



C. ARTICLES OF AGREEMENT

C1. DEPARTMENTAL REPRESENTATIVE

Name of Departmental Representative
Name of Position
Name of Division
Name of Branch
130 Colonade Rd.
Ottawa, ON K1A 0K9
Telephone: Telephone #
Fax: Fax #
E-Mail: Email address

DRAFT

**Standing Offer
and Call-up Authority**

Between

**Her Majesty the Queen in Right of
Canada** (referred to herein as "Her Majesty"),
as represented by the Minister of Health,
acting through the Public Health Agency of
Canada (referred to herein as the "Minister")

and

(INSERT FULL LEGAL NAME OF
CONTRACTOR)
(INSERT ADDRESS OF CONTRACTOR)
(INSERT ADDRESS OF CONTRACTOR)
(INSERT VENDOR CODE)
(referred to herein as the "Contractor")

for

Performance of the Work described in
Appendix "A" – Statement of Work in a
careful, skilful and efficient manner.

THIS IS NOT A CONTRACT

C2. TITLE Establishment of Multiple Standing Offer Agreements (SOAs) related to the microbiological analysis of drinking water.	
C3. SECURITY Prior to performance of obligations under this standing offer, individuals assigned to the Work must have and maintain the following minimum security clearance: NOT APPLICABLE	
C4. STANDING OFFER PERIOD Start: _____ End: _____	
C5. STANDING OFFER NUMBER	C6. DATE 27 November 2013
C7. STANDING OFFER DOCUMENTS <ol style="list-style-type: none"> These Articles of Agreement Supplementary Conditions (Section "II") Standing Offer Particulars (Section "I") General Conditions of Call-up (Section "III") Terms of Payment of Call-up (Section "IV") Intellectual Property of Call-up (Section "V") Call-up against Standing Offer (Section "VI") Statement of Work (Appendix "A") The Request for Standing Offer The Contractor's Proposal <p>In the event of inconsistencies or ambiguities in the wording of these documents, the document appearing first on the above list shall prevail</p>	
C8. STANDING OFFER AMOUNT Her Majesty shall pay the Contractor the actual amount of work authorized in each call-up up to a maximum amount of 0.00. All Amounts are in Canadian dollars and exclude GST/HST unless specified otherwise. All Payments will be made in accordance with the Standing Offer Particulars (Section "I") and the Terms of Payment (Section "IV").	
C9. CALL-UP LIMITATION Individual call-ups against this Standing offer must not exceed 75,000.00.	
C10. INVOICES One (1) copy is to be sent monthly to the Departmental Representative showing: <ol style="list-style-type: none"> the name and address of the Departmental Representative; the call-up title, number and financial code; the date; a description of the Work performed; timesheets (if payment is based on hourly/per diem rates); evidences of actual cost (Cost Reimbursable Elements); the amount of the progress payment being claimed; the amount for any tax (including GST/HST); a notification as to the adequacy of the call-up amount if: <ul style="list-style-type: none"> it is 75% committed, or; 4 months prior to the call-up End Date, or It is considered to be inadequate for the completion of the Work. 	
C11. GOVERNING LAWS This standing offer and any resulting call-ups shall be governed by the laws in force in the Province of Ontario, Canada	
C12. INTELLECTUAL PROPERTY The Crown Will Own Intellectual Property Rights as per Section "IV"	
AUTHORIZED REPRESENTATIVE OF THE CONTRACTOR	
_____ Signature	_____ Date
_____ Print Name and Position	
AUTHORIZED REPRESENTATIVE OF THE MINISTER	
_____ Signature	_____ Date
_____ Print Name and Position	

Corporate Seal

SECTION "I" – STANDING OFFER PARTICULARS

SP1 STANDING OFFER (SO)

A Standing offer is not a contract and does not represent the commitment of funds by Her Majesty or the commitment to use any company on the SO List;

A contractual obligation will come into force when there is work authorized against the SO by the issuance of a call-up against the SO and only to the extent designated in the authorization;

Her Majesty's liability under this arrangement shall be limited to the actual amount of work authorized in the call-ups (contracts) and performed within the terms and conditions specified;

The terms and conditions set out herein will form part of, and shall be incorporated into, any and all the resulting call-ups (contracts); and

The Contractor shall perform and complete with care, skill, diligence and efficiency the work that is described in each call-up (contract) issued and authorized against the SO.

SP2 OPTIONS

Her Majesty may, at Her sole discretion, extend the period of this standing offer by two (2) periods of one (1) year. The Contractor agrees that, during the extended period, the unit prices will be in accordance with SP3.

SP3 BASIS OF PAYMENT

FINANCIAL PROPOSAL - FIX UNIT RATES FROM JANUARY 1st, 2014 TO DECEMBER 31st, 2014

COST PER ANALYTE							
Note: Response times are taken to be the time from receipt of the sample at the laboratory to the time when results are provided to Health Canada and The Public Health Agency of Canada do not include shipping times			Cost	Premium surcharge to have analysis done			
				within 24 h	within 48 h	Saturday	Sunday
			\$\$.\$\$				
DRINKING WATER MICROBIOLOGICAL							
1	Quantitative	<i>E.Coli</i>					
2	Quantitative	Total coliform					
3	Quantitative	Heterotrophic Plate count					
4	Qualitative*	<i>E.Coli</i>					
5	Qualitative*	Total coliform					
6	Qualitative*	Heterotrophic Plate count					
* = Presence or Absence							

COST INCREASE FOR ADDITIONAL & OPTIONAL YEARS

COST PER ANALYTE			Year 1	Year 2	Option year 1	Option year 2
			January 1, 2015 to December 31, 2015	January 1, 2016 to December 31, 2016	January 1, 2017 to December 31, 2017	January 1, 2018 to December 31, 2018
			Cost			
			\$\$.\$\$			
DRINKING WATER MICROBIOLOGICAL						
1	Quantitative	<i>E.Coli</i>				
2	Quantitative	Total coliform				
3	Quantitative	Heterotrophic Plate count				
4	Qualitative*	<i>E.Coli</i>				
5	Qualitative*	Total coliform				
6	Qualitative*	Heterotrophic Plate count				
	* = Presence or Absence					

SECTION "II" – SUPPLEMENTARY CONDITIONS**Right of first refusal basis:**

The Method of Allocation is based on the "Right of First Refusal". Requests for solicitation of bid submissions from more than one Supplier are NOT permitted under method of allocation for this Standing Offer.

