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Gatineau, Québec
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**REQUEST FOR
PROPOSAL**

**DEMANDE DE
PROPOSITION**

Proposal to: Public Works and Government
Services Canada

We hereby offer to sell to Her Majesty the Queen
in right of Canada, in accordance with the terms
and conditions set out herein, referred or
attached hereto, the supplies and services listed
herein or on any attached sheets at the price(s)
set out therefore.

Propositions aux: Travaux publics et Services
gouvernementaux Canada

Nous offrons par la présente de vendre à sa
Majesté la Reine du chef du Canada, aux
conditions énoncées ou incluses par référence
dans la présente et aux annexes ci-jointes, les
articles et les services énumérés ici et sur toute
feuille ci-annexée, au(x) prix indiqué(s).

Comments - Commentaires

This document contains a security
requirement

Issuing Office - Bureau de distribution
Acquisitions Branch / Direction générale des
approvisionnements
Marine Systems and Small Vessels Sector
Major Projects Directorate – Sea
AJISS Project Office
Gatineau, Quebec

Title-Sujet Arctic Offshore Patrol Ship (AOPS) and Joint Support Ship (JSS) In-Service Support	
Solicitation No. - N° de l'invitation W8476-133818/C/B	Date July 8, 2016
Client Reference No. - N° de référence du client W8482-156698	
GETS Reference No. - N° de référence de SEAG PW-16-00738522	
Solicitation Closes – L'invitation prend fin October 25, 2016 at 14 :00	Time Zone / Fuseau horaire Eastern Daylight Time (EDT) Heure avancé de l'est
F.O.B. – F.A.B Plant-Usine : <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input type="checkbox"/>	
Address Enquiries to: - Adresser toutes questions à: Ryan Gigliotti	
Telephone No. - N° de téléphone NPEANSISES.AOPSJSSISS@tpsgc-pwgsc.gc.ca	FAX No. - N° de FAX
Destination of Goods, Services and Construction: Destinations des biens, services et construction : Specified Herein Précisé aux présentes	

Instructions : See Herein

Instructions : voir aux présentes

Delivery Required - Livraison exigée See Herein – voir aux présentes	Delivery Offered - Livraison proposée
Vendor/Firm Name and Address Raison sociale et adresse du fournisseur/de l'entrepreneur	
Telephone No. - N° de téléphone	
Facsimile No. - N° de télécopieur	
Name and title of person authorized to sign on behalf of Vendor/Firm (type or print) Nom et titre de la personne autorisée à signer au nom du fournisseur/de l'entrepreneur (taper ou écrire en caractères d'imprimerie)	
Signature	Date

THIS DOCUMENT CONTAINS A SECURITY REQUIREMENT

TABLE OF CONTENTS

1.1	INTRODUCTION.....	5
1.2	SUMMARY	5
1.3	LIST OF KNOWN ORIGINAL EQUIPMENT MANUFACTURERS/TIER 1 CONTRACTORS FOR THE AOPS	7
1.4	COMPANIES ASSISTING CANADA	7
1.5	CONSECUTIVE NEGOTIATIONS	8
1.6	DEBRIEFINGS	8
1.7	COMMUNICATIONS NOTIFICATION	8
PART 2 - BIDDER INSTRUCTIONS		8
2.1	STANDARD INSTRUCTIONS, CLAUSES AND CONDITIONS.....	8
2.2	SUBMISSION OF BIDS.....	9
2.3	FORMER PUBLIC SERVANT.....	9
2.4	ENQUIRIES - BID SOLICITATION.....	10
2.5	IMPROVEMENT OF REQUIREMENT DURING SOLICITATION PERIOD.....	10
2.6	APPLICABLE LAWS.....	11
2.7	OPTIONAL SITE VISIT.....	11
2.8	BASIS FOR CANADA'S OWNERSHIP OF INTELLECTUAL PROPERTY	11
PART 3 - BID PREPARATION INSTRUCTIONS.....		11
3.1	BID PREPARATION INSTRUCTIONS	11
3.2	SUBMISSION OF ONLY ONE BID AND JOINT VENTURE EXPERIENCE.....	12
3.3	SECTION I: TECHNICAL AND RELATIONAL BID	14
3.4	SECTION II: VALUE PROPOSITION	14
3.5	SECTION III: FINANCIAL BID.....	15
3.6	SECTION IV: CERTIFICATIONS.....	15
ATTACHMENT 1 TO PART 3 FINANCIAL BID PRESENTATION SHEET		16
PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION		17
4.1	EVALUATION PROCEDURES.....	17
4.2	PROCESS TO VERIFY SUBMISSION OF MANDATORY DOCUMENTS	17
4.3	TECHNICAL AND RELATIONAL EVALUATION METHODOLOGY	17
4.3.1	HOW IT WORKS	17
4.4	MANDATORY AND POINT RATED TECHNICAL CRITERIA.....	21
4.5	CANADA'S INDUSTRIAL AND TECHNOLOGICAL BENEFITS (ITB) OBJECTIVES	21
4.6	FINANCIAL EVALUATION.....	23
4.7	BASIS FOR THE RANKING OF BIDS –	24
4.8	CONSECUTIVE NEGOTIATION PROCESS	25
4.9	FAILURE TO ENTER INTO CONTRACT	26
4.10	NOTIFICATION TO OTHER BIDDERS.....	26
ATTACHMENT 1 TO PART 4		27
TABLE 1 -MANDATORY CRITERIA FOR THE BID		27
ITEM 1 – EVALUATION OF TECHNICAL ELEMENTS		29
ITEM 1A: TECHNICAL EXPERIENCE.....		30
ITEM 1B: TECHNICAL PLANS.....		36
ITEM 1C: TECHNICAL SCENARIOS		38
ATTACHMENT 2 TO PART 4		47
VALUE PROPOSITION MANDATORY AND POINT-RATED CRITERIA		47

PART 5 – CERTIFICATIONS	64
5.1 CERTIFICATIONS REQUIRED WITH THE BID.....	64
5.2 CERTIFICATIONS PRECEDENT TO CONTRACT AWARD AND ADDITIONAL INFORMATION.....	64
ATTACHMENT 1 TO PART 5	66
CERTIFICATION REQUIRED WITH THE BID.....	66
PART 6 - SECURITY, FINANCIAL AND OTHER REQUIREMENTS.....	67
6.1 SECURITY REQUIREMENTS	67
6.2 FINANCIAL CAPABILITY	67
6.3 CONTROLLED GOODS REQUIREMENT.....	69
6.4 INSURANCE REQUIREMENTS	70
PART 7 - RESULTING CONTRACT CLAUSES.....	71
7.1 REQUIREMENT	71
7.2 OPTIONAL GOODS AND/OR SERVICES	72
7.3 TASK AUTHORIZATION	72
7.4 STANDARD CLAUSES AND CONDITIONS.....	72
7.5 SECURITY REQUIREMENTS	72
7.6 CONTRACT PERIOD	74
7.7 AUTHORITIES	75
7.8 PAYMENT	77
7.9 INVOICING INSTRUCTIONS FOR PROGRESS PAYMENTS.....	79
7.10 ECONOMIC PRICE ADJUSTMENT – HOURLY RATES	80
7.11 COST SUBMISSION	81
7.12 DISCRETIONARY AUDIT	81
7.13 TIME VERIFICATION	82
7.14 COMPETITIVE SELECTION OF SUBCONTRACTORS.....	82
7.15 PRICE SUPPORT	83
7.16 CERTIFICATIONS	84
7.17 APPLICABLE LAWS.....	84
7.18 PRIORITY OF DOCUMENTS	84
7.19 DEFENCE CONTRACT	85
7.20 CANADIAN FORCES SITE REGULATIONS.....	85
7.21 FOREIGN NATIONALS - CANADIAN CONTRACTOR.....	85
7.22 INSURANCE REQUIREMENTS	85
7.23 CONTROLLED GOODS PROGRAM.....	86
7.24 LIMITATION OF LIABILITY.....	86
7.25 INSPECTION AND ACCEPTANCE.....	87
7.26 ISO 9001:2008 QUALITY MANAGEMENT SYSTEMS - REQUIREMENTS	88
7.27 CHANGES TO THE WORK.....	89
7.28 CARE, CUSTODY AND CONTROL	90
7.30 PRIORITY RATING - CANADIAN CONTRACTORS	91
7.31 T1204 – DIRECT REQUEST BY CUSTOMER DEPARTMENT.....	91
7.32 LIENS – SECTION 427 OF THE BANK ACT	91
7.33 CUSTOMS DUTIES - CONTRACTOR IMPORTER.....	92
7.34 DELIVERY OF DANGEROUS GOODS / HAZARDOUS PRODUCTS.....	92
7.35 WARRANTY	93
7.36 DISPUTES.....	93
7.37 CHANGES IN THE CONTRACTOR’S TEAM	93
7.38 BACKGROUND.....	95
ANNEX A	96

PERFORMANCE WORK STATEMENT	96
ANNEX B	97
BASIS OF PAYMENT	97
ANNEX C	106
SECURITY REQUIREMENTS CHECK LIST	106
ANNEX D	108
2035 GENERAL CONDITIONS	108
ANNEX E	125
SUPPLEMENTARY GENERAL CONDITIONS	125
4002 SOFTWARE DEVELOPMENT OR MODIFICATION SERVICES	128
4003 LICENSED SOFTWARE	134
4004 MAINTENANCE AND SUPPORT SERVICES FOR LICENSED SOFTWARE	140
4007 INTELLECTUAL PROPERTY	144
ANNEX F	150
TERMS OF MEDIATION	150
ANNEX G	152
FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY – CERTIFICATION	152
ANNEX H	153
INSURANCE REQUIREMENTS	153
ANNEX I	158
EMERGENT WORK - TASK AUTHORIZATION PROCESS AND DND 626 FORM	158
ANNEX J	164
CARE AND CUSTODY FORMS	164
CARE AND CUSTODY CERTIFICATES	165
166	
ANNEX K	167
ITB TERMS AND CONDITIONS	167
ANNEX L	200
WARRANTY PROCEDURES	200
ANNEX M	203
JOINT SUPPORT SHIP END USE CERTIFICATE	203
ANNEX N	204
IT SECURITY GUIDE	204
REFERENCE DOCUMENTS	205
1031-2 CONTRACT COST PRINCIPLES	205
RELATIONSHIP CHARTER	208

PART 1 - GENERAL INFORMATION

1.1 Introduction

The bid solicitation is divided into seven parts plus attachments and annexes, as follows:

- Part 1 General Information: provides a general description of the requirement;
- Part 2 Bidder Instructions: provides the instructions, clauses and conditions applicable to the bid solicitation;
- Part 3 Bid Preparation Instructions: provides Bidders with instructions on how to prepare their bid;
- Part 4 Evaluation Procedures and Basis of Selection: indicates how the evaluation will be conducted, the evaluation criteria that must be addressed in the bid, and the basis of selection;
- Part 5 Certifications: includes the certifications to be provided;
- Part 6 Security, Financial and Other Requirements: includes specific requirements that must be addressed by Bidders; and
- Part 7 Resulting Contract Clauses: includes the clauses and conditions that will apply to any resulting contract.

The Annexes include the Performance Work Statement, the Basis of Payment, Security Requirements, the Security Requirements Checklist, and the Federal Contractors Program for Employment Equity - Certification, the Insurance Requirements, the DND 626 Task Authorization Form and any other annexes identified in the Table of Contents.

1.2 Summary

- a) The contract consists of the provision of in-service support to the Royal Canadian Navy (RCN) for two new classes of naval ships that include the Arctic Offshore Patrol Ships (AOPS) and the Joint Support Ships (JSS).
- b) The In-Service Support work will include: program management, life cycle materiel management, management of all contracted services, logistics, design and engineering, quality management, training, preventative and corrective maintenance, management of spares, vessel enhancement, and equipment and platform disposal.
- c) The estimated value of the Work for the initial period of the Contract is in the range of: \$650 million to \$ 800 million. The estimated value of the total potential contract that would include exercise of all possible option years to 35 years from contract award is \$5.2 billion dollars. These values are provided for information purposes only and must not be interpreted as a commitment by Canada to authorize any work up to this value.
- d) Options to the contract to be exercised at the sole discretion of Canada are:
 - i. Provision of in-service support to other DND vessels that deliver similar operational capabilities to the RCN. If this option is exercised by Canada, the scope and cost of the services will be negotiated and added to the contract by amendment
 - ii. Contractor ownership of spares and material. If this option is exercised by Canada the Basis and Method of Payment for spares and material will be negotiated between Canada and the Contractor and added to the contract by amendment.

- e) The In-Service Support Contractor will be responsible for arranging and performing the disposal of ship spares and the platforms at their end of service life in accordance with the Defence Production Act, as well as Financial Administration Act, ITAR/CTAT, and Environmental/Hazardous Material Regulations.
- f) The initial contract period is 8 (eight) years from date of contract award to _____.
- g) Canada may exercise, at its sole discretion, optional contract extensions. The option years are one year in length and one or multiple optional extensions can be exercised at any time. The potential contract duration may be 35 (thirty-five) years plus an estimated two-year close-out period whichever period is greater.
- h) The Contract is performance-based. Without in any way limiting Canada's discretion to exercise any option, the exercise of the optional contract extensions identified in g) above will be conditional on Canada's operational requirements and fiscal capabilities, and on the Contractor's ability to meet mutually agreed performance indicators.
- i) The Canadian Shipbuilding Policy and the Shipbuilding, Repair, Refit and Modernization sections in the Supply Manual 3.170 (<https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/3/170>) will apply. In accordance with the Canadian Shipbuilding section all work must be done in Canada, unless specifically authorized otherwise by Canada, with the exception of work that may be carried out on equipment fitted to the AOPS and JSS at the original equipment manufacturers plant, or work that may be carried out by the Contractor while a ship is on deployed operations.
- j) There are security requirements associated with this requirement. For additional information, consult Part 6 - Security, Financial and Other Requirements, and Part 7 - Resulting Contract Clauses. For more information on personnel and organization security screening or security clauses, Bidders should refer to the Industrial Security Program (ISP) of Public Works and Government Services Canada (<http://ssi-iss.tpsgc-pwgsc.gc.ca/index-eng.html>) website.
- k) There will be site visits associated with this solicitation where personnel security screening is required prior to gaining access to the sites. Refer to "Part 2 – Bidder Instructions" of this RFP for additional information on the site visits.
- l) In accordance with the Integrity Provisions under section 01 of Standard Instructions 2003 Bidders must provide;
 - i. All information required by the Ineligibility and Suspension Policy described under the heading "Information to be provided when Bidding, Contracting or Entering into a Real Property Agreement", Prior to the completion of bid evaluation; and
 - ii. with its bid, a complete list of all foreign criminal charges and convictions pertaining to itself, its affiliates and its proposed first tier subcontractors that, to the best of its knowledge and belief, may be similar to one of the listed offences in the Policy. The list of foreign criminal charges and convictions must be submitted using an Integrity Declaration Form, which can be found at Declaration form for procurement. Refer to section 4.21 of the Supply Manual for additional information on the Integrity Provisions.
- m) The national security exceptions provided for in the trade agreements have been invoked; therefore, this procurement is excluded from the obligations of all the trade agreements.
- n) Value Proposition: The Industrial and Technological Benefits (ITB) policy will apply to this procurement. The ITB policy is administered by Innovation, Science and Economic Development Canada with assistance from the regional development agencies. To obtain information about Canada's ITB policy, visit: <http://www.ic.gc.ca/eic/site/086.nsf/eng/home>;

- n) Controlled Goods Program: The *Defence production Act* defines Canadian Controlled Goods as certain goods listed in Canada's Export Control List, a regulation made pursuant to the Export and Import Permits Act (EIPA). This procurement is subject to the Controlled Goods Program. For further information on the CGP, visit: <http://ssi-iss.tpsgc-pwgsc.gc.ca/dmc-cgd/index-eng.html>;
- o) Since AOPS and JSS may operate anywhere within Canadian territorial waters, the location of where deployed repair services, if any, may be required is unknown at this time but could occur anywhere in Canadian Arctic waters or globally. Repair work required within Canadian territorial waters may be subject to the following Comprehensive Land Claims Agreements (CLCAs):
- Labrador Inuit Land Claims Agreement
 - Nunavut Land Claims Agreement
 - James Bay and Northern Quebec Agreement and the
 - Inuvialuit Final Agreement
- The Contractor who is awarded a contract for AJISS will be required to make its best efforts to use the applicable CLCA business lists to source and procure any goods and/or services necessary for in-service support work in the Arctic and will, to the extent possible, employ CLCA beneficiary people for the required labour.
- p) Canada has engaged an Independent Fairness Monitor for this procurement. The Fairness Monitor will provide formal oversight and independent validation of the fairness of the procurement process. The Fairness Monitor will submit its final report to Canada, which will be made public. Fairness Monitor Reports may be viewed at: <http://www.tpsgc-pwgsc.gc.ca/se-fm/index-eng.html>
- q) The Federal Contractors Program (FCP) for employment equity applies to this procurement; see Part 5 - Certifications, Part 7 - Resulting Contract Clauses and Annex "G" entitled Federal Contractor's Program for Employment Equity – Certification.
- r) The resulting contract will be managed as a relational contract. The aim of relational contracting is to establish common goals and joint governance, encourage collaboration, and streamline processes.

1.3 List of known Original Equipment Manufacturers/Tier 1 Contractors for the AOPS

Lockheed Martin Canada – Command and Surveillance System (C&SS)
 General Electric – Integrated Electric Propulsion and Power (IEPP)
 Fleetway Inc. – Integrated Logistics Support (ILS)
 L-3 MAPPS – Integrated Platform Management System (IPMS)
 BAE Systems – 25mm Gun
 Odense Maritime Technology – Design Agent
 Bronswerk- Heating, ventilation, air conditioning (HVAC) and refrigeration
 Seimans – Low voltage switchboard
 Rolls Royce – Fin stabilizers and steering

List of Original Equipment Manufacturers/Tier 1 Contractors for the Joint Support Ships (TBD)

1.4 Companies Assisting Canada

The following list provides the names of private sector consultants that have assisted Canada during the preparation of this RFP. Bidders are advised that the use of these consultants by a Bidder in their preparation of an AJISS Bid may result in a Conflict of Interest/Unfair Advantage in accordance with Standard Instructions, 2003 18 (2012-03-02).

Pennant Canada Limited (Ottawa)
Weir Canada Inc (Montreal)
Sampson and Associates (Ottawa)

1.5 Consecutive Negotiations

- a) The RFP process described herein is intended to identify the highest ranked responsive Bidder who will then be selected to negotiate the financial aspects of the proposed contract with Canada. The financial aspects to be negotiated are the level of effort and schedule of milestone payments for management of the services during the Start-Up Phase, and on the Limitation of Expenditure for the initial contract period. Refer to Part 4 herein for additional information on the consecutive negotiation process.
- b) By submitting a proposal in response to this solicitation, a Bidder agrees to this negotiated process. Neither the issuance of this RFP nor the submission of a proposal in response to it implies any obligation by Canada to enter into contract. The intent of this RFP is to identify a Bidder with whom a final agreement may be negotiated.

1.6 Debriefings

Bidders may request a debriefing on the results of the bid solicitation process. Bidders should make the request to the Contracting Authority within 15 working days from notification by the Contracting Authority that Canada has invited the highest ranked responsive Bidder as the party with whom we will negotiate a contract. The debriefing may be in writing, by telephone or in person.

1.7 Communications Notification

The successful Contractor must notify the Contracting Authority in advance of its intention to make public an announcement related to the award of a contract for AOPS and JSS In-Service Support.

PART 2 - BIDDER INSTRUCTIONS

2.1 Standard Instructions, Clauses and Conditions

- a) All instructions, clauses and conditions identified in the bid solicitation by number, date and title are set out in the *Standard Acquisition Clauses and Conditions Manual* (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.
- b) Bidders who submit a bid agree to be bound by the instructions, clauses and conditions of the bid solicitation and accept the clauses and conditions of the resulting contract.
- c) The 2003 2016-04-04 Standard Instructions - Goods or Services - Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.
- d) Subsection 5.4 of 2003, Standard Instructions - Goods or Services - Competitive Requirements, is amended as follows:
 - i. Delete: 60 days
 - ii. Insert: 475 days

2.2 Submission of Bids

- a) Bids must be submitted only to Public Works and Government Services Canada (PWGSC) Bid Receiving Unit by the date, time and place indicated on page 1 of the bid solicitation.
- b) Due to the nature of the bid solicitation, bids transmitted by facsimile to PWGSC will not be accepted.

2.3 Former Public Servant

Contracts awarded to former public servants (FPS) in receipt of a pension or of a lump sum payment must bear the closest public scrutiny, and reflect fairness in the spending of public funds. In order to comply with Treasury Board policies and directives on contracts awarded to FPSs, Bidders must provide the information required below before contract award. If the answer to the questions and, as applicable the information required have not been received by the time the evaluation of bids is completed, Canada will inform the Bidder of a time frame within which to provide the information. Failure to comply with Canada's request and meet the requirement within the prescribed time frame will render the bid non-responsive.

2.3.1 Definitions

- a) For the purposes of this clause, "former public servant" is any former member of a department as defined in the Financial Administration Act, R.S., 1985, c. F-11, a former member of the Canadian Armed Forces or a former member of the Royal Canadian Mounted Police. A former public servant may be:
 - i. an individual;
 - ii. an individual who has incorporated;
 - iii. a partnership made of former public servants; or
 - iv. a sole proprietorship or entity where the affected individual has a controlling or major interest in the entity.
- b) "lump sum payment period" means the period measured in weeks of salary, for which payment has been made to facilitate the transition to retirement or to other employment as a result of the implementation of various programs to reduce the size of the Public Service. The lump sum payment period does not include the period of severance pay, which is measured in a like manner.
- c) "pension" means a pension or annual allowance paid under the Public Service Superannuation Act (PSSA), R.S., 1985, c. P-36, and any increases paid pursuant to the Supplementary Retirement Benefits Act, R.S., 1985, c. S-24 as it affects the PSSA. It does not include pensions payable pursuant to the Canadian Forces Superannuation Act, R.S., 1985, c. C-17, the Defence Services Pension Continuation Act, 1970, c. D-3, the Royal Canadian Mounted Police Pension Continuation Act, 1970, c. R-10, and the Royal Canadian Mounted Police Superannuation Act, R.S., 1985, c. R-11, the Members of Parliament Retiring Allowances Act, R.S. 1985, c. M-5, and that portion of pension payable to the Canada Pension Plan Act, R.S., 1985, c. C-8.

2.3.2 Former Public Servant in Receipt of a Pension

- a) As per the above definitions, is the Bidder a FPS in receipt of a pension? **Yes () No ()**
- b) If so, the Bidder must provide the following information, for all FPSs in receipt of a pension, as applicable:
 - i. name of former public servant;
 - ii. date of termination of employment or retirement from the Public Service.

- c) By providing this information, Bidders agree that the successful Bidder's status, with respect to being a former public servant in receipt of a pension, will be reported on departmental websites as part of the published proactive disclosure reports in accordance with Contracting Policy Notice: 2012-2 and the Guidelines on the Proactive Disclosure of Contracts.

2.3.3 Work Force Adjustment Directive

- a) Is the Bidder a FPS who received a lump sum payment pursuant to the terms of the Work Force Adjustment Directive? **Yes () No ()**
- b) If so, the Bidder must provide the following information:
 - i. name of former public servant;
 - ii. conditions of the lump sum payment incentive;
 - iii. date of termination of employment;
 - iv. amount of lump sum payment;
 - v. rate of pay on which lump sum payment is based;
 - vi. period of lump sum payment including start date, end date and number of weeks;
 - vii. number and amount (professional fees) of other contracts subject to the restrictions of a work force adjustment program.
- c) For all contracts awarded during the lump sum payment period, the total amount of fees that may be paid to a FPS who received a lump sum payment is \$5,000, including Applicable Taxes.

2.4 Enquiries - Bid Solicitation

- a) All enquiries must be submitted in writing to the Contracting Officer no later than 7 (seven) calendar days before the bid closing date. Enquiries received after that time may not be answered.
- b) Bidders should reference as accurately as possible the numbered item of the bid solicitation to which the enquiry relates. Care should be taken by Bidders 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 question(s) or may request that the Bidder do so, so that the proprietary nature of the question(s) is eliminated and the enquiry can be answered to all Bidders. Enquiries not submitted in a form that can be distributed to all Bidders may not be answered by Canada.
- c) All enquiries and other communications related to this RFP must be directed to the PWGSC Contracting Officer:

Ryan Gigliotti
Public Works and Government Services Canada
Acquisitions Branch, Marine Sector
E-mail: ryan.gigliotti@tpsgc-pwgsc.gc.ca

2.5 Improvement of Requirement during Solicitation Period

Should Bidders consider that Annex A - *Performance Work Statement* contained in the bid solicitation could be improved technically or technologically, Bidders are invited to make suggestions, in writing, to the Contracting Officer named in the bid solicitation. Bidders must clearly outline the suggested improvement as well as the reason for the suggestion. Suggestions that do not restrict the level of competition nor favour a particular Bidder will be given consideration provided they are submitted to the PWGSC Contracting Officer at least 30 days before the bid closing date. Canada will have the right to accept or reject any or all suggestions.

2.6 Applicable Laws

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

2.7 Optional Site Visit

- a) It is recommended that the Bidder, or a representative of the Bidder, visit the work sites in Esquimalt, British Columbia and Halifax, Nova Scotia. Arrangements have been made for the site visits as follows:
 - i. Esquimalt, British Columbia: to be held on 13 September 2016. The site visit will begin at 0900 local time at HMC Dockyard Security Check Point Main Gate and will be followed by a Bidder's Conference.
 - ii. Halifax, Nova Scotia: to be held on 15 September 2016. The site visit will begin at 0900 local time; at HMC Dockyard Security Check Point Rainbow Gate.
- b) Personnel security screening is required prior to gaining authorized access to PROTECTED sites. The Bidder's Company Security Officer (CSO) must ensure that their representative(s) hold a valid security clearance at the required level for the site visit. Failure to comply with the security requirements will result in the representative(s) being denied access to the site. Visit Clearance Requests (VCR) may take up to ten (10) weeks for approval.
- c) Bidders must communicate with the Contracting Officer by close of business on July 22, 2016 to confirm attendance and provide the name(s) of the person(s) holding a valid security clearance at the required level, who will attend. Bidders who do not confirm attendance and who do not provide the name(s) of the person(s) who will attend as required will not be allowed access to the site. Bidders will be requested to sign an attendance sheet. No alternative appointment will be given to Bidders who do not attend or do not send a representative. Bidders who do not participate in the visit will not be precluded from submitting a bid. Any clarifications or changes to the bid solicitation resulting from the site visits will be included as an amendment to the bid solicitation.

2.8 Basis for Canada's Ownership of Intellectual Property

- a) The **Department of National Defence** has determined that any intellectual property rights arising from the performance of the Work under the resulting AJISS contract will belong to Canada, for the following reasons, as set out in the *Policy on Title to Intellectual Property Arising Under Crown Procurement Contracts*:
 - i. national security;
 - ii. statutes, regulations or prior obligations of Canada to a third party or parties preclude Contractor ownership of the Intellectual Property Rights in Foreground Information;

PART 3 - BID PREPARATION INSTRUCTIONS

3.1 Bid Preparation Instructions

- a) Canada requests that Bidders provide their bid in separately bound sections as follows:

Section I: Technical Bid with the Relational Contracting response (5 hard copies and 5 soft copies on CD or DVD)

Section II: Value Proposition (6 hard copies and 6 CD or DVD format soft copies)

Section III: Financial Bid (2 hard copies) and 1 soft copy on CD or DVD.

Section IV: Certifications (2 hard copies) and 1 soft copy on CD or DVD.

- b) If there is a discrepancy between the wording of the soft copy and the hard copy, the wording of the hard copy (Master Proposal Set) will have priority over the wording of the soft copy. However, if whole sentences, paragraphs or pages are missing from the hard copy but found in the soft copy, the Bidder will be asked if the sentences, paragraphs or pages should be considered in the evaluation. If the response is affirmative, the sentences, paragraphs, or pages found in the soft copy but not the hard copy will be considered in the evaluation.
- c) Prices must appear in the financial bid only. No prices must be indicated in any other section of the bid.
- d) Canada requests that Bidders follow the format instructions described below in the preparation of their bid:
 - i. Paper size - 8.5" x 11" (metric equivalent A4) OR as indicated
 - ii. Minimum Point size - 11 point TIMES or equal
 - iii. Margins - 25mm (1") left, 19mm (3/4") top, 12mm (1/2") right and bottom
 - iv. Double-sided pages will count as two (2) pages
 - v. Paper size (foldout) - 11"x 17" (metric equivalent A3) or as indicated, single-sided, pages will count as two (2) pages".
- e) In April 2006, Canada issued a policy directing federal departments and agencies to take the necessary steps to incorporate environmental considerations into the procurement process Policy on Green Procurement (<http://www.tpsgc-pwgsc.gc.ca/ecologisation-greening/achats-procurement/politique-policy-eng.html>). To assist Canada in reaching its objectives, Bidders should:
 - i. use 8.5 x 11 inch (216 mm x 279 mm) paper containing fiber certified as originating from a sustainably-managed forest and containing minimum 30% recycled content; and
 - ii. use an environmentally-preferable format including black and white printing instead of colour printing, printing double sided/duplex, using staples or clips instead of cerlox, duotangs or binders.

3.2 Submission of Only One Bid and Joint Venture Experience

3.2.1 Submission of Only One Bid:

- a) A Bidder, including related entities, will be permitted to submit only one bid in response to this bid solicitation. If a Bidder or any related entities participate in more than one bid (participating means being part of the Bidder, not being a subcontractor), Canada will provide those Bidders with two working days to identify the single bid to be considered by Canada. Failure to meet this deadline will result in all the affected bids being disqualified.
- b) For the purposes of this Article, regardless of the jurisdiction where any of the entities concerned is incorporated or otherwise formed as a matter of law (whether that entity is a natural person, corporation, partnership, etc.), an entity will be considered to be "**related**" to a Bidder if:

- i. they are the same legal entity (i.e., the same natural person, corporation, partnership, limited liability partnership, etc.);
 - ii. they are "related persons" or "affiliated persons" according to the *Canada Income Tax Act*;
 - iii. the entities have now or in the two years before bid closing had a fiduciary relationship with one another (either as a result of an agency arrangement or any other form of fiduciary relationship); or
 - iv. the entities otherwise do not deal with one another at arm's length, or each of them does not deal at arm's length with the same third party.
- c) Individual members of a joint venture cannot participate in another bid, either by submitting a bid alone or by participating in another joint venture.

