume of the offer that includes the title, date, solicitation number, Offeror’s name and address and contact information of its representative; and
 - (iv) include a table of contents.
- (e) The Offeror may submit more than one offer. If an alternate offer is submitted, it must be a physically separate document, clearly marked as an alternate offer. Each offer will be evaluated independently, without regard to the other offers submitted by the Offeror. As a result, every offer must be complete on its own. Even though material submitted in one offer will not be used to supplement another offer submitted by the same Offeror, where inconsistencies are noted among multiple offers submitted by the same Offeror, Canada may take those inconsistencies into account in evaluating the multiple offers. If the Offeror submits multiple offers and wishes to withdraw one or more of those offers, Canada may require that the Offeror withdraw either all its offers, or none of them.
- (f) **Confidential or Proprietary Information:** Any information that the Offeror consistently treats as proprietary and/or confidential should be clearly marked “Proprietary” or “Confidential”.

PART 4 EVALUATION PROCEDURES AND BASIS OF SELECTION

4.1 EVALUATION PROCEDURES

- (a) Offers will be assessed in accordance with the entire requirement of the Request for Standing Offers including the technical and financial evaluation criteria.
- (b) An evaluation team will evaluate the offers on behalf of Canada. Canada reserves the right to hire any independent consultant, or use any Government resources, to evaluate any offer. Not all members of the evaluation team will necessarily participate in all aspects of the evaluation.
- (c) To supplement the written Technical Offer, proposed Systems will be subject to Benchmark Testing, as described in this solicitation. The Offeror is responsible for all costs associated with the benchmark testing, including delivery, installation, and removal of the equipment and testing fees. All costs associated with the benchmark testing are non-refundable and nonnegotiable.
- (d) In addition to any other time periods prescribed in this solicitation:
 - (i) **Requests for Clarifications:** If Canada seeks clarification or verification from the Offeror regarding its offer, the Offeror will have **2 working days** (or a longer period if specified in writing by the Standing Offer Authority) to provide the necessary information to Canada. Failure to meet this deadline will result in the proposal being declared non-responsive.
 - (ii) **Extension of Time:** If additional time is required by the Offeror, the Contracting Authority may grant an extension in his or her sole discretion.

4.2 BASIS OF SELECTION

The detailed evaluation procedures and the basis of selection are detailed in the Annex entitled "Basis of Selection".

PART 5 CERTIFICATIONS

5.1 CERTIFICATIONS PRECEDENT TO ISSUANCE OF STANDING OFFER

Offerors must provide the required certifications and documentation to be issued a standing offer.

The certifications provided by offerors to Canada are subject to verification by Canada at all times. Canada will declare an offer non-responsive, will have the right to set-aside a standing offer, or will declare a contractor in default, if any certification is found to be untrue whether during the offer evaluation period, during the Standing Offer period, or during the contract period.

The Standing Offer Authority will have the right to ask for additional information to verify the Offeror's certifications. Failure to comply with this request will also render the Offer non-responsive or may result in the setting aside of the Standing Offer or will constitute a default under the Contract.

5.2 FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY – STANDING OFFER CERTIFICATION

- (a) By submitting an offer, the Offeror certifies that the Offeror, and any of the Offeror's members if the Offeror is a Joint Venture, is not named on the Federal Contractors Program (FCP) for employment equity "FCP Limited Eligibility to Bid" list (http://www.labour.gc.ca/eng/standards_equity/eq/emp/fcp/list/inelig.shtml) available from HRSDC-Labour's website.

Canada will have the right to declare an offer non-responsive, or to set-aside a Standing Offer, if the Offeror, or any member of the Offeror if the Offeror is a Joint Venture, appears on the "FCP Limited Eligibility to Bid" list at the time of issuing of a Standing Offer or during the period of the Standing Offer.

- (b) The Federal Contractors Program for Employment Equity (FCP-EE) requires that some suppliers bidding for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity. This is a condition precedent to contract award. If the Offeror is subject to the FCP-EE, evidence of its commitment must be provided before the award of the Contract.
- (c) Suppliers who have been declared ineligible contractors by Human Resources and Social Development Canada (HRSDC) are no longer eligible to receive government contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations*. Suppliers may be declared ineligible contractors either as a result of a finding of non-compliance by HRSDC, or following their voluntary withdrawal from the FCP-EE for a reason other than the reduction of their workforce to fewer than 100 employees. Any bids from ineligible contractors will be declared non-responsive.
- (d) If the Offeror does not fall within the exceptions enumerated in (d)(i) or (ii) below, or does not have a valid certificate number confirming its adherence to the FCP-EE, the Offeror must fax (819-953-8768) a copy of the signed form LAB 1168, Certificate of Commitment to Implement Employment Equity (<http://www1.servicecanada.gc.ca/cgi-bin/search/eforms/index.cgi?app=profile&form=lab1168&dept=sc?=e>), to the Labour Branch of HRSDC.
- (e) Each Offeror is requested to indicate in its offer whether it is:
- (i) not subject to FCP-EE, having a workforce of fewer than 100 permanent full or part-time employees in Canada;
 - (ii) not subject to FCP-EE, being a regulated employer under the *Employment Equity Act*, S.C. 1995, c. 44;
 - (iii) subject to the requirements of FCP-EE, because it has a workforce of 100 or more permanent full or part-time employees in Canada, but it has not previously obtained a certificate number from HRSD (because it has not bid before on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is required from the Bidder; or

-
- (iv) subject to FCP-EE, and has a valid certification number (i.e., has not been declared an ineligible contractor by HRSDC).
- (f) Further information on the FCP-EE is available on the following HRSDC Website:
<http://www.hrsdc.gc.ca/en/gateways/topics/wzp-gxr.shtml>.

Note to Offerors: Offerors are requested to use the Offer Submission Form to provide information about their status under this program. For a joint venture Offeror, this information must be provided for each member of the joint venture.

5.3 MANUFACTURER CERTIFICATIONS

All Offerors are required to submit the Manufacturer Certification(s) provided in the Annex entitled Offer Forms.

5.4 OFFEROR CERTIFIES THAT ALL EQUIPMENT AND SOFTWARE IS “OFF-THE-SHELF”

Any equipment and software offered to meet this requirement must be “off-the-shelf” (unless otherwise stated in this RFSO), meaning that each item of equipment and software is commercially available and requires no further research or development and is part of an existing product line with a field-proven operational history (that is, it has not simply been tested in a laboratory or experimental environment). If any of the equipment or software offered is a fully compatible extension of a field-proven product line, it must have been publicly announced on or before the RFSO closing date. By submitting an offer, the Offeror is certifying that all the equipment and software offered is off-the-shelf.

5.5 CODE OF CONDUCT CERTIFICATIONS

By submitting an offer, the Offeror certifies that the Offeror and its affiliates are in compliance with the provisions as stated in Section 01 Code of Conduct and Certifications - Offer of Standard Instructions 2006. The related documentation therein required will assist Canada in confirming that the certifications are true.

PART 6 RESULTING STANDING OFFER CLAUSES

Note to Offerors: The clauses contained in these Resulting Standing Offer Clauses are intended to form the basis of any Standing Offer issued as a result of this solicitation. Except where specifically set out in these Resulting Standing Offer Clauses, acceptance by Offerors of all the clauses is a mandatory requirement of this solicitation. No modification or other terms and conditions included in any offer will be applicable to any Standing Offer issued or the contracts made under such Standing Offers, despite the fact that the offer may become part of the Standing Offer.

Offers that contain statements implying that the offer is conditional on modification of these clauses or containing terms and conditions that purport to supersede these clauses will be considered non-responsive.

Offerors with concerns about the provisions of these Resulting Standing Offer Clauses should raise their concerns in accordance with the Enquiries provision of this bid solicitation. If additional legal issues are raised by an offer, Canada reserves the right to address those issues in any Standing Offer issued as a result of this bid solicitation (including the Resulting Standing Offer Clauses incorporated in that Standing Offer). If the additional provisions are unacceptable to the Offeror, the Offeror may withdraw its offer.

6.1 OFFER

- (a) The Offeror named on page 1 of this National Master Standing Offer (NMSO) offers to supply, deliver, configure, install (if required by a Call-up), integrate and implement (if required by a Call-up), provide warranty, maintenance, software support services and documentation for the Computer System(s) and other Products subject to this Standing Offer, all according to the prices, terms and conditions of this Standing Offer, as and when an Identified User or PWGSC orders Products in accordance with this Standing Offer.
- (b) The Offeror offers to deliver all Products in accordance with the Default Configuration, as defined in the Annex entitled "List of Products", unless the Call-up specifically requests changes to the Default Configuration.
- (c) Unless otherwise expressly provided for in this Standing Offer, the Offeror agrees to supply only goods/services authorized for supply under this Standing Offer on the date the Call-up is issued, without variation or substitution. The Offeror acknowledges that only Products listed on the Computer Acquisition Guide (CAG) website on the date the Call-up is issued may be supplied.
- (d) The Offeror acknowledges that multiple National Master Standing Offers have been issued for this requirement. Call-ups will be allocated among the Offerors in accordance with the process described in the Article entitled "Call-up Procedures".
- (e) "Call-up", which is defined in 2005 General Conditions, includes any contract issued as a result of a Request for Volume Discount ("RVD"). All Call-ups are subject to the terms and conditions set out in the Resulting Contract Clauses.
- (f) "Group" means the broadest grouping of similar commodities. UNIX Systems, x86 Systems, Notebooks and Blade Systems are examples of Groups.
- (g) "Category" means a specific class of equipment within a Group.
- (h) "Section" means each of the divisions of Products within a Category offered. Unless otherwise specified, the 4 Sections are: 1-Default System, 2- Upgrades, 3-Components and 4-Unevaluated Options.
- (i) "System" means a system that meets the minimum Technical Specifications set out in the Annex entitled "Technical Specifications". It is fully operational and in ready-to-use state, containing all major components and all requisite ancillary items. These include but are not limited to: Chassis / enclosure, motherboard / system board, processor / processor modules, memory / memory cards, Operating System, device drivers / software licenses, port licenses, power supplies, cooling fans, internal / external cables to the system, I/O cables, etc. to allow the system to satisfy the requirements.