The call-up procedures require that when a requirement is identified, the authorized call-up authority shall approach the regional* offeror of the highest ranked standing offer to determine if the requirement can be satisfied by that offeror. If the highest ranked offeror is able to meet the requirement, the call-up is issued against its standing offer. If that regional offeror is unable to meet the requirement, the authorized call-up authority will approach the next ranked regional offeror. The authorized call-up authority will continue and proceed as above until one offeror indicates that it can meet the requirement of the call-up.

For requirements under \$25,000 (GST/HST included), in accordance with Government Contracting Regulations Identified Users may direct a call-up to an eligible Offeror.

Regional* is define as the offeror located in the Province \ Territory within a 100 km radius driving distance and \ or from a 12 hour courier pick up \ delivery in the Province\ Territory from the sampling \ pick up point in cities identified in section 17 (16 cities).

Call-Up Procedures

1. Call-ups issued under the Standing Offer Agreement will be subject to the terms and conditions of the Health Canada/Public Health Agency of Canada SOA documents.
2. Offeror's will be tasked by way of formal Call-up(s) issued against the Standing Offer Agreement, for the work activities to be performed, deliverables to be submitted within the scope of this Agreement and required completion date(s) as described in the Statement of Work in the Call-up document.
3. In accordance with the allocation of work for this Standing Offer Agreement, the HC/PHAC Project Authority will provide the selected Standing Offer holder with a call-up request detailing the Work activities to be performed and deliverables to be submitted within the scope of this Agreement as well as the required completion date(s).
4. The Standing Offer holder will acknowledge receipt of the call-up request within 2 days of notification. It is understood and agreed that failure of the Offeror to provide written notification of their availability to undertake the services requested within two (2) days of receiving the call-up request, will be interpreted as the Offeror being unable to perform the services and will result in the setting aside of the call-up request to that Offeror in favour of another for the specific work in question.
5. Subsequent to the acceptance of the call-up request the Standing Offer holder will submit to the HC/PHAC Project Authority, the cost for each of these services (i.e. 1A and 1B) as per Annex B Fix Unit rates. The rate charged by the Contractor in the fee proposal must not exceed the Fix Unit Rate specified in the Standing Offer Agreement.
6. When an agreement on the level of effort and cost is reached between the Standing Offer Holder and the HC/PHAC Project Authority, the HC/PHAC Project Authority will issue a formal written Health Canada / Public Health Agency of Canada Call-up to the Standing Offer Agreement authorizing the work to begin.

- 7 It is understood and agreed that the Standing Offer holder shall not commence any Work until authorized in writing by a formal Call-up issued by the HC/PHAC Project Authority or his/her delegate.

- 8 No costs shall be incurred or accepted before receipt of a signed formal “Call-up against a Standing Offer Agreement” from the HC/PHAC Project Authority. The Health Canada/Public Health Agency of Canada Project Authority will provide the Standing Offer holder details of the Work activities to be performed, deliverables to be submitted within the scope of this Agreement and required completion date(s).

SECTION "III" – GENERAL CONDITIONS OF CALL-UP

GC1. Interpretation

- 1.1. In the contract,
 - 1.1.1. "Minister" includes a person acting for, or if the office is vacant, in place of the Minister and the Minister's successors in the office, and the Minister's or their lawful deputy and any of the Minister's or their representatives appointed for the purpose of the contract;
 - 1.1.2. "Departmental Representative" means the officer or employee of Her Majesty who is designated by the articles of agreement and includes a person authorized by the Departmental Representative to perform any of the Departmental Representative's functions under the contract;
 - 1.1.3. "Work", unless otherwise expressed in the contract, means everything that is necessary to be done, furnished or delivered by the Contractor to perform the Contractor's obligations under the contract.

GC2. Successors and Assigns

- 2.1. The contract shall inure to the benefit of and be binding upon the parties and their lawful heirs, executors, administrators, successors and assigns.

GC3. Assignment

- 3.1. The contract shall not be assigned in whole or in part by the Contractor without the prior written consent of the Minister and any assignment made without that consent is void and of no effect.
- 3.2. No assignment of the contract shall relieve the Contractor from any obligation under the contract or impose any liability upon Her Majesty or the Minister.

GC4. Time of the Essence

- 4.1. Time is of the essence of the contract.
- 4.2. Any delay by the Contractor in performing the Contractor's obligations under the contract which is caused by an event beyond the control of the Contractor, and which could not have been avoided by the Contractor without incurring unreasonable cost through the use of work-around plans including alternative sources or other means, constitutes an excusable delay. Events may include, but are not restricted to: acts of God, acts of Her Majesty, acts of local or provincial governments, fires, floods, epidemics, quarantine restrictions, strikes or labour unrest, freight embargoes and unusually severe weather.
- 4.3. The Contractor shall give notice to the Minister immediately after the occurrence of the event that causes the excusable delay. The notice shall state the cause and circumstances of the delay and indicate the portion of the Work affected by the delay. When requested to do so by the Departmental Representative, the Contractor shall deliver a description, in a form satisfactory to the Minister, of work-around plans including alternative sources and any other means that the Contractor will utilize to overcome the delay and endeavour to prevent any further delay. Upon approval in writing by the Minister of the work-around plans, the Contractor shall implement the work-around plans and use all reasonable means to recover any time lost as a result of the excusable delay.
- 4.4. Unless the Contractor complies with the requirements of GC4.3, any delay that would constitute an excusable delay shall be deemed not to be an excusable delay.
- 4.5. Notwithstanding that the Contractor has complied with the requirements of GC4.3, Her Majesty may exercise any right of termination contained in GC7.0.