3.2.2 Joint Venture Experience:

- a) Where the Bidder is a joint venture with existing experience as that joint venture, it may submit the experience that it has obtained as that joint venture.

Example: A Bidder is a joint venture consisting of members L and O. A bid solicitation requires that the Bidder demonstrate experience providing maintenance and support services for a period of 24 months to a customer with a fleet of at least 10 vessels. As a joint venture (consisting of members L and O), the Bidder has previously done the work. This Bidder can use this experience to meet the requirement. If member L obtained this experience while in a joint venture with a third party N, however, that experience cannot be used because the third party N is not part of the joint venture that is bidding.

- b) A joint venture Bidder may rely on the experience of one of its members to meet any evaluated Technical, Relational and Value Proposition criterion of this bid solicitation.

Example: A Bidder is a joint venture consisting of members X, Y and Z. If a solicitation requires: (a) that the Bidder have 3 years of experience providing maintenance service, and (b) that the Bidder have 2 years of experience integrating hardware with complex systems, then each of these two requirements can be met by a different member of the joint venture. However, for a single criterion, such as the requirement for 3 years of experience providing maintenance services, the Bidder cannot indicate that each of members X, Y and Z has one year of experience, totaling 3 years. Such a response would be declared non-responsive.

- c) Joint venture members cannot pool their abilities with other joint venture members to satisfy a single technical criterion of this bid solicitation. However, a joint venture member can pool its individual experience with the experience of the joint venture itself. Wherever substantiation of a criterion is required, the Bidder is requested to indicate which joint venture member satisfies the requirement. If the Bidder has not identified which joint venture member satisfies the requirement, the Contracting Authority will provide an opportunity to the Bidder to submit this information during the evaluation period. If the Bidder does not submit this information within the period set by the Contracting Authority, its bid will be declared non-responsive.

Example: A Bidder is a joint venture consisting of members A and B. If a bid solicitation requires that the Bidder demonstrate experience providing resources for a minimum number of 100 billable days, the Bidder may demonstrate that experience by submitting either:

- i. Contracts all signed by A;
- ii. Contracts all signed by B; or
- iii. Contracts all signed by A and B in joint venture, or

- iv. Contracts signed by A and contracts signed by A and B in joint venture, or
- v. Contracts signed by B and contracts signed by A and B in joint venture.

That show in total 100 billable days.

- d) Any Bidder with questions regarding the way in which a joint venture bid will be evaluated should raise such questions through the Enquiries process as early as possible during the bid solicitation period.

3.3 Section I: Technical and Relational Bid

3.3.1 For bid evaluation purposes and the preparation of proposals the Bidder should make the following assumptions:

- a) Bidders should assume that the two coastal Fleet Maintenance Facilities, FMF Cape Breton and FMF Cape Scott are able to provide dockside services, such as cranes and forklifts. See ANNEX A, Appendix J & T for more information on the two Coastal FMF capabilities.
- b) Bidders should assume a Contractor Held Inventory model of supply support.

3.3.2 In their technical bid, which includes the relational contracting response; Bidders should demonstrate their understanding of the requirements contained in the bid solicitation and explain how they will meet these requirements. Bidders should demonstrate their capability and describe their approach in a thorough, concise and clear manner for carrying out the work.

3.3.3 The technical bid and relational contracting response should address clearly and in sufficient depth the points that are subject to the evaluation criteria against which the bid will be evaluated. Simply repeating the statement contained in the bid solicitation is not sufficient. In order to facilitate the evaluation of the bid, Canada requests that Bidders address and present topics in the order of the evaluation criteria under the same headings. To avoid duplication, Bidders may refer to different sections of their bids by identifying the specific paragraph and page number where the subject topic has already been addressed.

3.4 Section II: Value Proposition

3.4.1 On February 5, 2014, the Government of Canada announced the Defence Procurement Strategy (DPS). One of the objectives of the DPS is to leverage purchases of defence equipment to create jobs and economic growth in Canada. The Industrial and Technological Benefits (ITB) policy has objectives that will be achieved through a weighted and rated Value Proposition (VP) that will form part of the evaluation plan to award the Contract.

3.4.2 The strategic objective for the AJISS project is to optimize growth in existing and nascent capabilities in the Marine In-Service Support Sector, positioning Canadian Companies to support naval and commercial vessels. This objective has been informed by extensive industry engagement and consultation, as well as by in-depth analysis of capabilities related to the procurement.

3.4.3 The Bidder must submit a responsive VP Proposal (Proposal) at bid closing. The Proposal will be deemed responsive by the ITB Authority if it meets i) the Value Proposition Mandatory Requirements outlined in Attachment 2 to Part 4, Section 2; and ii) the Minimum Assessment Values outlined in Attachment 2 to Part 4, Section 4. Should the Proposal be deemed responsive, it will then be evaluated related to the rated criteria outlined in Attachment 2 to Part 4, Section 5 and receive points as outlined in Attachment 2 to Part 4, Section 6.

3.4.4 Proposal evaluation results will be conveyed to the Contracting Authority, who will then integrate them into the overall bid evaluation results.

- 3.4.5** It is the responsibility of the ITB Authority, in cooperation with the regional development agencies and subject matter experts, to ensure that Proposals are evaluated as outlined in Attachment 2 to Part 4, Section 6.
- 3.4.6** In preparing its Proposal, the Bidder should be guided by these Bidder Instructions, as well as by Attachment 2 to Part 4 and Annex K, all of which provide important guidance, definitions and/or contractual provisions related to the ITB policy. Unless otherwise specified, all capitalized terms related to the Proposal are defined in Annex K, ITB Terms and Conditions.
- 3.4.7** Only the Proposal is reviewed during the evaluation. In order to facilitate the evaluation process, any material contained in another section of the bid but relevant to the Proposal should be repeated in the Proposal.
- 3.4.8** The Proposal and its receipt, storage and protection by the ITB Authority, is governed by applicable federal laws and processes.

3.5 Section III: Financial Bid

- 3.5.1** Bidders must submit their Financial Bids in accordance with 2003 2016-04-04 Standard Instructions – Goods or Services – Competitive Requirements and the Financial Bid Presentation Sheet – Attachment 1 to Part 3.
- 3.5.2** Financial Bid Presentation Sheet – Attachment 1 to Part 3 – Financial Bid. Bidders must provide in Item 1 of the *Financial Bid Presentation Sheet* a fully loaded labour rate for each personnel category in accordance with the Definitions of Personnel Categories specified in Annex A, Performance Work Statement, Appendix S The fully loaded labour rates must include direct labour, overhead in accordance with Annex B Basis of Payment, Article 1, General and Administrative Costs and profit. The omission of a quoted rate for a personnel category or a nil bid for any category on the Financial Bid Presentation Sheet, whether personnel category or emergent work mark-up, will be treated as a \$0.00 bid. If the bid is successful, all subsequent work undertaken by that personnel category or within the emergent work threshold will be carried out by the Contractor at the quoted \$0.00 rate for the duration of the contract.
- 3.5.3** Bidders must provide in Item 2 - *Margins on Material/Subcontractor Cost for Emergent Work of the Financial Bid Presentation Sheet*- an overhead and profit percentage for Material/Subcontractor for each cost range. The quoted mark-ups will be applied to the entire value of each of the individual task authorizations DND 626's generated for Emergent work in the first four years of the contract.
- 3.5.4** Rates quoted must be in Canadian dollars, Goods and Services Tax or Harmonized Sales Tax excluded, Canadian customs duties and excise taxes included.
- 3.5.5** When preparing the financial bid, Bidders should review PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

3.6 Section IV: Certifications

Bidders must submit the certifications required in Part 5.

Attachment 1 to Part 3 Financial Bid Presentation Sheet

See Attached Excel Spreadsheet – Financial Bid Presentation Sheet

PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

4.1 Evaluation Procedures

Bids will be assessed in accordance with the entire requirement of the bid solicitation including the technical bid and relational contracting response, the value proposition, and the financial bid. For the purposes of this solicitation, Canada will utilize a two-step bid evaluation process as more fully described herein.

An evaluation team composed of representatives of Canada will evaluate the bids

4.2 Process to Verify Submission of Mandatory Documents

4.2.1 Step 1: Initial Review

- a) Canada will conduct an initial review of each Bidder's proposal to determine if the mandatory documents that are required to be part of the Bid have been submitted. This review will serve only to verify that these documents have been submitted in the Bid. This document review and verification will not evaluate or otherwise consider the content of the documents themselves or aspects of the Bid that will be the subject of evaluation
- a) After this initial review the Contracting Authority will forward a Bid Submission Report to each Bidder electronically that will identify the missing mandatory documents, if any. This Report will include a list of the missing documents and the reference in the RFP that identifies the requirement. Bidders that have not included all the documents required with the Bid will be invited to forward the missing documents electronically to the email address specified in Canada's notice by 5:00 PM EST on the second full business day following the date upon which Canada's notice was sent.

4.2.2 Step 2: Final Review of Mandatory Requirements

After the 2 (two) business day period has elapsed, Canada will conduct a final review of each Bidder's proposal, taking into account any missing documents forwarded by email in accordance with Step 1 to determine if all mandatory documents have been provided as specified in the RFP. Should one or more of the mandatory documents continue to be missing, the Bid will be declared non-compliant and will not be given further consideration. Proposals for which submission of all mandatory documents has been verified at the conclusion of the final review will continue to the evaluation.

4.3 Technical and Relational Evaluation Methodology

Technical and Relational Areas will be Evaluated using the Analytical Hierarchy Process described below:

4.3.1 How It Works

The AHP assesses the bidders' responses to the assessment criteria for each element. The process compares one element at a time for all Bidders in a pairwise fashion (e.g. Bidder A's response to element #1 is better than Bidder B's response to element #1, Bidder A's response to element #1 is slightly worse than Bidder C's response to element #1) Using the pre-selected preference scale (see Attachment 1 to Part 4 Item 1) values are assigned to the evaluator's assessment on the quality of all responses to that element. This data is entered into a calculator spreadsheet which results in a point value for that element for each Bidder based on the evaluator's assessment of the responses (see spreadsheet calculator in Annex____.)

4.3.2. Example

- a) In this example, a school is evaluating which of four (4) companies that provide photocopiers should be selected for the school. As the four photocopiers are comparative in features and capabilities, the school

has decided to evaluate the technical portion of the bid based on experience, warranty length and service response time. The school has also determined the relative importance of the three criteria and will assign a weighting factor of 400 for experience, 300 for warranty length and 200 for service response time. The financial bid is handled separately and will receive the remaining 100 points out of 1000.

b) The proposals are as follows:

- i. Photocopier A Experience 3 contracts (most recent this year)
Warranty Length: 24 months
Response Time: within 2 hours
- ii. Photocopier B: Experience: 10 contracts (most recent last year)
Warranty Length: 24 months
Response Time: within 6 hours
- iii. Photocopier C: Experience: 5 contracts (most recent 2 years ago)
Warranty Length: 30 months
Response Time: within 4 hours
- iv. Photocopier D: Experience: 12 contracts (most recent 5 years)
Warranty Length: 18 months
Response Time: within 2 hours

c) The school is utilizing a pre-selected preference scale of:

Worse	=	1 / 7
Slightly Worse	=	1 / 3
As Good	=	1
Slightly Better	=	3
Better	=	7

d) To determine the score of each alternative (i.e.: each photocopier) a pairwise comparison is conducted for each criteria (Experience, Warranty and Response Time)

4.3.2.1. Experience

a) The school has identified two assessment factors to measure experience:

- i. Number of contracts (total in past ten (10) years)
- ii. Most recent contract completed

b) Each assessment factor is considered with the same importance. After considering each assessment factor separately, the evaluators reach an overall consensus based on the number of relative strengths and weaknesses across assessment factors for the experience criterion.

c) When comparing A to B:

- i. Comparing number of contracts: A (three (3) contracts) is worse than B (ten (10) contracts)
- ii. Comparing recent experience: A (this year) is slightly better than B (last year)

d) A is overall considered slightly worse than B

e) When comparing A to C:

- i. Comparing number of contracts: A (3 contracts) is slightly worse than C (5 contracts)
- ii. Comparing recent experience: A (last month) is better than C (2 years ago)

- f) A is overall considered slightly better than C
- g) When comparing A to D:
- i. Comparing number of contracts: A (3 contracts) is worse than D (12 contracts)
 - ii. Comparing recent experience: A (this year) is better than D (5 years ago)
- h) A is overall considered as good as D
- i) When comparing B to C:
- i. Comparing number of contracts: B (10 contracts) is better than C (5 contracts)
 - ii. Comparing recent experience: B (last year) is slightly better than C (2 years ago)
- j) B is overall considered better than C
- k) When comparing B to D:
- i. Comparing number of contracts: B (10 contracts) is slightly worse than D (12 contracts)
 - ii. Comparing recent experience: B (last year) is better than D (5 years ago)
- l) B is overall considered slightly better than D
- m) When comparing C to D:
- i. Comparing number of contracts: C (5 contracts) is worse than D (12 contracts)
 - ii. Comparing recent experience: C (2 years ago) is better than D (5 years ago)
- n) C is overall considered as good as D
- o) Entering these comparison results in the Excel AHP score calculator spreadsheet, we obtain the following Criteria Ranking Values for each Bidder:
- A = 0.20
B = 0.55
C = 0.10
D = 0.16
- p) B obtained the top value from the AHP calculator as a result of the comparisons. In order to ensure the top Bidder gets full marks, all values are divided by the highest score (0.55 in this case) to obtain a new normalized Criteria Ranking Value out of 1.
- A = 0.36
B = 1.00
C = 0.18
D = 0.28
- q) The normalized Criteria Ranking Value is multiplied by the weighting for the corresponding criterion. In this case, the weighting for the experience criterion is 400 points. The resulting score for each Bidder for the experience criterion is as follows:
- A = 144
B = 400

C = 72
D = 112

4.3.2.2. Warranty Length

- a) Using the same process that was used for the experience criterion, we obtain the following comparison results for the warranty length criterion:

A (24 months) is as good as B (24 months)
A (24 months) is slightly worse than C (30 months)
A (24 months) is slightly better than D (18 months)
B (24 months) is slightly worse than C (30 months)
B (24 months) is slightly better than D (18 months)
C (30 months) is better than D (18 months)

- b) Entering these comparison results in the Excel AHP score calculator spreadsheet, we obtain the following Criteria Ranking Values for each Bidder:

A = 0.19
B = 0.19
C = 0.54
D = 0.07

- c) Given that C had the highest value, all scores are divided by 0.54 to give a new normalized value out of 1.

A = 0.36
B = 0.36
C = 1.00
D = 0.13

- d) These normalized values are multiplied by the weighting for the Warranty Length criterion (300) to yield the following scores:

A = 108
B = 108
C = 300
D = 39

4.3.2.3. Service Response Time

- a) Using the same process that was used for the experience and warranty length criteria, we obtain the following comparison results:

A (2 hours) is better than B (6 hours)
A (2 hours) is slightly better than C (4 hours)
A (2 hours) is as good as D (2 hours)
B (6 hours) is slightly worse than C
B (6 hours) is worse than D (2 hours)
C (4 hours) is slightly worse than D (2 hours)

- b) Entering these comparison results in the Excel AHP score calculator spreadsheet, we obtain the following Criteria Ranking Values for each Bidder:

A = 0.40
B = 0.05

C = 0.14
D = 0.40

- c) Given that A and D have the highest value, all scores are divided by 0.54 to give a new normalized value.

A = 1.00
B = 0.13
C = 0.36
D = 1.00

- d) These normalized values are multiplied by the weighting for the Service Response Time criterion (200) to yield the following scores:

A = 200
B = 26
C = 72
D = 200

4.3.2.4. Total Technical Score

- a) To obtain the total technical score, The Tender Assessment Tool simply sums all the scores computed for each criterion. The sum of each normalized Criteria Ranking Value multiplied by its associated criteria weighting factor provides the total technical score.

- b) Total Technical Score = $(CRV_1 \times 400) + (CRV_2 \times 300) + (CRV_3 \times 200)$

- c) CRV_x is the normalized Criteria Ranking Value for a given Bidder.

- d) The total technical score for each Bidder is as follows:

A = $144 + 108 + 200 = 452$
B = $400 + 108 + 26 = 534$
C = $72 + 300 + 72 = 444$
D = $112 + 39 + 200 = 351$

- e) While Bidder B has the highest technical score. It must still remain competitive in the financial section in order to be considered the Bidder Selected for Negotiations.

4.4 Mandatory and Point Rated Technical Criteria

Refer to Attachment 1 to Part 4 – Technical and Relational Contracting Proposal

4.5 Canada's Industrial and Technological Benefits (ITB) Objectives

- 4.5.1 Canada wishes to ensure that its investments in defence-related goods and services generate economic benefit to Canada and have long-term and high-value impacts on Canadian industry, in advanced technology areas. The Bidder's VP Proposal should clearly indicate how the proposed business activities support Canada's ITB Objectives 4.5.1 a) to 4.5.1 f) below, and how they will be achieved if the Bidder wins this Contract.

- a) Defence Sector: A core objective of the ITB policy is to ensure that defence procurement supports the economic development and long-term sustainment of Canada's Defence Sector. The Bidder is

encouraged to maximize the amount of business activities in Canada involving work directly on the procurement and work in the Defence Sector more broadly.

- b) **Skills Development:** The development of a highly skilled Canadian workforce is one of the industrial objectives related to the AJISS project. The Value Proposition evaluation methodology will encourage the growth of an efficient source of supply for the RCN to maintain its naval fleet.
- c) **Supplier Development:** The development of supplier productivity and competitiveness among Canadian-based suppliers is a key objective of the ITB policy. The Bidder is encouraged to provide meaningful opportunities for growth and supply chain integration to suppliers across Canada.
- d) **Research and Development (R&D):** An important objective of the ITB policy is to encourage innovation, as R&D can position Canadian Companies to move up the value chain and capture market opportunities. The Bidder is encouraged to make R&D investments in Canada and locate high value research and engineering work in Canada, positioning Canadian-based companies to benefit from its subsequent commercialization.
- e) **Regional Development:** The regional development objectives of the ITB policy are to encourage long-term quality improvements to the capability, capacity, international competitiveness and growth potential of Canadian Companies in those regions where Canada has established specific initiatives to promote economic growth and diversification through procurement. These Designated Regions of Canada are defined in the ITB Terms and Conditions. Canadian industry in all the Designated Regions of Canada should have the opportunity to participate in the AJISS project.
- f) **Small and Medium Business (SMB) Development:** It is an objective of Canada to encourage the participation of SMB as suppliers on major federal procurements and to increase their competitiveness and export market access. Canadian SMB must have the opportunity to participate in the AJISS project.
- g) In addition, Canadian industry must have the opportunity to participate in high quality, Indirect Transactions, involving business activities not related to the delivery of the Work on this project.
- h) **The market segment for the desired Value Proposition activities is the marine in-service support sector.** For a detailed description of the marine in-service support market segment, refer to Annex K, ITB Terms and Conditions, Article 6.4.1.

4.5.2 There are four (4) rated elements that the Bidder will provide in its Value Proposition Proposal.

Failure to meet one of the required elements will prompt a zero (0) score for the missing element as part of the Proposal score. The elements are: Defence Sector, Supplier Development, Skills Development and Research and Development. The Bidder's proposed VP Activities, (ITB Commitments, Plans and Transactions) will become contractual obligations of the Contractor in any ensuing Contract.

- a) **Defence Sector:**
 - i. The Bidder's Defence Sector Value Proposition proposal for the AJISS Contract will support the maximization of business activity undertaken in Canada directly related to AJISS and related marine areas.
 - ii. Proposed VP Activities with a Canadian Company should involve Direct Work on the AJISS project, Indirect work in-service support activities on other naval platforms, and dual use Indirect Work activities in the marine in-service support market segment.
 - iii. For a detailed definition of the Defence Sector, refer to Annex K, ITB Terms and Conditions, Article 1.1.9
- b) **Skills Development:**

- i. The Bidder's Skills Development Value Proposition proposal for the AJISS Contract will demonstrate how the Contractor will contribute to the development of a highly trained and skilled ISS workforce that meets the current and future needs of the RCN.
 - ii. Skills Development activities, within the market segment, will be in the areas of: program and subcontract management, configuration and data/document management, intellectual property management, life cycle management, logistics support analysis, skilled apprenticeships and engineering.
 - iii. For a detailed definition of Skills Development, refer to Annex K, ITB Terms and Conditions, Article 1.1.29
- c) **Supplier Development**
- i. The Bidder's Supplier Development Value Proposition proposal for the AJISS Contract will recognize the significant presence of suppliers in Canada with capabilities in the Marine Sector, to motivate economic opportunities for the Canadian marine industrial supply chain
 - ii. The Bidder's Supplier Development commitments to Non – Small and Medium-sized Business (SMB) marine activities, and SMB marine activities will include work placed with Canadian suppliers that lead to increased opportunities through new business, access to new lines of business, or provide opportunities for Canadians companies to move up the supply chain. (E.g. Tier 2 becomes a Tier 1).
 - iii. For a detailed definition of Supplier Development, refer to Annex K, ITB Terms and Conditions, Article 1.1.31
- d) **Research and Development**
- i. The Bidder's Research and Development (R&D) Value Proposition proposal for the AJISS Contract will motivate R&D activity that are research and development intensive, supporting the positioning of Canadian Companies to capture high-value market opportunities particularly in the areas of marine in-service support. The areas of focus include: program management, data analytics, predictive maintenance, logistic support analysis, life cycle management and in-service support productivity improvements.
 - ii. For a detailed definition of Research and Development, refer to Annex K, ITB Terms and Conditions, Article 1.1.26.

4.6 Financial Evaluation

Financial Bid Criteria – Refer to Attachment 1 to Part 3 – Financial Bid Presentation Sheet

- a) For evaluation purposes only, the evaluated price of the bid will be determined as detailed in Attachment 1 to Part 3, Financial Bid Presentation Sheet.
- b) Bidders are to provide, with their Financial Bid, a detailed Start-up phase proposal that will not be rated and will not be considered in the scoring of the Financial Bid or in the ranking of a Bidder. The Start-up phase proposal of the Bidder selected for negotiations as a result of the evaluation will be used by Canada and that Bidder as a tool for negotiations as defined in Article 4.8 below. The Start-up Phase Proposal is to include the following information:
 - i. A detailed breakdown of the Bidder's quoted fully loaded labour showing the percentage of each rate allocated to overhead, G&A, and profit. The requested breakdown will be treated as commercial confidential.

- ii. An estimated level of effort for each labour category during the start-up phase
- iii. A proposed payment schedule for the start-up phase, and
- iv. An estimate of travel during the start-up phase.
- v. Any assumptions made by the Bidder in the development of the Start-up Phase Proposal.

4.7 Basis for the Ranking of Bids –

- a) To be declared responsive, a bid must:
 - i. comply with all the requirements of the bid solicitation; and
 - ii. meet all mandatory criteria; and
 - iii. provide a complete financial bid in accordance with Attachment 1 to Part 3 - Financial Bid Presentation Sheet.
- b) Bids not meeting (a) or (b) or (c) will be declared non-responsive.
- c) The ranking of responsive Bidders will be based on the combined scores for technical and relational, value proposition and financial. The ratio will be:

70% + 5% for technical and relational
 15% for the value proposition and
 10% for the financial

 100%

- d) To establish the technical and relational contracting score each responsive bid will be evaluated in accordance with Attachment 1 to Part 4 – Technical and Relational Contracting Proposal – Mandatory and Point Rated Criteria.
- e) To establish the Value Proposition score each responsive bid will be evaluated in accordance with Attachment 2 to Part 4 – Value Proposition – Mandatory and Point-Rated Criteria.
- f) Financial Bid envelopes containing Bidders' completed Financial Bid Presentation Sheet, Attachment 1 to Part 3, for responsive bids will be opened upon completion of the Technical and Relational, and Value Proposition evaluation.
- g) To establish a Financial Score, the Financial Bid of each responsive Bidder will be prorated against the lowest priced responsive Financial Bid between the tolerances outlined in section 4.8.7 below and scored in accordance with the following formula:

$$\text{Financial Score} = \{1 - [(bid - low)/low]\} \times 100$$

- i. An average Financial Score will be determined by adding the total evaluated bid prices of all the responsive Financial Bids together and dividing this total value by the number of responsive Financial Bids being opened.
- ii. A Financial Bid that is greater than or equal to 25% more than the calculated average or a bid that is less than or equal to 35% below the calculated average, the evaluated bid price will be assigned a Financial Score of 0 points in the financial evaluation.

- h) For each responsive bid, the technical and relational contracting merit score, value proposition score and the financial bid score will be added together to determine its combined rating. During the calculation of each, technical, relational, value proposition and financial score two (2) decimal places will be maintained. The final score will be rounded up to one (1) decimal.
- i) The Contract Authority will rank each responsive bid in ascending order from the highest overall score to the lowest overall score in accordance with the score achieved for the combined rating.
- j) The table below provides an example where all three bids are responsive and how the ranking of the bids is determined:
 - i. Example: 3 responsive bids. Average financial bid: $\$750,000 + \$500,000 + \$450,000 = \$1,700,000/3 = \$566,667$
 - ii. Bids 25% greater than $\$566,667$ ($\$566,667 \times 1.25 = \$708,334$) will receive 0 points.

BASIS OF RANKING OF BIDS AND CALCULATION OF OVERALL SCORES

	<u>Bidder 1</u>	<u>Bidder 2</u>	<u>Bidder 3</u>
<u>Overall Technical & Relational Score</u>	630/750	500/750	570/750
<u>Overall Value Proposition Score</u>	100/150	130/150	85/150
<u>Bid Evaluated Price</u>	\$750,000	\$500,000	\$450,000
<u>Technical Merit Score</u>	$630/750 \times 75 = 63$	$500/750 \times 75 = 50$	$570/750 \times 75 = 57$
<u>Calculations Value Proposition Score</u>	$100/150 \times 15 = 10$	$130/150 \times 15 = 13$	$85/150 \times 15 = 8.5$
<u>Financial Bid Score</u>	0	8.9	10
<u>Combined Rating</u>	73/100	72/100	75.5/100
<u>Overall Ranking</u>	2	3	1

4.8 Consecutive Negotiation Process

- a) The highest ranked responsive Bidder selected through the evaluation process, will receive a written invitation from the Contracting Authority to enter into negotiations that will be both limited in time and scope. The purpose of the negotiations is to achieve concurrence on the level of effort and a milestone payment schedule for the Start-up phase and on a Limitation of Expenditure for the initial contract period.
- b) Negotiations with the selected Bidder will be limited to a period of forty five (45) calendar days from receipt by the Bidder of the invitation to negotiate. Negotiations will be subject to the process rules set-out in this RFP and will not constitute an offer to enter into a contract for In-Service Support on the part of Canada

4.9 Failure to Enter into Contract

- a) If the parties cannot reach an agreement on level of effort, milestone payment schedule and Limitation of Expenditure within the allotted forty five (45) calendar days Canada will inform the higher ranked Bidder that it is terminating negotiations and will then invite the next ranked Bidder to enter into negotiations. No contract will be awarded to a Bidder with which negotiations have been terminated.
- b) This process may continue until agreement is reached between Canada and a selected Bidder or until there are no more Bidders remaining that are eligible for negotiations. Alternatively, Canada may choose, at any time and in its sole discretion, to terminate the RFP and consecutive negotiation process and not enter into a contract with any of the Bidders.

4.10 Notification to Other Bidders

- a) Prior to the commencement of the Consecutive Negotiation Process, the Contracting Authority will notify Bidders as to whether their bid was found to be compliant or non-compliant. Bidders will also be advised of the score their bid received and the ranking of their bid out of the total number of compliant bids. Refer to section 1.6 regarding debriefing.

ATTACHMENT 1 TO PART 4

Table 1 -Mandatory Criteria for the Bid

Item Number	Mandatory Technical and Relational Evaluation Criteria	Compliant	
		Yes	No
M1:	The Bidder must demonstrate, in its Bid response, current experience, or experience within the last ten (10) years, having contracting and ISS experience with at least one contract of \$10M or more dealing with preventative or corrective maintenance for marine vessels of 500 tonnes or greater		
M2:	The Bidder must submit five (5) Technical Plans for the criteria described in Attachment 1 Item 1b to Part 4 of this RFP including: <ul style="list-style-type: none"> a. Preliminary Program Management Plan; b. Preliminary Start-Up Plan; c. Preliminary Transition Plan; d. Preliminary Risk Management Plan; and e. Preliminary Service Delivery Annual Operating Plan. 		
M3:	The Bidder must provide responses to each of the three (3) Technical Scenarios described in Item 1c to Part 4 of this RFP as: <ul style="list-style-type: none"> a. Scenario A; b. Scenario B; and c. Scenario C. 		
M4:	The Bidder must describe their experience in each component of the Relational criteria described in Attachment 1 Item 2 to Part 4 of this RFP including: <ul style="list-style-type: none"> a. Common Goals; b. Joint Governance; c. Information Sharing; d. Collaboration; and e. Innovation. 		
M6:	The Bidder must submit a Relationship Management Plan as described in DID-AJISS-PM-009.		
Item Number	Mandatory Value Proposition Proposal Criteria	Compliant Yes	No
M7:	The Bidder must submit, in its Value Proposition Proposal, all the required components of the four (4) Industrial and Technological Benefits (ITB) Plans: Company Business Plan, ITB Management Plan, Regional Development Plan, and Small and Medium Business Development Plan, in accordance with Attachment 2 to Part 4 – Value Proposition of this RFP.		

Table 2 - Detailed AJISS Evaluation Breakdown

Technical	700
Experience	420
ISS Program Management	105
Engineering Support Services	84
Maintenance Support Services - Docking	63
Materiel Support Services	63
Information & Data Management	42
Maintenance Support - PM/CM	42
Performance Measures	21
Plans	140
Preliminary Start-up Plan	49
Preliminary Transition Plan	42
Preliminary Project Management Plan	28
Preliminary Service Delivery Annual Operating Plan	14
Preliminary Risk Management Plan	7
Situational Questions	140
Scenario 1	42
Scenario 2	70
Scenario 3	28
Relational Contracting Elements	50
Common Goals and Collaborative Behaviours	10
Joint Governance	5
Information Sharing	10
Joint Collaboration	20
Innovation & Continual Improvement	5

Value Proposition	150
Defence Sector	75
Direct Commitment	45
Indirect Commitment	22.5
Identified Transactions	7.5
Skills Development	37.5
Commitment	27.5
Identified Transactions	10
Supplier Development	22.5
Commitment to non-Small Medium Business	18
Commitment to Small Medium Business	4.5
Research and Development	15
Commitment	15

Financial	100
Personnel Rates and Mark-up for Emergent Work	100

Item 1 – Evaluation of Technical Elements

Within the Technical Evaluation, there are three (3) Technical areas; Experience, Plans, and Scenarios. Each technical area is divided into technical elements. The Experience area is divided into seven (7) elements. The Plans area is divided into five (5) elements. The Scenarios area is divided into (3) elements.