-
- (j) **“Default System”** means a system configured exactly as set out in the Annex entitled “List of Products”, Item No. 1 for the relevant Category, without variation.
 - (k) **“Product”** means any System, Upgrade, Component, or Unevaluated Options. Products are subject to the Call-up limitations specified unless otherwise specified.
 - (l) **“Upgrade”** means a change to one or more aspects of the Default System described in the Annex entitled “List of Products”, Upgrade Section, by enhancing its functionality, processing capacity or performance. Upgrades are performed by the Offeror as part of the configuration.
 - (m) **“Component”** means equipment or product that is part of a System described in the Annex entitled “List of Products”, Component Section. Each Component with a separate price may be ordered by itself unless otherwise specified.
 - (n) **“Unevaluated Options”** means the related equipment listed on an Offeror’s optional equipment list and approved by the Technical Authority.
 - (o) **“CAG website”** means the PWGSC Computer Acquisition Guide website (<http://computer.pwgsc.gc.ca>).
 - (p) **“Manufacturer”** means the entity that manufactures a system (as determined by the brand name appearing on a system and in all certifications, supporting manuals and documentation, which must be the same), not necessarily the Offeror.

6.2 SECURITY REQUIREMENT

The Resulting Contract Clauses contain an Article entitled “Security Requirement”. The Standing Offer Authority or Identified User making a Call-up may, in its discretion, substitute an alternative Security Requirement. In such instances, the Call-up will only be issued to an Offeror who, at the time of the Call-up, satisfies the Security Requirement specified by the Identified User.

6.3 STANDARD CLAUSES AND CONDITIONS

- (a) All clauses and conditions identified in the Standing Offer and resulting Contract(s) by title, number and date are set out in the Standard Acquisition Clauses and Conditions Manual issued by PWGSC.
- (b) The Manual is available on the PWGSC Website: <https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>.

6.4 GENERAL CONDITIONS

2005 General Conditions – Standing Offers – Goods or Services (2012-11-19), apply to form part of this Standing Offer, subject to the stipulation in Section 8 of 2005 General Conditions, “standing offer unit prices” do not include the prices offered by the Offeror in response to individual Requests for Volume Discounts. Canada will not be liable for any errors, inconsistencies or omissions in any information published regarding this series of Standing Offers. If the Offeror identifies any errors, inconsistencies or omissions, the Offeror agrees to notify the Standing Offer Authority immediately.

6.5 STANDING OFFER REPORTING

- (a) The Offeror must compile and maintain records on its provision of goods, services or both to the federal government under contracts resulting from the Standing Offer. This data must include all purchases, including purchases paid for using a Government of Canada Acquisition Card. The data must be aggregated and submitted to the Standing Offer Authority on a quarterly basis. The reported data must include the data shown in the Annex entitled “Standing Offer Activity Report”.
- (b) Quarterly periods are defined as follows:
 - (i) 1st quarter: April 1 to June 30;

-
- (ii) 2nd quarter: July 1 to September 30;
 - (iii) 3rd quarter: October 1 to December 31; and
 - (iv) 4th quarter: January 1 to March 31.
- (c) Electronic reports must be completed and forwarded to the Standing Offer Authority no later than 30 calendar days after the end of the quarterly period.
 - (d) All data fields of the report must be completed as requested. If some data is not available, the reason must be indicated in the report. If no goods or services are provided during a given period, the Offeror must still provide a "NIL" report.
 - (e) Failure to submit fully completed quarterly reports in accordance with the above instructions will result in the immediate suspension of the Offeror's National Master Standing Offer. After the first instance, Systems will be reinstated on the CAG website refresh date immediately following the submission of the completed report. Subsequent instances will be dealt with under the Article below entitled "Withdrawal or Suspension of Authority to Use Standing Offer".
 - (f) If requested by the Standing Offer Authority, the Offeror must provide details on its processes for compiling the data required to fulfill its reporting obligations.
 - (g) For each Category, the Offeror must retain all the data and the filed reports for 6 years from the expiry of that Category.

6.6 STANDING OFFER PERIOD

- (a) This series of National Master Standing Offers does not expire, and will continue to be valid until Canada sets aside this series of NMSOs (the "**Overall Standing Offer Period**").
- (b) Canada may place Call-ups under any given Category under this NMSO from the date that Category is issued for a period of two years, plus two optional one-year extensions (the "**Standing Offer Period for a given Category**" or "**Standing Offer Period for that Category**"). For any given Category, this period will be "re-activated" each time that Category is again the subject of a competition published on the Government Electronic Tendering Service. As a result, different Categories may be subject to different end dates.
- (c) The Offeror agrees that, for each Category, the rates/prices will be in accordance with the provisions of this Standing Offer throughout the Standing Offer Period for that Category.
- (d) The Contract Period of individual Call-ups may extend beyond the Standing Offer Period for a given Category and beyond the Overall Standing Offer Period. That is, a Call-up may be placed up until the last day of the Standing Offer Period for a given Category; the resulting contract will be in force until all the work has been completed, including warranty services.
- (e) At the time individual Categories are re-competed, or new Categories are added, suppliers who already hold NMSOs may be exempted from providing certain information that they have previously provided in order to obtain their existing NMSO (for example, if the experience requirements remain unchanged, existing Offerors may not be required to re-demonstrate that they have the necessary experience).

6.7 AUTHORITIES & REPRESENTATIVES

(a) Standing Offer Authority

The Standing Offer Authority for this Standing Offer is the contracting officer named on page one of this Standing Offer. The Standing Offer Authority is responsible for the establishment of the Standing Offer, its administration and its revision, if applicable. The Standing Offer Authority is also the Contracting Authority for all Call-ups issued under this Standing Offer. The Offeror acknowledges that the Standing Offer Authority is entitled to exercise any and all audit and verification rights described in this Standing Offer, including the Resulting Contract Clauses, in respect of any Call-ups made under

this Standing Offer and to request any information concerning Call-ups that the Standing Offer Authority considers necessary.

(b) Technical Authority

The Technical Authority is responsible for all matters concerning the technical content of the Work under contracts resulting from this Standing Offer. Any proposed changes to the scope of the Work are to be discussed with the Technical Authority, but any resulting change can only be confirmed by a revision issued by the Standing Offer Authority.

The technical authority is: PWGSC – STAMS, ITS (Informatics Technical Services)

(c) Identified Users

The Identified Users authorized to make call-ups against the Standing Offer include any Government Department, Departmental Corporation or Agency, or other body of the Government of Canada (including all those described in the *Financial Administration Act*, as amended from time to time) or any other party for which the Department of Public Works and Government Services has been authorized to act from time to time under section 16 of the *Department of Public Works and Government Services Act*.

(d) No Contracting Outside Authorities

The Offeror agrees not to accept Call-ups to perform work in excess of or outside the scope of this Standing Offer without specific written authorization from the Standing Offer Authority. The Offeror acknowledges that the Identified Users are without authority to vary or amend the terms or the scope of this Standing Offer.

(e) Offeror's Contact

The Offeror's contact for all matters relating to this Standing Offer, including all resulting Call-ups, is:

Contact: _____

E-mail Address: _____

Telephone: _____

(f) Offeror's Agents

The Offeror confirms that the Authorized Resellers listed in the Annex entitled "List of Authorized Resellers and Service Outlets" are authorized to act on its behalf as its agent for the purposes of performing the Work under Call-ups and receiving payment. Any payment made by Canada to an Authorized Reseller will be considered payment to the Offeror itself. This agency relationship (through which the Authorized Reseller performs contractual obligations on behalf of the Offeror) does not amend, diminish or modify any of the responsibilities of the Offeror under the Standing Offer or any resulting Call-ups. The Offeror agrees and understands that it is solely responsible for ensuring that all of its Authorized Resellers complete all Call-ups in accordance with their terms and conditions and that, if the Authorized Reseller fails to fulfill all the Call-up obligations, the Offeror must, upon written notification from the Standing Offer Authority, immediately complete and fulfill those obligations directly at no additional cost to Canada. The Offeror agrees to inform the Standing Offer Authority in writing of any changes in the list of its Authorized Resellers during the Standing Offer Period for a given Category and to remove any Authorized Reseller if requested to do so by the Standing Offer Authority.

(g) Offeror's Service Outlets

- (i) Throughout the Standing Offer Period for a given Category, the Offeror must maintain a nationwide maintenance service network, which means that the Offeror must have a sufficient number of service outlets necessary to meet the response times specified in other requirements of this document, throughout Canada (other than locations covered by any Comprehensive Land Claims Agreements).

-
- (ii) Service Outlets must be commercial (not residential) establishments. Service Outlets must have technical support and system service facilities. The Offeror confirms that any Service Outlets listed in the Annex entitled “List of Authorized Resellers and Service Outlets” that are not owned and operated by the Offeror are subcontractors it has chosen to perform Hardware Maintenance Services. Unless the Service Outlet has also been designated by the Offeror as an Authorized Reseller, the Service Outlet will not be considered an agent of the Offeror.
 - (iii) The Offeror agrees and understands that it is solely responsible for ensuring that all of its Service Outlets perform all work in accordance with the terms and conditions of the relevant Call-up, and that, if the Service Outlet fails to fulfill any Call-up obligation, the Offeror must, upon written notification from the Standing Offer Authority, immediately fulfill those obligations directly at no additional charge to Canada. The Offeror agrees to inform the Standing Offer Authority in writing of any changes in the list of its Service Outlets during the Standing Offer Period for a given Category.
 - (iv) Identification of Service Outlets: The Offeror has identified the Service Outlets from which it will provide maintenance and support services under any Call-ups against this Standing Offer in the Annex entitled “List of Authorized Resellers and Service Outlets”. Service Outlets are listed on the CAG website.