GC5. Indemnification

- 5.1. The Contractor shall indemnify and save harmless Her Majesty, the Minister and their employees, servants and agents from and against all claims, losses, damages, costs, expenses, actions and other proceedings, made, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner based upon, occasioned by or attributable to any injury to or death of a person or damage to or loss of property arising from any wilful or negligent act, omission or delay on the part of the Contractor, the Contractor's employees, servants, agents or subcontractors in performing the Work or as a result of the Work.
- 5.2. The Contractor shall indemnify and save harmless Her Majesty, the Minister and their employees, servants and agents from all costs, charges and expenses whatsoever that Her Majesty sustains or incurs in all claims, actions, suits and proceedings for the use of the invention claimed in a patent, or infringement or alleged infringement of any patent or any registered industrial design or any copyright or other intellectual property right resulting from the performance of the Contractor's obligations under the contract, and in respect of the use of or disposal by Her Majesty of anything furnished pursuant to the contract.
- 5.3. The Contractor's liability to indemnify, save harmless or reimburse Her Majesty under the contract shall not affect or prejudice Her Majesty from exercising any other rights under law.
- 5.4. The Contractor agrees that Her Majesty shall not be liable for, and agrees to protect, indemnify and save harmless Her Majesty, the Minister and their employees, servants and agents with respect to, any injury or damage (including death) to the Contractor or to the person of any officer, servant or agent of the Contractor or for the loss of or damage to the property of the Contractor or its officers, servants or agents in any manner based upon, occasioned by, or in any way attributable to the performance of the said Work unless the injury, loss or damage is caused by the negligence of an employee, servant or agent of Her Majesty while acting within the scope of his or her employment.

GC6. Notices

- 6.1. Where in the contract any notice, request, direction, or other communication is required to be given or made by either party, it shall be in writing and is effective if delivered in person, sent by registered mail, telegram, facsimile or electronic mail addressed to the party for whom it is intended at the address mentioned in the contract and any notice, request, direction or other communication shall be deemed to have been given by registered mail, when the postal receipt is acknowledged by the other party; by telegram, when transmitted by the carrier; and, by telex, facsimile or electronic mail, when transmitted. The address of either party may be changed by notice in the manner set out in this provision.

GC7. Termination or Suspension for Convenience

- 7.1. The Minister may, by giving notice to the Contractor, terminate or suspend the Work with respect to all or any part or parts of the Work not completed.
- 7.2. All Work completed by the Contractor to the satisfaction of Her Majesty before the giving of notice shall be paid for by Her Majesty in accordance with the provisions of the contract and, for all Work not completed before the giving of notice, Her Majesty shall pay the Contractor's costs as determined under the provisions of the contract and, in addition, an amount representing a fair and reasonable fee in respect of the Work not completed.

- 7.3. In addition to the amount which the Contractor shall be paid under GC7.2, the Contractor shall be reimbursed for the Contractor's cost of, and incidental to, the cancellation of obligations incurred by the Contractor pursuant to the notice and obligations incurred by the Contractor or to which the Contractor is subject with respect to the Work.
- 7.4. Payment and reimbursement under the provisions of GC7.0 shall be made only to the extent that it is established to the satisfaction of the Minister that the costs and expenses were actually incurred by the Contractor and that the same are fair and reasonable and are properly attributable to the termination or suspension of the Work or the part of the Work terminated.
- 7.5. The Contractor shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the Contractor under the contract, exceeds the contract price applicable to the Work or the particular part of the Work.
- 7.6. The Contractor shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of or directly or indirectly arising out of any action taken or notice given by the Minister under the provisions of GC7.0, except as expressly provided.

GC8. Termination Due to Default of Contractor

- 8.1. The Minister may, by notice to the Contractor, terminate the whole or any part of the Work if:
- 8.1.1. the Contractor becomes bankrupt or insolvent, or a receiving order is made against the Contractor, or an assignment is made for the benefit of creditors, or if an order is made or resolution passed for the winding up of the Contractor, or if the Contractor takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors; or
- 8.1.2. the Contractor fails to perform any of the Contractor's obligations under the contract, or, in the Minister's view, so fails to make progress as to endanger performance of the contract in accordance with its terms.
- 8.2. In the event that the Minister terminates the Work in whole or in part under GC8.1, the Minister may arrange, upon such terms and conditions and in such manner as the Minister deems appropriate, for the Work to be completed that was so terminated, and the Contractor shall be liable to Her Majesty for any excess costs relating to the completion of the Work.
- 8.3. Upon termination of the Work under GC8.1, the Minister may require the Contractor to deliver and transfer title to Her Majesty, in the manner and to the extent directed by the Minister, any finished Work which has not been delivered and accepted prior to such termination and any materials or Work-in-process which the Contractor has specifically acquired or produced for the fulfilment of the contract. Her Majesty shall pay the Contractor for all finished Work delivered pursuant to the direction and accepted by the Minister, the cost to the Contractor of the finished Work plus the proportionate part of any fee fixed by the contract and shall pay or reimburse the Contractor the fair and reasonable cost to the Contractor of all materials or Work-in-process delivered pursuant to the direction. Her Majesty may withhold from the amounts due to the Contractor the sums that the Minister determines to be necessary to protect Her Majesty against excess costs for the completion of the Work.
- 8.4. The Contractor shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the Contractor under the contract, exceeds the contract price applicable to the Work or the particular part of the Work.
- 8.5. If, after the Minister issues a notice of termination under GC8.1, it is determined by the Minister that the default of the Contractor is due to causes beyond the control of the Contractor, the notice of termination shall be deemed to have been issued pursuant to GC7.1 and the rights and obligations

of the parties shall be governed by GC7.0.