Each technical element will be assessed using two (2) assessment factors:

1) The bid suitably addresses all the assessment criteria with the element

The assessment criteria used to assess the suitability of the bid responses for each evaluated technical element are detailed below for Technical Elements in item 1a for experience, 1b for plans and 1c for scenarios. Relative breadth, depth and relevancy of the responses will all be taken into consideration while making the overall assessment in this assessment factor.

2) The bid identifies commitments by the Bidders to make use of actions, processes, tools, techniques or other resources that would provide a tangible ability to achieve desired outcomes in the relevant sections of the AJISS PWS.

The Bidder should demonstrate measurable and verifiable evidence of the positive outcomes achieved utilizing the above items while also demonstrating how these items are relevant, repeatable and usable in an AJISS setting. The cited items that would produce benefits should be measurable in terms of long term impact to quality or efficiency for a given cost or level of effort. The Bidder's relative ranking, in comparison with other bids, will be influenced by the likelihood to replicate the outcomes in an AJISS setting as well as the beneficial long term impact to AJISS.

The pairwise comparison in each evaluated element will be based on the two assessment factors described above. This will result in one overall pairwise statement for each technical element in accordance with the example provided in Part IV, Section 4.3 of this RFP.

While determining the comparison statements for each technical element, the evaluators will consider the relative strengths and weaknesses of each bid in comparison with another. The assessment criteria for each technical element will be taken into consideration while gauging the Bidder's response quality in meeting the Assessment Factors listed above. The Assessment Criterion defined for each element, below, are not ranked or rated individually, but are considered holistically in the pairwise comparison for that element.

Determination of comparison statement for each Technical Element

When determining the overall comparison statement for a given technical element, the evaluators will consider the following statements against both Assessment Factors:

“As good as” would be the statement for two bids that compared very closely to each other or had strengths and weaknesses that were determined to offset each other or not present a clear advantage to one Bidder over the other.

“Slightly better/Worse than” would be the statement for two bids in which one Bidder demonstrated a clear advantage in addressing one or both of the assessment factors.

“Better/Worse than” would be the statement for two bids in which one Bidder demonstrated a substantial advantage in addressing one or both of the assessment factors.

For the purpose of these comparisons, the following interpretations of clear and substantial will be used:

Clear – demonstrably better than (capable of being shown, logically proved)

Substantial – overwhelmingly better than (overpowering, total or nearly so)

Item 1a: Technical Experience

Technical Experience will be evaluated in seven (7) technical elements. Assessment criteria that apply in each element are detailed below.

Certain Assessment Elements identify either the Bidder or the Bidder’s Team as the respondent. A Bidder’s Team includes subcontractors in the Bid that have a teaming arrangement to prepare the proposal to this RFP. The Bidder must fully disclose the names and roles of each member of the Bidder’s Team, and may submit the experience obtained by each named member of the Bidder’s Team to fulfill the evaluation requirements. Assessment Elements that specify the Bidder alone must include responses associated specifically to the Bidder. Assessment Elements that specify the Bidder’s Team may include responses that are associated with either the Bidder or the Bidder’s team

The Bidder should respect the page limit specified for each element. Information submitted that exceeds the specified maximum page limit will be treated as though it was not provided and will not be considered in the evaluation.

When an assessment criterion refers to ‘complexity’ in the context of marine vessels, the Bidder should utilize the following list of key systems to demonstrate how their experience is able to compare with each one. The list of key systems is separated in core and specialized systems expected to be part of AOPS or JSS. The Bidder should demonstrate experience in all core ship systems and as many of the specialized systems as possible while demonstrating relevance to an AJISS context.

The following is the list of core ship systems:

- Main Propulsion System
- Hull Systems
- Electrical Power Generation and Distribution System
- Auxiliary / Support Systems
- Deck Systems
- HVAC and Refrigeration Systems

The following is the list of specialized systems:

- Aircraft Support Systems (launch, recover, and sustain operations)
- Replenishment at Sea (RAS) Systems
- High Voltage Electrical Propulsion
- C4ISR (Communication, Command, Control, Computers, Information, Surveillance and Reconnaissance) System
- Naval Weapon System

No.	Element	Assessment Criteria	Max. Points
Experience			
1	ISS Program Management	<p>The Bidder will be evaluated on experience in managing an In-Service Support Program.</p> <p>A written submission not to exceed 20 pages in total is required and it should describe a maximum of two relevant and significantly complex ISS projects within the past 12 years which outline the Bidder's experience in managing an In-Service Support Program for Marine Vessels. The description of the projects should include typical dimensions such as relevance to naval ISS, scope and scale over which the project was conducted and the Bidders role (e.g. as a Prime or Tier 1 Subcontractor) The Bidder should describe details of its implemented Program Management and should include an experience description in the following:</p> <ol style="list-style-type: none"> 1. Experience in Management of In-Service Support Program, including support resources; 2. Planning and Scheduling of Maintenance; 3. Activities Management and Reporting; 4. Controlled Technology Access and Transfer (CTAT)/ International Traffic in Arms Regulations (ITAR) management and reporting; 5. Management of Performance Measurement; 6. Experience in Marine Engineering, 3D Modeling and TDP Management; 7. Regulatory compliance management (Quality Assurance, Environmental); and, 	105

No.	Element	Assessment Criteria	Max. Points
		<p>8. Financial stewardship demonstrating an affordable program showing cost and budget management.</p> <p>Experience descriptions containing examples that approach the complexity of AOPS/JSS will be given the preferred ranking in the pairwise comparison.</p>	
2	Engineering Support Services - Engineering Change	<p>The Bidder's Team will be evaluated on experience in providing Engineering Support Services through managing Obsolescence and managing Engineering Changes (EC).</p> <p>A written submission not to exceed 15 pages in total is required and should describe the Bidder's Team experience managing Engineering Changes for Marine Vessels. The Bidder should provide 3 examples of Engineering Changes performed on different engineering systems. The submission is to include but not be limited to the following areas:</p> <ol style="list-style-type: none"> 1. Identify the EC by Ship name and client department 2. Identify the engineering system and subsystem changed; 3. Identify nature of the problem; 4. Process to come up with a solution (include a business case used to determine optimal solution); 5. Methodology and description of the EC review process; 6. Describe the level of effort, cost and outcomes; and, 7. Describe any issues arising, along with control and mitigation strategies. <p>Experience Descriptions containing examples that approach the complexity of AOPS/JSS systems will be given the preferred ranking in the pairwise comparison.</p>	84
3	Experience Maintenance Support Services – Docking;	<p>The Bidder's Team will be evaluated on current and past experience in managing a Docking Work Period (DWP).</p> <p>A written submission not to exceed 15 pages in total is required and should describe the Bidder's Team experience managing a Docking for Marine Vessels. The submission is to include examples within the last 12 years and include, but not limited to, the following areas:</p> <ol style="list-style-type: none"> 1. Experience in Management of a Docking Work Period; 2. Describe Planning and Scheduling of DWP Work, including an Integrated Master Schedule; 3. Describe Activities Management and Reporting; 4. Describe the level of effort, cost and outcomes; and 	63

No.	Element	Assessment Criteria	Max. Points
		<p>5. Describe any issues, arising along with control and mitigation strategies.</p> <p>Experience Descriptions containing examples that approach the complexity of AOPS/JSS will be given the preferred ranking in the pairwise comparison.</p>	
4	Experience - Maintenance Support - Conducting Corrective and Preventative Maintenance	<p>The Bidder's Team will be evaluated on experience in managing Preventative Maintenance (PM) and Corrective Maintenance (CM) for Marine Systems.</p> <p>A written submission not to exceed 15 pages in total is required and should outline the Bidder's Team experience managing PM and CM for Marine Vessels. The Bidder should describe examples of CM and PM work performed on both a Combat System and a Platform System. The submission is to include but not be limited to the following areas:</p> <ol style="list-style-type: none"> 1. Experience in Management of PM and CM (include types of systems and when); 2. Describe scope of work, planning and scheduling of the work and which systems with which you have experience; 3. Describe PM/CM Activities Management and Reporting; 4. Describe the level of effort, cost and outcomes; and, 5. Describe any issues, arising along with control and mitigation strategies <p>Experience Descriptions containing examples that approach the complexity of AOPS/JSS will be given the preferred ranking in the pairwise comparison.</p>	42
5	Experience - Materiel Support Services	<p>The Bidder's Team will be evaluated on experience in managing of Spares and Asset Inventory, and Materiel Management.</p> <p>A written submission not to exceed 15 pages in total is required and should describe the Bidder's Team experience managing materiel support for Marine Vessels. The Bidder should provide example(s) of Spares and Asset Inventory, and Materiel Management performed. The submission is to include but not be limited to the following areas:</p> <ol style="list-style-type: none"> 1. Experience in Management of sparing (includes types of marine systems supported, how many and when); 2. Describe experience, if any, for Initial Provisioning work; 3. Describe warehousing experience and outline the facilities used, if any, to conduct sparing and 	63

No.	Element	Assessment Criteria	Max. Points
		<p>inventory control;</p> <ol style="list-style-type: none"> 4. Describe experience accounting and reporting of spares including spares enterprise software; 5. Describe the Supply Chain Management Information System used; 6. Describe the inventory tracking, auditing and process controls used; 7. Describe the level of effort, cost and outcomes; and, 8. Describe any issues, arising along with control and mitigation strategies. <p>Experience Descriptions containing examples that approach the complexity of AOPS/JSS will be given the preferred ranking in the pairwise comparison.</p>	
6	Experience – Information and Data Management	<p>The Bidder's Team will be evaluated for experience in integration and handling of Information and Data Management.</p> <p>A written submission not to exceed 15 pages in total is required and should describe the Bidder's:</p> <ol style="list-style-type: none"> 1. Experience in ERP & Integration: The Bidder is to provide a minimum of one example demonstrating the integration of an IT Enterprise System between the Bidder and its Subcontractors or a Client for system to system Data Exchange, where no deliberate intervention is required as in a typical automated Business-to-Business (B2B) solution. 2. Experience in Data Management Environment (DME): The Bidder is to provide a minimum of one example demonstrating the development of a Common Source Data Base (CSDB) for Interactive Electronic Technical Manuals (IETM) using the S1000D specification. The evidence should demonstrate their ability to implement a complex functionality design including evidence of customer requirement analysis and incorporation in the IETM design. 3. Experience in Collaborative Environment (CE): The Bidder is to provide a minimum of one example demonstrating the use of an internet web-based Collaborative Environment, hosted by the Bidder that is used between the Bidder and its subcontractor or a Client to provide service delivery management. 4. Experience in Cyber Security: The Bidder is to provide a minimum of one example demonstrating a structured System Security Engineering (SSE) process for a Government-to-Business (G2B) data solution to sustain a defence system. 	42
7	Experience – Performance Measures	<p>The Bidder will be evaluated for experience in their use of Performance Measures.</p> <p>A written submission not to exceed 15 pages in total is required and should include the Bidder's Team experience with performance management and performance measurement relevant to sustain physical asset or weapon system In-Service Support. The description of performance management and performance</p>	21

No.	Element	Assessment Criteria	Max. Points
		<p>measurement should include:</p> <ol style="list-style-type: none"> 1. Demonstrated experience and example to develop and implement performance management and measurement methodologies for: (a) equipment and (b) support services; 2. Demonstrated experience and example to develop and implement performance management and measurement and their impact on business improvement, incentives and savings; 3. Demonstrated experience and example to develop and implement performance measurement system (PfMS) including electronic/automated data collection, analysis and reporting; 4. Demonstrated experience and example to align performance results to strategic objectives or critical success factors; 5. Demonstrated experience and example of actual performance measures that have been validated. Supporting experience could include tables, figures or graphical illustrations of results achieved over the past five (5) years. <p>The Bidder should include the following items in their responses to the above stated experience:</p> <ol style="list-style-type: none"> a. Define Performance Parameters for a performance based contract; b. Method and tools for Performance Based approach; c. How you ensure that you meet the performance metric your model uses; d. How do you integrate performance metrics with data from the risk management and quality management; e. How you collect performance data from multiple sub-contractors, and translate it into quantifiable metrics, identify areas of concern, and implement improvement plans at the sub-contractors level; f. What is your maturity level wrt Performance Management? g. How your approach to performance measurement help you to: <ul style="list-style-type: none"> • Foster collaboration across customer stakeholders. • Create a superior customer experience. • Maximize the efficiency and quality of service delivery. • Effectively predict costs, schedules, and quality. • Enable proactive monitoring, trend analysis, and management 	

Item 1b: Technical Plans

The following five (5) elements relate to the Bidder’s proposed approach to key aspects of Technical Plans.

The Bidder should respect the page limit specified for each criterion. Information submitted that exceeds the specified maximum page limit will be treated as though it was not provided and will not be considered in the evaluation.

No.	Element	Assessment Criteria Plans	Max. Points
1	Preliminary Program Management Plan	<p>The Bidder will be evaluated on their Preliminary Program Management Plan for the AJISS contract in accordance with DID AJISS-PM-001.</p> <p>A written submission not to exceed 30 pages in total is required.</p> <p>The submission should include a summary Program Management Plan Description that should describe concepts, processes and integration of how the Bidder will manage the AJISS program. The submission will include the Data Management Support Plan, Performance Management Plan, Configuration Management Plan, Disposal Management Plan and Contract Close-out Plan. The submission should not include the specific Start-Up Plan, Transition Plan and Risk Management Plan, as they are evaluated separately.</p>	28
2	Preliminary Start Up Plan	<p>The Bidder will be evaluated on their Preliminary Start-Up Plan. The Start-Up Plan should address how the Bidder plans to establish their initial capability in preparation for delivery of the first AOPS vessel. The Start-Up Plan addresses activities necessary to ensure the Bidder would be ready in all respects for maintaining the first AOPS vessel and its associated equipment systems. The Bidder should produce a preliminary start-up plan in accordance with DID-AJISS-PM-002.</p> <p>A written submission not to exceed 20 pages in total is required. A timeline and detailed descriptions of the organizational structures, resources, infrastructure and intended sub-contractors will be required.</p>	49
3	Preliminary Transition	<p>The Bidder will be evaluated on their Preliminary Transition Plan. The Transition Plan should address how the Bidder plans to move from its end state of their Start-Up Plan to steady state</p>	42

No.	Element	Assessment Criteria	Max. Points
Plans			
	Plan;	<p>AJISS operations. It should outline the Bidder's Plan to achieve ISS steady state for all AJISS Vessels. The Bidder should produce a preliminary Transition Plan in accordance with DID-AJISS-PM-003.</p> <p>A written submission not to exceed 20 pages in total is required. A timeline and detailed descriptions of the organizational structures, resources, infrastructure, and methodology for assessment and selection of Steady State Phase sub-contractors will be required</p>	
4	Preliminary Risk Management Plan;	<p>The Bidder will be evaluated on their Preliminary Risk Management Plan. It should outline how the Bidder plans to manage risks and ensure continued readiness to maintain the In-Service Support Program for AJISS Vessels. The Bidder must produce a Preliminary Risk Management Plan in accordance with DID-AJISS-PM-006.</p> <p>A written submission not to exceed 20 pages in total is required and it should outline the Bidder's Preliminary Risk Management Plan for the contract. The plan should include specific risks and mitigations identified within the start-up and transition phases.</p>	7
5	Preliminary Service Delivery Annual Operating Plan	<p>The Bidder will be required to submit a component of their Preliminary Service Delivery Project Plan for the preparation and execution and completion of a four week AOPS Short Work Period, in accordance with DID-AJISS-TSM-003.</p> <p>A written submission not to exceed 10 pages in total and should provide the methodology on how the Bidder will execute the work.</p>	14

Item 1c: Technical Scenarios

Description of assessment factors for Situational Scenarios are not available for discussion purposes at this point in time.

No.	Element	Assessment Criteria	Max. Points
Situational Scenarios			
1	Scenario A	<p>The Bidder will be evaluated for the proposed solution to a known work tasking.</p> <p>A written submission is not to exceed 15 pages in total and should outline the bidder's response to a known work tasking. The Bidder is to respond directly to the following situational problem listed below.</p> <p>Situation:</p> <p>Fitted equipment onboard Arctic Offshore Patrol Ships is not performing within original specifications.</p> <p>Problem:</p> <p>As an In-Service Support Contractor, you have been receiving multiple Unsatisfactory Condition Reports (i.e. formal complaints) from Ship Staff (SS) stating that the diesel engines used for the main propulsion (electric drive) are not reliable and they need to be put off line regularly. Your maintenance Subcontractor identifies that the diesel cooling pumps on numerous Arctic Offshore Patrol Ships are consuming above average maintenance hours, parts, and they are considered not reliable.</p> <p>Mission:</p> <p>Describe how your company would respond to this situation from receipt of the Unsatisfactory Condition Reports through to resolution of the issue.</p>	42
2	Scenario B	<p>The Bidder will be evaluated for the proposed solution to an unknown, emergent work tasking.</p> <p>A written submission is not to exceed 20 pages in total and should outline the Bidder's response to an unknown emergent work tasking. The Bidder is to respond directly to the following situational problem listed below:</p> <p>Situation:</p> <p>A Her Majesty's Canadian Ship Joint Support Ship (HMCS JSS) is deployed in the Mediterranean Sea from</p>	70

		<p>30 August 2027 to 21 February 2028 in support of a standing NATO coalition task group to fight terrorism. The ship is at High Readiness (HR) operational capability and is tasked with providing 24-hour support for logistical and engineering requirements to HMCS MONTREAL (Halifax Class Frigate) and the other participating ships as requested.</p> <p>Problem:</p> <p>On the 4th of November 2027, HMCS JSS is positioned approximately 4-days sailing at cruising speed away from Souda Bay, Greece. While driving on both propulsion diesel engines, the port engine's turbocharger experiences a high vibration and Ship's Staff (SS) in the space report hearing a "grinding" noise. SS shut down the engine. After an initial investigation by the Marine Systems Engineering Department, the Commanding Officer reports via an Operation Problem Report that the engine is not operational due to suspected failure of the turbocharger. Royal Canadian Navy Operational Authority (Formation - N37 Engineering Operations) alerts AJISS Contractor staff in Halifax on the arrival of the Operation Problem Report and requests that the Contactor provides an immediate assessment of the situation and initiates planning to restore HMCS JSS' propulsion plant to full capability, as soon as possible.</p> <p>Mission:</p> <p>Describe how your company would respond to this situation from receipt of the Operation Problem Report through to restoration of HMCS JSS' operational capability.</p>	
3	Scenario C	<p>The Bidder will be evaluated for the methodology used to develop a planned Docking Work Period (DWP).</p> <p>A written submission is not to exceed 15 pages in total and should outline the Bidder's response to managing a planned DWP for a vessel.</p> <p>Situation:</p> <p>A Her Majesty's Canadian Ship Arctic Offshore Patrol Ship (HMCS AOPS) is scheduled for a DWP in six months and is currently in Restricted Readiness (RR) operational capability. The ship will be at Extended Readiness (ER) during the DWP.</p> <p>Mission:</p> <p>Describe the methodology, process and/or steps your company would take for the conduct of this planned DWP</p>	28

Item 2 – Evaluation of Relational Elements

Within the Relational Evaluation, there are five (5) Relational Elements, Common Goals & Collaborative Behaviours, Joint Governance, Information Sharing, Joint Collaboration, and Innovation & Continuous Improvement.

For the Evaluation of each Relational Element, the evaluators will be verifying the bid responses as well as the Relationship Management Plan (RMP). Only the first twenty-five (25) pages of the RMP will be looked at for the purpose of the Evaluation of Relational Elements. Each Relational Element will be assessed using two (2) Assessment Factors:

- **The bid suitably addresses all the elements in the Assessment Criteria.**

The Assessment Criteria used to assess the suitability of the bid responses are detailed in the table below. Relative thoroughness, detail, and description of specific actions, tools, techniques, processes, or resources will all be taken into consideration while making the overall assessment in this Assessment Factor.

- **The bid demonstrates tangible benefits to achieving the desired relational outcomes**

The Bidder should demonstrate in their bid response and in their Relationship Management Plan (RMP) measurable and verifiable evidence of the positive outcomes achieved utilizing the above items while also demonstrating how these items are collaborative, efficient, viable in the AJISS context, draws on relevant experience, and has been shown to have achieved positive outcomes.

The pairwise comparison in each evaluated area will be based on the two (2) Assessment Factors described above. This will result in one overall pairwise statement for each Relational Element in accordance with the example provided in Part IV, Section 4.3 of this RFP.

While determining the comparison statements for each Relational Element, the evaluators will consider the relative strengths and weaknesses of each bid in comparison with another. The Assessment Criteria for each Relational Element will be taken into consideration while gauging the Bidder's response quality in meeting the Assessment Factors listed above. The Assessment Criterion defined for each element, below, are not ranked or rated individually, but are considered holistically in the pairwise comparison for that element.

The Bidder's proposed approach should be described in its Relationship Management Plan (RMP), submitted in accordance with DID AJISS-PM-009. In addition, for each of the 5 criteria, the Bidder should provide a written submission that describes its experience employing its proposed approach and the benefits that were observed. In substantiating its experience, the Bidder should describe the context of each project cited, including identification of the client, the Bidder's role, the scope and scale of the work performed, the time period, and the relevance to AJISS' context.

Determination of comparison statement for each Relational Element

When determining the overall comparison statement for a given relational element, the evaluators will consider the following statements against both Assessment Factors:

“As good as” would be the statement for two bids that compared very closely to each other or had strengths and weaknesses that were determined to offset each other or not present a clear advantage to one Bidder over the other.

“Slightly better/Worse than” would be the statement for two bids in which one Bidder demonstrated a clear advantage in addressing one or both of the assessment factors.

“Better/Worse than” would be the statement for two bids in which one Bidder demonstrated a substantial advantage in addressing one or both of the assessment factors.

For the purpose of these comparisons, the following interpretations of clear and substantial will be used:

Clear – demonstrably better than (capable of being shown, logically proved)

Substantial – overwhelmingly better than (overpowering, total or nearly so)

No	Area	Assessment Criteria	Max. Points
1	Relational Contracting – Common Goals and Collaborative Behaviours	<p>The Bidder's approach and experience with establishing common goals, enabling collaborative behaviours, and assessing the health and success of a business relationship will be evaluated.</p> <p>The response will be assessed against the following elements:</p> <p>a) Framing the overarching goal of the business relationship in a manner that aligns the Bidder's goals and the client's goals, such that both parties mutually benefit from achievement of the common goal:</p> <p style="padding-left: 40px;">Considerations include: <u>how goals are defined in terms of mutual success; how both parties work collaboratively to achieve the common goal; how each party has visibility into, awareness of, and involvement in the development of each other's strategic plans; how plans are aligned; and the benefits.</u></p> <p>b) Encouraging and assessing collaborative behaviours (identified in section 3.2.1 of the draft Relationship Charter):</p> <p style="padding-left: 40px;">Considerations include: <u>how behavioural standards are defined and agreed upon; how relationship success is defined; how frequently it is assessed; how it is measured; how assessment results are used; and the benefits.</u></p> <p>The description of experience is not to exceed 3 pages, not including the RMP.</p>	10

No	Area	Assessment Criteria	Max. Points
2	Relational Contracting – Joint Governance	<p>The Bidder's approach and experience with joint governance will be evaluated.</p> <p>The response will be assessed against the following elements:</p> <ol style="list-style-type: none"> 1. Executive-level joint governance (i.e. establishing performance objectives for the work): Considerations include: <u>how performance objectives are established collaboratively</u>; <u>how collaborative behaviours are championed</u>; <u>how executives are involved and accessible</u>; and the <u>benefits</u>. 2. Program-level joint governance (i.e. prioritizing, scheduling, planning, and monitoring of the work): Considerations include: <u>how work is prioritized, scheduled, planned, and monitored collaboratively</u>; <u>how program leadership is provided collaboratively</u>; <u>how program managers are involved and accessible</u>; and the <u>benefits</u>. 3. Project-level joint governance (i.e. managing the day-to-day execution of the work): Considerations include: <u>how the day-to-day work is managed collaboratively</u>; <u>how the performance of the day-to-day work is performed collaboratively</u>; and the <u>benefits</u>. 4. Subcontractor governance (i.e. integration of subcontractors into collaborative work processes): Considerations include: <u>how subcontractors input into governance</u>; <u>how the subcontractor work is performed collaboratively</u>; <u>how subcontractors are encouraged to demonstrate collaborative behaviours</u>; and the <u>benefits</u>. <p>The description of experience is not to exceed 6 pages, not including the RMP.</p>	10

3	Relational Contracting – Information Sharing	<p>The Bidder’s approach and experience with collaborative information sharing will be evaluated.</p> <p>The response will be assessed against the following elements:</p> <ol style="list-style-type: none"> 1. Proactively seeking pertinent technical, planning, and financial information from the client: Considerations include: how information sharing is <u>collaboratively planned, open, accessible, proactive, pertinent, timely, and enhances the efficiency and effectiveness</u> of service delivery. 2. Proactively providing pertinent planning, maintenance, and financial information to the client: Considerations include: how information sharing, including financial information, is <u>collaboratively planned, open, accessible, proactive, pertinent, responsive, timely, user-friendly, and enhances client insight and oversight</u> of the work, including the actual costs of the work. <p>The description of experience is not to exceed 3 pages, not including the RMP.</p>	5
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4	Relational Contracting – Joint Collaboration	<p>The Bidder’s proposed approach and experience with delegated decision-making, collaborative problem solving, collaborative risk management, collaborative change management, and collaborative dispute resolution will be evaluated.</p> <p>The response will be assessed against the following elements:</p> <ol style="list-style-type: none"> 1. Delegating decision-making authority: Considerations include: <u>how authority to make a range of meaningful decisions is delegated across all levels</u>, including to the working level; <u>how authorities are proactively and collaboratively defined and documented</u>; <u>how culture change is addressed, including encouraging initiative, taking risks, and tolerating failure</u>; <u>how processes are streamlined</u>; and the <u>benefits</u>. 2. Employing collaborative risk management processes: Considerations include: how risks are <u>collaboratively and proactively identified, evaluated, prevented and mitigated</u>; <u>how processes are streamlined</u>; and the <u>benefits</u>. 3. Employing collaborative problem solving processes: Considerations include: how problems (potential and actual) are <u>collaboratively and proactively identified, evaluated, prevented and resolved</u>; <u>how processes are streamlined</u>; and the <u>benefits</u>. 4. Employing collaborative change management processes: Considerations include: how changes are <u>assessed and implemented collaboratively, informally, flexibly, adaptably, and in a timely basis</u>; <u>how processes are streamlined</u>; and the <u>benefits</u>. 5. Employing collaborative dispute resolution processes: Considerations include: how disputes are <u>collaboratively identified, prevented and resolved informally, personally, early, and quickly</u>; <u>how processes are streamlined</u>; and the <u>benefits</u>. <p>The description of experience is not to exceed 10 pages, not including the RMP, and should include 2 examples in which aspects of the proposed approach were applied for each of the 5 criteria listed above (i.e. 10 examples total).</p>	20
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5	Relational Contracting – Innovation & Continual Improvement	<p>The Bidder’s approach and experience with promoting and managing innovation and continual improvement will be evaluated.</p> <p>The response will be assessed against the following elements:</p> <ol style="list-style-type: none"> 1. Promoting and managing innovation and continual improvement: Considerations include: how innovation and continual improvement are promoted and managed at <u>all levels, initially and on an ongoing basis</u>, using <u>specific processes</u> that are <u>championed, communicated, and rewarded</u>; how <u>culture change</u> is addressed, including <u>encouragement of entrepreneurship and initiative</u>; and the <u>benefits</u>. <p>The description of experience is not to exceed 2 pages, not including the RMP, and should include one example of an innovation or process improvement that increased performance without increasing cost, and one example of an innovation or process improvement that decreased cost without decreasing performance.</p>	5
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ATTACHMENT 2 TO PART 4

Value Proposition Mandatory and Point-Rated Criteria

Canada's Industrial and Technological Benefits (ITB) Objectives

- 1.1. Canada wishes to ensure that its investments in defence-related goods and services generate economic benefit to Canada and have long-term and high-value impacts on Canadian industry, in advanced technology areas. The Value Proposition (VP) Proposal should clearly indicate how the proposed business activities support Canada's ITB objectives set out in subsections 1.2 to 1.7 below, and how they will be achieved if the Bidder is the successful Bidder.
- 1.2. Defence Sector: A core objective of the ITB policy is to ensure that defence procurement supports the economic development and long-term sustainment of Canada's Defence Sector. The Bidder is encouraged to maximize the amount of business activities in Canada involving work directly on the procurement and work in the Marine In-Service Support Sector.
- 1.3. Skills Development: The development of a highly skilled Canadian workforce is one of the industrial objectives related to the AJISS project. The Value Proposition evaluation methodology will encourage the growth of an efficient source of supply for the Royal Canadian Navy to maintain its naval fleet.
- 1.4. Supplier Development: The development of supplier productivity and competitiveness among Canadian-based suppliers is a key objective of the ITB policy. The Bidder is encouraged to provide meaningful opportunities for growth and supply chain integration to suppliers across Canada.
- 1.5. Research and Development (R&D): An important objective of the ITB policy is to encourage innovation, as R&D can position Canadian Companies to move up the value chain and capture market opportunities. The Bidder is encouraged to make R&D investments in Canada and locate high value research and engineering work in Canada, positioning Canadian-based companies to benefit from its subsequent commercialization.
- 1.6. Regional Development: The regional development objectives of the ITB policy are to encourage long-term quality improvements to the capability, capacity, international competitiveness and growth potential of Canadian Companies in those regions where Canada has established specific initiatives to promote economic growth and diversification through procurement. These Designated Regions of Canada are defined in the ITB Terms and Conditions. Canadian industry in all the Designated Regions of Canada should have the opportunity to participate in the AJISS project.
- 1.7. Small and Medium Business (SMB) Development: It is an objective of Canada to encourage the participation of SMB as suppliers on major federal procurements and to increase their competitiveness and export market access. Canadian SMB must have the opportunity to participate in the AJISS project.