6.8 JOINT VENTURE OFFEROR

- (a) The Offeror confirms that the name of the joint venture is _____ and that it is comprised of the following members: [*list all the joint venture members named in the Offeror's original offer*].
- (b) With respect to the relationship among the members of the joint venture Offeror, each member agrees, represents and warrants (as applicable) that:
 - (i) _____ has been appointed as the “representative member” of the joint venture Offeror and has fully authority to act as agent for each member regarding all matters relating to the Contract;
 - (ii) by giving notice to the representative member, Canada will be considered to have given notice to all the members of the joint venture Offeror; and
 - (iii) all payments made by Canada to the representative member will act as a release by all the members.
- (c) All the members agree that Canada may terminate the Contract in its discretion if there is a dispute among the members that, in Canada’s opinion, affects the performance of the Work in any way.
- (d) All the members are jointly and severally or solitarily liable for the performance of the entire Contract.
- (e) The Offeror acknowledges that any change in the membership of the joint venture (i.e., a change in the number of members or the substitution of another legal entity for an existing member) constitutes an assignment and is subject to the assignment provisions of the General Conditions.
- (f) The Offeror acknowledges that all security and controlled goods requirements in the Contract, if any, apply to each member of the joint venture Offeror.

Note to Offerors: *This Article will be deleted if the Offeror issued a Standing Offer is not a joint venture. If the Offeror is a joint venture, this clause will be completed with information provided in its offer.*

6.9 NOTICES

Under this Standing Offer, where the Offeror is required to provide notice to Canada or the Minister, notice must be provided in writing to the Standing Offer Authority; where Canada or the Minister is required to provide notice to the Offeror, notice must be provided in writing to the Offeror’s representative named above.

6.10 CALL-UP PROCEDURES

- (a) **Only Authorized Call-ups to be Accepted:** The Offeror agrees only to accept individual Call-ups made by Identified Users pursuant to this Standing Offer that do not exceed the applicable Call-up Limitations. The Offeror acknowledges that any Call-up made by an Identified User exceeding the applicable Call-up Limitation is not permitted under this Standing Offer and is without authority.
- (b) **Division and Consolidation of Requirements:** Multiple Call-ups will not be issued in order to circumvent competition. The Standing Offer Authority may consolidate requirements across Identified Users and issue Call-ups on a periodic basis to receive better pricing.
- (c) **Contracting Authority:** PWGSC is the Contracting Authority for all Call-ups, including those made directly by Identified Users.
- (d) **Technical Authority for Call-ups:** PWGSC is the Technical Authority for all Call-ups, including those made directly by Identified Users.
- (e) **Call-ups made directly by Identified Users:** An Identified User may issue a Call-up directly to any Offeror up to the applicable Government Department Call-up Limitations.
- (f) **Call-ups made Directly by the Standing Offer Authority:** The Standing Offer Authority may issue a Call-up directly to any Offeror up to the applicable PWGSC Acquisitions Call-up Limitations.
- (g) **Call-ups made by the Standing Offer Authority Using Request for Volume Discount Process:** For requirements that exceed the Call-up Limitations, PWGSC will issue a Request for Volume Discount ("RVD"). In addition to these requirements, PWGSC may, in its discretion, issue a Request for Volume Discount for any requirement. The Request for Volume Discount process is described in the Annex entitled "RVD Process".

6.11 CALL-UP INSTRUMENT

- (a) Authorized Call-ups against this Standing Offer will be made by Identified Users using Form 942 or by the Standing Offer Authority using its own form. Authorized Call-ups may also be made under this Standing Offer through the RVD process described in this Standing Offer, in which case the Standing Offer Authority will issue a Call-up using its own form.
- (b) Call-ups can also be made by other methods such as telephone, facsimile or electronic means. With the exception of call-ups paid for with a Government of Canada acquisition card (credit card), call-ups made by telephone must be confirmed in writing on the document specified in the Standing Offer.
- (c) Call-ups against the Standing Offer paid for with the Government of Canada acquisition card (credit card) at point of sale must be accorded the same prices and conditions as any other Call-up.
- (d) Each Call-up results in a separate contract between Canada and the Offeror.
- (e) Each Call-up must specify the Standing Offer number, the applicable Category(ies), the item number, the Product name, model, and part number.
- (f) With the exception of call-ups paid for with a Government of Canada acquisition card (credit card), the Offeror acknowledges that no costs incurred before the receipt of a signed Call-Up can be charged to this Standing Offer or any Call-ups made against it.
- (g) The Offeror acknowledges and agrees that the terms and conditions set out in the Resulting Contract Clauses that form part of this Standing Offer apply to every Call-up made under this Standing Offer.

6.12 LIMITATION OF CALL-UPS

The Call-up Limitations are described in the Annex entitled "Call-up Limitations".

6.13 PRIORITY OF DOCUMENTS

The documents specified below form part of and are incorporated into the Standing Offer. If there is a discrepancy between the wording of any documents that appear on the list, the wording of the document that first appears will prevail over the wording of any document that appears later on the list:

- (a) These Standing Offer clauses;
- (b) 2005 - General Conditions – Standing Offers – Goods or Services (2012-07-16);
- (c) The Resulting Contract Clauses;
- (d) Annex A: Technical Specifications;
- (e) Annex B: List of Products;
- (f) Annex C: Call-up Limitations;
- (g) Annex D: RVD Process;
- (h) Annex E: Request for Product Substitution / Price Revision Sheet;
- (i) Annex F: List of Authorized Resellers and Service Outlets;
- (j) Annex G: Standing Offer Activity Report;
- (k) Annex H: Benchmark Procedures and Set-up Instructions;
- (l) Annex I: Benchmark Ratings Analysis;
- (m) Annex J: Intertek/Offeror Agreement;
- (n) The Offeror's Offer dated _____, as clarified by _____.

6.14 CERTIFICATIONS MADE WITH THE OFFER

Compliance with the certifications provided by the Offeror is a condition of authorization of the Standing Offer and subject to verification by Canada during the entire Standing Offer Period for a given Category and during any resulting contract. If the Offeror does not comply with any certification or it is determined that any certification made by the Offeror in its offer is untrue, whether made knowingly or unknowingly, the Standing Offer Authority has the right to terminate any resulting contract(s) for default and set aside the Standing Offer.

6.15 REPRESENTATIONS AND WARRANTIES

- (a) The Offeror represents and warrants that, throughout the Standing Offer Period for a given Category:
 - (i) every System will be manufactured at a facility registered under ISO 9001: 2008 by an accredited registrar under the ISO 9001: 2008, whether that registration is held by the Offeror or the Manufacturer of the System.
 - (ii) all electrical equipment offered under this Standing Offer is certified or approved for use in accordance with the Canadian Electrical Code, Part 1, by a certification organization accredited by the Standards Council of Canada (SCC) and bears the certification logo that is applicable to the accredited agency. NOTE: Offerors may obtain further information by contacting the SCC at 613-238-3222.
 - (iii) in the case of each Product offered that includes a digital apparatus, an accredited agency has certified that it does not exceed the FCC Class B limits for radio noise emissions set out in the Radio Interference Regulations and the Products must bear the certification logo of the appropriate accredited agency.
- (b) Compliance with these representations and warranties is a condition of authorization of the Standing Offer and subject to verification by Canada during the entire Standing Offer Period for a given

Category and during any resulting contract. If the Offeror does not comply with any of these representations or warranties or it is determined that any representation or warranty made by the Offeror is untrue, whether made knowingly or unknowingly, the Standing Offer Authority has the right to terminate any resulting contract(s) for default and set aside the Standing Offer.

6.16 APPLICABLE LAWS

The Standing Offer and any contract resulting from the Standing Offer must be interpreted and governed by the laws in force in Ontario.

6.17 STANDING OFFER EXPANSION

PWGSC may, at any time, conduct further Requests for Standing Offers for new Groups, Categories and Sections, and the resulting offers may be incorporated into this series of National Master Standing Offers. Requirements for new Groups and Categories will be subject to an open competition posted on the Government Electronic Tendering Service. New Sections within an existing Category could be added by PWGSC having existing Offerors in that Category supplement their Standing Offers. In cases where changes to the NMSO terms and conditions have occurred since the Offeror was first issued a Standing Offer, Offerors may be requested to agree to apply the updated terms and conditions incorporated in a subsequent solicitation process to all Groups, Categories and Sections within their Standing Offer.

6.18 UPDATED INFORMATION ABOUT PRODUCTS

During the Standing Offer Period for a given Category, Offerors are requested to provide regular updates to the Technical Authority regarding upgrades to the capabilities of the Products, such as when additional operating systems are supported or new drivers become available.

6.19 MANDATORY PRODUCT SUBSTITUTIONS

- (a) If 50% or more of Offerors in a Category have migrated to next-generation technology, PWGSC reserves the right to require that any dated Products be up-dated. Offerors will be given written notice by the Standing Offer Authority to complete a substitution. Submission of a complete request for substitution must be completed within 30 days; otherwise, the identified Product will be removed from the Standing Offer. The "place" held by that System will be held pending submission of a request for substitution, provided it is made in accordance with these terms and within 60 days of the date of removal.
- (b) As newer technology becomes available, PWGSC may update the Categories in this Standing Offer. Only Offerors approved to offer Products (as indicated on the CAG website) within the existing Category will be invited to submit substitution requests to supply new Products for the replacement Category. The Standing Offer Authority would provide the applicable Offerors with written notice describing the replacement requirements. The period for requesting clarifications and submitting the substitution request would be a minimum of 30 days.