GC9. Records to be Kept by Contractor

- 9.1. The Contractor shall keep proper accounts and records of the cost of the Work and of all expenditures or commitments made by the Contractor including invoices, original receipts and vouchers, which shall at reasonable times be open to audit and inspection by the authorized representatives of the Minister who may make copies and take extracts.
- 9.2. The Contractor shall afford facilities for audit and inspection and shall furnish the authorized representatives of the Minister with such information as the Minister or they may from time to time require with reference to the documents referred to in GC9.1.
- 9.3. The Contractor shall not dispose of the documents referred to in GC9.1 without the written consent of the Minister, but shall preserve and keep them available for audit and inspection for the period of time specified elsewhere in the contract or, in the absence of such specification, for a period of six years following completion of the Work.

GC10. Conflict of Interest

- 10.1. The Contractor agrees that its signature on the contract certifies that the government's rules on conflict of interest, summarized below, have been discussed with the Contractor, and that the Contractor complies in every respect with the rules.
- The government has adopted a policy to ensure that hiring and contracting of suppliers of goods and services will meet the highest ethical standards. The Minister wishes to make it clear that these standards will be scrupulously observed. The relevant portion of the policy precludes appointment not only of a Minister's immediate family, that is, Minister's spouse, parents, children, brothers and sisters, but also any member of the immediate family of his or her spouse, the immediate families of other Ministers and of party colleagues in the House of Commons and the Senate. It applies, as well, to organizations outside of government in which such family members are employed in senior positions of authority including membership on boards of directors. Your signature on this contract certifies that this aspect of the government rules on conflict of interest has been discussed with you and that you and your firm comply in every respect with these rules.
- 10.2. If this contract is with a person other than an individual, it is a term of this contract that no individual, for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders or the Values and Ethics Code for the Public Service apply, shall derive a direct benefit from this contract unless that individual is in compliance with the applicable post-employment provisions;
- 10.3. If this contract is with an individual, it is a term of this contract that no individual, for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders or the Values and Ethics Code for the Public Service apply, shall derive a direct benefit from this contract unless that individual is in compliance with the applicable post-employment provisions; and that during the term of the contract any persons engaged in the course of carrying out this contract shall conduct themselves in compliance with the principles of the Conflict of Interest and Post-Employment Code for Public Office Holders which are the same as those in the Values and Ethics Code for the Public Service, with the addition that decisions shall be made in the public interest and with regard to the merits of each case. Should an interest be acquired during the life of the contract that would cause a conflict of interest or seem to cause a departure from the principles, the Contractor shall declare it immediately to the Departmental Representative.

- 10.4. The Contractor declares that the Contractor has no pecuniary interest in the business of any third party that would cause a conflict of interest or seem to cause a conflict of interest in carrying out the Work. Should such an interest be acquired during the life of the contract, the Contractor shall declare it immediately to the Departmental Representative.
- 10.5. If the Contractor is a former governor in council appointee, this contract shall be reviewed by the office of the ethics counsellor to ensure compliance with the conflict of interest and post employment code for public office holders.

GC11. Accounts and Audit

- 11.1. The Contractor shall keep proper accounts and records of the cost to the Contractor of the Work and of all expenditures or commitments made by the Contractor in connection therewith, and shall keep all invoices, receipts and vouchers relating thereto. The Contractor shall not, without the prior written consent of the Minister, dispose of any such accounts, records, invoices, receipts or vouchers until the expiration of six (6) years after final payment under this contract, or until the settlement of all outstanding claims and disputes, whichever is later.
- 11.2. All such accounts and records as well as any invoices, receipts and vouchers shall at all times during the retention period referred to in 11.1 be open to audit, inspection and examination by the authorized representatives of the Minister, who may make copies and take extracts thereof. The Contractor shall provide all facilities for such audits and inspections and shall furnish all such information as the representatives of the Minister may from time to time require with respect to such accounts, records, invoices, receipts and vouchers.

GC12. Contractor Status

- 12.1. This is a contract for the performance of a service and the Contractor is engaged under the contract as an independent Contractor for the sole purpose of providing a service. Neither the Contractor nor any of the Contractor's personnel is engaged by the contract as an employee, servant or agent of Her Majesty. The Contractor agrees to be solely responsible for any and all payments and/or deductions required to be made including those required for Canada or Quebec pension plans, employment insurance, worker's compensation, or income tax.

GC13. Warranty by Contractor

- 13.1. The Contractor warrants that the Contractor is competent to perform the Work required under the contract in that the Contractor has the necessary qualifications including the knowledge, skill and ability to perform the Work.
- 13.2. The Contractor warrants that the Contractor shall provide a quality of service at least equal to that which Contractors generally would expect of a competent Contractor in a like situation.

GC14. Member of Parliament

- 14.1. No Member of Parliament shall be admitted to any share or part of this contract or to any benefit to arise from this contract.