2. Mandatory Requirement:

- a. Value Proposition certificate of compliance: The mandatory requirements will be satisfied by the execution and delivery of the Value Proposition certificate of compliance attached hereto as Attachment 1 to Part 5.
- b. Plans: The Bidder must submit in its Proposal all the required components of the Plans as outlined in Section 3 of Attachment 2 to Part 4 and the Plans must achieve the minimum assessment values as outlined in Section 4 of Attachment 2 to Part 4.

3. Assessment of Mandatory Requirements:

- 3.1. Each Plan should respond to all of the requested items outlined below. Responses should be detailed and, wherever appropriate, provide an indication of how items will contribute to the Bidder meeting Canada's ITB objectives in Section 1 of Attachment 2 to Part 4. The Plans will be assessed during the evaluation, based on quality and risk, as outlined in Section 4 of Attachment 2 to Part 4.
- 3.2. The combined page count of the Plans must not exceed fifty (50) pages.
- 3.3. Each Plan should address, wherever appropriate, the Bidder's approach to the following risk areas:
 - 3.3.1. Experience (i.e. practice elsewhere);
 - 3.3.2. Capability (i.e. know-how and tools in place);
 - 3.3.3. Planning (i.e. organized, proactive);
 - 3.3.4. Resources (i.e. team, facilities, information);
 - 3.3.5. Engagement (i.e. interaction with stakeholders);
- 3.4. Company Business Plan
 - 3.4.1. The purpose of the company business Plan is to demonstrate the ability of the Bidder to assemble, plan and describe its proposed team to complete the work on the AJISS project. The Plan should also demonstrate the bidding team's ability to meet the ITB

objectives.

3.4.2. The Bidder's company business Plan should contain the following information:

- 3.4.2.1. An outline of the structure, conduct and performance of the business operations of the Bidder and each of its Eligible Donors that will perform work on the AJISS project;
- 3.4.2.2. A detailed overview of the proposed role of each company in delivering the work on the AJISS project, the proposed location of that work, and the key personnel in each company who would be responsible for delivering that work;
- 3.4.2.3. An organizational chart of each company outlining its worldwide corporate operations, that makes clear the corporate family structure, parent and subsidiary relationships, and the location of key responsibility centres (i.e. headquarters, manufacturing, service centres, R&D, marketing);
- 3.4.2.4. A list of each company's existing Canadian facilities, including the location, date of establishment, nature of operations, number of employees, and place within the worldwide corporate structure; and
- 3.4.2.5. A description of the broad and long-term impacts of the work on the Canadian economy and how these respond to the ITB objectives in Section 1.

3.5. ITB Management Plan

3.5.1. The purpose of the ITB management Plan is to demonstrate the Bidder's ability to develop, implement, manage and report on the Obligations for the full duration of the Achievement Period. It is also the place for the Bidder to formally list its proposed Eligible Donors.

3.5.2. The ITB management Plan should include the following information:

- 3.5.2.1. A description of the ITB management functions and associated organization that the Bidder envisions necessary to successfully meet the Obligations. It should include a summary of the methods, processes and procedures that the Bidder will use to identify, submit, track, record keep and report on ITB activities. The summary should be presented in a level of detail sufficient to demonstrate that the Bidder fully understands its Obligations.
- 3.5.2.2. The name, contact details and biographical information of the Bidder's ITB official(s) assigned to the AJISS project and/or job descriptions for the proposed positions.

3.5.2.3. An explanation of the Bidder's internal processes for ITB organization, advocacy and awareness, both specific to the AJISS project and in general. The Bidder should include a description of how ITB considerations will be factored into the company's broader decision-making processes, along with how these decisions will be documented and tracked.

3.5.2.4. A description of any previous ITB/IRB/offset obligations that have been undertaken by the Bidder over the past ten (10) years, in Canada and elsewhere, along with a brief overview of the achievement status of each project.

3.5.2.5. A list of the Bidder's proposed Eligible Donors and company contact details, along with details and documentation justifying how each company meets the Eligible Donor criteria outlined in the ITB Terms and Conditions.

3.5.2.5.1. All proposed Eligible Donors are subject to review and approval by the ITB Authority during evaluation. Only those proposed Eligible Donors that are found to meet the criteria will be included on the list of Eligible Donors in the ensuing Contract. Any proposed Transaction with a donor company that does not meet the Eligible Donor Criteria will be rejected.

3.5.3. The Bidder should provide the following information outlining its Value Proposition Commitments in relation to the Defence Sector.

3.5.3.1. A detailed description of the Bidder's ability to achieve Direct Transactions in the Defense Sector. The description should include, but not be limited to: resources, experience in supply chain management, offset management, relational contracting, and business development.

3.5.3.2. A detailed description of the Bidder's ability to achieve Indirect Transactions in the Defence Sector. The description should include, but is not limited to: resources, experience in supply chain management, offset management, relational contracting, and business development.

3.5.3.3. The Bidder's ability to demonstrate it has developed in detail, potential work packages with a prequalified list of suppliers to support its Direct and Indirect Commitments in the Defence Sector.

3.5.3.4. A detailed description of how the Bidder's planned activities within the Defence Sector will lead to the increased competitiveness of Canada's Defence Sector over a 35 year period.

3.5.4. The Bidder should provide the following information outlining its Value Proposition Commitments in relation to Skills Development:

3.5.4.1. A detailed description of how the Bidder's proposed activities will contribute to the development of a highly skilled in-service support workforce in Canada's marine sector over a 35 year period.

3.5.4.2. A detailed description of how the Bidder's Skills Development activities align with the strategic objectives of the Future of In-Service Support Initiative (FISS).

3.5.4.3. A detailed description of Canadian industry's ability to meet the in-service support requirements of the AJISS project, and how the proposed Skills Development activities will contribute to addressing any potential gaps.

3.5.5. The Bidder should provide the following information outlining its Value Proposition Commitments in relation to Supplier Development:

3.5.5.1. A detailed description of work packages with a prequalified list of suppliers.

3.5.5.2. A detailed description of how Supplier Development objectives are imbedded within its internal supply chain management decision-making process.

3.5.5.3. A detailed description of how a Bidder's Eligible Donors are working towards meeting the objectives outlined in the Value Proposition Supplier Development category.

3.5.5.4. A detailed description of any initiatives, assistance and/or encouraged (at a broad corporate level) specific to Supplier Development Commitments to non-SMB companies to stimulate and promote them, both as a potential supplier to the AJISS requirements and for their general development.

3.5.5.5. A detailed description of how proposed Commitments will lead to opportunities for Canadian Companies to pursue and undertake new business activity; and enter into a new supply chain; and/or move up the supply chain (e.g. tier 2 becomes a tier 1) over a 35 year period.

3.6. Regional Development Plan

3.6.1. The purpose of the regional development Plan is to demonstrate the Bidder's commitment to providing opportunities and assistance for businesses in the Designated Regions of Canada.

3.6.2. The Regional Development Plan should include the following information:

3.6.2.1. Identification and description of the Bidder's proposed Transactions in the Designated Regions of Canada, the total of which will become Obligations to be achieved under Article 3 of the ITB Terms and Conditions. The Plan may also identify any regional commitment target to which the Bidder is prepared to commit contractually.

3.6.2.2. A description of the Bidder's business rationale for its regional approach.

3.6.2.3. A description of the activities and approaches undertaken to date by the Bidder and its proposed Eligible Donors that have resulted in the distribution of proposed Transactions to the Designated Regions of Canada.

3.6.2.4. A description of the activities and approaches that will be undertaken after Contract award until the end of the Achievement Period to improve the opportunities available to the Designated Regions of Canada.

3.6.2.5. A description of whether and how regional considerations are factored into the Bidder's ITB decision-making processes.

3.7. Small and Medium Business (SMB) Development Plan

3.7.1. The purpose of the SMB development Plan is to demonstrate the Bidder's commitment to providing opportunities, assistance and encouragement to SMB in Canada.

3.7.2. The SMB development Plan should include the following information:

3.7.2.1. Identification and description of the Bidder's proposed Transactions involving SMB in Canada, the total of which, or 15 percent of the Contract Value, whichever is higher will become Obligations to be achieved under Article 3 of the ITB Terms and Conditions.

3.7.2.2. A description of the activities and approaches undertaken to date by the Bidder and its proposed Eligible Donors that have resulted in the proposed distribution of SMB Transactions.

3.7.2.3. A description of the activities and approaches that will be undertaken after Contract award until the end of the Achievement Period to improve the opportunities available to SMB.

3.7.2.4. A description of whether and how SMB considerations are factored into the Bidder's ITB decision-making processes.

3.7.2.5. A description of any initiatives and/or assistance (at a broad corporate level or specific to the AJISS project) that would be provided to SMB to help stimulate and promote them, both as a potential suppliers to the AJISS project and for their capability to pursue and undertake new business activities. Examples could include financing or special payment provisions.

4. Minimum Assessment Values

4.1. The Plans will be evaluated to determine if they meet the minimum assessment values below.

4.2. The Plans are assessed for quality and for risk, using the assessments in Tables 4-1 and 4-2.

4.3. Quality will be assessed as to whether the Plans respond to the requested components outlined in Section 3 of Attachment 2 to Part 4, the level of detail in the component, and how well the content of the Plan meets the ITB Objectives outlined in Section 1 of Attachment 2 to Part 4.

4.4. Quality will be assessed on a scale of one (1) to four (4), using the values below in Table 4-1;

Table 4 - 1, Plan Quality Assessments

VALUE	PLAN – QUALITY ASSESSMENTS
4	<p>SUPERIOR Plan contains detailed responses to four or more of the requested items in Section 3.5 – 3.8 of Attachment 2 to Part 4, both inclusive, as applicable. The Plan demonstrates many of Canada’s ITB objectives will be met.</p>
3	<p>GOOD Plan contains detailed responses to three of the requested items in Section 3.5 – 3.8 of Attachment 2 to Part 4, both inclusive, as applicable. The Plan demonstrates that several of Canada’s ITB objectives will be met.</p>
2	<p>POOR Plan contains detailed responses to two of the requested items in Section 3.5 – 3.8 of Attachment 2 to Part 4, both inclusive, as applicable. The Plan demonstrates that some of Canada’s ITB objectives will be met.</p>
1	<p>VERY WEAK Plan contains detailed response to one or less of the requested items in the Section 3.5 – 3.8 of Attachment 2 to Part 4, both inclusive, as applicable. The Plan does not demonstrate that Canada’s ITB objectives will be met.</p>

4.5. Risk will be assessed as to whether the Plan responds to the risk areas outlined in Section 3.4 of Attachment 2 to Part 4 and the level of detail provided.

4.6. Risk will be assessed on a scale of one (1) to four (4), using the values below in Table 4-2.

Table 4 - 2, Plan Risk Assessments

VALUE	PLAN - RISK ASSESSMENTS
4	SUPERIOR Plan contains a detailed response to four or more of the risk areas in Section 3.4 of Attachment 2 to Part 4, such that the probability of failure to achieve is extremely low.
3	GOOD Plan contains a detailed response to three of the risk areas in Section 3.4 of Attachment 2 to Part 4, such that the probability of failure to achieve is low.
2	POOR Plan contains a detailed response to two of the risk areas in Section 3.4 of Attachment 2 to Part 4, such that the probability of failure to achieve is moderate.
1	VERY WEAK Plan contains a detailed response to one or less of the risk areas in Section 3.4 of Attachment 2 to Part 4, such that the probability of failure to achieve is significant.

4.7. The quality and risk assessments agreed to by evaluators will be multiplied together and the sums added together to determine the final Plans assessment value for the Proposal.

4.8. The Bidder must achieve or exceed a final Plans assessment value of thirty-two (32) (out of a possible sixty-four (64)).

EXAMPLE:

Plan	Quality (A)	Risk (B)	Assessment Value (C) (C) = (A) x (B)
Company business Plan	4	3	12
ITB management Plan	2	3	6
SMB development Plan	3	4	12
Regional development Plan	3	2	6

Final Plans assessment value			36
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5. Rated Elements

- 5.1. Value Proposition: The Bidder should provide information and details on its VP Commitments and proposed Transactions, which will be rated as described in Section 6 of Attachment 2 to Part 4. The Bidder should complete and submit the rated criteria certificate in Attachment 5, Annex K, ITB Terms and Conditions, signed and dated by a company official duly authorized to bind the company. The Proposal should include:
- 5.2. **Defence Sector:** The extent to which the Bidder provides Commitments and/or identifies Transactions for activities in the Defence Sector. For the AJISS project, the Defence Sector means: direct activities related to the AJISS Performance Work Statement; indirect in-service support activities on other naval platforms; and indirect in-service activities that are Dual Use. For a detailed definition of Defence Sector and Dual Use, refer to Annex K, ITB Terms and Conditions, Article 1.1.9 and Article 1.1.12, respectively.
- 5.2.1. The Proposal should include the Bidder's Commitment to achieve Direct Transactions in the Defence Sector. The Commitment should be expressed as a percentage of the Contract Value, including options, measured in CCV, and must be a minimum of 50 percent as per the mandatory requirement in the Value Proposition Certificate of Compliance in Attachment 1 to Part 5. This Commitment will become an Obligation to be completed within the Achievement Period.
- 5.2.2. The Proposal should include the Bidder's Commitment to achieve Indirect Transactions in the Defence Sector. The Commitment should be expressed as a percentage of the Contract Value, including options, measured in CCV. This Commitment will become an Obligation to be completed within the Achievement Period.
- 5.2.3. The Proposal should include the Bidder's proposed Direct Transactions and Indirect Transactions in the Defence Sector. The Bidder should describe in its Proposal how the proposed Direct Transactions align with the AJISS PWS and how the proposed Indirect Transactions align with the Defence Sector and should provide supporting details and documentation. Failure to demonstrate this alignment may result in zero points at evaluation. Direct Transactions and Indirect Transactions in the Defence Sector will become Obligations to be completed within the Achievement Period.
- 5.3. **Skills Development:** The extent to which the Bidder provides Commitments and/or identifies Transactions for activities in Skills Development. For the AJISS project, Skills Development means activities related to Marine-In Service Support in the areas of: program and subcontract management, configuration and data/document management, intellectual property management, life cycle management, logistics support analysis, skilled apprenticeships and engineering. For a detailed definition of Skills Development, refer to Annex K, ITB Terms and Conditions, Article 1.1.31.

- 5.3.1. The Proposal should include the Bidder's Commitment to achieve Transactions involving Supplier Development. The Commitment should be expressed as a percentage of the Contract Value, including options, measured in CCV. This Commitment will become an Obligation to be completed within the Achievement Period.
- 5.3.2. The Proposal should include the Bidder's proposed Transactions involving Skills Development. The Bidder should describe in its Proposal how the proposed Transactions align with Skills Development and should provide supporting details and documentation. Failure to demonstrate this alignment may result in zero points at evaluation. Transactions involving Skills Development will become Obligations to be completed within the Achievement Period.
- 5.4. Supplier Development:** The extent to which the Bidder provides Commitments for activities in Supplier Development. For the AJISS project, Supplier Development means marine activities with non-Small and Medium Business (SMB) and SMB. For a detailed definition of Supplier Development, refer to Annex K, ITB Terms and Conditions, Article 1.1.33.
- 5.4.1. The Proposal should include the Bidder's Commitment to achieve Transactions involving Supplier Development with non-SMB. The Commitment should be expressed as a percentage of the Contract Value, including options and measured in CCV. This Commitment will become an Obligation to be completed within the Achievement Period.
- 5.4.2. The Proposal should include the Bidder's Commitment to achieve Transactions involving Supplier Development with SMB. The Commitment should be expressed as a percentage of the Contract Value, including options, measured in CCV. This Commitment will become an Obligation to be completed within the Achievement Period.
- 5.5. Research and Development (R&D):** The extent to which the Bidder provides Commitments for activities in R&D. For the AJISS project, R&D means Marine In-Service Support activities in the areas of: program management; data analytics; predictive maintenance; logistics support analysis; life cycle management; and in-service support productivity improvements. For a detailed definition of R&D, refer to Annex K, ITB Terms and Conditions, Article 1.1.28.
- 5.5.1. The Proposal should include the Bidder's Commitment to achieve Transactions involving Research and Development. The Commitment should be expressed as a percentage of the Contract Value, including options and measured in CCV. This Commitment will become an Obligation to be completed within the Achievement Period.
- 5.6. Detailed Transaction Sheets**
- 5.6.1. The Proposal will provide a separate and detailed transaction sheet for each Transaction that the Bidder proposes and for which it is prepared to commit contractually. A template of the transaction sheet is attached as Attachment 2 of Annex K, ITB Terms and Conditions. The Bidder is encouraged to use this template, to promote administrative consistency and ease.

- 5.6.2. In addition to the individual transaction sheets, the Bidder will include a summary chart of all of its proposed Transactions. The summary chart should clearly identify each Transaction and provide a breakdown, with appropriate sub-totals and percentages, by: direct, indirect, region, SMB and rated criteria. The summary chart should provide a very brief description of how each proposed Transaction aligns with the rated criteria, to compliment the more detailed justifications located in the transaction sheet. The Bidder may use a format of its choice for the summary chart.
- 5.6.3. The Bidder should include a forecast plan for the Transactions due one (1) and three (3) years following the Effective Date of the Contract, respectively. The forecast plan should include such information as, but not be limited to: a list of any Canadian Companies being considered; and/or, the specific capabilities being sought from Canadian suppliers.
- 5.6.4. The Bidder is strongly encouraged to fully complete every section of the transaction sheet, as outlined below, so that the proposed Transaction can be properly evaluated. The Bidder should also provide details and documentation within its Proposal, as indicated, in support of Transaction eligibility. Failure to adequately describe and/or document the proposed Transaction may result in it being rejected as not meeting the Transaction eligibility criteria.
- 5.6.5. Identifying a Transaction means presenting a signed transaction sheet to the ITB Authority, which names both a specific Eligible Donor and a specific Recipient, describes the business activity in detail, provides valuation information, and complies with the Bidder Instructions and the ITB Terms and Conditions with respect to eligibility criteria, valuation, transaction types and banking.
- 5.6.6. Instructions for transaction sheets:
- 5.6.6.1. Overview
- Title (*provide a brief title identifying the activity*)
 - Number (*assign a unique number, in simple, sequential order, for reference purposes*)
 - Date Proposed Transaction submitted (*date of Proposal*)
 - Tranche (*the Proposal is tranche 1*)
- 5.6.6.2. Contractor contact information (*information regarding the proposed Contractor on the AJISS project*)
- 5.6.6.3. Eligible Donor company information
- 5.6.6.4. Recipient information: *Notes: i) the company description should include locations, business history and core capabilities; ii) see Article 8.1.5 of the Terms and Conditions for other Recipient requirements.*

5.6.6.5. Valuation and time phasing (*specify the overall CCV values as applicable, plus the detailed commitment schedule broken out by 12 month periods, which mirror the Reporting Periods*)

- For the purposes of the evaluation process, the multiplied or enhanced value of a proposed Transaction involving a credit multiplier, future sales achievement or CCV enhancement, as described in Article 7 of the Terms and Conditions will not be considered. Only the face value of the initial investment, or the estimated CCV, in the proposed Transaction will be considered. Any multiplied credit values, future sales achievements or enhanced CCV will be counted after the Effective Date of the Contract.

5.6.6.6. Details of proposed Transaction

- Type of Transaction (*direct or indirect, pooled, banked*)
- Description of Transaction (*provide a detailed description of the proposed activity, including: nature of work; location of work in Canada, estimated quantities and timelines; any end-use market, platform or program; and, other relevant information*)
- VP activity (*yes or no*)
 - Defence Sector (*yes, no or dual-use*)
 - Skills Development (*yes or no*)
 - Supplier Development (*yes or no*)
 - R&D activity (*yes or no*)
 - Description/justification for VP activities above (*clearly demonstrate and document alignment with VP requirements*)
- Activity type (*e.g. purchase, investment*)
- Business activity type (*e.g. aircraft fabrication, electro-optical*)
- Federal supply class (FSC) Code (*website reference provided on template*)

- Investment framework details (*if applicable*)
 - Allowable investment type (*cash grant, cash share purchase, in-kind IP, transfer equipment, marketing support*)
 - Type of R&D or commercialization activity (*e.g. test analysis, applied research, business planning, feasibility studies*)
 - Business Plan included (*template in Attachment 4 of Terms and Conditions*)
 - Valuation documentation included (*agreement or in-kind valuation report, as appropriate*)

5.6.6.7. Consortium member information (*if applicable*);

5.6.6.8. Transaction eligibility criteria (*be as specific and detailed as possible in addressing how a proposed Transaction meets each eligibility criteria, which are outlined in the ITB Terms and Conditions. Guidance is provided in the transaction sheet template. Include all details, documentation and certificates in the Proposal*)

5.6.6.9. Other

- Canadian government assistance (*describe the date and details of any assistance provided -- either to the specific activity, the Eligible Donor, or the Recipient -- from any level of government in Canada*)
- CCV overview (*indicate which CCV calculation method was used*)
- Level of technology (*for Indirect Transactions, indicate whether the level of technology is the same or higher than the AJISS project*)

5.6.6.10. Signature (*an authorized official at the Bidder's or proposed eligible donor's company*)

6. Rated Evaluation

6.1. The Bidder's proposed Commitments and Transactions will be evaluated against the rated criteria as described below.

No.	Area	Assessment Criteria	Max. Points
DEFENCE SECTOR			
1	Commitment to achieve Direct Transactions at the minimum mandatory requirement of 50 percent	<p>The Bidder may commit to achieve Direct Transactions in excess of the mandatory requirement of 50 percent of the Contract Value (including any Contract options), measured in CCV.</p> <p>The Bidder with the highest total Commitment will receive 45 points. All other Bidders will be prorated down.</p> <p>Formula: (Bidder's Commitment divided by the highest Bidder's Commitment) multiplied by 45 points.</p>	45
2	Commitment to achieve Indirect Transactions in the Defence Sector	<p>The Bidder may commit to achieve Indirect Transactions in the Defence Sector.</p> <p>The Bidder with the highest total Commitment to achieve Indirect Transactions in the Defence Sector will receive 22.5 points. All other Bidders will be prorated down.</p> <p>Formula: (Bidder's Commitment divided by the highest Bidder's Commitment) multiplied by 22.5 points.</p>	22.5
3	Identified Direct and Indirect Transactions in the Defence Sector	<p>The Bidder may identify Direct and Indirect Transactions in the Defence Sector.</p> <p>The Bidder with the highest dollar value, measured in CCV, in identified transactions will receive 7.5 points. All other Bidders will be prorated down.</p>	7.5

		Formula: (Bidder's dollar value divided by the highest dollar value) multiplied by 7.5 points.	
SKILLS DEVELOPMENT			
1	Commitment to achieve Transactions involving Skills Development	<p>The Bidder may commit to achieve Transactions involving Skills Development.</p> <p>The Bidder with the highest total Commitment to achieve Transactions involving Skills Development will receive 27.5 points. All other Bidders will be prorated down</p> <p>Formula: (Bidder's Commitment divided by the highest Bidder's Commitment) multiplied by 27.5 points.</p>	27.5
2	Identified Transactions involving Skills Development	<p>The Bidder may identify Transactions involving Skills Development.</p> <p>The Bidder with the highest dollar value, measured in CCV, in identified transactions will receive 10 points. All other Bidders will be prorated down.</p> <p>Formula: (Bidder's dollar value divided by the highest dollar value) multiplied by 10 points.</p>	10
SUPPLIER DEVELOPMENT			
1	Commitment to achieve Transactions involving Supplier Development activities with non-SMB	<p>The Bidder may commit to achieve Transactions involving Supplier Development activities with non-SMB.</p> <p>The Bidder with the highest total Commitment to achieve Transactions involving Supplier Development with non-SMB will receive 18 points. All other Bidders will be prorated down</p> <p>Formula: (Bidder's Commitment divided by the highest Bidder's</p>	18

		Commitment) multiplied by 18 points.	
2	Commitment to achieve Transactions involving Supplier Development with SMB at the minimum Mandatory Requirement of 15%	<p>The Bidder may commit to achieve Transactions involving Supplier Development with SMB.</p> <p>The Bidder that offers the highest total commitment to achieve Supplier Development with SMB will receive 4.5 points. All other Bidders will be prorated down.</p> <p>Formula: (Bidder's Commitment divided by the highest Bidder's Commitment) multiplied by 4.5 points.</p>	4.5
RESEARCH AND DEVELOPMENT			
1	Commitment to achieve Transactions involving Research and Development activities	<p>The Bidder may commit to achieving Transactions involving Research and Development activities.</p> <p>The Bidder that offers the highest total commitment to achieve Research and Development activities will receive 15 points. All other Bidders will be prorated down.</p> <p>Formula: (Bidder's Commitment divided by the highest Bidder's Commitment) multiplied by 15 points.</p>	15

- 6.2. Identified Transactions will be assessed to determine whether they align with Defence Sector and/or Skills Development requirements identified in sections 5.2 and 5.3. The Bidder should provide a level of detail sufficient to support the claim that the Transaction fits within a given criteria.
- 6.2.1. Transactions where the Bidder does not demonstrate alignment with the rated evaluation criteria will receive zero points in the rated evaluation, but would be included as a Commitment to be achieved in the Contract.
- 6.2.2. Transactions where the Bidder demonstrates alignment with the rated evaluation criteria will be scored as outlined above. These Transactions would also be included as a Commitment to be achieved in the Contract.
- 6.3. Identified Transactions may be aligned with multiple criteria and will be scored as such, up to the maximum total points. All Transactions and Commitments identified in the Proposal will be included as a Commitment and/or Obligation to be achieved in the ensuing Contract.

6.4. Table 6.4 below summarizes the rated evaluation scoring:

Table 6.4 – Summary of Rated Evaluation Scoring

Element	Available Points	Basis of Evaluation
Defence Sector	75	
Direct Commitment	45	Commitment on signed rated criteria certificate
Indirect Commitment	22.5	Commitment on signed rated criteria certificate
Identified Transactions	7.5	Justification and CCV on transaction sheets
Skills Development	37.5	
Commitment	27.5	Commitment on signed rated criteria certificate
Identified Transactions	10	Justification and CCV on transaction sheets
Supplier Development	22.5	
Commitment with non-SMB	18	Commitment on signed rated criteria certificate
Commitment with SMB	4.5	Commitment on signed rated criteria certificate
Research and Development	15	
Commitment	15	Commitment on signed rated criteria certificate

PART 5 – CERTIFICATIONS

Bidders must provide the required certifications and associated information to be awarded a contract.

The certifications provided by Bidders to Canada are subject to verification by Canada at all times. Canada will declare a bid non-responsive, or will declare a contractor in default in carrying out any of its obligations under the Contract, if any certification made by the Bidder is found to be untrue, whether made knowingly or unknowingly, during the bid evaluation period or during the contract period.

The Contracting Authority will have the right to ask for additional information to verify the Bidder's certifications. Failure to comply and to cooperate with any request or requirement imposed by the Contracting Authority may render the bid non-responsive or constitute a default under the Contract.

5.1 Certifications Required with the Bid:

Bidders must submit the following duly completed certifications as part of their bid.

5.1.1 Integrity Provisions - Declaration of Convicted Offences – refer to Standard Instructions 2003 01 (2016-04-04) Integrity provisions—bid

5.1.2 Non- Exclusivity Certification

By submitting a bid, the Bidder certifies that it has not entered into and will not enter into any contractual arrangement or understanding that will have the effect of imposing any restriction that limits Canada's right to use, have used or dispose of the Work, or Canada's right to purchase from any third party any goods or services for a JSS or an AOPS, or limits the right of any Subcontractor or supplier to sell to Canada or a contractor of Canada any such good and/or service.

5.1.3 Value Proposition – Certificate of Compliance

The Bidder **must provide the signed certification** in Attachment 1 to Part 5 with the Bid

5.2 Certifications Precedent to Contract Award and Additional Information

The certifications and additional information listed below should be submitted with the bid but may be submitted afterwards. If any of these required certifications or additional information is not completed and submitted as requested, the Contracting Authority will inform the Bidder of a time frame within which to provide the information. Failure to provide the certifications or the additional information listed below within the time frame specified will render the bid non-responsive.

5.2.1 Government of Canada Policy Framework Governing AOPS and JSS In-Service Support

- a) By submitting a Bid, the Bidder certifies its understanding that in accordance with the Policy Framework for the Canadian Shipbuilding and Industrial Marine Industry, https://www.ic.gc.ca/eic/site/sim-cnmi.nsf/eng/h_uv00053.html the Federal Government will procure, repair and refit vessels in Canada subject to operational requirements and the continued existence of a competitive domestic marketplace.
- b) By submitting a Bid, the Bidder certifies its understanding that Canada's Industrial and Technical Benefits (ITB) policy, <http://www.ic.gc.ca/eic/site/042.nsf/eng/home>, will be a mandatory element of this contract, and if awarded the In-Service Support contract, commits to achieve ITB valued at 100% of the contract value.

5.2.2 Federal Contractors Program for Employment Equity - Bid Certification

- a) By submitting a bid, the Bidder certifies that the Bidder, and any of the Bidder's members if the Bidder 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 Employment and Social Development Canada (ESDC) - Labour's website.
- b) Canada will have the right to declare a bid non-responsive if the Bidder, or any member of the Bidder if the Bidder is a Joint Venture, appears on the "FCP Limited Eligibility to Bid" list at the time of contract award.
- c) Canada will also have the right to terminate the Contract for default if a Contractor, or any member of the Contractor if the Contractor is a Joint Venture, appears on the "FCP Limited Eligibility to Bid" list during the period of the Contract.
- d) The Bidder must provide the Contracting Authority with a completed Annex G Federal Contractors Program for Employment Equity - Certification, before contract award. If the Bidder is a Joint Venture, the Bidder must provide the Contracting Authority with a completed Annex G Federal Contractors Program for Employment Equity - Certification, for each member of the Joint Venture.

5.2.3 Relationship Charter Certification

By submitting a bid, the Bidder certifies its commitment to jointly develop and agree to a Relationship Charter with the Government of Canada that defines how both parties will collaborate to achieve success in the provision of AOPS and JSS In-Service Support.

5.2.4 Bidder's Team – Subcontractor Experience

Where a Bidder submits the experience of a subcontractor in regard to those criteria where Canada has agreed to consider the experience of a subcontractor for evaluation purposes, by submitting a bid, the Bidder certifies that it has a teaming arrangement with any such subcontractor to prepare the proposal to this RFP and to provide the services relating to the experience submitted for evaluation in any resulting contract. The Bidder is also requested to provide a letter from the subcontractor confirming the foregoing and the subcontractor's commitment to act as a subcontractor to the Bidder if awarded a contract. If this letter is not included with the bid on the closing date, it must be provided when requested by the Contracting Authority. Failure to comply with the request of the Contracting Authority and provide the required letter within the requested time period will result in the response being disqualified.