6.20 PRODUCT SUBSTITUTIONS INITIATED BY OFFEROR

- (a) **Conditions for Proposing Substitution(s):** The Offeror may propose a substitution for an existing Product authorized for supply under this Standing Offer, provided the proposed substitute meets or exceeds the specification(s) detailed in the Annex entitled "Technical Specifications", as well as meeting or exceeding the specifications of the existing Product being substituted in all respects unless otherwise specified. The price for the substitute Product must not exceed:
 - (i) the ceiling price for the Product originally offered in the Offeror's Offer;
 - (ii) the current published list price of the substitute Product, less any applicable Government discount; or
 - (iii) the price at which the substitute Product is generally available for purchase,

-
- (iv) whichever is the lowest.
- (b) **Ceiling Prices:** During substitutions, situations can occur where it is difficult to use the ceiling price of an existing individual Product as a ceiling price limit for the new Product. In cases like this, price support may be requested by the Standing Offer Authority for the individual Product. This is at the sole discretion of the Standing Offer Authority. The Standing Offer Authority also has the right to refuse any substitution that, in the Standing Offer Authority's view, does not represent good value to Canada.
- (c) **Substitution Costs:** The proposed substitution will be subject to technical assessment and any costs associated with the technical evaluation will be at the Offeror's expense.
- (d) **Benchmark Testing:** PWGSC may require that the Offeror demonstrate through testing (including compatibility testing) that the proposed substitute Product meets or exceeds the specifications in the Annex entitled "Technical Specifications" as well as meeting or exceeding the specifications of the existing Product being substituted. Testing will be done in accordance with the procedure describe in the Annex entitled "Benchmark Procedures". Canada is not obligated to evaluate any or all substitute Products proposed.
- (e) **Process for Requesting Substitution:** The request for substitution must be made by submitting to the Standing Offer Authority a completed "Request for Product Substitution/Price Revision Form", which must provide the full details on the nature of the substitution including the URL(s) for the applicable technical specification(s) of the Product, any necessary technical documentation, certifications, manuals and a copy of the current published list price for the Product. Upon request, the Offeror must provide information substantiating compliance with the requirements listed in the annex entitled "Technical Specifications". Also, a revised Annex entitled "List of Products" in both hard and electronic copy may be requested by Canada depending on the extent the of proposed Product substitution(s).
- (f) **Limit on Number of Systems from Same Offeror or Same Manufacturer:**
- (i) **For Thin Client Categories:** Offerors are not permitted to have more than three Systems approved in any Category. No more than three Systems from any one Manufacturer will be approved in any Category. Proposed substitutions that would result in either case will not be approved.
- (ii) **For all other Categories:** Offerors are not permitted to have more than two Systems approved in any Category. No more than two Systems from any one Manufacturer will be approved in any Category. Proposed substitutions that would result in either case will not be approved.
- (g) **Same System:** Offerors are not permitted to substitute a System that would result in the Same System (from the same Manufacturer) appearing more than once in a Category. Proposed substitutions that would result in this case will not be approved.
- (h) **Category Migration (Recategorization as a Result of Substitution):** Whenever the nature of the proposed substitution is such that the replacement System meets the minimum specifications/requirements of a higher NMSO Category within the same Group of Categories (e.g., the Product is listed in Category X.1, but the proposed substitution satisfies the specifications in Category X.2), the replacement System may (if requested by the Offeror, and if space exists in that Category) be reclassified in the Category where it belongs (i.e. the highest Category in which it can meet all the mandatory specifications within the same Group), subject to the above-noted condition that Offerors and Manufacturers are not permitted to have more than two (or three for Thin Clients) Systems approved in any NMSO Category and the Same System cannot appear more than once in a Category. Whether to approve any request by an Offeror to recategorize a System is within the discretion of the Standing Offer Authority.
- (i) **Acceptance of Substitution Discretionary:** Whether or not to accept or reject a proposed substitution is entirely within the discretion of Canada. If Canada does not accept a proposed substitution, the original Product will continue to be authorized under this Standing Offer, unless the Offeror withdraws

that Product from the Standing Offer or that Product becomes End of Life (unless the article above entitled "Mandatory Product Substitutions" applies).

- (j) **Documentation of Accepted Substitution:** Approved substitutions cannot be supplied under a Call-up or in response to RVDs until posted on the CAG website. In the case of a Call-up, the substitution must be posted at the time the Call-up is issued; otherwise, the item posted on the CAG website at the time the Call-up was issued must be supplied. In the case of an RVD, only items posted on the CAG website at the time the RVD is issued can be offered in response to the RVD.
- (k) **Discontinued/Out of Stock Products:** The Offeror must immediately notify the Standing Offer Authority if any Product listed in this Standing Offer is discontinued or is otherwise unavailable (e.g., End of Life, Out of Stock). The discontinued or unavailable Product will be removed by PWGSC from this Standing Offer, but the "place" held by that Product will be held pending submission of a request for substitution, provided it is made in accordance with this Article and within 60 days of providing notice of the lack of availability, or by the next substitution deadline date, whichever is later. If a request for substitution is not made within the timelines described above, a substitution request might not be granted, in which case the Product would no longer be included in the Standing Offer without the possibility of being reinstated. For the purpose of calculating the Evaluated Price, a removed Product that had formed part of the evaluated price calculation will have a value assigned to it equal to the most expensive equivalent Product offered by the other Offerors in the same Category.
- (l) **Initially Unavailable Products:** Where Offerors are not required to offer all requested upgrades/components and not all Offerors provide a price, for the purpose of calculating the Evaluated Price, a value will be assigned equal to the most expensive equivalent Product in the same category. The Offeror may propose a substitution, provided it is in accordance with this Article. The price for the substitute Product must not exceed the highest ceiling price among all the Offerors. Should no one be offering that particular item in the category, then the first Offeror to offer the item will establish the ceiling price.
- (m) **Generational Changes:** Canada recognizes that, during the Standing Offer Period for a given Category, there may be a generational change in technology that may affect some of the mandatory requirements detailed in the Technical Specifications in the Annex entitled "Technical Specifications". If this occurs, Canada will examine the available technologies, determine which would be acceptable for substitutions, and will advise all Offerors accordingly.
- (n) **One-for-one Substitutions Only:** Substitutions of Products will be on a "one-for-one" basis.
- (o) **Unevaluated Options – Product Substitutions or Additions:** For Unevaluated Options the Offeror may offer a limited number of items that relate directly to their systems. PWGSC will not authorize professional services as Unevaluated Options. Whether or not to approve any proposed substitution or additional "Unevaluated Options" is within PWGSC's sole discretion. Substitute and additional "Unevaluated Options" must be proposed by the Offeror by submitting a fully completed Annex entitled "List of Products", together with the following:
 - (i) the URL for Product specifications and/or sufficient documentation for the PWGSC team to complete a technical assessment of the Product;
 - (ii) a copy of published list prices, where available or price support;
 - (iii) if any substitute or Optional Item being offered is manufactured by a Manufacturer not already represented in Products already offered under the Offeror's Standing Offer, a Manufacturer Certification in the form set out in the original solicitation that resulted in this Standing Offer being issued; and
 - (iv) the discount off the list price for each item being proposed. The Standing Offer Authority may require the Offeror to provide price support for any proposed Unevaluated Options at any time.
- (p) Canada recognizes that during the period of the Standing Offer some of the lower capacity hard disk drives and RAM, specified in the Annex entitled "List of Products", may no longer be available for

some of the Default Systems. If this occurs, then NMSO holders may request a substitution for the item for which the specified capacity is no longer available. However, to be acceptable, the current incremental capacity relationship between each of the items defining a hard disk drive or RAM must be maintained.

- (q) Canada recognizes that during the period of the Standing Offer the Operating System(s) specified in the Annex entitled "List of Products", may no longer be available for purchase. If this occurs, then NMSO holders may request a substitution for the item and PWGSC will negotiate a fair and equitable replacement for all Offerors.

6.21 PRICE REVISIONS

- (a) **Price Refresh:** During the Standing Offer Period for a given Category, the Offeror may submit a request to reduce the current price being offered for any existing Standing Offer Product. Price increases will only be accepted in conjunction with a substitution to a maximum of the ceiling unit price. Price reductions and increases are both subject to the terms detailed in the article entitled "Product Substitutions Initiated by Offeror"; however, the substitution timelines do not apply to price reductions.
- (b) **Temporary Price Drop:** During the Standing Offer Period for a given Category, the Offeror may submit a request to temporarily reduce the current price being offered for an existing Standing Offer Product. The price drop period must be no shorter than 2 periods and no longer than 4 periods. At the end of the period, the Standing Offer price will revert to the price level in effect before the price drop.
- (c) **Process for Requesting Price Revision:** The request for a price revision must be made by submitting to the Administrative Authority a completed "Request for Product Substitution/Price Revision Form", which must provide the full details on the nature of the revision.
- (d) **Acceptance of Price Revision Discretionary:** Whether or not to accept or reject a proposed price revision is entirely within the discretion of Canada. The Standing Offer Authority may also require a certification, before approving a revision, that the pricing satisfies the requirement described in the article entitled "Price Protection – Most Favoured Customer". The Offeror agrees that no price revision will be effective until formally authorized by PWGSC in writing and posted on the CAG website.
- (e) **Published Price Drop:** If, during the Standing Offer Period for a given Category, a price decrease is published or publicly announced, the Offeror must provide the benefit of that decrease to Canada by submitting a completed "Request for Product Substitution/Price Revision Form" to reflect the published or publicly announced price reduction.
- (f) **Consistent Pricing:** An Offeror that has the same Product listed in multiple Categories must have a consistent price across each of those Categories. It is the Offeror's responsibility, throughout the Standing Offer Period for a given Category, to respect this pricing rule. Where the Offeror lowers the price in one Category, Canada has the right to lower the price on the CAG for that Product in all other Categories where it is offered by the Offeror, if the Offeror has not done so.
- (g) **Pricing to be lower than specified Call-up Limitations:** Offerors should ensure that all unit pricing for Section 4 is below the specified Call-up Limitation for that Section. This will ensure that authorized users will be able to call-up the particular item when required.

6.22 PRODUCT REMOVAL

The Standing Offer Authority reserves the right to remove any offered Product. The Product will be removed by PWGSC from this Standing Offer, but the "place" held by that Product will be held pending submission of a request for substitution, provided it is made in accordance with the article entitled "Product Substitutions". For the purposes of calculating Evaluated Price, a Product that has been removed but which forms part of the evaluated price calculation will have a value assigned to it equal to the most expensive equivalent Product offered by the other Offerors in the same Category.