GC15. Security and Protection of Work

- 15.1. The Contractor shall keep confidential all information provided to the Contractor by or on behalf of Canada in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor as part of the Work where copyright or any other intellectual property rights in such information (except a licence) vests in Canada under the contract. The Contractor shall not disclose any such information to any person without the written permission of the Minister, except that the Contractor may disclose to a subcontractor information necessary for the

performance of the subcontract, on the condition that the subcontractor agrees that it will be used solely for the purposes of such subcontract. Information provided to the Contractor by or on behalf of Canada shall be used solely for the purpose of the contract and shall remain the property of Canada or the third party, as the case may be. Unless the contract otherwise expressly provides, the Contractor shall deliver to Canada all such information, together with every copy, draft, Working paper and note thereof that contains such information, upon completion or termination of the contract or at such earlier time as the Minister may require. This section does not apply to any information that:

- 15.1.1. is publicly available from a source other than the Contractor; or
- 15.1.2. is or becomes known to the Contractor from a source other than Her Majesty, except any source that is known to the Contractor to be under an obligation to Her Majesty not to disclose the information.
- 15.2. When the contract, the Work, or any information referred to in GC15.1 is identified as TOP SECRET, SECRET, CONFIDENTIAL or PROTECTED by Her Majesty,
- 15.2.1. the Contractor shall, at all times, take all measures reasonably necessary for the safeguarding of the material so identified, including any other instructions issued by the Minister; and
- 15.2.2. the Minister shall be entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the contract, and the Contractor shall comply with, and ensure that any subcontractor complies with, all written instructions issued by the Minister dealing with the material so identified, including any requirement that employees of the Contractor or of any subcontractor execute and deliver declarations relating to reliability screenings, security clearances and other procedures.

GC16. Certification - Contingency Fees

- 16.1. The Contractor certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay a contingency fee for the solicitation, negotiation or obtaining of this contract to any person other than an employee acting in the normal course of the employee's duties.
- 16.2. All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the contract shall be subject to the accounts and audit provisions of this contract.
- 16.3. If the Contractor certifies falsely under this section or is in default of the obligations contained in this section, the Minister may either terminate this contract in accordance with the default provisions of this contract or recover from the Contractor by way of reduction to the contract price or otherwise the full amount of the contingency fee.
- 16.4. In this section:
- 16.4.1. "contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a government contract or negotiating the whole or any part of its terms;
- 16.4.2. "employee" means a person with whom the Contractor has an employer/employee relationship;
- 16.4.3. "person" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes any individual who is required to file a return with the registrar pursuant to section 5 of the Lobbyist Registration Act, R.S.C. 1985, c. 44 (4th supp.) as the same may be amended from time to time.

GC17. Work Force Reduction Programs

- 17.1. The Contractor acknowledges and agrees that any person, including the Contractor, carrying out this contract, shall make available to the Departmental Representative any details of the status of the person with respect to cash out benefits as well as details of any pension payments under work force reduction programs.
- 17.2. The Contractor shall, if asked in writing and where necessary, sign or cause to have signed on behalf of any person, a waiver of privacy with respect to any and all information in relation to any such benefits and payments.

GC18. Amendments

- 18.1. No amendment of the contract nor waiver of any of the terms and provisions shall be deemed valid unless effected by a written amendment.

GC19. PS Online - Trading Partners Agreement

- 19.1. If this contract results from the use of the PS Online Supply Arrangement, the General Conditions, Supplemental General Conditions applicable to this requirement and Clauses of General application set-out in the PS Online Trading Partner Agreement shall form part of this Contract.

GC20. PS Online - General Conditions

- 20.1. If this contract results from the use of the PS Online Supply Arrangement, the General Conditions DSS-MAS 9601 shall form part of this Contract. In the event of inconsistencies or ambiguities of the wording of the documents, the General Conditions DSS-MAS 9601 shall prevail.

GC21. Replacement Personnel

- 21.1. The Contractor shall provide the services of the persons named in the proposal which is referenced in the Statement of Work and any additional persons necessary to perform the work and provide the services required under this contract, unless the Contractor is unable to do so for reasons beyond the Contractor's control.
- 21.2. Should the Contractor, at any time, be unable to provide their services, the Contractor shall be responsible for providing replacements who shall be of similar ability and attainment and who shall be acceptable to the Departmental Representative. In such case the Contractor shall notify the Departmental Representative in writing and provide:
- 21.2.1. the reason for the removal of the named person from the project;
- 21.2.2. the name of the proposed replacement;
- 21.2.3. an outline of the qualifications and experience of the proposed replacement;
- 21.3. an accepted security clearance certificate, if applicable.
- 21.4. The notice shall be sent at least seven (7) days in advance of the date upon which the replacement is to commence work. Any change in the terms and conditions of this contract which result from a replacement of personnel shall be effected by a contract amendment.
- 21.5. Notwithstanding the foregoing, the Contractor is required to perform the work and provide the services in accordance with the terms of this contract.

GC22. Criminal Code of Canada

- 22.1. The contractor certifies that the company has never been convicted of an offence under the following sections of the Criminal Code of Canada:
- 22.1.1. Section 121, Frauds on the government;
- 22.1.2. Section 124, Selling or purchasing office; or
- 22.1.3. Section 418, Selling defective stores to Her Majesty.
- 22.2. It is a term of this contract that the contractor and any of the contractor's employees assigned to the performance of the contract are in compliance with Section 748 of the Criminal Code of Canada which prohibits anyone who has been convicted of an offence under:
- 22.2.1. Section 121, Frauds on the government;

- 22.2.2. Section 124, Selling or purchasing office; or
- 22.2.3. Section 418, Selling defective stores to Her Majesty, from holding public office, contracting with the government or receiving a benefit from a government contract, unless the Governor in Council has restored (in whole or in part) these capacities to the individual or the individual has received a pardon.

GC23. Inspection/Acceptance

- 23.1. All the work performed under this contract shall be subject to inspection by the Departmental Representative, prior to acceptance. Should the work or any portion of the work not be in accordance with the requirements of the contract, the Departmental Representative shall have the right to reject it or require its correction.