ATTACHMENT 1 TO PART 5

Certification Required with the Bid

1. Value Proposition - Certificate of Compliance

The Bidder, _____, declares and certifies that through this Proposal for AJISS Contract, the Bidder:

1. Commits to achieving Transactions, measured in Canadian Content Value (CCV), valued at not less than 100% of the Contract Value (including any Contract options), to be achieved within the Achievement Period.
2. Commits to achieving Direct Transactions, measured in CCV, valued at not less than 50% of the Contract Value (including any Contract options), to be achieved within the Achievement Period.
3. Commits to achieving Transactions involving Supplier Development with Small and Medium Business, measured in CCV, valued at not less than 15% of the Contract Value (including any Contract options), to be achieved within the Achievement Period.
4. Accepts all of the ITB Terms and Conditions.

IN WITNESS THEREOF THIS MANDATORY REQUIREMENTS COMPLIANCY CERTIFICATE HAS BEEN SIGNED THIS _____ DAY OF _____ BY A SENIOR COMPANY OFFICIAL WHO IS DULY AUTHORIZED TO BIND THE COMPANY.

SIGNATURE

NAME AND TITLE OF SENIOR COMPANY OFFICIAL

PART 6 - SECURITY, FINANCIAL AND OTHER REQUIREMENTS

6.1 Security Requirements

- 6.1.1. Before award of a contract, the following conditions must be met:
- a) the Bidder must hold a valid organization security clearance as indicated in Part 7 - Resulting Contract Clauses;
 - b) the Bidder's proposed individuals requiring access to classified or protected information, assets or sensitive work sites must meet the security requirements as indicated in Part 7 - Resulting Contract Clauses;
 - c) the Bidder must provide the name of all individuals who will require access to classified or protected information, assets or sensitive work sites;
 - d) the Bidder's proposed location of work performance and document safeguarding must meet the security requirements as indicated in Part 7 - Resulting Contract Clauses;
 - e) the Bidder must provide the addresses of proposed sites or premises of work performance and document safeguarding as indicated in Part 3 - Section IV Additional Information.
- 6.1.2. Bidders are reminded to obtain the required security clearance promptly. Any delay in the award of a contract to allow the successful Bidder to obtain the required clearance will be at the entire discretion of the Contracting Authority.
- 6.1.3. For additional information on security requirements, Bidders should refer to the Industrial Security Program (ISP) of Public Works and Government Services Canada (<http://ssi-iss.tpsgc-pwgsc.gc.ca/index-eng.html>) website.

6.2 Financial Capability

- 6.2.1 The Bidder must have the financial capability to fulfill this requirement. To determine the Bidder's financial capability, the Contracting Authority may, by written notice to the Bidder, require the submission of some or all of the financial information detailed below during the evaluation of bids. The Bidder must provide the following information to the Contracting Authority within fifteen (15) working days of the request or as specified by the Contracting Authority in the notice:
- a) Audited financial statements, if available, or the unaudited financial statements (prepared by the Bidder's outside accounting firm, if available, or prepared in-house if no external statements have been prepared) for the Bidder's last three fiscal years, or for the years that the Bidder has been in business if this is less than three years (including, as a minimum, the Balance Sheet, the Statement of Retained Earnings, the Income Statement and any notes to the statements).
 - b) If the date of the financial statements in (a) above is more than five months before the date of the request for information by the Contracting Authority, the Bidder must also provide, unless this is prohibited by legislation for public companies, the last quarterly financial statements (consisting of a Balance Sheet and a year-to-date Income Statement), as of two months before the date on which the Contracting Authority requests this information.
 - c) If the Bidder has not been in business for at least one full fiscal year, the following must be provided:

- i. the opening Balance Sheet on commencement of business (in the case of a corporation, the date of incorporation); and
 - ii. the last quarterly financial statements (consisting of a Balance Sheet and a year-to-date Income Statement) as of two months before the date on which the Contracting Authority requests this information.
- d) A certification from the Chief Financial Officer or an authorized signing officer of the Bidder that the financial information provided is complete and accurate.
 - e) A confirmation letter from all of the financial institution(s) that have provided short-term financing to the Bidder outlining the total of lines of credit granted to the Bidder and the amount of credit that remains available and not drawn upon as of one month prior to the date on which the Contracting Authority requests this information.
 - f) A detailed monthly Cash Flow Statement covering all the Bidder's activities (including the requirement) for the first two years of the requirement that is the subject of the bid solicitation, unless this is prohibited by legislation. This statement must detail the Bidder's major sources and amounts of cash and the major items of cash expenditures on a monthly basis, for all the Bidder's activities. All assumptions made should be explained as well as details of how cash shortfalls will be financed.
 - g) A detailed monthly Project Cash Flow Statement covering the first two years of the requirement that is the subject of the bid solicitation, unless this is prohibited by legislation. This statement must detail the Bidder's major sources and amounts of cash and the major items of cash expenditures, for the requirement, on a monthly basis. All assumptions made should be explained as well as details of how cash shortfalls will be financed.

6.2.2 If the Bidder is a joint venture, the financial information required by the Contracting Authority must be provided by each member of the joint venture.

6.2.3 If the Bidder is a subsidiary of another company, then any financial information in 1. (a) to (f) above required by the Contracting Authority must be provided by the ultimate parent company. Provision of parent company financial information does not by itself satisfy the requirement for the provision of the financial information of the Bidder, and the financial capability of a parent cannot be substituted for the financial capability of the Bidder itself unless an agreement by the parent company to sign a Parental Guarantee, as drawn up by Public Works and Government Services Canada (PWGSC), is provided with the required information.

6.2.4 Financial Information Already Provided to PWGSC: The Bidder is not required to resubmit any financial information requested by the Contracting Authority that is already on file at PWGSC with the Contract Cost Analysis, Audit and Policy Directorate of the Policy, Risk, Integrity and Strategic Management Sector, provided that within the above-noted time frame:

- a) the Bidder identifies to the Contracting Authority in writing the specific information that is on file and the requirement for which this information was provided; and
- b) the Bidder authorizes the use of the information for this requirement.

It is the Bidder's responsibility to confirm with the Contracting Authority that this information is still on file with PWGSC.

- 6.2.5 Other Information:** Canada reserves the right to request from the Bidder any other information that Canada requires to conduct a complete financial capability assessment of the Bidder.
- 6.2.6 Confidentiality:** If the Bidder provides the information required above to Canada in confidence while indicating that the disclosed information is confidential, then Canada will treat the information in a confidential manner as permitted by the Access to Information Act, R.S., 1985, c. A-1, Section 20(1) (b) and (c).
- 6.2.7 Security:** In determining the Bidder's financial capability to fulfill this requirement, Canada may consider any security the Bidder is capable of providing, at the Bidder's sole expense (for example, an irrevocable letter of credit from a registered financial institution drawn in favor of Canada, a performance guarantee from a third party or some other form of security, as determined by Canada).
- 6.2.8** In the event that a proposal is found to be non-compliant on the basis that the Bidder is considered not to be financially capable of performing the subject requirement, official notification shall be provided to the Bidder.

6.3 Controlled Goods Requirement

- 6.3.1** As the resulting contract will require the production of or access to controlled goods that are subject to the Defence Production Act, R.S. 1985, c. D-1, Bidders are advised that within Canada only persons who are registered, exempt or excluded under the Controlled Goods Program (CGP) are lawfully entitled to examine, possess or transfer controlled goods. Details on how to register under the CGP are available at: Controlled Goods Program and registration is carried out as follows:
- 6.3.2** When the bid solicitation includes controlled goods information or technology, the Bidder must be registered, exempt or excluded under the CGP before receiving the bid solicitation. Requests for technical data packages or specifications related to controlled goods should be made in writing to the Contracting Authority identified in the bid solicitation and must contain the CGP registration number or written proof of exemption or exclusion of the Bidder and of any other person to whom the Bidder will give access to the controlled goods.
- 6.3.3** When the bid solicitation does not include controlled goods information or technology but the resulting contract requires the production of or access to controlled goods, the successful Bidder and any subcontractor who will be producing or accessing controlled goods must be registered, exempt or excluded under the CGP before examining, possessing or transferring controlled goods.
- 6.3.4** When the successful Bidder and any subcontractor proposed to examine, possess or transfer controlled goods that are not registered, exempt or excluded under the CGP at time of contract award, the successful Bidder and any subcontractor must, within seven (7) working days from receipt of written notification of contract award, ensure that the required application(s) for registration or exemption are submitted to the CGP. No examination, possession or transfer of controlled goods must be performed until the successful Bidder has provided proof, satisfactory to the Contracting Authority that the successful Bidder and any subcontractor are registered, exempt, or excluded under the CGP.
- 6.3.5** Failure to provide proof, satisfactory to the Contracting Authority, that the successful Bidder and any subcontractor are registered, exempt or excluded under the CGP, within thirty (30) days from receipt of written notification of contract award, will be considered a default under

the resulting contract except to the extent that Canada is responsible for the failure due to delay in processing the application.

- 6.3.5** Bidders are advised that all information on the Application for Registration (or exemption) Form will be verified and errors or inaccuracies may cause significant delays and/or result in denial of registration or exemption.

6.4 Insurance Requirements

The Bidder must provide a letter from an insurance broker or an insurance company licensed to operate in Canada stating that the Bidder, if awarded a contract as a result of the bid solicitation, can be insured in accordance with the Insurance Requirements specified in Annex H.

If the information is not provided in the bid, the Contracting Authority will so inform the Bidder and provide the Bidder with a time frame within which to meet the requirement. Failure to comply with the request of the Contracting Authority and meet the requirement within that time period will render the bid non-responsive.

PART 7 - RESULTING CONTRACT CLAUSES

The following clauses and conditions apply to and form part of any contract resulting from the bid solicitation.

7.1 Requirement

This Contract is issued on behalf of the Department of National Defence (DND) for the provision of support over the operational life of the Arctic/Offshore Patrol Ships (AOPS) and the Joint Support Ship (JSS) ships, estimated to be 35 years. The AOPS and JSS In-Service Support Contract includes start-up services for integrated logistics support activities to set up an initial support solution as the fleet enters service. Subsequently, the services will include the support of the ships and their related equipment including program management, life cycle materiel management, docking, maintenance, alterations and disposal until the end of service life of these fleets.

7.1.1 The Contractor must:

- a) Perform the Work for up to 6 AOPS and up to 2 JSS in accordance with the Performance Work Statement at Annex A; and
- b) Provide any unscheduled work approved by Canada not covered in the above; and
- c) Perform the Work in Canada unless a vessel is deployed or work outside of Canada and is specifically authorized by Canada.
- d) Deliver the deliverable items detailed as Contract Deliverables Requirement List in Annex A, at the location and time designated; and
- e) Provide Industrial and Technological Benefits (ITB) and Value Proposition (VP) benefits in accordance with the requirements set out in Annex K and the commitments set out in the ITB and VP portions of the Contractor's bid dated _____.

7.1.2 The Industrial and Technological Benefits terms and conditions attached hereto as Annex K - ITB Terms and Conditions, which contains the Contractor's obligations for the ITB, forms part of this Contract and the Contractor hereby agrees to fulfill its ITB obligations as set out in the ITB terms and conditions.

7.1.3 The Contractor understands and agrees that, due to the potential for changes to DND's operational needs or changes to the Government of Canada's policies or fiscal priorities over the duration of this Contract, the requirements specified in Annex A of this contract could be amended. As a result of the potential for change, Canada reserves the right to add or remove portions of the Work from the Contract as it deems necessary. If this were to occur, Canada and the Contractor will re-negotiate the basis of payment to respect the principles of PWGSC 1031-2 Contract Cost Principles to reflect either an increase or decrease in the scope of the Work, and will amend the Contract accordingly.

7.1.4 Canada's facilities, equipment, documentation and personnel are not automatically at the disposal of the Contractor. If access to government premises, computer systems or network, working space, telephones, terminals, documentation and personnel is required by the Contractor to perform the Work, the Contractor must advise Canada of the need for such access in a timely fashion. If the Contractor's request for access is approved by Canada and arrangements are made to provide access to the Contractor, the Contractor, its subcontractors, agents and employees must comply with all the conditions applicable at the Work site. The Contractor must further ensure that the facilities and equipment are used solely for the performance of the Contract.

7.1.5 The terms "Ship" and "Vessel" are to be considered as having the same meaning in this Contract.

7.2 Optional Goods and/or Services

- 7.2.1 The Contractor grants to Canada the right to add the provision of in service support of other DND vessels that deliver similar operational capabilities to the RCN as either the AOPS or JSS classes to the contract.
- 7.2.2 The Contractor grants to Canada an irrevocable option to add Contractor ownership of spares and material to the contract.
- 7.2.3 The cost, basis and method of payment of both these options will be negotiated between Canada and the Contractor respecting the principles of Contract Cost Principles 1031-2 and Chapter 10 of the Supply Manual – Cost and Profit. These options may only be exercised by the Contracting Authority and will be evidenced through a contract amendment. The Contracting Authority may exercise an option at any time before the expiry of the Contract by sending a written notice to the Contractor.

7.3 Task Authorization

- 7.3.1 A portion of the Work to be performed under the Contract will be on an "as and when requested basis" using a Task Authorization DND 626 process. The Work described in the DND 626 must be in accordance with the scope of the Contract. The Task Authorization process will be conducted in accordance with Annex "I".
- 7.3.2 The administration of the Task Authorization process will be carried out by D Mar P. This process includes monitoring, controlling and reporting on expenditures of the contract with task authorizations to the Contracting Authority.

7.4 Standard Clauses and Conditions

7.4.1. General Conditions

Refer to Annex D - 2035 General Conditions - Higher Complexity – Services

Refer to Reference Document – 1031-2 General Conditions – Contract Cost Principals

7.4.2. Supplemental General Conditions

Refer to Annex E - Supplemental General Conditions 1029, 4002, 4003, 4004 and 4007

7.5 Security Requirements

- 7.5.1. The following security requirements (*SRCL and related clauses provided by ISP*) apply and form part of the Contract.
- 7.5.2. The Contractor/Offeror must, at all times during the performance of the Contract/Standing Offer, hold a valid Facility Security Clearance at the level of **NATO SECRET**, with approved Document Safeguarding at the level of **NATO SECRET** and Production Capabilities at the level of **SECRET**, issued by the Canadian Industrial Security Directorate (CISD), Public Works and Government Services Canada (PWGSC) as well as Communications-Electronic Security (COMSEC) account at the level of **SECRET**, issued by the Communications Security Establishment Canada (CSEC).

- 7.5.3** The Contractor/Offeror personnel requiring access to CANADIAN and FOREIGN PROTECTED/CLASSIFIED Not Restricted information, assets or sensitive work site(s) must EACH hold a valid personnel security screening at the level of **RELIABILITY STATUS or SECRET** as required, granted or approved by the CISD, PWGSC.
- 7.5.4** The Contractor/Offeror personnel requiring access to CLASSIFIED Restricted information, assets or sensitive work site(s) **must be a citizen of Canada and** must EACH hold a valid personnel security screening at the level of **SECRET**, granted or approved by the CISD, PWGSC.
- 7.5.5** The Contractor/Offeror personnel requiring access to NATO UNCLASSIFIED information or assets do not require to hold a personnel security clearance; however, the Contractor must ensure that the NATO Unclassified information is not releasable to third parties and that the "need to know" principle is applied to personnel accessing this information.
- 7.5.6** The Contractor personnel requiring access to NATO RESTRICTED information or assets **must be citizens of a NATO member country or a permanent resident of Canada** and EACH hold a valid RELIABILITY STATUS or its equivalent, granted or approved by the appropriate delegated NATO Security Authority.
- 7.5.7** The Contractor/Offeror personnel requiring access to **NATO CLASSIFIED** information, assets or sensitive work site(s) **must be permanent residents of Canada or citizens of a NATO member country** and EACH hold a valid personnel security screening at the level of **NATO SECRET**, granted or approved by the appropriate delegated NATO Security Authority.
- 7.5.8** The Contractor personnel requiring access to COMSEC information/assets **must be citizens of Canada**, hold a valid security clearance commensurate with the information/assets that will be accessed, have a need-to-know and have undergone a COMSEC briefing and signed a COMSEC Briefing certificate. Access by foreign nationals or resident aliens must be approved by the Head IT Security Client Services at CSEC on a case-by-case basis.
- 7.5.9** The Contractor **MUST NOT** utilize its Information Technology systems to electronically process, produce or store any sensitive PROTECTED/CLASSIFIED information until CISD/PWGSC has issued written approval. After approval has been granted, these tasks may be performed at the level of **SECRET** including an IT Link at the level of **SECRET**.
- 7.5.10** This contract includes access to controlled goods. Prior to access, the Contractor must be registered in the Controlled Goods Program of Public Works and Government Services Canada.
- 7.5.11** The Contractor must complete and submit a Foreign Ownership, Control and Influence (FOCI) Questionnaire and associated documentation identified in the FOCI Guidelines for Organizations prior to contract award to identify whether a third party individual, firm or government can gain unauthorized access to COMSEC or CLASSIFIED NATO/FOREIGN information/assets. Public Works and Government Services Canada (PWGSC) will determine if the company is "*Not Under FOCI*" or "*Under FOCI*". When an organization is determined to be *Under FOCI*, PWGSC will ascertain if mitigation measures exist or must be put in place by the company so it can be deemed "*Not Under FOCI through Mitigation*".

The Contractor should at all times during the performance of the contract possess a letter from PWGSC identifying the results of the FOCI assessment with a FOCI designation of *Not Under FOCI* or *Not Under FOCI through Mitigation*.

All changes to Questionnaire and associated FOCl evaluation factors must immediately be submitted to the Industrial Security Sector (ISS) to determine if the changes impact the FOCl designation.

7.5.12 Subcontracts which contain security requirements are NOT to be awarded without the prior written permission of CISD/PWGSC.

7.5.13 The Contractor/Offeror must comply with the provisions of the:

- a) Security Requirements Check List and security guide (if applicable), attached at Annex _____;
- b) *Industrial Security Manual* (latest edition) and the *Industrial COMSEC Material Control Manual* (ICMCM), issued through CISD/PWGSC.

NOTE: Keying material and associated devices bearing (or intended to bear) the caveat, "CRYPTO", are subject to special safeguards at all times, whether: in bulk storage; in custody at user locations; in current use; or awaiting destruction. Keying Material must be stored in a locked, approved security container, in an area protected by security guards or by an intrusion- detection system when left unattended by COMSEC account personnel or authorized users.

NOTE: There are multiple levels of personnel security screenings associated with this file. In this instance, a *Security Classification Guide* must be added to the SRCL clarifying these screenings. The *Security Classification Guide* is normally generated by the organization's project authority and/or security authority.

NOTE: There are multiple levels of release restrictions associated with this file. In this instance, a *Security Guide* should be added to the SRCL clarifying these restrictions. The *Security Guide* is normally generated by the organization's project authority and/or security authority.

7.6 Contract Period

7.6.1. Period of the Contract

The "Contract Period" is the entire period of time during which the Contractor is obliged to perform the Work, which includes:

- a) The "Initial Contract Period", which begins on the date the Contract is awarded and ends eight years later;
- b) The period during which the Contract is extended, if Canada chooses to exercise any Option to Extend set out in the Contract; and
- c) The period during which the Close-out Phase is performed.

7.6.2 Option to Extend the Contract

- a) Option to Extend the Contract and Option to Exercise Close-Out Phase Extension: The Contractor grants to Canada the irrevocable options to extend the period of the Contract in increments of one or more whole years, under the same terms and conditions, for a potential contract duration of 35 (thirty-five) years, or to the End of Life of all vessels, whichever is

greater. In this Contract "End of Life" is the date at which a vessel is formally decommissioned in preparation for recycling, sale, lease or other form of disposition.

- b) The Contractor grants to Canada one irrevocable option to extend the period of the Contract for the purpose of performing the Work of the Close-Out Phase under the same terms and conditions, which period will begin on the date of written notice by Canada, and will end two years later. Once exercised, the Close-Out Phase two year period supersedes and replaces any remaining period of the Contract Period.
- c) Canada intends to maintain a rolling 5-year contract period throughout the life of these vessels by exercising optional extensions. The exercise of an optional extension is at the discretion of Canada.
- d) The Contractor agrees that, during the extended period of the Contract, it will be paid in accordance with the applicable provisions as set out in the Basis of Payment.
- e) Canada may exercise one or more optional extensions at any time by sending a written notice to the Contractor at least 90 calendar days before the expiry date of the Contract.
- f) The optional extensions will be exercised by the Contracting Authority by way of a contract amendment.

7.7 Authorities

7.7.1. Contracting Authority

The Contracting Authority for the Contract is:

Name: _____
Title: _____
Public Works and Government Services Canada
Acquisitions Branch
Directorate: _____
Address: _____

Telephone: ___ - ___ - _____
Facsimile: ___ - ___ - _____
E-mail address: _____

The Contracting Authority is responsible for the management of the Contract and any changes to the Contract must be authorized in writing by the Contracting Authority. The Contractor must not perform work in excess of or outside the scope of the Contract based on verbal or written requests or instructions from anybody other than the Contracting Authority.

7.7.2. Technical Authority

The Technical Authority for the Contract is:

Name: _____
Title: _____
Address: _____
Telephone: ___ - ___ - _____
Facsimile: ___ - ___ - _____
E-mail: _____.

The Technical Authority named above is the representative of the department or agency for whom the Work is being carried out under the Contract and is responsible for all matters

concerning the technical content of the Work under the Contract. Technical matters may be discussed with the Technical Authority, however the Technical Authority has no authority to authorize changes to the scope of the Work. Changes to the scope of the Work can only be made through a contract amendment issued by the Contracting Authority.

7.7.3. Inspection Authority

The Inspection Authority for the Contract is the Technical Authority.

The Inspection Authority is the representative of the department for whom the Work is being performed under the Contract and is responsible for inspection of the Work and acceptance of the finished work. The Inspection Authority may be represented on-site by a designated inspector and any other Government of Canada inspector who may from time to time be assigned in support of the designated Inspector.

7.7.4. Procurement Authority

The Procurement Authority is:

Name:

Title:

Address:

Telephone:

Facsimile:

E-mail address:

The Procurement Authority is a representative of the department for whom the Work is being carried out under the Contract. The Procurement Authority is responsible for the department's contract and financial management and the implementation of tools and processes required for the administration of the Contract, such as Task Authorizations. The Contractor may discuss administrative matters identified in the Contract with the Procurement Authority; however the Procurement Authority has no authority to authorize changes to the scope of the Work. Changes to the scope of the Work can only be made through a contract amendment issued by the Contracting Authority.

7.7.5. Industrial and Technological Benefits Authority

The Industrial and Technological Benefits Authority is:

Name: Christine McKnight

Title: Acting Deputy Director

Address: 235 Queen Street, Ottawa

Telephone: 613-697-5726

Facsimile: 343-291-2478

E-mail address: christine.mcknight@canada.ca

The Industrial Technological Benefits ("ITB") Authority is responsible for all matters relating to the ITB obligations, including Value Proposition under this Contract.

7.7.6. Contractor's Representative

The Contractor's Representative is:

Name:

Title:

Address:

Telephone:

Facsimile:

Email address:

7.8 Payment

7.8.1 Basis of Payment - Refer to Annex B – Basis of Payment

7.8.2 Limitation of Expenditure

For the Work described in Annex A the Performance Work Statement for the period of the Contract: The Contractor will be reimbursed for the costs reasonably and properly incurred in the performance of the Work and a profit as determined in accordance with the Basis of Payment in Annex B, to a limitation of expenditure of \$_____. Customs duties are included and Applicable Taxes are extra.

- a) Canada's total liability to the Contractor under the Contract must not exceed \$ _____. Customs duties are included and Applicable Taxes are extra.
- b) No increase in the total liability of Canada or in the price of the Work resulting from any design changes, modifications or interpretations of the Work, will be authorized or paid to the Contractor unless these design changes, modifications or interpretations have been approved, in writing, by the Contracting Authority before their incorporation into the Work. The Contractor must not perform any work or provide any service that would result in Canada's total liability being exceeded before obtaining the written approval of the Contracting Authority. The Contractor must notify the Contracting Authority in writing as to the adequacy of this sum:
 - I. when it is 75 percent committed, or
 - II. four (4) months before the contract expiry date, or
 - III. as soon as the Contractor considers that the contract funds provided are inadequate for the completion of the Work, whichever comes first.
- c) If the notification is for inadequate contract funds, the Contractor must provide to the Contracting Authority a written estimate for the additional funds required. Provision of such information by the Contractor does not increase Canada's liability.

7.8.3 Method of Payment

The amount payable will be paid in accordance with the payment provisions of the Contract upon completion and delivery of all Work required if the Work has been accepted by Canada and a final claim for the payment is submitted. One or more of the methods of payment options below will be used in the contract. The eligible methods of payment are:

a) Management of the Services

- i. **Management Fee:** Canada will pay the Contractor on a monthly basis for work performed during the month covered by the invoice in accordance with the payment provisions of the Contract if:
- an accurate and complete claim for payment using form PWGSC-TPSGC 1111, Claim for Progress Payment, and any other document required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract
 - all such documents have been verified by Canada;
 - the Work performed has been accepted by Canada.
- ii. **Performance Holdback on Management Fee**

The amount of the Management Fee payable monthly may be subject to a Performance Holdback of five (5) percent if the Contractor's performance in the management of the core work that is identified and approved in the Program Annual Operating Plan is below the minimum as measured in accordance with the Key Performance Indicators (KPI).

If the Contractor's Performance is deemed unsatisfactory in accordance with the above, the Contractor's monthly management fee payments will be payable at 95% on invoices. The remaining 5% of the payment is the Performance Holdback amount. This amount will be released to the Contractor upon improvement of the Contractor's performance measured against the minimum KPI requirement. Partial release of the Performance Holdback may be made at the discretion of Canada prior to the Contractor's reaching the minimum required KPI score.

The exercise of the Performance Holdback by Canada does not limit Canada's right to claim damages or pursue other rights or remedies under the Contract or arising from statute, law, equity or any other source

b) Core Work

- i. **Progress Payments:** Canada will make progress payments in accordance with the payment provisions of the Contract, no more than once a month, for cost incurred in the performance of the Work, up to 90 percent of the amount claimed and approved by Canada if:
- an accurate and complete claim for payment using form PWGSC-TPSGC 1111, Claim for Progress Payment, and any other document required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
 - the amount claimed is in accordance with the basis of payment;
 - The total amount for all progress payments paid by Canada does not exceed 90 percent of the total amount to be paid under the Contract; and
 - all certificates appearing on form PWGSC-TPSGC 1111 have been signed by the respective authorized representatives.

The balance of the amount payable will be paid in accordance with the payment provisions of the Contract upon completion and delivery of the work required under the Contract if the Work has been accepted by Canada and a final claim for the payment is submitted.

Progress payments are interim payments only. Canada may conduct a government audit and interim time and cost verifications and reserves the rights to make adjustments to the Task Authorization from time to time during the performance of the Work. Any overpayment resulting from progress payments or otherwise must be refunded promptly to Canada.

c) Emergent Work

Payments for Emergent Work will be stipulated on each individual Task Authorisation (DND626) issued for emergent work. Each Basis and Method of Payment will be dependent on the nature of the work if the scope is known or unknown and may include:

- i. **Progress Payments:** If applicable, as indicated in the Task Authorization for the specific emergent work, Canada will make Progress Payments in accordance with the progress payments stipulated above in Article 7.8.3 b) i.
- ii. **Milestone Payments:** Canada will make milestone payments in accordance with a Schedule of Milestones, if any, detailed in the applicable Task Authorization and the payment provisions of the Contract, in the amount of the milestone claimed and approved by Canada if:
 - An accurate and complete claim for payment using form PWGSC-TPSGC 1111, Claim for Progress Payment, and any other document required by the Task Authorization have been submitted in accordance with the invoicing instructions provided in the Contract;
 - The total amount for all milestone payments paid by Canada does not exceed the total amount to be paid under the Task Authorization less any holdback provided for in the Task Authorization;
 - All the certificates appearing on form PWGSC-TPSGC 1111 have been signed by the respective authorized representatives; and
 - All work associated with the milestone and as applicable any deliverables required have been completed and accepted by Canada.
- iii. **Payment upon Completion:** One lump sum payment shall be made following delivery and acceptance of the work if this method of payment is specified in the Task Authorization. Canada will pay the Contractor upon completion and delivery of the Work in accordance with the payment provisions of the Contract if:
 - 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;
 - all such documents have been verified by Canada;
 - the Work delivered has been accepted by Canada.

7.9 Invoicing Instructions for Progress Payments

7.9.1 The Contractor must submit a claim for payment using form PWGSC-TPSGC 1111, Claim for Progress Payment. Each claim must show:

- a) all information required on form PWGSC-TPSGC 1111;
- b) all applicable information detailed under the section entitled "Invoice Submission" of the general conditions;
- c) a list of all expenses;

- d) expenditures plus pro-rated profit or fee;
- e) the description and value of the milestone claimed as detailed in the Contract.

7.9.2 Each claim must be supported by:

- a) a copy of time sheets to support the time claimed;
- b) a copy of the invoices, receipts, vouchers for all direct expenses, travel and living expenses;
- c) a copy of the monthly progress report (via IDE or through CE).

7.9.3 Applicable Taxes must be calculated on the total amount of the claim before the holdback is applied. At the time the holdback is released, there will be no Applicable Taxes payable as it was claimed and payable under the previous claims for progress payments.

7.9.4 The Contractor must prepare and certify one original of the claim on form PWGSC-TPSGC 1111, and forward it to the Procurement Authority identified under the section entitled "Authorities" of the Contract for appropriate certification by the technical authority after inspection and acceptance of the Work takes place. The Procurement Authority will then forward the original of the claim to the Contracting Authority for certification and onward submission to the Procurement Authority for the remaining certification and payment action.

7.9.5 The Contractor must not submit claims until all work identified in the claim is completed.

7.10 Economic Price Adjustment – Hourly Rates

7.10.1 Subsequent to the expiration of the initial four year period after contract award ending in 31 March 20XX the Direct Hourly Labour Rates quoted by the Contractor used in determining the Monthly Management Fee (MMF) indicated in Annex B will be subject to economic price adjustments, upwards or downwards.

7.10.2 The Economic Indicator used to account for the fluctuations in the economy is the Fixed-Weighted Indexes (2002 = 100) of Average Hourly Earnings for Professional, Scientific and Technical Services, Canada (Table 3.1, Number 54) published by Statistics Canada (Catalogue Number 72-002-X) (the "Index").