6.23 TIME FOR PROCESSING OF PRODUCT SUBSTITUTIONS AND PRICE REVISION

- (a) The CAG website will be updated every two weeks throughout the year to incorporate all newly approved product substitutions and price revisions into the NMSO. These regular, pre-determined dates for the CAG web site updates will be indicated on the CAG website. PWGSC provides no guarantee regarding the time required to process substitution requests or price revision requests.
- (b) The Offeror acknowledges that the period from January 1 to March 31 is particularly busy for PWGSC and that there may be delays in processing price revision requests during that time. PWGSC will not delay the release of RVDs to coincide with substitutions. Offerors need to consider the possibility of delays in timing their requests.
- (c) Only product substitutions that are submitted and testing completed (if applicable) a minimum of two weeks before the posting date will be reflected in the next posting.
- (d) Only price revisions that are to be completed and approved a minimum of three business days before the posting date will be reflected in the next posting.

6.24 WITHDRAWAL OR SUSPENSION OF AUTHORITY TO USE STANDING OFFER

- (a) Canada may, at any time, for operational reasons, withdraw authority from Identified Users to use the Standing Offer.
- (b) Canada may also, at any time, withdraw authority from Identified Users to use this Standing Offer if the Offeror breaches the terms of this Standing Offer or any Call-up, including:
 - (i) Delivery of Products not listed in this Standing Offer, except to the extent expressly authorized by this Standing Offer. Authorized Products are those that have been specifically approved in writing by PWGSC for inclusion in this Standing Offer and are posted on the CAG website on the date the Call-up is made;
 - (ii) Delivery of any Product that provides a lower level of performance than or does not meet the minimum specifications and requirements described in the Technical Specifications set out in Annex entitled "Technical Specifications" or the technical specifications of the Product approved for that Offeror and posted on the CAG website, whichever is higher;
 - (iii) Substitution of any Product without prior written authorization from the Standing Offer Authority;
 - (iv) Price revision without prior written authorization by PWGSC;
 - (v) Late deliveries;
 - (vi) Poor warranty/maintenance service;
 - (vii) Distribution or publication of advertising, including information included in supplier websites, that has not been approved by the Standing Offer Authority and/or that might be interpreted as suggesting that unauthorized items are available under the Standing Offer or providing any information that conflicts with any aspect of the terms and conditions, pricing, or availability of Systems currently available under this Standing Offer;
 - (viii) Failure to submit complete and accurate Standing Offer Activity Reports within the required time frames;
 - (ix) Breach of any of the specific terms and conditions detailed in this Standing Offer or any Call-up (e.g. failure to meet the hotline support requirements, failure to respect the Call-up limitations, change of manufacturing facility to a non-ISO 9001: 2008 certified facility, failure to maintain an environmental certification (such as EPSC) where an Offeror is gaining an advantage for being certified, etc.);

-
- (x) Refusing a Call-up at any time or for any reason from any Identified User where the Call-up is for a Product currently listed and approved under this Standing Offer, or for options agreed to in a RVD Call-up; and
 - (xi) Listing (or failing to remove) any End of Life (EOL) System Products from this Standing Offer and the CAG website.
 - (c) The Offeror acknowledges that Canada may suspend the authority of Identified Users to use the Offeror's Standing Offer for a period of up to 3 months on the first suspension. Any suspension may affect multiple Categories.
 - (d) The Offeror acknowledges that Canada may suspend the authority of Identified Users to use the Offeror's Standing Offer for up to the remaining period of the Standing Offer or simply withdraw authority to use the Standing Offer entirely on any additional breach of any of the terms and conditions of the Standing Offer.
 - (e) The Offeror acknowledges that Canada may publish information regarding the status of the Offeror's Offer, including the suspension or withdrawal of authority to use the Offeror's Standing Offer.
 - (f) If an individual Call-up made under this Standing Offer is terminated, for default or otherwise, that termination will not automatically result in withdrawal of authority to use the Standing Offer. The Offeror acknowledges, however, that a default under any contract made under this Standing Offer may result in the suspension or withdrawal of authority to use this Standing Offer.
 - (g) Any Offeror whose Authorized Reseller or Service Outlet breaches any of the terms and conditions of this Standing Offer or a Call-up may be asked to remove that Authorized Reseller or Service Outlet from its list of authorized agents or subcontractors, in addition to any other remedy PWGSC may invoke. A breach by an Authorized Reseller or Service Outlet is a breach by the Offeror itself.

6.25 EXPANSION OF OFFERORS FOLLOWING WITHDRAWAL OF AUTHORITY TO USE STANDING OFFER OR VOLUNTARY WITHDRAWAL OF OFFEROR

After permanently withdrawing authority to use any Offeror's Standing Offer or if any Offeror voluntarily withdraws its Standing Offer, in whole or in part, Canada may, in its sole discretion, do one or more of the following in respect of any Category:

- (a) leave the Category "as is" (i.e., the Standing Offers of the remaining Offerors will remain available for Call-ups and no new Offerors will be added);
- (b) call for new Offers in respect of one or more affected Categories through the Government Electronic Tendering Service; or
- (c) contact the Offeror (if any) whose offered System complied with all the requirements of the Request for Standing Offer that resulted in the issuance of this Standing Offer and was "next in line" under the evaluation methodology, but who was not issued a Standing Offer because it fell outside the acceptable price range. If that Offeror agrees to honour the ceiling price of the Offeror whose Standing Offer has been cancelled, that Offeror may be issued a Standing Offer in the applicable Category; if that Offeror does not wish to honour the previous Offeror's pricing, Canada may, but will have no obligation to, contact the next-ranked Offeror.

PART 7 RESULTING CONTRACT CLAUSES

Note to Offerors: The clauses contained in these Resulting Contract Clauses are intended to form the basis of any contract resulting from Standing Offers issued as a result of this solicitation. Except where specifically set out in these Resulting Call-up clauses, acceptance by Offerors of all the clauses is a mandatory requirement of this solicitation. No modification or other terms and conditions included in the Offeror's Offer will be applicable to any Standing Offer issued or the contracts made under such Standing Offers, despite the fact that the Offeror's Offer may become part of the Standing Offer.

Offerors submitting an offer containing statements implying that the offer is conditional on modification of these clauses or containing terms and conditions that purport to supersede these clauses will be considered non-compliant.

Offerors with concerns regarding the provisions of these Resulting Call-up clauses should raise such concerns in accordance with the Enquiries provision of this solicitation. If additional legal issues are raised by an offer, Canada reserves the right to address such issues in any Standing Offer issued as a result of this solicitation (including the Resulting Call-up clauses incorporated in that Standing Offer). If the additional provisions are unacceptable to the Offeror, the Offeror may withdraw its offer.

The following clauses apply to and form part of any contract resulting from a call-up against the Standing Offer.

7.1 REQUIREMENT

- (a) The Contractor agrees to supply to the Client the goods and services described in the Call-up against the Standing Offer in accordance with, and at the prices set out in, this Contract.
- (b) **Client:** Any reference to “Client” or “Clients” includes any Government Department, Departmental Corporation or Agency, or other Crown entity described in the *Financial Administration Act* (as amended from time to time), and any other party for which the Department of Public Works and Government Services has been authorized to act from time to time under section 16 of the *Department of Public Works and Government Services Act*. With respect to each contract, the Client is the Identified User identified in the Call-up or Request for Volume Discount resulting in the contract.
- (c) **Reorganization of Client:** The Contractor's obligation to perform the Work will not be affected by (and no additional fees will be payable as a result of) the renaming, reorganization, reconfiguration, or restructuring of the Client. The reorganization, reconfiguration and restructuring of the Client includes the privatization of the Client, its merger with another entity, or its dissolution, where that dissolution is followed by the creation of another entity or entities with mandates similar to the original Client.
- (d) **Transfer of Products to Another Identified User:** The Contractor agrees that Canada may transfer the Products and the licenses to use the Licensed Software running on them from one Identified User to another, without affecting the Contractor's obligation to provide the services described in the Contract or the Contractor's obligation to deliver additional quantities in accordance with the Contract.

7.2 STANDARD CLAUSES AND CONDITIONS

All clauses and conditions identified in the Contract by number, date and title are set out in the Standard Acquisition Clauses and Conditions Manual (<http://sacc.pwgscc.gc.ca/sacc/index-e.jsp>) issued by Public Works and Government Services Canada.

7.3 GENERAL CONDITIONS

2030 (2013-03-21), General Conditions - Higher Complexity - Goods, apply to and form part of the Contract.

7.4 SUPPLEMENTAL GENERAL CONDITIONS

4001 (2013-01-28), Supplemental General Conditions - Hardware Purchase, Lease and Maintenance, as modified in these Articles of Agreement, apply to and form part of the Contract.

7.5 SECURITY REQUIREMENT

- (a) Unless otherwise specified in the Call-up form, the security classification of this Contract is “UNCLASSIFIED”. However, the Contractor must treat as confidential, during as well as after the provision of goods or services contracted for, any information of a character confidential to the affairs of Canada, to which the Contractor’s servants, subcontractors or agents become privy. All personnel assigned to provide services must have a current security clearance to the level specified in the Call-up, granted by the Canadian Industrial Security Directorate.
- (b) Should it become necessary, during the Contract Period, for the Client to invoke further security measures, the Contractor must comply with the security classification at that time.

7.6 CONTRACT PERIOD

- (a) **Contract Period:** The “Contract Period” is the entire period of time during which the Contractor is obliged to perform the Work, which:
 - (b) begins on the date the Call-up is awarded; and
 - (c) ends on the day that the Hardware Warranty Period for the most recently purchased Product expires, or on the day that the final warranty work initiated during the Hardware Warranty Period is complete, whichever is later.