GC24. Non-Residents

- 24.1. If the Contractor is not a Canadian Resident, the Contractor agrees that, pursuant to the provisions of the Income Tax Act, Canada is empowered to withhold an amount of fifteen (15) percent of the price to be paid to the Contractor, if the Contractor is a non-resident contractor as defined in said Act. This amount will be held on account with respect to any liability for taxes which may be owed to Canada.

GC25. Entire Agreement

- 25.1. The contract constitutes the entire agreement between the parties with respect to the subject matter of the contract and supersedes all previous negotiations, communications and other agreements relating to it unless they are incorporated by reference in the contract.

SECTION "III" – TERMS OF PAYMENT OF CALL-UP

TP1. Payment

- 1.1. Payments under this contract except advance payments, shall be conditional upon performance, completion and delivery of the Work, or any part of the Work to the satisfaction of the Minister but subject to the submission to the Departmental Representative of a claim for payment.
- 1.2. Subject to parliamentary appropriation of funds and to TP1.1, payment by the Minister for the Work shall be made:
 - 1.2.1. in the case of an advance payment, within thirty (30) days of the signing of this contract by both parties or within thirty (30) days of receipt of an invoice requesting payment, whichever is later,
 - 1.2.2. in the case of progress payment, within thirty (30) days following the date of receipt of a duly completed Work or progress report or within thirty (30) days of receipt of an invoice requesting payment, whichever is later, and
 - 1.2.3. in the case of a final payment, within thirty (30) days following the date of receipt of the completed Work or within thirty (30) days of receipt of an invoice requesting payment whichever is later.
- 1.3. For purposes of this contract, a full day is any period of seven and one half (7.5) hours within any twenty-four (24) hour period.
- 1.4. If the Contractor is engaged in the performance of the Work for any period that exceeds or is less than a full day, the Contractor will be paid a pro-rata portion of the firm daily rate that corresponds to the number of hours during which the Contractor was so engaged.
- 1.5. If Her Majesty has any objections to the form of the invoice or the substantiating documentation, within fifteen (15) days of its receipt, She shall notify the Contractor of the nature of the objection.
- 1.6. "Form of the invoice" means an invoice which contains or is accompanied by such substantiating documentation as Her Majesty requires. Failure by Her Majesty to act within fifteen (15) days only results in the date specified in TP1.1 of the clause to apply for the sole purpose of calculating interest on overdue accounts.
- 1.7. Notwithstanding any other provision of the contract, no payment shall be made to the Contractor unless and until, with respect to all parts of the Work in respect of which payment is claimed, the Contractor, where required to do so, establishes to the satisfaction of the Minister that such parts of the Work will be free from all claims, liens, attachments, charges or encumbrances.

TP2. Interest on Overdue Accounts

- 2.1. For the purposes of this clause:
 - (a) "average rate" means the simple arithmetic mean of the bank rates in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made, where the "bank rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association;
 - (b) "date of payment" means the date of the negotiable instrument drawn by the Receiver General for Canada and given for payment of an amount due and payable;
 - (c) an amount is "due and payable" when it is due and payable by Her Majesty to the Contractor in accordance with the terms of the contract; and
 - (d) an amount becomes "overdue" when it is unpaid on the first day following the day upon which it is due and payable.

- 2.2. Her Majesty shall be liable to pay to the Contractor simple interest at the average rate plus three (3) percent per annum on any amount that is overdue, from the date such amount becomes overdue until the day prior to the date of payment, inclusive. Interest shall be paid without notice from the Contractor except in respect of payment which is less than 15 days overdue. No interest will be payable or paid in respect of payment made within such 15 days unless the Contractor so requests after payment has become due.
- 2.3. Her Majesty shall not be liable to pay interest in accordance with this clause if Her Majesty is not responsible for the delay in paying the Contractor.
- 2.4. Her Majesty shall not be liable to pay interest on overdue advance payments.

TP3. Appropriation

- 3.1. In accordance with section 40 of the Canadian Financial Administration Act, payment under the Contract is subject to there being an appropriation for the particular service for the fiscal year in which any commitment hereunder would come in course of payment.

TP4. Travel and Living Expenses

Travel and Living expenses incurred by the Contractor are entirely subject to the content of the current Treasury Board Travel Directive (http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/tbm_113/td-dv-1_e.html) and the Treasury Board Secretariat Special Travel Authorities, Section 7, "Persons on contract" (http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/sta1_e.asp#_Toc6556472 and http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/TBM_113/STA_e.asp). **Travel and Living expenses are considered to be part of the total cost of the Contract.** Expenses which exceed the Directive will not be paid. Prior authorization from the Departmental Representative for projected Travel and Living expenses is required.

4.1. General

- 4.1.1. Travel and living expenses are to be claimed at actual cost but are not to exceed current Treasury Board Secretariat guidelines.
- 4.1.2. A statement indicating the names of travellers; places visited; dates and length of visits; and purpose of travel must be submitted with each claim for travel and living expenses.
- 4.1.3. Insurance for all methods of travel; accidents; illness; cancellations; immunizations; and other obligations are the sole responsibility of the Contractor.

4.2. Method of Transportation

- 4.2.1. **Air travel.** The standard for air travel is economy class only. Upgrades to Business or First class are the sole financial responsibility of the Contractor.
- 4.2.2. **Rail Travel.** The standard for rail travel is the next higher class after the full economy class.
- 4.2.3. **Rental vehicle.** The standard for rental vehicles is mid size. Vehicle rental must be pre-approved by the Departmental Representative.
- 4.2.4. **Private vehicle.** The Contractor may claim only for distances necessarily driven on government business, using the most direct, safe and practical road routes. The rate per kilometre which is payable is specified in the current Treasury Board Secretariat Travel Directive. Insurance is the responsibility of the Contractor. Health Canada will not assume responsibility for deductible amounts related to comprehensive or collision coverage.