7.10.3 Commencing April 1, 20XX, and once the September Economic Indicator has been published, the rates will be calculated as indicated below.

$R(x) = R(o) \times \text{Index}(x) / \text{Index}(o)$, where

$R(x)$ = Adjusted Rate based on period 1 October to 30 September.

$R(o)$ = Base Rate for the period 1 October 201X to 30 September 201X.

Index (x) = The average (mean) of the Economic Indicator for the 12 months ending in September, 201X (indices for each month summed together and divided by 12)

Index (o) = The average (mean) of the Economic Indicator for the 12 months ending in September (insert year from paragraph 1 above 201X. (indices for each month summed together and divided by 12)

7.10.4 Subsequent to the initial 4-year period of the Contract, Economic price adjustments will be paid retroactively on an annual basis. The reconciliation claim must be calculated and

submitted to the Crown within 60 days after Statistics Canada has posted the actual annual index for the year being claimed.

7.10.5 Economic price adjustments will be calculated only on the labour portion of the base MMF and the Fully Loaded Labour Rates and the Fully Loaded Overtime Labour Rates without general and administrative expenses, profit, or overhead.

7.10.6 All calculations will be performed to eight (8) decimal points and the resulting rates applicable for the next Contract Year will be rounded to the nearest dollar.

7.10.7 If the Economic Indicator referred to in this clause is discontinued, or if the basis for reporting this Economic Indicator is changed from that in existence on the award date of the Contract, the Contractor and Canada must immediately thereafter agree to and establish a replacement economic indicator, or formulate adjustments, consistent with the intent of those set forth in this clause, and in default of such agreement, Canada will determine the appropriate method of adjustment.

7.11 Cost Submission

7.11.1 If requested by the Contracting Authority, the Contractor must submit to the Contracting Authority, a cost submission, upon completion of the Contract, or any Task Authorization, or annually for multi-year contracts spanning more than one Contractor fiscal year.

7.11.2 The cost submission must contain a breakdown of all applicable cost elements as detailed in the Contract and must be signed and certified accurate by the Contractor's Senior Financial Officer, unless stated otherwise in writing.

7.11.3 Supporting information for each cost element must be available in sufficient detail to allow for an in-depth audit.

7.12 Discretionary Audit

7.12.1 The following are subject to government audit before or after payment is made:

- a) The amount claimed under the Contract, as computed in accordance with the Basis of Payment, including time charged.
- b) The accuracy of the Contractor's time recording system.
- c) The estimated amount of profit in any firm-priced element, firm time rate, firm overhead rate, or firm salary multiplier, for which the Contractor has provided the appropriate certification. The purpose of the audit is to determine whether the actual profit earned on a single contract if only one exists, or the aggregate of actual profit earned by the Contractor on a series of negotiated contracts containing one or more of the prices, time rates or multipliers mentioned above, during a particular period selected, is reasonable and justifiable based on the estimated amount of profit included in earlier price or rate certification(s).
- d) Any firm-priced element, firm time rate, firm overhead rate, or firm salary multiplier for which the Contractor has provided a "most favoured customer" certification. The purpose of such audit is to determine whether the Contractor has charged anyone else, including the Contractor's most favoured customer, lower prices, rates or multipliers, for like quality and quantity of goods or services.

- e) Where there is a negotiated arrangement (non-competitive), or amendment, the estimated amount of profit in any element. The purpose of the audit is to determine whether the actual profit earned on the contract during a particular period selected, is reasonable and justifiable based on the estimated amount of profit included in the price or rate certification(s), as required.
- f) The Contractor's performance against the ITB and VP obligations under this contract; and
- g) Any amounts owed by or owed to Canada as a result of a termination of the Contract under the provisions of the Contract.

7.12.2 Any payments made pending completion of the audit must be regarded as interim payments only and must be adjusted to the extent necessary to reflect the results of the said audit. If there has been any overpayment, the Contractor must repay Canada the amount found to be in excess.

7.12.3 In addition to the foregoing, all of the Contractor's records concerning its costs (at any tier) or pricing or its proposed costs or pricing of the PAOP, using open book accounting principles, will also be subject to government audit.

7.13 Time Verification

Time charged and the accuracy of the Contractor's time recording system are subject to verification by Canada, before or after payment is made to the Contractor. If verification is done after payment, the Contractor must repay any overpayment, at Canada's request.

7.14 Competitive Selection of Subcontractors

7.14.1 While the Contract for the delivery of in-service support for the AOPS and JSS fleets is between Canada and the Contractor, it is recognized that the Contractor will deliver some of the services called for in Annex A through subcontractors. As an independent entity, the Contractor will select its own subcontractors. Nonetheless, in the expenditure of public funds, it is necessary that these selection processes be fair, open and transparent and that qualified subcontractors have the opportunity to be considered for the Work. Canada believes that competitive bidding and open and transparent bidding processes will yield the best value at a fair and reasonable price for subcontracted services.

7.14.2 In the selection of subcontractors for the Work, the Contractor is to:

- a) Make reasonable efforts to apply material management and procurement processes that ensure best value and fair and reasonable prices in the provision of required materiel and services in support of AJISS, and, when choosing to subcontract employ subcontracting practices that:
 - are seen by potential subcontractors to be accessible, open, fair and transparent and reflect good industry practices;
 - provide ongoing opportunities for participation by industry, including by small and medium enterprises, and
 - result in competitive bidding for subcontracts, whenever possible.
- b) Justify deviations from the above subcontracting requirements, and make related documentation available on request;
- c) Apply industry-accepted standards and best practices in material management and procurement;
- d) Respond diligently to industry or Canada's inquiries concerning the awarding of

subcontracts, and inform Canada of unresolved issues or inquiries from suppliers regarding the bid or subcontract award in a timely manner;

- e) Provide the name of the successful supplier and, upon request, the value of the subcontract to unsuccessful bidders;
- f) Ensure bid disputes are resolved effectively and do not negatively affect Canada; and
- g) Define the security requirements for contracts and ensure subcontractors meet the appropriate security requirements set out in the Security Requirements Checklist (SRCL).
- h) Have emergency contracting measures in place to be able to respond appropriately when time is of the essence.

7.14.3 Notwithstanding 7.14.2 above, because the AOPS and JSS may operate anywhere within Canadian territorial waters or potentially even globally, the location of where deployed repair services may be required is unknown at this time. For repair work that may occur in Canadian Arctic waters, the procurement of repair services by the Contractor may be subject to the following Comprehensive Land Claims Agreements (CLCAs):

- a) Labrador Inuit Land Claims Agreement
- b) Nunavut Land Claims Agreement
- c) James Bay and Northern Quebec Agreement and the
- d) Inuvialuit Final Agreement

7.14.4 Although the Contractor is an independent entity, the Contractor, in its expenditure of public funds, should make its best effort to use the applicable CLCA business lists to source and procure any goods and services and should, to the extent possible, employ CLCA beneficiary people for the required labour.

7.14.5 To satisfy The Canadian Shipbuilding Policy and the Shipbuilding, Repair, Refit and Modernization sections in the Supply Manual 3.170 a Canadian shipyard is required for the Docking Work Period. If, the AJISS Contractor is itself a Canadian shipyard, the Contractor must provide, for Canada's approval, a business case demonstrating how, in its non-competitive procurement of these services, best value will be achieved and Canada will receive fair and reasonable pricing for this work.

7.14.6 Notwithstanding Annex D, Article 2035 06, Canada's consent is not required for subcontracts valued at or below \$25,000, including GST/HST.

7.14.7 In managing subcontracted work, the Contractor is to:

- a) Manage the performance of subcontractors to meet the required KPI's and ensure they provide the required services in a manner consistent with the terms and conditions of this Contract and achieve timely delivery of quality services;
- b) Establish quality and performance requirements and monitor subcontractor performance, including quality of deliverables, adherence to schedules and costs; and
- c) Consider the Contractor's ITB obligations, including Value Proposition.

7.15 Price Support

7.15.1 The Contractor will provide price support for work that is sole-sourced upon the request of Canada

7.15.2 The price support must consist of a price breakdown, paid invoices for like items/services (like quality and quantity) sold to other customers or other governments, a published price list, or a commercial price certification that the price proposed:

- a) is not in excess of the lowest price charged anyone else, including the Contractor or the subcontractor's most favoured customer, for the like quality and quantity of the goods, services or both;
- b) does not include an element of profit on the sale in excess of that normally obtained by the Contractor on the sale of goods, services or both of like quality and quantity; and
- c) does not include any provision for discounts to selling agents.

7.15.3 If the Contractor is not able to provide the requested price support or establish the reasonableness of the price to Canada for the work that is sole-sourced, Canada reserves the right to negotiate the price in accordance with the principles of 1031-2 with the subcontractor, or, if the Contractor is not willing to allow Canada to do so, Canada has the right to reject the sub-contract and require the Contractor compete the work.

7.16 Certifications

7.16.1 Compliance

The continuous compliance with the certifications provided by the Contractor in its bid and the ongoing cooperation in providing associated information are conditions of the Contract. Certifications are subject to verification by Canada during the entire period of the Contract. If the Contractor does not comply with any certification, fails to provide the associated information, or if it is determined that any certification made by the Contractor in its bid is untrue, whether made knowingly or unknowingly, Canada has the right, pursuant to the default provision of the Contract, to terminate the Contract for default.

7.16.2 Federal Contractors Program for Employment Equity - Default by the Contractor

The Contractor understands and agrees that, when an Agreement to Implement Employment Equity (AIEE) exists between the Contractor and Employment and Social Development Canada (ESDC)-Labour, the AIEE must remain valid during the entire period of the Contract. If the AIEE becomes invalid, the name of the Contractor will be added to the "FCP Limited Eligibility to Bid" list. The imposition of such a sanction by ESDC will constitute the Contractor in default as per the terms of the Contract.

7.16.3 The Contract is subject to an export license from the Federal Republic of Germany, Annex M the Contractor will execute an End Use Certificate from the Federal Republic of Germany in the appropriate form and provide a signed copy to Canada. The Contractor will provide copies of End Use Certificate signed by its subcontractors upon request by Canada.

7.17 Applicable Laws

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

7.18 Priority of Documents

If there is a discrepancy between the wording of any documents that appear on the list, the wording of the document that first appears on the list has priority over the wording of any document that subsequently appears on the list.

- (a) the Articles of Agreement;
- (b) Annex E, the Supplemental General Conditions in the following order of precedence
 - (i) 1029 Ship Repairs;
 - (ii) 4002 Software Development or Modification Services;

- (iii) 4003 Licensed Software;
- (iv) 4004 Maintenance and Support Services for Licensed Software;
- (v) 4007 Canada to Own Intellectual Property Rights in Foreground Information;
- (c) Annex D, the General Conditions;
- (d) Annex A, Performance Work Statement;
- (e) Annex B, Basis of Payment;
- (f) Annex K, ITB Terms and Conditions Value Proposition
- (g) Annex C, Security Requirements Check List);
- (h) Annex N, IT Security Guide
- (i) Annex G, Federal Contractors Program for Employment Equity - Certification (*if applicable*);
- (j) Annex H, Insurance Requirements;
- (k) Annex L, Warranty Procedures
- (l) Annex M, Joint Support Ship End Use Certificate
- (m) Annex I, Emergent Work – Task Authorization Process and DND626 Form
- (n) the signed Task Authorizations (including all of its annexes, if any)
- (o) Annex F, Terms of Mediation
- (p) the Contractor's bid dated _____, (*insert date of bid*) (*If the bid was clarified or amended, insert at the time of contract award:* ", as clarified on _____ " **or** ", as amended on _____ " and insert date(s) of clarification(s) or amendment(s)).

7.19 Defence Contract

The Contract is a defence contract within the meaning of the Defence Production Act, R.S.C. 1985, c. D-1, and must be governed accordingly.

Title to the Work or to any materials, parts, work-in-process or finished work must belong to Canada free and clear of all claims, liens, attachments, charges or encumbrances. Canada is entitled, at any time, to remove, sell or dispose of the Work or any part of the Work in accordance with section 20 of the Defence Production Act.

7.20 Canadian Forces Site Regulations

The Contractor must comply with all standing orders or other regulations, instructions and directives in force on the site where the Work is performed.

7.21 Foreign Nationals - Canadian Contractor

The Contractor must comply with Canadian immigration requirements applicable to foreign nationals entering Canada to work temporarily in fulfillment of the Contract. If the Contractor wishes to hire a foreign national to work in Canada to fulfill the Contract, the Contractor should immediately contact the nearest Service Canada regional office to enquire about Citizenship and Immigration Canada's requirements to issue a temporary work permit to a foreign national. The Contractor is responsible for all costs incurred as a result of non-compliance with immigration requirements.

7.22 Insurance Requirements

7.22.1 The Contractor must comply with the insurance requirements specified in Annex H. The Contractor must maintain the required insurance coverage for the duration of the Contract. Compliance with the insurance requirements does not release the Contractor from or reduce its liability under the Contract.

7.22.2 The Contractor is responsible for deciding if additional insurance coverage is necessary to fulfill its obligation under the Contract and to ensure compliance with any applicable law. Any additional insurance coverage is at the Contractor's expense, and for its own benefit and protection.

7.22.3 The Contractor must forward to the Contracting Authority within ten (10) days after the date of award of the Contract, a Certificate of Insurance evidencing the insurance coverage and confirming that the insurance policy complying with the requirements is in force. For Canadian-based Contractors, coverage must be placed with an Insurer licensed to carry out business in Canada, however, for Foreign-based Contractors; coverage must be placed with an Insurer with an A.M. Best Rating no less than "A-". The Contractor must, if requested by the Contracting Authority, forward to Canada a certified true copy of all applicable insurance policies.

7.23 Controlled Goods Program

7.23.1 The Contract involves controlled goods as defined in the Schedule to the *Defence Production Act*. The Contractor must identify those controlled goods to the Department of National Defence.

7.23.2 As the Contract requires production of or access to controlled goods that are subject to the *Defence Production Act* R.S. 1985, c. D-1, the Contractor and any subcontractor are advised that, within Canada, only persons who are registered, exempt or excluded under the Controlled Goods Program (CGP) are lawfully entitled to examine, possess or transfer controlled goods. Details on how to register under the CGP are available at: [Controlled Goods Program](#).

7.23.3 When the Contractor and any subcontractor proposed to examine, possess or transfer controlled goods are not registered, exempt or excluded under the CGP at time of contract award, the Contractor and any subcontractor must, within seven (7) working days from receipt of written notification of the contract award, ensure that the required application(s) for registration or exemption are submitted to the CGP. No examination, possession or transfer of controlled goods must be performed until the Contractor has provided proof, satisfactory to the Contracting Authority, that the Contractor and any subcontractor are registered, exempt or excluded under the CGP. Failure of the Contractor to provide proof, satisfactory to the Contracting Authority, that the Contractor and any subcontractor are registered, exempt or excluded under the CGP, within thirty (30) days from receipt of written notification of contract award, will be considered a default under the Contract except to the extent that Canada is responsible for the failure due to delay in processing the application.

7.23.4 The Contractor and any subcontractor must maintain registration, exemption or exclusion from the CGP for the duration of the Contract and in any event for so long as they will examine, possess or transfer controlled goods.

7.24 Limitation of Liability

7.24.1 This article applies despite any other provision of the Contract and replaces Article 24 of the General Conditions entitled "Liability". Any reference in this Article 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.

7.24.2 Whether the claim is based in contract, tort, or another cause of action, the Contractor's liability for all damages suffered by Canada caused by the Contractor's performance of or failure to perform the Contract is limited to \$10 million per incident or occurrence to an annual aggregate of \$20 million for losses or damage caused in any one year of carrying out the Contract, each year starting on the date of coming into force of the Contract or its anniversary. This limitation of the Contractor's liability does not apply to:

- a) any infringement of intellectual property rights;

- b) any liquidated damages payable by the Contractor pursuant to the terms and conditions in Annex "K" ITB TERMS AND CONDITIONS
- c) any breach of warranty obligations; or
- d) any liability of Canada to a third party arising from any act or omission of the Contractor in performing the Contract.

- 7.24.3 Each Party agrees that it is fully liable for any damages that it causes to any third party in connection with the Contract, regardless of whether the third party makes its claim against Canada or the Contractor. 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 for that amount.
- 7.24.4 The Parties agree that nothing herein is intended to limit any insurable interest of the Contractor or to limit the amounts otherwise recoverable under any insurance policy. The Parties agree that to the extent that the insurance coverage required to be maintained by the Contractor under this Contract or any additional insurance coverage maintained by the Contractor, whichever is greater, is more than the limitations of liability described in subarticle (2), the limitations provided herein are increased accordingly and the Contractor shall be liable for the higher amount to the full extent of the insurance proceeds recovered.
- 7.24.5 Canada at its sole discretion may terminate the contract if, at any time, the total cumulative liability of the Contractor for losses or damage suffered by Canada caused by the Contractor's performance of or failure to perform the Contract, excluding liability described under subsection 7.24.2 exceeds \$40 million. Canada may terminate the Contract by giving notice in writing to the Contractor and neither Party will make any claim against the other for damages, costs, expected profits or any other such loss arising out of the termination, but no such termination or expiry of the Contract shall reduce or terminate any of the liabilities that have accrued to the effective date of the termination.
- 7.24.6 The date of termination pursuant to this Article, shall be the date specified by Canada in its notice to terminate, or, if the Contractor exercises the right to terminate, in a notice to the Contractor from Canada in response to the Contractor's notice to terminate. The date of termination shall be in Canada's discretion to a maximum of 12 months after service of the original notice to terminate served by either Party pursuant to subarticle 5, above.
- 7.24.7 Canada's notice to the Contractor specifying the date of termination will supersede the provisions of Article 7.6.2 Option to Extend Contract and the Contract will automatically remain in force subject to all of the same terms and conditions until the date of termination and the Contractor agrees that it will be paid in accordance with the applicable provisions as set out in the Basis of Payment, Annex B and that the Contractor's liability remains as specified in subarticles (1) through (4), above.
- 7.24.8 Nothing herein shall limit Canada's other remedies, including Canada's right to terminate the Contract for default for breach by the Contractor of any of its obligations under this Contract, notwithstanding that the Contractor may have reached any limitation of its liability hereunder.

7.25 Inspection and Acceptance

- 7.25.1 The acceptance of ships and vessels must be in accordance with the procedures of *CFTO C-03-005-012/AM-001*, Part 13, using form *CF 1148*, Report of Inspection of (SHIP) and, as applicable, form *CF 702*, Acceptance of (SHIP) into the Canadian Forces.
- 7.25.2 Without limiting the Contractor's obligations under the General Conditions 2035, all work must be subject to the Contractor's inspection prior to acceptance by Canada. The

Technical Authority or its delegated authority (as defined in this contract) will have the right to reject any work found not to be in accordance with the requirements of this Contract, or to require its corrections.

7.25.3 Where any work is rejected for cause, no charge or payment will be made in regard to the rejected work. All rectification required by the Technical Authority must be performed by the Contractor at no charge to Canada.

7.25.4 Acceptance of the work by the Technical Authority will not relieve the Contractor of any Quality Assurance responsibilities incumbent with all contracted work.

7.26 ISO 9001:2008 Quality Management Systems - Requirements (Quality Assurance Code Q)

1. In the performance of the Work described in the Contract, the Contractor must comply with the requirements of:
2. *ISO 9001:2008 - Quality management systems - Requirements*, published by the International Organization for Standardization (ISO), current edition at date of submission of Contractor's bid.
3. It is not intended that the Contractor be registered to ISO 9001; however, the Contractor's quality management system must address all requirements appropriate to the scope of the Work. Only exclusions in accordance with clause 1.2 of ISO 9001 are acceptable.
4. Assistance for Government Quality Assurance (GQA)
5. The Contractor must provide the Quality Assurance Representative (QAR) with the accommodation and facilities required for the proper accomplishment of GQA and must provide any assistance required by the QAR for evaluation, verification, validation, documentation or release of product.
6. The QAR must have the right of access to any area of the Contractor's or subcontractor's facilities where any part of the Work is being performed. The QAR must be afforded unrestricted opportunity to evaluate and verify Contractor conformity with quality system procedures and to validate product conformity with the requirements of the Contract. The Contractor must make available for reasonable use by the QAR the equipment necessary for all validation purposes. Contractor personnel must be made available for operation of such equipment as required.
7. When the QAR determines that GQA is required at a subcontractor's facilities, the Contractor must provide for this in the purchasing document and forward copies to the QAR, together with relevant technical data as the QAR may request.
8. The Contractor must notify the QAR of non-conforming product received from a subcontractor when the product has been subject to GQA.
9. For the design, development or maintenance of software, the Contractor must interpret the requirements of *ISO 9001:2008 "Quality management systems - Requirements"*, according to the guidelines of the latest issue (at contract date) of *ISO/IEC 90003:2004 "Software engineering - Guidelines for the application of ISO 9001:2000 to computer software"*.

10. Quality Assurance Authority (Department of National Defence) - Canadian-based Contractor

11. All work is subject to Government Quality Assurance performed at the Contractor's or subcontractor's facility, and at the installation site, by the Director of Quality Assurance, or its designated Quality Assurance Representative (QAR).
Director of Quality Assurance

National Defence Headquarters
MGen George R. Pearkes Building
101 Colonel By Drive
Ottawa, ON K1A 0K2
E-mail: ContractAdmin.DQA@forces.gc.ca

12. Within forty-eight (48) hours of contract award, the Contractor must contact the QAR. The name, location and phone number of the QAR can be obtained from the nearest National Defence Quality Assurance Region (NDQAR) listed below:

Atlantic - Halifax 902-427-7224 or 902-427-7150
Quebec - Montreal 514-732-4410 or 514-732-4477
Quebec - Quebec City 418-694-5998, ext. 5996
National Capital Region - Ottawa 819-939-0168
Ontario - Toronto 416-635-4404, ext. 6081 or 2754
Ontario - London 519-964-5757
Manitoba/Saskatchewan - Winnipeg 204-833-2500, ext. 6574
Alberta - Calgary 403-410-2320, ext. 3830
Alberta - Edmonton 780-973-4011, ext. 2276
British Columbia - Vancouver 604-225-2520, ext. 2460
British Columbia - Victoria 250-363-5662

13. The Contractor is responsible for performing, or having performed, all inspections and tests necessary to substantiate that the material or services provided conform to the requirements of the Contract.
14. The Contractor must provide, at no additional cost, all applicable test data, all technical data, test pieces and samples as may reasonably be required by the QAR to verify conformity to the requirements of the Contract. The Contractor must forward at its expense such technical data, test data, test pieces and samples to such location as the QAR may direct.
15. Quality control, inspection and test records that substantiate conformity to the specified requirements, including records of corrective actions, must be retained by the Contractor for three (3) years from the date of completion or termination of the Contract and must be made available to the QAR upon request.

7.27 Changes to the Work

- 7.27.1 The Contracting Authority may, by notice to the Contractor, request changes (additions, deletions, substitutions) to the Work, if the change is deemed by Canada to be within the general scope of this Contract. Upon receipt of such notice, the Contractor must prepare and submit an Engineering Change Proposal (ECP) or a Contract Change Proposal (CCP) as appropriate.
- 7.27.2 The Contractor may also request changes within the general scope of the Contract by submitting an ECP or CCP to the Technical Authority with a copy to the Contracting Authority.
- 7.27.3 If any change causes an increase or decrease in the Cost of performing the Work, the time for performance, the performance specification, or other affected provisions of this Contract, then the Contractor must submit a CCP concurrently with an ECP.
- 7.27.4 Any adjustment to the Contract Price must, to the extent applicable, be based on the rates and markups specified in the Basis of Payment, or, if no rates for the category of labour exist in the Basis of Payment, then the principles of Public Works and Government Services Canada's Contract Cost Principles 1031-2 will be applied.

- 7.27.5. Where the Parties agree on all aspects of a change except for the Contract Price adjustment, the Contractor may nevertheless be directed in writing by the Contracting Authority to proceed with the change subject to further negotiation of the Contract Price adjustment as well as subject to financial and/or time limitations as may be agreed to by the Parties.
- 7.27.6 Any additional work performed without the Contracting Authority's written authorization, or the written authorization of the Procurement Authority in accordance with DND's delegated authority for the Task, will be considered outside the scope of the Contract and no payment will be made for such work.
- 7.27.7 Contract amendments will be issued periodically to incorporate those changes authorized in writing by Canada into the Contract.
- 7.27.8 Failure to agree to any adjustment will be a dispute concerning a question of fact within the meaning of the clause entitled "Disputes". However, nothing in this clause excuses the Contractor from proceeding with the Contract as amended.
- 7.27.9 There must be no increase in the Contract Price for changes required under this Contract resulting from changes, deviations or waivers requested by the Contractor and authorized under the Contract, for the sole purpose of meeting the Contract requirements.

7.28 Care, Custody and Control

- 7.28.1 Certain of the work detailed in Annex A or required under a Task Authorization DND626, will require that the vessels be unmanned during the work and such vessels will be considered at extended readiness. The vessels during that period will be in the care and custody of the Contractor and under its control.
- 7.28.2 If requested, the Contractor must forward to the Contracting Authority a Certificate of Insurance evidencing the insurance coverage and confirming that the insurance policy complying with the requirements is in force. Coverage must be placed with an Insurer licensed to carry out business in Canada.
- 7.28.3 As and when required, Canada will transfer custody of each vessel to the Contractor. An "ACCEPTANCE CERTIFICATE - ASSUMPTION OF CUSTODY OF FEDERAL GOVERNMENT SHIPS BY IN-SERVICE SUPPORT CONTRACTOR" (attached as Annex J) must be completed as required and a copy passed to the CA. To facilitate this turnover, representatives of the Contractor and Canada shall confirm the condition of the vessel.
- 7.28.4 A vessel condition report must be appended to the above noted certificate and must be accompanied by colour photographs or videos in either conventional or digital format.
- 7.28.5 When the vessel is to be returned to the "care, control and custody" of Canada, an "ACCEPTANCE CERTIFICATE - RESUMPTION OF CUSTODY OF FEDERAL GOVERNMENT SHIPS BY THE CLIENT DEPARTMENT" (Attached as Annex J must be completed and a signed copy passed to Canada for distribution.

7.29 Environmental Protection

- 7.29.1 The Contractor and its sub-contractors engaged in the Work on a vessel or payload must carry out the Work in compliance with applicable municipal, provincial and federal environmental laws, regulations and industry standards.

- 7.29.2 The Contractor must have detailed procedures and processes for identifying, removing, tracking, storing, transporting and disposing of all potential pollutants and hazardous material encountered, to ensure compliance, as further amplified in the PWS.
- 7.29.3 All waste disposal certificates are to be available upon request. Furthermore, additional evidence of compliance with municipal, provincial and federal environmental laws and regulations is to be furnished by the Contractor to the Contracting Authority when so requested.
- 7.29.4 The Contractor must have environmental emergency response plans and/or procedures in place as further amplified in the PWS. Contractor employees must have received the appropriate training in emergency preparedness and response. Contractor personnel and subcontractors engaging in activities which may cause environmental impacts or potential non-compliance situations must be competent to do so on the basis of appropriate education, training, or experience.

7.30 Priority Rating - Canadian Contractors

- 7.30.1 The Contract concerns a Canadian defence requirement and therefore is eligible to be assigned a "U.S. Priority Rating" for any materials/services imported from the United States which may be required in the performance of the work. Accordingly, the Contractor must:
- a) make an application to the Defence Priorities and Allocations Officer, Public Works and Government Services Canada (PWGSC), either by e-mail at: **NCR ACQB DefencePriorities@pwgsc.gc.ca**; or by facsimile: 819-956-1459; and
 - b) Include this clause in subcontracts with Canadian Contractors, and quote the PWGSC Contract Number indicated in the Contract.
- 7.30.2 Failure to comply with the above may impact on the Contractor's delivery commitments. Therefore, the Contractor is responsible for any breach of the Contract that arises from such a failure.

7.31 T1204 – Direct Request by Customer Department

- 7.31.1 Pursuant to paragraph 221 (1)(d) of the *Income Tax Act*, R.S. 1985, c. 1 (5th Supp.), payments made by departments and agencies to contractors under applicable services contracts (including contracts involving a mix of goods and services) must be reported on a T1204 Government Service Contract Payments slip.
- 7.31.2 To enable departments and agencies to comply with this requirement, the Contractor must provide Canada, upon request, its business number or Social Insurance Number, as applicable. (These requests may take the form of a general call-letter to contractors, in writing or by telephone).

7.32 Liens – Section 427 of the Bank Act

- 7.31.1 If any lien under section 427 of the *Bank Act*, S.C.. 1991, c. 46, exists in respect to any materials, parts, work-in-process, or finished work for which the Contractor intends to claim payment, the Contractor agrees to inform the Contracting Authority without delay and agrees, unless instructed otherwise by the Contracting Authority, either:
- a) to cause the bank to remove such lien and to provide the Contracting Authority with written confirmation from the bank; or,

- b) to provide to the Contracting Authority an undertaking from the bank that the bank will not make any claim under section 427 of the Bank Act on materials, parts, work-in-process, or finished work in respect of which payment is made to the Contractor under the Contract.

7.32.1 Failure to inform the Contracting Authority of such lien or failure to implement paragraph 1(a) or (b) above will constitute default under the default section of the general conditions and will entitle Canada to terminate the Contract.

7.33 Customs Duties - Contractor Importer

7.32.1 As the goods to be supplied under the Contract are defence supplies, customs duties on importation to Canada may be remitted under the Tariff Item Number 9982.00.00 of the Schedule to the *Customs Tariff*.

7.33.1 Remission of customs duties payable may be granted under the Tariff Item Number 9982.00.00 when the total contract value of the defence supplies is C\$250,000 or more. This reflects the import value of the goods plus the duty that would be applicable in the absence of the *Customs Tariff*.

7.33.2 The Contractor will be responsible for pre-arranging remission on importation or for paying customs duties on importation and applying to Canada Border Services Agency for a refund. The Contractor is also responsible for applying to Public Works and Governments Services Canada in good time for the certification required by the *Customs Tariff*.

7.34 Delivery of Dangerous Goods / Hazardous Products

7.34.1 The Contractor must mark dangerous goods/hazardous products material which is classed as dangerous / hazardous as follows:

- a. shipping container - in accordance with the Transportation of Dangerous Goods Act, 1992, c. 34; and
- b. immediate product container - in accordance with the Hazardous Products Act, R.S., 1985, c. H-3.