7.7 DELIVERY AND INSTALLATION OF PRODUCTS

- (a) **Delivery of Products:** The Contractor agrees to supply, deliver, configure, install (if required by a Call-up), integrate and implement (if required by the Call-up), provide warranty, maintenance, software support services and documentation for the Computer System(s) and other Products ordered under this Contract (as specified in the Call-up), to the Identified User, according to the prices, terms and conditions in this Contract. Products must be delivered on an “as and when requested” basis to the location(s) specified in the Call-up, which may be locations anywhere in Canada, excluding any locations in areas subject to one of the Comprehensive Land Claims Agreements (CLCAs), when the Call-up is made in accordance with this NMSO.
- (b) **Contact after receipt of Call-up:** Upon receipt of the Call-up, the Contractor must acknowledge receipt and advise the Identified User of its best delivery date (which date must be no later than the Delivery Date). If the required number of Products exceeds or threatens to exceed the Contractor’s ability to supply by the Delivery Date, the Contractor must immediately advise the Contracting Authority and the Identified User. The Contracting Authority will have the option of terminating the Call-up for default, extending the delivery date, or of accepting late delivery. Deliveries received after the Delivery Date will be subject to the discounts described in the clause entitled “Discounts for Late Deliveries and Reimbursement of Reprourement Costs”.
- (c) **Contact before Delivery:** Unless otherwise specified in the Call-up or the Identified User has agreed in writing to other arrangements, the Contractor must contact the Identified User (or any individual designated as “Delivery Contact” in the Call-up) a minimum of twenty-four (24) hours prior to the delivery of any equipment. Failure to make contact may result in the shipment being refused at destination; any re-shipping costs will be the Contractor’s responsibility.
- (d) **Delivery Report:** If specified in the Call-up, the Contractor must provide the Identified User with a Delivery Report detailing the delivery location and asset number of all Systems delivered within two weeks of delivery.
- (e) **Licensed Software:**

-
- (i) The Products must be delivered with any software specified in the Call-up or required for the Products to function in accordance with the Technical Specifications in the Annex entitled “Technical Specifications” (the “**Licensed Software**”). The unit price(s) include all fees and costs associated with the licenses to the Licensed Software, as well as the software maintenance and support services described in this Contract, which must be provided throughout the Hardware Maintenance Period.
 - (ii) The Licensed Software must be the current release and, unless otherwise specified, require no further research or development to meet the Technical Specifications (and any other functionality described in the Standing Offer or Call-up).
 - (iii) The Licensed Software must be supported by, and fully compatible with the Product(s) up to the limit of the Product’s expansion capability (with no additional licensing fees payable). All software must be completely integrated with and fully interfaced to the Product.
 - (iv) This Contract grants to Canada the perpetual license (i.e., the license to use the Licensed Software is not a “demo” model and does not expire) to install, copy, deploy and use the Licensed Software with the Product(s) in accordance with the terms of this Contract (which does not include any terms or conditions contained in a shrink-wrap or click-wrap license, or other form of license delivered with the Licensed Software).
 - (v) Canada acknowledges that the Licensed Software is only licensed to Canada, not sold.
 - (vi) If the Licensed Software includes any features, functions or characteristics (“**Disabling Codes**”) that might cause the Licensed Software to be unusable by Canada without passwords, authorization codes or similar information, the Contractor must provide to Canada, in advance and on an ongoing basis (including after the Contract Period) all the information required by Canada to continue to use the Licensed Software with the Products.
 - (vii) The Contractor must deliver the Products together with documentation about the Licensed Software that contains enough detail to permit the Identified User to access, install, copy, deploy, test and use all features of the Licensed Software. The documentation regarding the Licensed Software must be provided in either the same language as the Hardware Documentation, or must be bilingual (French and English), as specified by Canada
 - (viii) The Contractor guarantees that it has the right to license the Licensed Software and full power and authority to grant to Canada the rights to use the Licensed Software described in this section. The Contractor also guarantees that all necessary consents to that grant have been obtained.
- (f) **Installation of System:** The Contractor must, if specified in the Call-up, provide on-site installation of the Default System(s) or System Upgrades and System Components. On-site installation consists of:
- (i) Unpack equipment (if appropriate);
 - (ii) Inspect for damage;
 - (iii) Assemble/Set up system(s);
 - (iv) Install per product specification;
 - (v) Run standard test/diagnostic;
 - (vi) Install appropriate service tools;
 - (vii) Co-ordinate the removal of packing materials (if requested); and
 - (viii) Provide basic operating information, such as:

-
- (A) Powering on and off;
 - (B) Running applications (eg: vendor provided OS); and
 - (C) Invoking routine preventive maintenance.
- (g) **Default Configuration:** The Contractor must deliver all Systems in accordance with the System configuration, as defined in the Annex entitled “Technical Specifications”. If the Call-up specifically requests changes to the Default Configuration the alternate configuration must be in accordance with Annex C (Call-up Limitations) of the Standing Offer.
- (h) **Exercising Options to Purchase Optional Additional Quantities:**
- (i) If this Contract was issued following a Request for Volume Discount (RVD) process under the Standing Offer, options to purchase additional quantities specified in the RVD may be exercised through a maximum of 3 amendments to the RVD Call-up at any time within 12 months of the RVD Call-up date, unless the RVD specifies a longer period or an alternative number of amendments. Canada is under no obligation to purchase any optional quantities.
 - (ii) If this Contract was made by an Identified User issuing a Call-up directly, the Contractor agrees not to supply any additional quantities (i.e., additional quantities may only be specified in Call-ups made by the Contracting Authority).
- (i) **Substitution of Products:** If this Contract was issued following a Request for Volume Discount (RVD) process under the Standing Offer, and if Canada exercises its option to purchase additional quantities specified in the RVD and the item has, since the time the RVD Call-up was issued, been the subject of a substitution under the Contractor’s Standing Offer, the Contractor may notify the Standing Offer Authority and substitute a System and/or Component currently listed on the Contractor’s Standing Offer on the CAG website that meets the specifications of the RVD Call-up; however, the Contractor must supply the substituted item at the original price provided for in the RVD Call-up. Substitutions will only be permitted if and when Canada exercises its option to purchase additional quantities; for greater certainty, substitutions will not be permitted for the delivery of the original quantities required to be delivered under this Contract.
- (j) **Definitions:** Any capitalized terms not defined in this Contract have the meaning given to them in the Standing Offer or the General Conditions or Supplemental General Conditions incorporated into this Contract by reference.

7.8 INSPECTION AND ACCEPTANCE

- (a) Each Product and its supply, delivery, configuration, installation (if required by a Call-up), integration and implementation (if required by the Call-up) including the warranty, maintenance, software support services and associated documentation (as specified in the Call-up) is subject to inspection and acceptance by the Identified User in accordance with Supplemental General Conditions 4001. If the Products do not correspond to the System(s) (including configuration), or Component(s) offered under the Standing Offer or otherwise specified in the Call-up, or if the Products do not meet the Technical Specifications described in the Annex entitled “Technical Specifications” and the Call-up, the Contractor will be in default of this Contract and Canada may reject the Products or require that they be corrected at the sole expense of the Contractor before accepting them. No payment for any Product is due under the Contract unless the Product is accepted. No restocking fees or other charges will apply to Products that are not accepted.
- (b) If the Identified User is the Department of National Defence, the Contractor must, upon request at no additional cost to Canada, submit form CF-1280, Certificate of Acceptance and Release, as detailed in the Call-up, following completion of acceptance.

7.9 BASIS OF PAYMENT

- (a) For the supply, delivery, configuration installation (if required by a Call-up), integration and implementation (if required by the Call-up) of the Products described in the Call-up, including the associated documentation, and including the Hardware Maintenance Service, the Contractor will be paid:
 - (i) if this Contract results from a Call-up made directly by an Identified User within the Call-up Limitations set out in the Standing Offer, the current unit prices published on the CAG website on the date the Call-up is issued; or
 - (ii) if this Contract results from a Call-up made by the Contracting Authority, the unit prices set out in the Call-up.
- (b) All prices are in Canadian dollars, F.O.B. Destination, Goods and Services Tax (GST)/Harmonized Sales Tax (HST) extra, and Customs Duty included, if applicable.
- (c) Provincial Disposal Surcharge: All unit prices are exclusive of any disposal surcharge. Any provincial disposal surcharge is extra to the price and will be paid by Canada.

7.10 LIMITATION OF EXPENDITURE

Canada will not pay the Contractor for any design changes, modifications or interpretations of the Work unless they have been approved, in writing, by the Contracting Authority before their incorporation into the Work.

7.11 METHOD OF PAYMENT

- (a) With the exception of call-ups paid for with a Government of Canada acquisition card (credit card), Canada will pay the Contractor following delivery of the Products in accordance with the payment provisions of the Contract if:
 - (i) An accurate and complete invoice and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
 - (ii) All such documents have been verified by Canada; and
 - (iii) The Work delivery has been accepted by Canada provided, however, that where warranty, maintenance or support services are included in the price of any deliverable, payment will be made for that deliverable, notwithstanding that all of the warranty, maintenance and support services have yet to be performed.

Note to Offerors: Offerors are requested to indicate whether or not Government of Canada Acquisition Cards (credit cards) will be accepted for payment of call-ups against the standing offer Offer Submission Form. This has no impact on evaluations. If an Offeror responds with a "no", (d) and (e) below will not be included in their resulting offer.

- (b) Credit cards will be accepted for payment of invoices up until the 15th calendar day of the payment period as set out in the Contract. Payment of invoices made by credit card on or before this date will not be subject to the Payment and Interest on Overdue Accounts provisions, as set out in general conditions 2030. Payment of invoices after this date will only be accepted by Government of Canada cheque, direct deposit, or electronic funds transfer, and will be subject to the above-mentioned general conditions provisions.
- (c) Government of Canada Acquisition Cards will only be used for Call-ups raised by Identified Users valued at \$100,000.00 (GST/HST included) or less.