4.3. Meal, accommodation, transportation and other allowances

- 4.3.1. For same day travel, with no overnight stay, the applicable meals allowance is paid, as specified in the

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- current Treasury Board Secretariat Travel Directive. Receipts are not required.
- 4.3.2. For same day travel, with no overnight stay, the applicable transportation allowance is paid, as specified in the current Treasury Board Secretariat Travel Directive. Original receipts are required.
- 4.3.3. For travel of two (2) or more consecutive days, the applicable meal allowances, and the incidental expenses allowances per day are paid, as specified in the current Treasury Board Secretariat Travel Directive. Receipts are not required.
- 4.3.4. For travel of two (2) or more consecutive days, the applicable travel and accommodation allowances per day are paid, as specified in the current Treasury Board Secretariat Travel Directive. Original receipts are required, except when private, non-commercial accommodation is used.
- 4.3.5. Meal allowances are not paid in respect of meals included in a fare (e.g. airplane or club-car ticket), or provided free of charge in a government mess, or included as part of the cost of an event or other function.
- 4.3.6. Professional fees, or similar equivalent costs cannot be claimed for travel time.
- 4.3.7. Original receipts and vouchers for accommodation and transportation are required to be submitted with each claim, except when private, non-commercial accommodation is used. Photocopies are not claimable.
- 4.3.8. Luxury accommodation is not permitted.
- 4.3.9. Entertainment is not an allowable expense.

SECTION “IV” – INTELLECTUAL PROPERTY OF CALL-UP

IP2. Crown to Own Intellectual Property Rights**2.1. Her Majesty to Own Intellectual Property Rights in Foreground Information**

1. Interpretation
2. Disclosure of Foreground Information
3. Her Majesty to Own Intellectual Property Rights in Foreground Information
4. License to Intellectual Property Rights in Background Information
5. Right to License
6. Access to Information; Exception to Contractor Rights
7. Waiver of Moral Rights

2.2. Interpretation

In the Contract,

- 2.2.1. “Background Information” means all Technical Information that is not Foreground Information and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other supplier of the Contractor;
- 2.2.2. “Firmware” means any computer program stored in integrated circuits, read-only memory or other similar devices;
- 2.2.3. “Foreground Information” means any Invention first conceived, developed or reduced to practice as part of the Work under the Contract and all other Technical Information conceived, developed or produced as part of the Work under the Contract;
- 2.2.4. “Intellectual Property Right” means any intellectual property right recognized by the law, including any intellectual property right protected through legislation (such as that governing patents, copyright, industrial design, integrated circuit topography, or plant breeders’ rights) or arising from protection of information as a trade secret or as confidential information;
- 2.2.5. “Invention” means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter, whether or not patentable;
- 2.2.6. “Software” means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or medium, and any computer database, and includes modifications to any of the foregoing;
- 2.2.7. “Technical Information” means all information of a scientific, technical or artistic nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright, including but not limited to any Inventions, designs, methods, processes, techniques, know-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, collections of information, manuals and any other documents, and Software. Technical Information does not include data concerned with the administration of the Contract by Her Majesty or the Contractor, such as internal financial or management information, unless it is a deliverable under the Contract.

2.3. Disclosure of Foreground Information

- 2.3.1. The Contractor shall promptly report and fully disclose to the Minister all Foreground Information that could be Inventions, and shall report and fully disclose to the Minister all other Foreground

Information not later than the time of completion of the Work or at such earlier time as the Minister or the Contractor may require.

- 2.3.2. Before and after final payment to the Contractor, the Minister shall have the right to examine all records and supporting data of the Contractor which the Minister reasonably deems pertinent to the identification of Foreground Information.

2.4. Her Majesty to Own Intellectual Property Rights in Foreground Information

- 2.4.1. Without affecting any Intellectual Property Rights or interests therein that have come into being prior to the Contract, all Intellectual Property Rights in the Foreground Information shall immediately, as soon as they come into existence, vest in and remain the property of Her Majesty. The Contractor shall have no right in or to any such Intellectual Property Rights in the Foreground Information except any right that may be granted in writing by Her Majesty.
- 2.4.2. The Contractor shall incorporate the copyright symbol and either of the following copyright notices, as appropriate, into all Foreground Information that is subject to copyright, regardless of the form in or medium upon which it is recorded:

© HER MAJESTY THE QUEEN IN RIGHT OF CANADA (year)

or

© SA MAJESTÉ LA REINE DU CHEF DU CANADA (année)

- 2.4.3. For greater certainty, the Contractor agrees that where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Her Majesty or personal information referred to in paragraph (ii), then the Contractor shall not use or disclose any such information or data or personal information for any purpose other than completing the Work under the Contract. The Contractor shall not dispose of such information or data or personal information except by returning it to Her Majesty. The Contractor shall comply with the General Conditions of the Contract in regard to maintaining the confidentiality of such information, data, or personal information. Unless the Contract otherwise expressly provides, the Contractor shall deliver to Her Majesty all such information, data, or personal information, together with every copy, draft, Working paper and note thereof that contains such information, data, or personal information upon completion or termination of the Contract or at such earlier time as the Minister may require.
 - (ii) For greater certainty and without limiting subsection 1.4.1, if the Work under the Contract involves the collection of personal information as that term is defined in the Privacy Act (R.S.C., c. P-21), then all Intellectual Property Rights in and title to that personal information shall, immediately upon the collection of it by the Contractor, vest in Her Majesty, and the Contractor shall have no right or interest in it.
- 2.4.4. The Contractor shall execute such conveyances or other documents relating to the Intellectual Property Rights in the Foreground Information as the