7.34.2 The Contractor must provide bilingual Material Safety Data Sheets, indicating the NATO Stock Number as follows:

- a. two (2) hard copies:
 - i. one (1) copy to be enclosed with the shipment, and
 - ii. one (1) copy to be mailed to:
National Defence Headquarters
MGen George R. Pearkes Building
101 Colonel By Drive
Ottawa, Ontario K1A 0K2
Attention: DSCO 5-4-2
- b. one (1) copy sent by email to the following address: MSDS-FS@FORCES.GC.CA in word processing format (i.e. MS Word or WordPerfect).

- 7.34.3 The Contractor will be responsible for any damages caused by improper packaging, labelling or carriage of goods/products.
- 7.34.4 The Contractor must ensure they adhere to all levels of regulations regarding dangerous goods/hazardous products as set forth by federal, provincial and municipal laws and by-laws.
- 7.34.5 The Contractor must contact the consignee (i.e. Supply Depot Traffic Section) at least 48 hours before shipping dangerous goods/hazardous products in order to schedule a receiving time.

7.35 Warranty

- 7.35.1 The Contractor, if requested by Canada, must replace or repair at its own expense any finished work, excluding Government Issue incorporated in the Work, which becomes defective or which fails to conform to contract requirements as a result of faulty or inefficient manufacture, material or workmanship.
- 7.35.2 Despite acceptance of the finished work, and without restricting any other term of the Contract or any condition, warranty or provision imposed by law, the Contractor warrants that the following will be free from all defects and will conform with the requirements of the Contract:
 - (a) The painting of the underwater portion of the hull for a period of 365 days commencing from the date of undocking, except that the Contractor will only be liable to repair and/or replace to a value to be determined as follows:
 - i. Original cost to Canada of the underwater painting work, divided by 365 days and multiplied by the number of days remaining in the warranty period. The resultant sum would represent a Credit due to Canada from the Contractor.
 - (b) All other painting work for a period of 365 days commencing from the date of acceptance of the Work;
 - (c) All other items of work for a period of ninety (90) days commencing from the date of acceptance of the Work.
- 7.35.3 The Contractor agrees to pass to Canada, and exercise on behalf of Canada, all warranties on the materials supplied or held by the Contractor which exceed the periods indicated above.
- 7.35.4 Refer to Annex "L" and its Appendix I for Warranty Defect Claim Procedures and forms.

7.36 Disputes

For all disputes of any nature arising out of or in connection with the Contract, which are not able to be resolved through the governance identified in the Relational Charter, the parties herein agree that they will attempt to resolve the dispute through mediation, in accordance with the Terms of Mediation set out in Appendix F to this Contract.

7.37 Changes in the Contractor's Team

- 7.37.1 Should an entity or person named in the Bid submitted by the Contractor as an entity or person who is to perform part of the Work, as a subcontractor, be unable to perform or complete that part of the Work, the Contractor must obtain the concurrence of the Contracting Authority prior to performing or completing the subcontracted work, or entering into an agreement with another equally qualified entity or person to perform or complete the subcontracted part of the Work, such concurrence not to be unreasonably withheld.
- 7.37.2 In seeking to obtain the concurrence of the Contracting Authority referred to in subsection 1 above, the Contractor must provide notice in writing to the Contracting Authority containing:
- a) the reason for the inability of the entity or person to perform the part of the Work for which they were subcontracted to perform;
 - b) the name, qualifications and experience of the proposed replacement entity or person, and
 - c) if applicable, proof that the entity or person has the required security clearance(s) granted by Canada.
- 7.37.3 The Contractor must not, in any event, allow performance of any part of the Work by unauthorized replacement entities or persons, and acceptance of a replacement entity or person by the Contracting Authority shall not relieve the Contractor from responsibility to perform the Work.
- 7.37.4 The Contracting Authority, with the authority of Canada, may order the removal from the Contractor's Team of any unauthorized replacement entity or person and the Contractor must immediately remove the entity or person from the performance of the Work and must, in accordance with subsections 1 and 2 above, secure a further replacement.
- 7.37.5 The fact that the Contracting Authority does not order the removal of a replacement entity or person from the performance of the Work must not relieve the Contractor from the responsibility to meet all the Contractor's obligations in the performance of the Work.

7.38 **Background Information that is AOPS or JSS Documentation or OEM Intellectual Property**

- 7.38.1 Where Canada determines such information is necessary for the performance of any given Task Authorization, Canada will provide to the Contractor certain Background Information comprised of the AOPS or JSS documentation if Canada is not bound by any confidentiality or other covenant that would limit such disclosure.
- 7.38.2 The Contractor shall use commercially reasonable efforts to obtain from the original equipment manufacturers and from any manufacturers of parts that are substitutes for parts that would otherwise have to be purchased from original equipment manufacturers (all collectively "OEMs"), all other Background Information that the Contractor, acting reasonably, determines is necessary to meet the requirements of 4007 04, and to perform the Work free from claims by the OEMs and other third parties, including obtaining an indemnity in favour of Canada and the Contractor against infringement claims, and shall do so prior to commencement of any Work the completion of which is dependent upon such Background Information.
- 7.38.3 The Contractor shall, advise Canada in the Task Authorization relating to the Work that is dependent upon such Background Information, that acquisition of the Background Information is necessary for performance of the Work, including the technical or other reasons why such Background Information is necessary for performance of the Work, whether and to what extent the Contractor can meet the requirements of 4007 04, and to what extent the Work can be performed without such Background Information, and if the Contractor concludes that the Work can be performed, it shall include a reasonable assessment of the risk of an infringement claim by the OEM owner of the Background Information or any other third party should the Contractor proceed to perform the Work without the Background Information.
- 7.38.4 If the Contractor's commercially reasonable efforts, exercised under subsection 2, are unsuccessful and if Canada is not thereafter able to secure such Background Information, Canada may terminate the Task Authorization and Canada shall pay only the Contractor's reasonable costs of performing the Work to attempt to secure the Background Information.
- 7.38.5 Before using the AOPS or JSS documentation or the Background Information of the OEM to perform Work under any Task Authorization issued under this Contract, the Contractor shall, in addition to its obligations under subsection 2) and 3), above, use all reasonable efforts consistent with the general usage in the trade practiced by the Contractor, to ensure that the Contractor's use of the AOPS or JSS documentation or the Background Information provided by an OEM for the purposes of performing Work will not result in an infringement claim against Canada or the Contractor by any person, and that the Background information is fit for use to perform the Work. The Contractor shall advise Canada of any risk of infringement, including an evaluation of the risk and a reasonable proposal to eliminate that risk, or to minimize it if elimination of the risk is not feasible.

ANNEX A

PERFORMANCE WORK STATEMENT

(Refer to separate attachment on buyandsell.gc.ca)

ANNEX B

BASIS OF PAYMENT

1. The Basis of Payment of this contract consists of three phases which are characterized by the level of detail and amount of information available to support cost certainty in the performance of the work. In each of these phases there are three categories of services that will be delivered; Management Functions, Core Work and Emergent Work.
 - 1.1. Start-Up Phase: from contract award to the achievement of Support Readiness Verification Preliminary (SRVP) Milestone.
 - 1.1.1. The services required for the Start-Up Phase will be Management Functions and Emergent Work
 - 1.1.2. The Basis of Payment for Management Functions will be a firm management fee, reimbursable in accordance with an agreed schedule of monthly payments. The estimated value of the management fee will be based on a negotiated level of effort using the Contractor's quoted personnel rates.
 - 1.1.3. The Basis of Payment for Emergent Work will be defined in each Task Authorization.
 - 1.2. Transition Phase: from achievement of Support Readiness Verification Preliminary (SRVP) Milestone to achievement of Support Readiness Verification Final (SRVF) Milestone.
 - 1.2.1. The services required for the transition phase will be Management Functions, Core Work and Emergent Work.
 - 1.2.2. The Basis of Payment for Management Functions will be a three (3) year firm monthly fee based on a negotiated level of effort using the Contractor's quoted personnel rates that will be reimbursable in arrears in agreed firm monthly installments. The Management Fee will be renegotiated every three (3) years to the end of the Transition Phase.
 - 1.2.3. The Basis of Payment for Core Work will be based on the Program Annual Operating Plan (PAOP), it will be cost reimbursable to a negotiated limitation of expenditure. The actual Profit to be paid to the Contractor for Core Work is subject to adjustment pursuant to the mutually agreed incentive regime.
 - 1.2.4. The Basis of Payment for Emergent Work will be defined in each Task Authorization
 - 1.3. Steady State Phase: from achievement of SRVF to Close-out.
 - 1.3.1. The services required for the Steady State Phase will be Management Functions, Core Work and Emergent Work.
 - 1.3.2. The Basis of Payment for Management Functions will be a negotiated 3 year firm monthly fee reimbursable in arrears in equal monthly installments
 - 1.3.3. The Basis of Payment for Core work will be based on the Program Annual Operating Plan (PAOP), to a ceiling price. The actual Profit to be paid to the Contractor for Core Work is subject to adjustment pursuant to the mutually agreed incentive regime. Core Work in the Steady State Phase will be subject to a Performance Incentive Payment (refer to Annex B, 4.8 herein).
 - 1.3.4. The Basis of Payment for Emergent Work will be defined in each Task Authorization
 - 1.3.5. The final phase of the Contract – Close-out – will be treated as an Emergent Task.
2. Management Functions
 - 2.1. For the satisfactory performance of the management services specified in Chapters 2, 3, 4 and 5 of Annex A, including management of spare parts and consumables, the Contractor will be paid a firm Management Fee reimbursable monthly in arrears. The Management Fee will be negotiated using the Contractor's quoted personnel rates. The Contractor's personnel rates include direct labour, overhead (in accordance with item 2.3 below), general and administrative expenses (in accordance with item 2.4 below), and profit.

- 2.2. If the Contractor's performance, in the management of the services, as measured by the Key Performance Indicators established for that year, is assessed to be below the required minimum score, the Management Fee may be subject to a performance holdback, (refer to article 7.8.3a)ii of the contract) at the discretion of Canada. The performance holdback that is applied to the Management Fee will be released by Canada, in whole or in part, upon achievement by the Contractor of measurable improvement or the required minimum KPI score after subsequent performance measurement.
- 2.3. Overhead is not to include any cost associated with office or warehousing facilities such as rent or lease expense, property taxes, and insurance. Neither is overhead to include the utility expenses associated with renting or leasing facilities such as power, heating/cooling, lighting, operations and maintenance of office or warehousing facilities. These costs will be reimbursed at cost to the Contractor without mark-up. The costs related to facilities and utilities that may be used by the Contractor for purposes other than AJISS business, will be calculated based on the percentage of square feet utilized for AJISS and reimbursed to the Contractor at cost without mark-up. The cost of Information Technology (IT) equipment (software and hardware) that will be used in the office facilities will also be excluded from overhead, and will also be paid at cost without mark-up. Any IT related consumable materials such as toner/ink and paper will be considered G&A and included in the fully loaded labour rate.
- 2.4. As referenced in 1031-2 04 General and Administrative costs include remuneration of executive and corporates officers, office wages and salaries and expenses such as stationary, office supplies, postage and other necessary administration and management expenses.
- 2.5. Travel and living expenses will be reimbursed separately, at cost in accordance with Annex B, Article 6. Insurance premiums, including brokerage commissions for the insurance specified in Annex H of the Contract will be reimbursed separately at actual cost with no mark up or profit.
- 2.6. The Management Fee will be firm for the first four (4) years of the contract. Thereafter the management fee will be firm for a three (3) year duration. Prior to the end of each three (3) year period re-negotiation will occur. This will continue to the end of the contract or upon termination of the contract.
- 2.7. The Management Fee may be amended in any given Contract period through mutual agreement if the scope of the services is changed by Canada through the addition or removal of work.
- 2.8. **Contractor's quoted hourly personnel rates for initial four (4)-year Contract period**

Category	Level	Year 1	Year 2	Year 3	Year 4
Program Manager					
Engineer	Junior				
Engineer	Intermediate				
Engineer	Senior				
IT Specialist	Junior				
IT Specialist	Intermediate				
IT Specialist	Senior				
Specialist Engineer					
Life Cycle Management Specialist	Junior				
Life Cycle Management Specialist	Intermediate				
Life Cycle Management Specialist	Senior				
Naval Architect	Junior				
Naval Architect	Intermediate				
Naval Architect	Senior				
Technologist	Junior				
Technologist	Intermediate				
Technologist	Senior				
Technician	Junior				
Technician	Intermediate				
Technician	Senior				
Project Manager	Intermediate				
Project Manager	Senior				
Planners/Schedulers	Junior				
Planners/Schedulers	Intermediate				
Planners/Schedulers	Senior				
Cost Estimators	Junior				
Cost Estimators	Intermediate				
Cost Estimators	Senior				
Quality Assurance/Management Specialist					
Risk Management Specialist					
Contract Administrator					

Category	Level	Year 1	Year 2	Year 3	Year 4
Administrative Support	Junior				
Administrative Support	Intermediate				
Administrative Support	Senior				
Procurement	Junior				
Procurement	Intermediate				
Procurement	Senior				
Warehouse and Logistics Support	Junior				
Warehouse and Logistics Support	Intermediate				
Warehouse and Logistics Support	Senior				
Documents and Records Management Specialist	Junior				
Documents and Records Management Specialist	Intermediate				
Documents and Records Management Specialist	Senior				
Technical Writer					
Health, Safety, Security and Environmental Manager					
Student	Student				

2.9. Except as indicated in Annex B Article 2, the quoted hourly personnel rates will be subject to annual economic adjustments in accordance with Article 7.10 of the Contract.

3. Management Fee during the Start-Up Phase

3.1. For the satisfactory performance of the management functions in the Start-Up Phase of this Contract only, from date of contract award to _____, the Contractor will be paid a Management Fee of \$ _____. Customs duties are included and Applicable Taxes are extra.

3.2. The Management Fee will be determined through a negotiated level of effort and resourcing plan that is calculated based on the quoted hourly personnel rates. Travel and living expenses will be reimbursed separately, at cost in accordance with Annex B, Article 6. Insurance premiums, including brokerage commissions for the insurance specified in Annex H of the Contract will be reimbursed separately at actual cost with no mark up or profit. Costs for facilities, utilities and IT equipment (software and hardware) will be reimbursed separately at actual cost with no mark-up or profit. The Management Fee will be reimbursed monthly, in arrears, in accordance with the following schedule:

3.2.1. Schedule of Monthly Payments

Month 1 \$ _____

Month 2 \$ _____
 Month 3 \$ _____
 Month 4 \$ _____
 Month 5 \$ _____
 Month 6 \$ _____
 Month 7 \$ _____
 Month 8 \$ _____
 Month 9 \$ _____
 Month 10 \$ _____
 Month 11 \$ _____
 Month 12 \$ _____

3.2.2. Estimated Travel, Living Expenses Insurance, Facilities, Utilities and IT Equipment for the Start-Up Phase: Estimated cost: \$ _____

3.2.3. Total Estimated Cost - Limitation of Expenditure for Management Fee Start-Up Phase: \$ _____ (*Applicable Taxes extra.*) (Total 2.a and 2.b i and ii above)
 Applicable Taxes extra. Canada's liability to the Contractor for Start-Up Phase Services must not exceed the limitation of expenditure.

4. Core Work Services

- 4.1. For the satisfactory performance of the services required to maintain the ships in accordance with Annex A, which is approved by Canada in the Program Annual Operating Plan, the Contractor will be paid its costs reasonably and properly incurred, plus profit, including, direct costs, labour, travel and living expenses, warranty, and other allowable expenses as determined by Canada, excluding the costs related to the Management Functions.
- 4.2. Core Work will include, but will not be limited to Preventative and known Corrective Maintenance. Annual Core Work will be identified and priced by the Contractor in an Program Annual Operation Plan (PAOP) submission for each fiscal year. The PAOP will be authorized by Canada through the issue of a DND626
- 4.3. The Contractor will maintain an open book approach in relation to this Contract and will price the PAOP using open book accounting principles where cost information is shared with Canada and is:
 - Open and transparent
 - Complete
 - Accurate
 - Current
 - Provided to Canada upon request
- 4.4. Core Work will be cost reimbursable to a limitation of expenditure during the initial period of the contract to SRVF but will transition to a ceiling price, thereafter, or before the end of the initial contract period if mutually agreed between Canada and the Contractor when Canada exercises an optional contract extension. The scope, value and incentive regime for Core Work approved in the PAOP will be determined annually and authorized through the issue of a Task Authorization (DND 626).
- 4.5. Ceiling Price for Core Services: The ceiling price is the maximum amount to be paid to the Contractor, including direct costs, labour, travel and living expenses (in accordance with Annex B Article 6), warranty work for the Work identified in the PAOP and profit as authorized through the issue of a Task Authorization (DND 626). The Contractor must complete the Work for not

more than the agreed ceiling price, and in consideration of the Contractor satisfactorily completing all its obligations under such Task Authorization, Canada will pay the Contractor the cost to the Contractor of performing the Work up to that ceiling.

- 4.6. Price Certification: Price Certification is required for subcontracted Labour and costs for Core Work that is procured by the Contractor on a non-competitive basis. The Certification must confirm that rates and costs are reasonable and computed to respect the Contract Cost Principles 1031-2 and Chapter 10 of the Supply Manual – Cost and Profit.
- 4.7. Profit Incentive Formula – reduction or increase in Target Profit: The actual Profit to be paid to the Contractor for Core Work is subject to adjustment pursuant to the mutually agreed incentive formula. The incentive is calculated and payable annually upon completion and acceptance of the Work identified in the PAOP.
- 4.8. Calculation of the Cost Reimbursable Incentive Fee (CRIF) and Profit for Core Work, including incentive: The adjustment pursuant to the agreed profit incentive formula for the Contractor's Profit for Core Work will be calculated as follows with the profit the Contractor is entitled to for the total of all work identified in the PAOP being deemed "Adjusted Profit":
 - 4.8.1. Target Cost = the estimated cost of the approved PAOP work agreed to and authorized in the Task Authorization (DND 626)
 - 4.8.2. Target Profit = an amount equal to an agreed % of the Target Cost
 - 4.8.3. Actual Cost = the actual cost incurred by the Contractor to perform the PAOP Work determined by audit.
 - 4.8.4. Incentive Share Ratio = 50% Canada and 50% Contractor, or as negotiated separately by Canada and the Contractor and authorized through Task Authorization (DND 626) issued for the Core Work. The Incentive Share Ratio is used to determine the Adjusted Profit based upon cost savings or overruns that will increase or decrease the Adjusted Profit until the Minimum or Maximum Profit is reached. With an Incentive Share Ratio of fifty cents (\$0.50), for each \$1 that the Actual Cost is below the Target Cost, fifty cents (\$0.50) will go to Canada and fifty cents (\$0.50) will go to the Contractor, until the Maximum Profit value is reached. For each \$1 that the Actual Cost is above the Target Cost, fifty cents (\$0.50) will go to Canada and fifty cents (\$0.50) will go to the Contractor, until the Minimum Profit value is reached. The Incentive Share Ratio is the basis for the calculation of Adjusted Profit below:
 - 4.8.5. Maximum Profit = an amount (expressed in dollars) equal to the agreed maximum percentage (%) profit of the Target Cost that can be earned by the Contractor. The value of the Maximum Profit % is negotiated and mutually agreed to for the work identified in the PAOP. The Maximum Profit value is the upper limit of the Adjusted Profit. Any decrease in the Actual Cost beyond the point at which the Maximum Profit applies does not increase the dollar amount of the Adjust Profit above the dollar amount of the Maximum Profit, and no further Profit is payable as a result of any Cost reduction thereafter.
 - 4.8.6. Minimum Profit = an amount (expressed in dollars) equal to the agreed minimum percentage (%) profit of the Target Cost that can be earned by the Contractor. The value of the Minimum Profit % is negotiated and mutually agreed to for the work identified in the PAOP. Minimum Profit is the lower limit of the Adjusted Profit. Any increase in the Actual

Cost above the point at which the Minimum Profit value applies, does not decrease the dollar amount of the Adjusted Profit below the dollar amount of the Minimum Profit.

4.8.7. Adjusted Fee is calculated as follows:

4.8.7.1. Adjusted Profit = (Target Profit + (50% x (Target Cost – Actual Cost))

4.8.7.2. Provided that the Adjusted Profit must in no event be less than the Minimum Profit or greater than the Maximum Profit.

4.9. Adjustment to Ceiling Price and Target Cost must be authorized by Amendment to the Contract or Amendment to the Task Authorization (DND 626) whichever is applicable. Adjustments to Ceiling Price and Target Cost will be made for:

4.9.1. Economic Price Adjustments

4.9.2. Adjustments to PWGSC negotiated Labour Rates

4.9.3. Adjustments to AJISS scope of work.

4.10. Performance Incentive Payable for Core Work: The objective of the Performance Incentive that will be payable for core work is to encourage the Contractor to achieve outstanding performance results in specific areas to be defined as the Key Performance Indicators. Core work will be specified in the Program Annual Operating Plan and approved by Canada in the DND 626 that will be issued to authorize the annual program of work.

4.10.1. To be eligible to receive an annual performance incentive payment for the delivery of the Core work the Contractor must, at a minimum have:

4.10.1.1. completed all the Core work to the satisfaction of Canada specified in the Program Annual Operating Plan in the year in which the incentive will be awarded,

4.10.1.2. completed all the work at or below, the agreed Target Cost that is defined in the Cost Reimbursable Incentive Fee formula approved by Canada in the DND 626 issued to authorize the Core work, and

4.10.1.3. received at least a satisfactory performance rating for the Core work performed under the Program Annual Operating Plan as measured by the Key Performance Indicators (KPI).

4.10.2. The total performance incentive payable to the Contractor is calculated in accordance with an agreed prorated scale up to an amount that will not exceed 1.5% of additional profit. The additional percentage of profit is payable to the Contractor only if the eligibility conditions described above are met.

4.10.3. The Performance Incentive payable for Core work will be applied in Steady State of the Contract period when it is expected that, Canada and the Contractor will have identified the specific objectives that are to be achieved and the performance measurement criteria that will be used to assess the achievement of those objectives. Canada will seek input from the Contractor regarding the selection of performance objectives and KPI's, and a prorating formula, but the final selection of the values to be included in the DND626 that will authorize the Core work will be at the discretion of Canada.

4.10.4. The Contractor will prepare a Monthly status report to provide feedback on progress towards meeting the defined objectives and the performance measurement criteria. Canada will use the status report and will measure the Contractor's performance against the

approved KPI's to determine whether the Contractor has met the requirements and is eligible for a performance incentive payment.

4.10.5. In the event the Contractor has met the KPI's and achieved a satisfactory performance rating, Canada will authorize a prorated incentive payment commensurate with the Contractor's measured achievement which will be in addition to the profit owing in accordance with the agreed Cost Reimbursable Incentive Fee Model authorized in the DND626 for Core work.

4.10.6. To be clear, no additional profit will be payable to the Contractor under this performance incentive program if the reconciled actual costs of performing the work as authorized in the DND626 for Core work based on the approved Program Annual Operating Plan exceeds the approved Target Cost.

4.10.7. The Method of Payment for Performance Incentive payments will be a lump sum payment.

5. Emergent Work Services

5.1. Emergent Work Services is work that may be required within the scope of the contract. It may include, but may not be limited to, work that is neither anticipated nor planned or emergency maintenance or repair activities, or the conduct of studies and analyses.

5.2. The scope and cost of emergent work will be negotiated between Canada and the Contractor and will be authorized and issued in accordance with the requirements specified in Annex I – Task Authorization Process. Payment will be made in accordance with the Bases and Method of Payment specified in the each Task Authorization (DND 626) issued for this category of Work.

5.3. Payment may be either fixed price or cost reimbursable with or without a ceiling and with or without incentives. Hourly rates for personnel and labour in accordance with Annex B 2.9, if applicable to the work to be carried out, Contract Cost Principles 1031-2 and Chapter 10 Cost and Profit will be considered in the negotiation of emergent work tasks. Travel and Living Expenses will be reimbursed in accordance with Annex B Article 5.

5.4. Emergent work that is procured on a non-competitive basis will require price certification that labour rates and costs are computed respecting the principles of Contract Cost Principles 1031-2 and Chapter 10 of the Supply Manual – Cost and Profit.

5.5. Material cost for Emergent Work – The Contractor must furnish all material goods necessary to complete the emergent work task. The Contractor will be reimbursed for its reasonable costs incurred of such goods, plus the applicable mark-up as stated in Annex B 4, g.

5.6. Subcontractor Cost for Emergent Work - For the performance of the work in the Task Authorization by authorized Subcontractors, other than corporate affiliates of the Contractor, the Contractor will be reimbursed its actual costs plus a firm mark-up and profit as identified in Annex B 4, g

5.7. Markup on materials and subcontractors for emergent work:

Work valued at less than \$1M	= _____%
Work valued between \$1M and \$5M	= _____%
Work valued more than \$5M	= _____%

6. Travel and Living Expenses

- 6.1.** The Contractor will be reimbursed for the authorized travel and living expenses reasonably and properly incurred in the performance of the Work, at cost, without any allowance for overhead or profit, in accordance with the meal, private vehicle and incidental expense allowances specified in Appendices B, C and D of the Treasury Board Travel Directive, and with the other provisions of the directive referring to "travelers", rather than those referring to "employees".
- 6.2.** All travel must have the prior authorization of the Project Authority. All payments are subject to government audit.
- 6.3.** The relocation of personnel that is requested by Canada and receives Canada's prior authorization will be treated as a reimbursable expense.
- 6.4.** Jurisdictions, HMC Dockyard: Costs, if applicable, that may be associated with a requirement for a work permit for Contractor and subcontractor personnel who do not belong to the same unions affiliated with the Federal Government Dockyards Trades and Labour Council (Victoria) will be treated as an allowable expense.

ANNEX C

SECURITY REQUIREMENTS CHECK LIST

SECURITY REQUIREMENT FOR CANADIAN SUPPLIER: PWGSC FILE # W8482-156698

1. The Contractor/Offeror must, at all times during the performance of the Contract/Standing Offer, hold a valid Facility Security Clearance at the level of **NATO SECRET**, with approved Document Safeguarding at the level of **NATO SECRET** and Production Capabilities at the level of **SECRET**, issued by the Canadian Industrial Security Directorate (CISD), Public Works and Government Services Canada (PWGSC) as well as Communications-Electronic Security (COMSEC) account at the level of **SECRET**, issued by the Communications Security Establishment Canada (CSEC).
2. The Contractor/Offeror personnel requiring access to CANADIAN and FOREIGN PROTECTED/CLASSIFIED Not Restricted information, assets or sensitive work site(s) must EACH hold a valid personnel security screening at the level of **RELIABILITY STATUS or SECRET** as required, granted or approved by the CISD, PWGSC.
3. The Contractor/Offeror personnel requiring access to CLASSIFIED Restricted information, assets or sensitive work site(s) **must be a citizen of Canada and** must EACH hold a valid personnel security screening at the level of **SECRET**, granted or approved by the CISD, PWGSC.
4. The Contractor/Offeror personnel requiring access to NATO UNCLASSIFIED information or assets do not require to hold a personnel security clearance; however, the Contractor must ensure that the NATO Unclassified information is not releasable to third parties and that the "need to know" principle is applied to personnel accessing this information.
5. The Contractor personnel requiring access to NATO RESTRICTED information or assets **must be citizens of a NATO member country or a permanent resident of Canada** and EACH hold a valid RELIABILITY STATUS or its equivalent, granted or approved by the appropriate delegated NATO Security Authority.
6. The Contractor/Offeror personnel requiring access to **NATO CLASSIFIED** information, assets or sensitive work site(s) **must be permanent residents of Canada or citizens of a NATO member country** and EACH hold a valid personnel security screening at the level of **NATO SECRET**, granted or approved by the appropriate delegated NATO Security Authority.
7. The Contractor personnel requiring access to COMSEC information/assets **must be citizens of Canada**, hold a valid security clearance commensurate with the information/assets that will be accessed, have a need-to-know and have undergone a COMSEC briefing and signed a COMSEC Briefing certificate. Access by foreign nationals or resident aliens must be approved by the Head IT Security Client Services at CSEC on a case-by-case basis.
8. The Contractor **MUST NOT** utilize its Information Technology systems to electronically process, produce or store any sensitive PROTECTED/CLASSIFIED information until CISD/PWGSC has issued written approval. After approval has been granted, these tasks may be performed at the level of **SECRET** including an IT Link at the level of **SECRET**.
9. This contract includes access to controlled goods. Prior to access, the contractor must be registered in the Controlled Goods Program of Public Works and Government Services Canada.

10. The Contractor must complete and submit a Foreign Ownership, Control and Influence (FOCI) Questionnaire and associated documentation identified in the FOCI Guidelines for Organizations prior to contract award to identify whether a third party individual, firm or government can gain unauthorized access to COMSEC or CLASSIFIED NATO/FOREIGN information/assets. Public Works and Government Services Canada (PWGSC) will determine if the company is "Not Under FOCI" or "Under FOCI". When an organization is determined to be *Under FOCI*, PWGSC will ascertain if mitigation measures exist or must be put in place by the company so it can be deemed "Not Under FOCI through Mitigation".

The contractor should at all times during the performance of the contract possess a letter from PWGSC identifying the results of the FOCI assessment with a FOCI designation of *Not Under FOCI* or *Not Under FOCI through Mitigation*.

All changes to Questionnaire and associated FOCI evaluation factors must immediately be submitted to the Industrial Security Sector (ISS) to determine if the changes impact the FOCI designation.

11. Subcontracts which contain security requirements are NOT to be awarded without the prior written permission of CISD/PWGSC.
12. The Contractor/Offeror must comply with the provisions of the:
- (a) Security Requirements Check List and security guide (if applicable), attached at Annex _____;
 - (b) *Industrial Security Manual* (latest edition) and the *Industrial COMSEC Material Control Manual* (ICMCM), issued through CISD/PWGSC.

NOTE: Keying material and associated devices bearing (or intended to bear) the caveat, "CRYPTO", are subject to special safeguards at all times, whether: in bulk storage; in custody at user locations; in current use; or awaiting destruction. Keying Material must be stored in a locked, approved security container, in an area protected by security guards or by an intrusion- detection system when left unattended by COMSEC account personnel or authorized users.

NOTE: There are multiple levels of personnel security screenings associated with this file. In this instance, a *Security Classification Guide* must be added to the SRCL clarifying these screenings. The *Security Classification Guide* is normally generated by the organization's project authority and/or security authority.

NOTE: There are multiple levels of release restrictions associated with this file. In this instance, a *Security Guide* should be added to the SRCL clarifying these restrictions. The *Security Guide* is normally generated by the organization's project authority and/or security authority.