7.12 DISCOUNTS FOR LATE DELIVERIES AND REIMBURSEMENT OF REPROCUREMENT COSTS

- (a) If any Products are not delivered by the Delivery Date, and Canada does not terminate the Call-up for default and instead provides the Contractor with additional time to make delivery, the Contractor agrees to reduce the price of the Products by:
 - (i) 2% of the value of the Products delivered late, if they are delivered within 1 week of the Delivery Date;
 - (ii) 5% for late delivery within 2 weeks of the Delivery Date; and
 - (iii) 10% for late delivery more than 2 weeks after the Delivery Date.
- (b) If any Products are not configured as required by a Call-up, and Canada does not terminate the Call-up for default and instead provides the Contractor with an opportunity to re-configure the Products in accordance with the Call-up, the Contractor agrees to reduce the price of the Products by 5% of the total value of the Products that are NOT in accordance with the System configuration or the alternative configuration described in the Call-up, in addition to the liquidated damages payable for late delivery of the Products (i.e., where the re-configured goods are delivered after the Delivery Date, the price must also be discounted as described in sub-article (a)).
- (c) These discounts constitute liquidated damages and, in total, will not exceed 15% of the total value of the applicable Call-up. The Parties agree that these amounts are their best pre-estimate of the loss to Canada in the event of the defaults described, and that they are not intended to be, nor are they to be construed as, a penalty.
- (d) If this Contract is terminated by Canada for default, the Contractor must reimburse Canada for any difference in cost between the contract price for the Products and the cost of procuring the Products from another supplier.
- (e) To collect the liquidated damages, Canada has the right to hold back, drawback, deduct or set off from and against any money Canada owes to the Contractor from time to time.
- (f) Nothing in this article limits the rights and remedies to which Canada is otherwise entitled under this Contract (including the right to terminate the Contract for default), the Standing Offer, or the law generally.

7.13 PRICE PROTECTION - MOST FAVOURED CUSTOMER

- (a) Items (b) to (h) apply to non-evaluated and non-NMSO products only. Items (b) to (h) do not apply to products bid in response to a Request for Volume Discount (RVD).
- (b) To the best of the Contractor's knowledge, the prices it is charging to Canada under the Contract are not higher than the lowest prices/rates that it has charged any other customer (including other Government of Canada entities) for a similar quality and quantity of goods and services in the year before the Contract was awarded.
- (c) The Contractor also agrees that, if after the date of this Contract it reduces the prices it charges to other customers for a similar quality and quantity of goods and services, it will reduce the prices for all remaining deliveries under this Contract (with notice to the Contracting Authority).
- (d) At any time during the 6 years after making the final payment under this Contract or until all claims and disputes then outstanding are settled, whichever is later, Canada has the right to audit the Contractor's records to verify that it is receiving (or has received) these prices. Canada will give at least 2 weeks of notice before the audit.
- (e) During this audit, the Contractor must produce invoices and contracts for similar quality or quantity of goods or services sold to other customers from one year before the Contract was awarded until the end of the Contract Period. If the Contractor is required by law or by contract to keep another customer's information confidential, the Contractor may black out any information on the invoices or contracts that could reasonably reveal the identity of the customer (such as the customer's name and address), as

long as the Contractor provides, together with the invoices and contracts, a certification from its Senior Financial Officer describing the profile of the customer (e.g., whether it is a public sector or private sector customer and the customer's size and service locations).

- (f) In determining whether the goods and services sold to another customer were of similar quality, the terms and conditions of the contract under which those goods and services were delivered will be considered, if those terms and conditions are reasonably likely to have had a material effect on pricing.
- (g) If Canada's audit reveals that the Contractor charged lower prices for a similar quality and quantity of goods and services under any contract where deliveries were made in the year before the Contract was awarded, or that the Contractor delivered additional goods or services under the Contract after reducing its prices for other customers but without reducing the prices under the Contract, then the Contractor must pay to Canada the difference between the amount charged to Canada and the amount charged to the other customer, up to a maximum of 25% of the value of the Contract.
- (h) Canada acknowledges that this commitment does not extend to prices charged by any affiliates of the Contractor.

7.14 INVOICING INSTRUCTIONS

- (a) The Contractor must submit invoices in accordance with the information required in the General Conditions.
- (b) The Contractor's invoice must include a separate line item for each Product delivered.
- (c) By submitting invoices, the Contractor is certifying that the goods and services have been delivered and that all charges are in accordance with the Basis of Payment provision of the Contract, including any charges for work performed by subcontractors.
- (d) The Contractor must provide the original copy of each invoice to the Client identified in the Call-up. A copy of the invoice must be provided to the Standing Offer Authority when specified in the Call-up document.

7.15 CERTIFICATIONS

Compliance with the certifications provided by the Contractor in its offer is a condition of the Contract and subject to verification by Canada during the entire Contract Period. If the Contractor does not comply with any certification or it is determined that any certification made by the Contractor in its offer is untrue, whether made knowingly or unknowingly, Canada has the right, under the default provision of the Contract, to terminate the Contract for default.

7.16 APPLICABLE LAWS

The Contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in Ontario.

7.17 PRIORITY OF DOCUMENTS

With respect to individual contracts made under the Standing Offer, if there is a discrepancy between the wording of any documents that appear on the following list, the wording of the document that first appears on the list has priority over the wording of any document that appears later on the list:

- (a) The separate Call-up document, if it exists (including any appendices);
- (b) These Articles of Agreement;
- (c) Annex A, Technical Specifications
- (d) Supplemental General Conditions 4001 (2013-01-28), Hardware Purchase, Lease and Maintenance;
- (e) General Conditions 2030 (2013-03-21), Higher Complexity – Goods; and

-
- (f) Standing Offer E60EJ-11000C/XXX/EJ. Although these Articles of Agreement form part of the Standing Offer, for matters concerning the Standing Offer as a whole (rather than a specific contract), the priority of documents clause in the Standing Offer applies. For matters concerning a specific contract, the Priority of Documents clause in the Standing Offer does not apply.

7.18 INSURANCE REQUIREMENTS

The Contractor is responsible for deciding if insurance coverage is necessary to fulfill its obligation under the Contract and to ensure compliance with any applicable law. Any insurance acquired or maintained by the Contractor is at its own expense and for its own benefit and protection. It does not release the Contractor from or reduce its liability under the Contract.

7.19 LIMITATION OF LIABILITY - INFORMATION MANAGEMENT/INFORMATION TECHNOLOGY

- (a) This section applies despite any other provision of the Contract and replaces the section of the general conditions entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent described in this section, even if it has been made aware of the potential for those damages.
- (b) First Party Liability:
- (i) The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:
 - (A) any infringement of intellectual property rights to the extent the Contractor breaches the section of the general conditions entitled "Intellectual Property Infringement and Royalties";
 - (B) physical injury, including death.
 - (ii) The Contractor is liable for all direct damages caused by the Contractor's performance or failure to perform the Contract affecting real or tangible personal property owned, possessed, or occupied by Canada.
 - (iii) Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.
 - (iv) The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed under (i) above.
 - (v) The Contractor is also liable for any other direct damages to Canada caused by the Contractor's performance or failure to perform the Contract that relate to:
 - (A) any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including any applicable taxes) for the goods and services affected by the breach of warranty; and
 - (B) any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated either in whole or

in part for default, up to an aggregate maximum for this subparagraph (B) of the greater of 0.5 times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the block titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$1,000,000.00.

In any case, the total liability of the Contractor under subparagraph (v) will not exceed the total estimated cost (as defined above) for the Contract or \$1,000,000.00, whichever is more.

- (vi) If Canada's records or data are harmed as a result of the Contractor's negligence or willful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.
- (c) Third Party Claims:
- (i) Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.
- (ii) If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, despite paragraph (i), with respect to special, indirect, and consequential damages of third parties covered by this section, the Contractor is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party, including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.
- (iii) The Parties are only liable to one another for damages to third parties to the extent described in this subparagraph (c).

7.20 HARDWARE

With respect to the provisions of Supplemental General Conditions 4001:

Part III of 4001 applies to the Contract (Additional Conditions: Purchase)	Yes
Part IV of 4001 applies to the Contract (Additional Conditions: Lease)	No
Part V of 4001 applies to the Contract (Additional Conditions: Maintenance)	Yes
Delivery Location	As indicated in the Call-up issued against the Standing Offer, which may identify any one or more locations in Canada, except locations subject to one or more of the Comprehensive Land Claims Agreements. Canada reserves the right to adjust the location of acceptance for the equipment specified in any Call-up.

	<p>Acceptance may take place at the Contractor's plant or at a warehouse facility. Goods will still remain FOB Destination where the vendor is liable for delivery to all end locations including all shipping costs. The Warranty Period begins on the date received by the site authority at the final destination.</p> <p>If this Contract was issued following a RVD process under the Standing Offer, and if Canada exercises its option to purchase additional quantities specified in the RVD, Canada reserves the right to adjust the Delivery Location(s).</p>
Installation Site (if required by a Call-up)	As indicated in the Call-up issued against the Standing Offer, which may identify any one or more locations in Canada, except locations subject to one or more of the Comprehensive Land Claims Agreements. If not indicated, the installation site is the same as the delivery location.
Delivery Date	<p>For Unix Products (including Unix Blade Servers): as set out in Supplemental General Conditions 4001 under the definition of Delivery Date (i.e., 30 days), unless another Delivery Date is specified in the Call-up.</p> <p>For all other Products: Despite 4001, delivery to locations within a radius of 100km from any population center of at least 30,000 inhabitants must be completed within the following period (the "Delivery Date"):</p> <ul style="list-style-type: none"> • 15 calendar days for orders of 20 units or fewer; • 20 calendar days for orders of 21 to 1000 units; or • 30 calendar days for orders of more than 1000 units. <p>For all other locations, deliveries must be completed with 30 calendar days.</p>
Contractor must deliver Hardware Documentation	Yes, one complete set with each Product delivered.
Contractor must update Hardware Documentation throughout Contract Period	Yes
Hardware Documentation must include maintenance documentation	No
Language of Hardware Documentation	The Hardware Documentation must be delivered in either English or French, based on the Identified User's selection, as indicated in the Call-up. If the Call-up does not indicate the Identified User's choice of language, the Hardware Documentation must be delivered in English. If available, the Hardware Documentation must be delivered in bilingual format.
Special Delivery Requirements	No
Special Site Delivery or Installation	No