- Minister may require, and the Contractor shall, at Her Majesty's expense, afford that Minister all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.
- 2.5. ***License to Intellectual Property Rights in Contractor's Background Information***
- 2.5.1. Without restricting the scope of any licence to exercise the Intellectual Property Rights in the Background Information that Her Majesty may otherwise hold, the Contractor hereby grants to Her Majesty a non-exclusive, perpetual, irrevocable, world-wide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required for the following purposes:
- (a) for the use, operation, maintenance, repair or overhaul of the Work;
 - (b) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom part of the Work by Her Majesty if those parts are not reasonably available to enable timely maintenance, repair or overhaul;
 - (c) for disclosure to any Contractor engaged by Her Majesty (or bidder for such a contract) to be used solely for a purpose set out in paragraph (a) or (b), but only if the Contractor is unable or unwilling to carry out the maintenance, repair or overhaul or provide the spare parts on reasonable commercial terms and within reasonable delivery times;
- and the Contractor agrees to make any such Background Information (including, in the case of Software, source code) promptly available to Her Majesty for any such purpose.
- 2.5.2. Without restricting the scope of any licence to exercise the Intellectual Property Rights in the Background Information that Her Majesty may otherwise hold, the Contractor hereby further grants to Her Majesty a non-exclusive, perpetual, irrevocable, world-wide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in the Background Information incorporated into the Work or necessary for the performance of the Work as are necessary in order for Her Majesty to modify, improve or further develop the Foreground Information. Her Majesty's rights under this subsection 1.5.2 shall not include the right to reproduce the whole or part of any deliverable under the contract that does not incorporate Foreground Information, save that Her Majesty may reproduce any drawings, plans, designs, or other Background Information that are subject to copyright or industrial design protection, for purposes of modification, improvement or further development of the Foreground Information by or for Her Majesty. The Contractor agrees to make any such Background Information (including, in the case of Software, source code) promptly available to Her Majesty for any such purpose.
- 2.5.3. Notwithstanding subsections 1.5.1 and 1.5.2, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the contract.
- 2.5.4. The Contractor acknowledges that, subject to paragraph (c) of subsection 1.5.1, Her Majesty may wish to award contracts for any of the purposes contemplated in subsections 1.5.1 and 1.5.2 and that such contract awards may follow a competitive process. The Contractor agrees that Her Majesty's license in relation to the Intellectual Property Rights in Background Information includes the right to disclose the Background Information to bidders for such contracts, and to sub-license or otherwise authorize the use of that information by any Contractor engaged by Her Majesty solely for the purpose of carrying out such a contract. Her Majesty shall require bidders and the Contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.
- 2.5.5. Where the Intellectual Property Rights in any Background Information are owned by a subcontractor at any tier, the Contractor shall either obtain a license from that subcontractor that permits compliance with subsections 1.5.1 and 1.5.2 or arrange for the Subcontractor to convey directly to Her Majesty the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the subcontractor, no later than the time of disclosure to Her Majesty of that Background Information.
- 2.6. ***Right to License***
- 2.6.1. The Contractor represents and warrants that the Contractor has, or the Contractor undertakes to obtain, the right to grant to Her Majesty the license to exercise the Intellectual Property Rights in the Background Information as required by the contract.
- 2.7. ***Access to Information; Exception to Contractor Rights***
- 2.7.1. Subject to the Access to Information Act, R.S.C., c. A-1 and to any right of Her Majesty under the Contract, Her Majesty shall not release or disclose outside the Government of Her Majesty any Background Information delivered to Her Majesty under the Contract that is confidential information or a trade secret of the Contractor or a subcontractor.
- 2.7.2. Nothing in these terms and conditions shall be construed as limiting Her Majesty's right to exercise the Intellectual Property Rights in any Background Information, or to disclose any Background Information, to the extent that such information:
- (a) is or becomes in the public domain, or to the extent that the Contractor does not benefit from or ceases to benefit from any intellectual property rights protection for such information under legislation or at law (other than under the terms of the contract), for any reason including as a result of Her Majesty's use or disclosure of deliverables under the Contract for any purpose whatever that is not expressly excluded under the contract;
 - (b) is or becomes known to Her Majesty from source other than the Contractor, except from any source that is known to Her Majesty to be under an obligation to the Contractor not to disclose the information;
 - (c) is independently developed by or for Her Majesty; or
 - (d) is disclosed under compulsion of a legislative requirement or any order of a

court or other tribunal having jurisdiction.

2.8. *Waiver of Moral Rights*

- 2.8.1. The Contractor shall provide to Her Majesty, at the completion of the Work or at such other time as the Minister may require, a written permanent waiver of moral rights (as that term is defined in the Copyright Act, R.S.C., c. C-42), in a form acceptable to the Minister, from every author that contributed to any Foreground Information which is subject to copyright protection and which is deliverable to Her Majesty under the terms of the contract.
- 2.8.2. If the Contractor is an author of the Foreground Information referred to in subsection 2.8.1, the Contractor hereby permanently waives the Contractor's moral rights in that Foreground Information.

SECTION "VI" – CALL-UP AGAINST STANDING OFFER

Ship To:	Contractor: (INSERT FULL LEGAL NAME OF CONTRACTOR) (INSERT ADDRESS OF CONTRACTOR)
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TERMS AND CONDITIONS OF THE STANDING OFFER SHALL APPLY

Date:		
November 27, 2013		
Standing offer No.	Requisition No.	Financial Codes
Error! Reference source not found.	REQUISITION NUMBER	FINANCIAL CODES
Item #	Description	
Departmental Representative:		Delivery Required By:
Name of Departmental Representative Name of Position Name of Division Name of Branch 130 Colonade Rd. Ottawa, ON K1A 0K9 Telephone: Telephone # Fax: Fax # E-Mail: Email address		
Pursuant To Section 32 of the Financial Administration Act		FOR THE MINISTER _____ Signature _____ Print Name and Position

Standing Offer Number: Error! Reference source not found.

APPENDIX "A" – STATEMENT OF WORK (SOW)