Requirements	
Contractor must Install Hardware at time of Delivery	As per Call-up issued against the Standing Offer
Contractor must Integrate and Configure Hardware at time of Installation	As per Call-up issued against the Standing Offer
Hardware is part of a System	Yes, the System includes the Hardware and the Licensed Software.
Hardware Warranty Period	<p>For Category 12.0N, the Hardware Warranty Period is one (1) year from the date of acceptance, unless a different Hardware Warranty Period is indicated in the Call-up.</p> <p>For all other Categories, despite 4001, the Hardware Warranty Period is three (3) years from the date of acceptance, unless a different Hardware Warranty Period is indicated in the Call-up.</p> <p>Notebook batteries are not included in the 3-year warranty period. Notwithstanding the General and Supplemental General Conditions, the Warranty Period for Notebook Batteries is one (1) year.</p>
Hardware Maintenance Period	The Hardware Maintenance Period is the same as the Hardware Warranty Period.
Parts Supplied as Part of Hardware Maintenance Service	Parts used to provide Hardware Maintenance Service may be refurbished parts, as long as they are certified "equal quality" to new equipment.
Class of Maintenance Service	<p>There are four classes of maintenance service:</p> <ul style="list-style-type: none"> • Standard On-Site Maintenance Service, as described in 4001 and modified in these Articles of Agreement; • 4-hour Response On-site Maintenance Service, as described below; • Enhanced On-Site Maintenance Service, as described below; and • Return-to-Service-Outlet Maintenance Service, as described in 4001 and modified in these Articles of Agreement. <p>Despite 4001, Section 26(1), if the Call-up does not specify a class of service, the Contractor must provide:</p> <ul style="list-style-type: none"> • For Thin Clients, Category 12.0N: Return-to-Service-Outlet Maintenance Service • For all other Categories: On-Site Maintenance Service.
Principal Period of Maintenance (PPM)	Despite 4001, the PPM for Standard On-site Maintenance Service and 4-hour Response On-site Maintenance Service is 8:00 to 17:00 local time where the Product is in use, Monday through Friday, excluding statutory holidays observed by the federal government at that location. For

	Enhanced On-Site Maintenance Service, the PPM is 24 hours a day, 7 days a week, 365 days a year.
Toll-free Telephone Number for Maintenance Service	[to be completed with information from the Offeror at the time of Standing Offer issuance]
Website for Maintenance Service	[to be completed with information from the Offeror at the time of Standing Offer issuance]

7.21 HARDWARE MAINTENANCE SERVICE

In addition to 4001, Section 25, the following applies to the Hardware Maintenance Service:

- (a) **Manufacturer’s Warranty:** If the Contractor wishes to rely on the Manufacturer’s warranty to provide the Hardware Maintenance Services, the Contractor must (except for Category 12.0N) complete all warranty registration requirements with any Manufacturers on behalf of the Identified User. The Offeror must also notify the Identified User in writing of any requirement to register for international warranty coverage required if the end user will travel abroad with Products supplied under this Contract. Regardless of any Manufacturer’s warranty, the responsibility for providing the Hardware Maintenance Services remains with the Contractor.
- (b) **Magnetic Media:** To maintain the confidentiality of information that may be recorded on a hard disk drive (HDD) or solid state drive (SSD) based product requiring Hardware Maintenance Services, the HDD or SSD media in all components requiring replacement must remain in the possession of Canada. Faulty HDDs or SSDs will not be returned to the Manufacturer and Offerors need to factor that into their cost. Category 5.0N (and 12.0N) are exempt from this condition.
- (c) **Hotline Services:** With respect to the hotline services required to be provided under Supplemental General Conditions 4001, Section 25(5)(a), the Contractor must issue a trouble ticket for all end user problems that cannot be resolved over the telephone, regardless of the class of service being provided.

7.22 CLASSES OF HARDWARE MAINTENANCE SERVICE

In addition to 4001, Section 26, the following applies to the Classes Hardware Maintenance Service:

- (a) **4-hour Response On-site Maintenance Service:** For some categories, an upgraded class of On-site Hardware Maintenance Service is available, if indicated in the Call-up, referred to as “4-hour Response, On-site Maintenance Service”. This service is an upgrade subject to the additional charge set out on the CAG or in the Contract.
 - (i) 4-hour Response On-Site Maintenance Service is the same in all respects as On-Site Maintenance Service, except for the response time.
 - (ii) For 4-hour Response On-Site Maintenance Service, the Contractor must arrive on site to perform Hardware Maintenance Service on any Product for which a problem is reported at the location in Canada where the Product was in use at the time the problem occurred, within the following timeframes:

-
- (A) where the System is located within a radius of 100km from any population centre of at least 100,000 people, a service technician must respond by telephone within 1 hour of the telephone call for service and a service technician must arrive on site within 4 hours of the initial call requesting service;
 - (B) where the System is located within a radius of 100km from any population centre of 30,000 to 99,999 people, a service technician must respond by telephone within 1 hour of the telephone call for service and a service technician must arrive on site within 24 hours of the initial call requesting service; and
 - (C) for all other locations within Canada, a service technician must respond by telephone within 1 hour of the telephone call for service and a service technician must arrive on site within 48 hours of the initial call requesting service
- (b) **Enhanced On-site Maintenance Service:** For some categories, an upgraded class of On-site Hardware Maintenance Service is available, if indicated in the Call-up, referred to as "Enhanced On-site Maintenance Service". This service is an upgrade subject to the additional charge set out on the CAG or in the Contract.
 - (i) Enhanced On-site Maintenance Service is the same in all respects as 4-hour Response On-Site Maintenance Service, except for the PPM. The PPM for Enhanced On-Site Maintenance Service is set out in the hardware table above.
 - (c) **Upgrades, Components and Unevaluated Options:** If a System is ordered with an upgraded class of Hardware Maintenance Service and/or an extended Hardware Warranty Period, all Upgrades, Components and Unevaluated Options ordered at the same time as, and for use with, the System will be covered by the same upgraded Hardware Maintenance Service and Hardware Warranty Period.

7.23 SOFTWARE MAINTENANCE AND SUPPORT SERVICES

As part of the Hardware Maintenance Service, the Contractor must also perform the following software maintenance and support services throughout the Hardware Maintenance Period:

- (a) provide Canada with the most recent minor revision, maintenance release and patch version of all of the Licensed Software during the Hardware Maintenance Period, as soon as they are available;
- (b) provide both routine and emergency code corrections and fixes;
- (c) provide telephone assistance with software problem resolution through the hotline;
- (d) provide on-line use of the Contractor's software diagnostic routines, support tools, and services as and when requested, if available, through the Contractor's NMSO website at **[to be filled in upon NMSO award]**.
- (e) provide assistance in the correction of software errors, and assistance in System tuning and configuration;
- (f) provide telephone response within one hour of a request for assistance during the PPM. If telephone assistance is not satisfactory to the end user and where a Product is rendered inoperative by a software problem that cannot be remedied by the Contractor within 24 hours of the request for assistance (or the beginning of the next PPM, if the request for assistance is made outside of the PPM), the Contractor must provide a solution or circumvention;

7.24 PRODUCT REPLACEMENT SERVICE

If any Product fails to perform in accordance with the Technical Specifications and functional descriptions contained or referenced in the Call-up and requires remedial Hardware Maintenance Service three or more times during the Hardware Maintenance Period, the Contractor must, if requested by the Identified User, replace the Product at no cost with another item meeting the specifications of the Product. The replacement

Product must be delivered no later than 15 days after the request is received. The Contractor must provide Operating System restoration and hardware-specific configuration on the replacement Product at no charge.

7.25 WARRANTY/MAINTENANCE SERVICES INFORMATION FOR END USERS

The Contractor must include the following information with each System when it is delivered:

- (a) the toll-free number to be used for Hardware Maintenance Service;
- (b) the Hardware Warranty Period and applicable dates for each System in accordance with the Call-up;
- (c) the information that will be required by the call center to provide any Hardware Maintenance Services; and
- (d) details of the Hardware Maintenance Services being provided under this Contract, including the definition of the Principal Period of Maintenance, repair times, response times, etc. all in accordance with the provisions of this Contract.
- (e) For all Categories except 5.0N (and 12.0N), the information in (a) through (d) must be attached to each System in the form of an information sticker.

7.26 USER-SERVICEABLE PRODUCTS

The Contractor agrees that the Identified User's technical support staff may perform maintenance and/or upgrades to the Products and replace user-replaceable or user-serviceable components without affecting the obligation of the Contractor to provide the Hardware Maintenance Services.

7.27 ACCESS TO CANADA'S FACILITIES

The Contractor is responsible for timely identification of the need for access to Canada's facilities, equipment and personnel, if required (for example, for delivery and installation). Subject to the approval of the Identified User, arrangements will be made with the Contractor for access. The Contractor agrees to comply with all standing orders or other regulations in force on the site where the work is performed, including those relating to the safety of persons on the site or the protection of property against loss or damage from any and all causes including fire.

7.28 LOSS OR DAMAGE TO MAGNETIC RECORDS OR DOCUMENTATION

If, in the course of transit from the Contractor's site to the specified delivery site or while otherwise in the Contractor's care, magnetically recorded information and/or documentation becomes damaged or lost, including accidental erasure, it must be replaced at the Contractor's expense.

7.29 SAFEGUARDING ELECTRONIC MEDIA

Before using them on Canada's equipment or sending them to Canada, the Contractor must use a regularly updated product to scan electronically all electronic media used to perform the Work for computer viruses and other coding intended to cause malfunctions. The Contractor must notify Canada if any electronic media used for the Work are found to contain computer viruses or other coding intended to cause malfunctions.