ANNEX D

2035 GENERAL CONDITIONS

2035 01 2016-04-04 Interpretation

In the Contract, unless the context otherwise requires:

"Applicable Taxes"

means the Goods and Services Tax (GST), the Harmonized Sales Tax (HST), and any provincial tax, by law, payable by Canada such as, the Quebec Sales Tax (QST) as of April 1, 2013;

"Articles of Agreement"

means the clauses and conditions incorporated in full text or incorporated by reference from the *Standard Acquisition Clauses and Conditions Manual* to form the body of the Contract; it does not include these general conditions, any supplemental general conditions, annexes, the Contractor's bid or any other document;

"Canada", "Crown", "Her Majesty" or "the Government"

means Her Majesty the Queen in right of Canada as represented by the Minister of Public Works and Government Services and any other person duly authorized to act on behalf of that minister or, if applicable, an appropriate minister to whom the Minister of Public Works and Government Services has delegated his or her powers, duties or functions and any other person duly authorized to act on behalf of that minister;

"Contract"

means the Articles of Agreement, these general conditions, any supplemental general conditions, annexes and any other document specified or referred to as forming part of the Contract, all as amended by agreement of the Parties from time to time;

"Contracting Authority"

means the person designated by that title in the Contract, or by notice to the Contractor, to act as Canada's representative to manage the Contract;

"Contractor"

means the person, entity or entities named in the Contract to supply goods, services or both to Canada;

"Contract Price"

means the amount stated in the Contract to be payable to the Contractor for the Work, exclusive of Applicable Taxes;

"Cost"

means cost determined according to Contract Cost Principles 1031-2 as revised to the date of the bid solicitation or, if there was no bid solicitation, the date of the Contract;

"Government Property"

means anything supplied to the Contractor by or on behalf of Canada for the purposes of performing the Contract and anything acquired by the Contractor in any manner in connection with the Work, the cost of which is paid by Canada under the Contract;

"Party"

means Canada, the Contractor, or any other signatory to the Contract and "Parties" means all of them;

"Specifications"

means the description of the essential, functional or technical requirements of the Work in the Contract, including the procedures for determining whether the requirements have been met;

"Total Estimated Cost", "Revised Estimated Cost", "Increase (Decrease)"

on page 1 of the Contract or Contract Amendment means an amount used for internal administrative purposes only that comprises the Contract Price, or the revised Contract Price, or the amount that would increase or decrease the Contract Price and the Applicable Taxes as evaluated by the Contracting Authority, and does not constitute tax advice on the part of Canada;

"Work"

means all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the Contract.

2035 02 (2008-05-12) Standard Clauses and Conditions

Pursuant to the Department of Public Works and Government Services Act, S.C. 1996, c. 16, the clauses and conditions identified by number, date and title in the Contract are incorporated by reference and form part of the Contract as though expressly set out in the Contract.

2035 03 (2008-05-12) Powers of Canada

All rights, remedies, powers and discretions granted or acquired by Canada under the Contract or by law are cumulative, not exclusive.

2035 04 (2008-05-12) Status of the Contractor

The Contractor is an independent Contractor engaged by Canada to perform the Work. Nothing in the Contract is intended to create a partnership, a joint venture or an agency between Canada and the other Party or Parties. The Contractor must not represent itself as an agent or representative of Canada to anyone. Neither the Contractor nor any of its personnel is engaged as an employee or agent of Canada. The Contractor is responsible for all deductions and remittances required by law in relation to its employees.

2035 05 (2012-03-02) Conduct of the Work

1. The Contractor represents and warrants that:
 - a. it is competent to perform the Work;
 - b. it has everything necessary to perform the Work, including the resources, facilities, labour, technology, equipment, and materials; and
 - c. it has the necessary qualifications, including knowledge, skill, know-how and experience, and the ability to use them effectively to perform the Work.

2. The Contractor must:
 - a. perform the Work diligently and efficiently;
 - b. except for Government Property, supply everything necessary to perform the Work;
 - c. use, as a minimum, quality assurance procedures, inspections and controls generally used and recognized by the industry to ensure the degree of quality required by the Contract;
 - d. select and employ a sufficient number of qualified people;
 - e. perform the Work in accordance with standards of quality acceptable to Canada and in full conformity with the Specifications and all the requirements of the Contract;
 - f. provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements of the Contract.
3. The Work must not be performed by any person who, in the opinion of Canada, is incompetent, unsuitable or has conducted himself/herself improperly.
4. All services rendered under the Contract must, at the time of acceptance, be free from defects in workmanship and conform to the requirements of the Contract. If the Contractor is required to correct or replace the Work or any part of the Work, it will be at no cost to Canada.
5. Canada's facilities, equipment and personnel are not available to the Contractor to perform the Work unless the Contract specifically provides for it. The Contractor is responsible for advising the Contracting Authority in advance if it requires access to Canada's facilities, equipment or personnel to perform the Work. The Contractor must comply and ensure that its employees and subcontractors comply with all security measures, standing orders, policies or other rules in force at the site where the Work is performed.
6. Unless the Contracting Authority orders the Contractor to suspend the Work or part of the Work pursuant to section 28, the Contractor must not stop or suspend the Work or part of the Work pending the settlement of any dispute between the Parties about the Contract.
7. The Contractor must provide all reports that are required by the Contract and any other information that Canada may reasonably require from time to time.
8. The Contractor is fully responsible for performing the Work. Canada will not be responsible for any negative consequences or extra costs if the Contractor follows any advice given by Canada unless the Contracting Authority provides the advice to the Contractor in writing and includes a statement specifically relieving the Contractor of any responsibility for negative consequences or extra costs that might result from following the advice.

2035 06 (2013-06-27) Subcontracts

1. Except as provided in subsection 2, the Contractor must obtain the Contracting Authority's written consent before subcontracting or permitting the subcontracting of any part of the Work. A subcontract includes a contract entered into by any subcontractor at any tier to perform any part of the Work.
2. The Contractor is not required to obtain consent for subcontracts specifically authorized in the Contract. The Contractor may also without the consent of the Contracting Authority:
 - a. purchase "off-the-shelf" items and any standard articles and materials that are ordinarily produced by manufacturers in the normal course of business;
 - b. subcontract any portion of the Work as is customary in the carrying out of similar contracts; and;
 - c. permit its subcontractors at any tier to make purchases or subcontract as permitted in paragraphs (a) and (b).

3. In any subcontract other than a subcontract referred to in paragraph 2. (a), the Contractor must, unless the Contracting Authority agrees in writing, ensure that the subcontractor is bound by conditions compatible with and, in the opinion of the Contracting Authority, not less favorable to Canada than the conditions of the Contract, with the exception of requirements under the Federal Contractors Program for employment equity which only apply to the Contractor.
4. Even if Canada consents to a subcontract, the Contractor is responsible for performing the Contract and Canada is not responsible to any subcontractor. The Contractor is responsible for any matters or things done or provided by any subcontractor under the Contract and for paying any subcontractors for any part of the Work they perform.

2035 07 (2008-05-12) Specifications

1. All Specifications provided by Canada or on behalf of Canada to the Contractor in connection with the Contract belong to Canada and must be used by the Contractor only for the purpose of performing the Work.
2. If the Contract provides that Specifications furnished by the Contractor must be approved by Canada, that approval will not relieve the Contractor of its responsibility to meet all requirements of the Contract.

2035 08 (2008-05-12) Replacement of Specific Individuals

1. If specific individuals are identified in the Contract to perform the Work, the Contractor must provide the services of those individuals unless the Contractor is unable to do so for reasons beyond its control.
2. If the Contractor is unable to provide the services of any specific individual identified in the Contract, it must provide a replacement with similar qualifications and experience. The replacement must meet the criteria used in the selection of the Contractor and be acceptable to Canada. The Contractor must, as soon as possible, give notice to the Contracting Authority of the reason for replacing the individual and provide:
 - a. the name, qualifications and experience of the proposed replacement; and
 - b. proof that the proposed replacement has the required security clearance granted by Canada, if applicable.
3. The Contractor must not, in any event, allow performance of the Work by unauthorized replacement persons. The Contracting Authority may order that a replacement stop performing the Work. In such a case, the Contractor must immediately comply with the order and secure a further replacement in accordance with subsection 2. The fact that the Contracting Authority does not order that a replacement stop performing the Work does not relieve the Contractor from its responsibility to meet the requirements of the Contract.

2035 09 (2008-05-12) Time of the Essence

It is essential that the Work be performed within or at the time stated in the Contract.

2035 10 (2014-09-25) Excusable Delay

1. A delay in the performance by the Contractor of any obligation under the Contract that is caused by an event that
 - a. is beyond the reasonable control of the Contractor,
 - b. could not reasonably have been foreseen,
 - c. could not reasonably have been prevented by means reasonably available to the Contractor, and
 - d. occurred without the fault or neglect of the Contractor,

will be considered an "Excusable Delay" if the Contractor advises the Contracting Authority of the occurrence of the delay or of the likelihood of the delay as soon as the Contractor becomes aware of it. The Contractor must also advise the Contracting Authority, within 15 working days, of all the circumstances relating to the delay and provide to the Contracting Authority for approval a clear work around plan explaining in detail the steps that the Contractor proposes to take in order to minimize the impact of the event causing the delay.

2. Any delivery date or other date that is directly affected by an Excusable Delay will be postponed for a reasonable time that will not exceed the duration of the Excusable Delay.
3. However, if an Excusable Delay has continued for 30 days or more, the Contracting Authority may, by giving notice in writing to the Contractor, terminate the Contract. In such a case, the Parties agree that neither will make any claim against the other for damages, costs, expected profits or any other loss arising out of the termination or the event that contributed to the Excusable Delay. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.
4. Unless Canada has caused the delay by failing to meet an obligation under the Contract, Canada will not be responsible for any costs incurred by the Contractor or any of its subcontractors or agents as a result of an Excusable Delay.
5. If the Contract is terminated under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work not delivered and accepted before the termination and anything that the Contractor has acquired or produced specifically to perform the Contract. Canada will pay the Contractor:
 - a. the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price; and
 - b. the Cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.
6. The total amount paid by Canada under the Contract to the date of termination and any amounts payable under this subsection must not exceed the Contract Price.

2035 11 (2014-09-25) Inspection and Acceptance of the Work

1. All the Work is subject to inspection and acceptance by Canada. Inspection and acceptance of the Work by Canada do not relieve the Contractor of its responsibility for defects or other failures to meet the requirements of the Contract. Canada will have the right to reject any Work that is not in accordance with the requirements of the Contract and require its correction or replacement at the Contractor's expense.
2. The Contractor must provide representatives of Canada access to all locations where any part of the Work is being performed at any time during working hours. Representatives of Canada may make examinations and such tests of the Work as they may think fit. The Contractor must provide all assistance and facilities, test pieces, samples and documentation that the representatives of Canada may reasonably require for the carrying out of the inspection. The Contractor must forward such test pieces and samples to such person or location as Canada specifies.
3. The Contractor must inspect and approve any part of the Work before submitting it for acceptance or delivering it to Canada. The Contractor must keep accurate and complete inspection records that must be made available to Canada on request. Representatives of Canada may make copies and take extracts of the records during the performance of the Contract and for up to three years after the end of the Contract.

2035 12 (2013-03-21) Invoice Submission

1. Invoices must be submitted in the Contractor's name. The Contractor must submit invoices for each delivery or shipment; invoices must only apply to the Contract. Each invoice must indicate whether it covers partial or final delivery.
2. Invoices must show:
 - a. the date, the name and address of the client department, item or reference numbers, deliverable/description of the Work, contract number, Client Reference Number (CRN), Procurement Business Number (PBN), and financial code(s);
 - b. details of expenditures (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable) in accordance with the Basis of Payment, exclusive of Applicable Taxes;
 - c. deduction for holdback, if applicable;
 - d. the extension of the totals, if applicable; and
 - e. if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.
3. Applicable Taxes must be specified on all invoices as a separate item along with corresponding registration numbers from the tax authorities. All items that are zero-rated, exempt or to which Applicable Taxes do not apply, must be identified as such on all invoices.
4. By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

2035 13 (2013-03-21) Taxes

1. Federal government departments and agencies are required to pay Applicable Taxes.
2. Applicable Taxes will be paid by Canada as provided in the Invoice Submission section. It is the sole responsibility of the Contractor to charge Applicable Taxes at the correct rate in accordance with applicable legislation. The Contractor agrees to remit to appropriate tax authorities any amounts of Applicable Taxes paid or due.
3. The Contractor is not entitled to use Canada's exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The Contractor must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable legislation), including for material incorporated into real property.
4. In those cases where Applicable Taxes, customs duties, and excise taxes are included in the Contract Price, the Contract Price will be adjusted to reflect any increase, or decrease, of Applicable Taxes, customs duties, and excise taxes that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Contract Price if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change.
5. Tax Withholding of 15 Percent – Canada Revenue Agency

Pursuant to the Income Tax Act, 1985, c. 1 (5th Supp.) and the Income Tax Regulations, Canada must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is not a resident of Canada, unless the Contractor obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed to Canada.

2035 14 (2010-01-11) Transportation Costs

If transportation costs are payable by Canada under the Contract and the Contractor makes the transportation arrangements, shipments must be made by the most direct and economical means consistent with normal shipping practice. The costs must be shown as a separate item on the invoice.

2035 15 (2010-01-11) Transportation Carriers' Liability

The federal government's policy of underwriting its own risks precludes payment of insurance or valuation charges for transportation beyond the point at which ownership of goods passes to the federal government (determined by the FOB point or Incoterms). Where increased carrier liability is available without charge, the Contractor must obtain the increased liability for shipment.

2035 16 (2014-09-25) Payment Period

1. Canada's standard payment period is 30 days. The payment period is measured from the date an invoice in acceptable form and content is received in accordance with the Contract or the date the Work is delivered in acceptable condition as required in the Contract, whichever is later. A payment is considered overdue on the 31st day following that date and interest will be paid automatically in accordance with the section 17.
2. If the content of the invoice and its substantiating documentation are not in accordance with the Contract or the Work is not in acceptable condition, Canada will notify the Contractor within 15 days of receipt. The 30-day payment period begins upon receipt of the revised invoice or the replacement or corrected Work. Failure by Canada to notify the Contractor within 15 days will only result in the date specified in subsection 1 to apply for the sole purpose of calculating interest on overdue accounts.

2035 17 (2008-12-12) Interest on Overdue Accounts

1. For the purpose of this section:

"Average Rate"

means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Time each day during the calendar month immediately before the calendar month in which payment is made;

"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;

"date of payment"

means the date of the negotiable instrument drawn by the Receiver General for Canada to pay any amount under the Contract;

an amount becomes "overdue"

when it is unpaid on the first day following the day on which it is due and payable according to the Contract.

2. Canada will pay to the Contractor simple interest at the Average Rate plus 3 percent per year on any amount that is overdue, from the date that amount becomes overdue until the day before the date of payment, inclusive. The Contractor is not required to provide notice to Canada for interest to be payable.
3. Canada will pay interest in accordance with this section only if Canada is responsible for the delay in paying the Contractor. Canada will not pay interest on overdue advance payments.

2035 18 (2008-05-12) Compliance with Applicable Laws

1. The Contractor must comply with all laws applicable to the performance of the Contract. The Contractor must provide evidence of compliance with such laws to Canada at such times as Canada may reasonably request.
2. The Contractor must obtain and maintain at its own cost all permits, licenses, regulatory approvals and certificates required to perform the Work. If requested by the Contracting Authority, the Contractor must provide a copy of any required permit, license, regulatory approvals or certificate to Canada.

2035 19 (2008-05-12) Ownership

1. Unless provided otherwise in the Contract, the Work or any part of the Work belongs to Canada after delivery and acceptance by or on behalf of Canada.
2. However if any payment is made to the Contractor for or on account of any Work, either by way of progress or milestone payments, that work paid for by Canada belongs to Canada upon such payment being made. This transfer of ownership does not constitute acceptance by Canada of the Work or any part of the Work and does not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.
3. Despite any transfer of ownership, the Contractor is responsible for any loss or damage to the Work or any part of the Work until it is delivered to Canada in accordance with the Contract. Even after delivery, the Contractor remains responsible for any loss or damage to any part of the Work caused by the Contractor or any subcontractor.
4. Upon transfer of ownership to the Work or any part of the Work to Canada, the Contractor must, if requested by Canada, establish to Canada's satisfaction that the title is free and clear of all claims, liens, attachments, charges or encumbrances. The Contractor must execute any conveyances and other instruments necessary to perfect the title that Canada may require.

2035 20 (2008-05-12) Copyright

In this section, "Material" means anything that is created by the Contractor as part of the Work under the Contract, that is required by the Contract to be delivered to Canada and in which copyright subsists. "Material" does not include anything created by the Contractor before the date of the Contract.

Copyright in the Material belongs to Canada and the Contractor must include the copyright symbol and either of the following notice on the Material: © Her Majesty the Queen in right of Canada (year) or © Sa Majesté la Reine du chef du Canada (année).

The Contractor must not use, copy, divulge or publish any Material except as is necessary to perform the Contract. The Contractor must execute any conveyance and other documents relating to copyright in the Material as Canada may require.

The Contractor must provide at the request of Canada a written permanent waiver of moral rights, in a form acceptable to Canada, from every author that contributed to the Material. If

the Contractor is the author of the Material, the Contractor permanently waives its moral rights in the Material.

2035 21 (2008-05-12) Translation of Documentation

The Contractor agrees that Canada may translate in the other official language any documentation delivered to Canada by the Contractor that does not belong to Canada under section 20. The Contractor acknowledges that Canada owns the translation and that it is under no obligation to provide any translation to the Contractor. Canada agrees that any translation must include any copyright notice and any proprietary right notice that was part of the original. Canada acknowledges that the Contractor is not responsible for any technical errors or other problems that may arise as a result of the translation.

2035 22 (2008-05-12) Confidentiality

1. The Contractor must 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 when copyright or any other intellectual property rights in such information belongs to Canada under the Contract. The Contractor must not disclose any such information without the written permission of Canada. The Contractor may disclose to a subcontractor any information necessary to perform the subcontract as long as the subcontractor agrees to keep the information confidential and that it will be used only to perform the subcontract.
2. The Contractor agrees to use any information provided to the Contractor by or on behalf of Canada only for the purpose of the Contract. The Contractor acknowledges that all this information remains the property of Canada or the third party, as the case may be. Unless provided otherwise in the Contract, the Contractor must deliver to Canada all such information, together with every copy, draft, working paper and note that contains such information, upon completion or termination of the Contract or at such earlier time as Canada may require.
3. Subject to the Access to Information Act , R.S., 1985, c. A-1 , and to any right of Canada under the Contract to release or disclose, Canada must not release or disclose outside the Government of Canada any information delivered to Canada under the Contract that is proprietary to the Contractor or a subcontractor.
4. The obligations of the Parties set out in this section do not apply to any information if the information:
 - a. is publicly available from a source other than the other Party; or
 - b. is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information; or
 - c. is developed by a Party without use of the information of the other Party.
5. Wherever possible, the Contractor must mark or identify any proprietary information delivered to Canada under the Contract as "Property of (Contractor's name), permitted Government uses defined under Public Works and Government Services (PWGSC) Contract No. (fill in Contract Number)". Canada will not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.
6. If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada, the Contractor must at all times take all measures reasonably necessary for the safeguarding of the material so identified, including those set out in the PWGSC Industrial Security Manual and its supplements and any other instructions issued by Canada.

7. If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED, by Canada, representatives of Canada are 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. The Contractor must comply with, and ensure that any subcontractor complies with, all written instructions issued by Canada 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.

2035 23 (2008-05-12) Government Property

1. All Government Property must be used by the Contractor solely for the purpose of the Contract and remains the property of Canada. The Contractor must maintain adequate accounting records of all Government Property and, whenever feasible, mark it as being the property of Canada.
2. The Contractor must take reasonable and proper care of all Government Property while it is in its possession or subject to its control. The Contractor is responsible for any loss or damage resulting from its failure to do so other than loss or damage caused by ordinary wear and tear.
3. All Government Property, unless it is installed or incorporated in the Work, must be returned to Canada on demand. All scrap and all waste materials, articles or things that are Government Property must, unless provided otherwise in the Contract, remain the property of Canada and must be disposed of only as directed by Canada.
4. At the time of completion of the Contract, and if requested by the Contracting Authority, the Contractor must provide to Canada an inventory of all Government Property relating to the Contract.

2035 24 (2008-05-12) Liability

The Contractor is liable for any damage caused by the Contractor, its employees, subcontractors, or agents to Canada or any third party. Canada is liable for any damage caused by Canada, its employees or agents to the Contractor or any third party. The Parties agree that no limitation of liability or indemnity provision applies to the Contract unless it is specifically incorporated in full text in the Articles of Agreement. Damage includes any injury to persons (including injury resulting in death) or loss of or damage to property (including real property) caused as a result of or during the performance of the Contract.

2035 25 (2008-05-12) Intellectual Property Infringement and Royalties

1. The Contractor represents and warrants that, to the best of its knowledge, neither it nor Canada will infringe any third party's intellectual property rights in performing or using the Work, and that Canada will have no obligation to pay royalties of any kind to anyone in connection with the Work.
2. If anyone makes a claim against Canada or the Contractor concerning intellectual property infringement or royalties related to the Work, that Party agrees to notify the other Party in writing immediately. If anyone brings a claim against Canada, according to Department of Justice Act, R.S., 1985, c. J-2, the Attorney General of Canada must have the regulation and conduct of all litigation for or against Canada, but the Attorney General may request that the Contractor defend Canada against the claim. In either case, the Contractor agrees to participate fully in the defence and any settlement negotiations and to pay all costs, damages and legal costs incurred or payable as a result of the claim, including the amount of any settlement. Both Parties agree not to settle any claim unless the other Party first approves the settlement in writing.

3. The Contractor has no obligation regarding claims that were only made because:
 - a. Canada modified the Work or part of the Work without the Contractor's consent or used the Work or part of the Work without following a requirement of the Contract; or
 - b. Canada used the Work or part of the Work with a product that the Contractor did not supply under the Contract (unless that use is described in the Contract or the manufacturer's specifications); or
 - c. the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by Canada (or by someone authorized by Canada); or
 - d. the Contractor used a specific item of equipment or software that it obtained because of specific instructions from the Contracting Authority; however, this exception only applies if the Contractor has included the following language in its own contract with the supplier of that equipment or software: "[Supplier name] acknowledges that the purchased items will be used by the Government of Canada. If a third party claims that equipment or software supplied under this contract infringes any intellectual property right, [supplier name], if requested to do so by either [Contractor name] or Canada, will defend both [Contractor name] and Canada against that claim at its own expense and will pay all costs, damages and legal fees payable as a result of that infringement." Obtaining this protection from the supplier is the Contractor's responsibility and, if the Contractor does not do so, it will be responsible to Canada for the claim.
4. If anyone claims that, as a result of the Work, the Contractor or Canada is infringing its intellectual property rights, the Contractor must immediately do one of the following:
 - a. take whatever steps are necessary to allow Canada to continue to use the allegedly infringing part of the Work; or
 - b. modify or replace the Work to avoid intellectual property infringement, while ensuring that the Work continues to meet all the requirements of the Contract; or
 - c. take back the Work and refund any part of the Contract Price that Canada has already paid.

If the Contractor determines that none of these alternatives can reasonably be achieved, or if the Contractor fails to take any of these steps within a reasonable amount of time, Canada may choose either to require the Contractor to do (c), or to take whatever steps are necessary to acquire the rights to use the allegedly infringing part(s) of the Work itself, in which case the Contractor must reimburse Canada for all the costs it incurs to do so.

2035 26 (2008-05-12) Amendment and Waivers

1. To be effective, any amendment to the Contract must be done in writing by the Contracting Authority and the authorized representative of the Contractor.
2. While the Contractor may discuss any proposed modifications to the Work with other representatives of Canada, Canada will not be responsible for the cost of any modification unless it has been incorporated into the Contract in accordance with subsection 1.
3. A waiver will only be valid, binding or affect the rights of the Parties if it is made in writing by, in the case of a waiver by Canada, the Contracting Authority and, in the case of a waiver by the Contractor, the authorized representative of the Contractor.
4. The waiver by a Party of a breach of any condition of the Contract will not be treated or interpreted as a waiver of any subsequent breach and therefore will not prevent that Party from enforcing of that term or condition in the case of a subsequent breach.

2035 27 (2008-05-12) Assignment

1. The Contractor must not assign the Contract without first obtaining the written consent of the Contracting Authority. Any assignment made without that consent is void and will have no effect. The assignment will be effective upon execution of an assignment agreement signed by the Parties and the assignee.
2. Assignment of the Contract does not relieve the Contractor from any obligation under the Contract and it does not impose any liability upon Canada.

2035 28 (2014-09-25) Suspension of the Work

1. The Contracting Authority may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract for a period of up to 180 days. The Contractor must immediately comply with any such order in a way that minimizes the cost of doing so. While such an order is in effect, the Contractor must not remove any part of the Work from any premises without first obtaining the written consent of the Contracting Authority. Within these 180 days, the Contracting Authority must either cancel the order or terminate the Contract, in whole or in part, under section 29 or section 30.
2. When an order is made under subsection 1, unless the Contracting Authority terminates the Contract by reason of default by the Contractor or the Contractor abandons the Contract, the Contractor will be entitled to be paid its additional costs incurred as a result of the suspension plus a fair and reasonable profit.
3. When an order made under subsection 1 is cancelled, the Contractor must resume work in accordance with the Contract as soon as practicable. If the suspension has affected the Contractor's ability to meet any delivery date under the Contract, the date for performing the part of the Work affected by the suspension will be extended for a period equal to the period of suspension plus a period, if any, that in the opinion of the Contracting Authority, following consultation with the Contractor, is necessary for the Contractor to resume the Work. Any equitable adjustments will be made as necessary to any affected conditions of the Contract.

2035 29 (2014-09-25) Default by the Contractor

1. If the Contractor is in default in carrying out any of its obligations under the Contract, the Contracting Authority may, by giving written notice to the Contractor, terminate for default the Contract or part of the Contract. The termination will take effect immediately or at the expiration of a cure period specified in the notice, if the Contractor has not cured the default to the satisfaction of the Contracting Authority within that cure period.
2. If the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or if a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or an order is made or a resolution passed for the winding-up of the Contractor, the Contracting Authority may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract.
3. If Canada gives notice under subsection 1 or 2, the Contractor will have no claim for further payment except as provided in this section. The Contractor will be liable to Canada for all losses and damages suffered by Canada because of the default or occurrence upon which the notice was based, including any increase in the cost incurred by Canada in procuring the Work from another source. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.

4. Upon termination of the Contract under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work, not delivered and accepted before the termination and anything the Contractor has acquired or produced specifically to perform the Contract. In such a case, subject to the deduction of any claim that Canada may have against the Contractor arising under the Contract or out of the termination, Canada will pay or credit to the Contractor:
 - a. the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price; and
 - b. the cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.

The total amount paid by Canada under the Contract to the date of the termination and any amount payable under this subsection must not exceed the Contract Price.

5. Title to everything for which payment is made to the Contractor will, once payment is made, pass to Canada unless it already belongs to Canada under any other provision of the Contract.
6. If the Contract is terminated for default under subsection 1, but it is later determined that grounds did not exist for a termination for default, the notice will be considered a notice of termination for convenience issued under subsection 1 of section 30.

2035 30 (2008-05-12) Termination for Convenience

1. At any time before the completion of the Work, the Contracting Authority may, by giving notice in writing to the Contractor, terminate for convenience the Contract or part of the Contract. Once such a notice of termination for convenience is given, the Contractor must comply with the requirements of the termination notice. If the Contract is terminated in part only, the Contractor must proceed to complete any part of the Work that is not affected by the termination notice. The termination will take effect immediately or, as the case may be, at the time specified in the termination notice.
2. If a termination notice is given pursuant to subsection 1, the Contractor will be entitled to be paid, for costs that have been reasonably and properly incurred to perform the Contract to the extent that the Contractor has not already been paid or reimbursed by Canada. The Contractor will be paid:
 - a. on the basis of the Contract Price, for all completed work that is inspected and accepted in accordance with the Contract, whether completed before, or after the termination in accordance with the instructions contained in the termination notice;
 - b. the Cost to the Contractor plus a fair and reasonable profit for all work terminated by the termination notice before completion; and
 - c. all costs incidental to the termination of the Work incurred by the Contractor but not including the cost of severance payments or damages to employees whose services are no longer required, except wages that the Contractor is obligated by statute to pay.
3. Canada may reduce the payment in respect of any part of the Work, if upon inspection, it does not meet the requirements of the Contract.
4. The total of the amounts, to which the Contractor is entitled to be paid under this section, together with any amounts paid, due or becoming due to the Contractor must not exceed the Contract Price. The Contractor will have no claim for damages, compensation, loss of profit, allowance arising out of any termination notice given by Canada under this section except to the extent that this section expressly provides. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.

2035 31 (2014-09-25) Accounts and Audit

1. The Contractor must keep proper accounts and records of the cost of performing the Work and of all expenditures or commitments made by the Contractor in connection with the Work, including all invoices, receipts and vouchers. The Contractor must retain records, including bills of lading and other evidence of transportation or delivery, for all deliveries made under the Contract.
2. If the Contract includes payment for time spent by the Contractor, its employees, representatives, agents or subcontractors performing the Work, the Contractor must keep a record of the actual time spent each day by each individual performing any part of the Work.

Unless Canada has consented in writing to its disposal, the Contractor must retain all the information described in this section for six years after it receives the final payment under the Contract, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of Canada, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information as the representatives of Canada may from time to time require to perform a complete audit of the Contract.

3. The amount claimed under the contract, calculated in accordance with the Basis of Payment provision in the Articles of Agreement, is subject to government audit both before and after payment is made. If an audit is performed after payment, the Contractor agrees to repay any overpayment immediately on demand by Canada. Canada may hold back, deduct and set off any credits owing and unpaid under this section from any money that Canada owes to the Contractor at any time (including under other contracts). If Canada does not choose to exercise this right at any given time, Canada does not lose this right.

2035 32 (2008-05-12) Right of Set-off

Without restricting any right of set-off given by law, Canada may set-off against any amount payable to the Contractor under the Contract, any amount payable to Canada by the Contractor under the Contract or under any other current contract. Canada may, when making a payment pursuant to the Contract, deduct from the amount payable to the Contractor any such amount payable to Canada by the Contractor which, by virtue of the right of set-off, may be retained by Canada.

2035 33 (2008-05-12) Notice

Any notice under the Contract must be in writing and may be delivered by hand, courier, mail, facsimile or other electronic method that provides a paper record of the text of the notice. It must be sent to the Party for whom it is intended at the address stated in the Contract. Any notice will be effective on the day it is received at that address. Any notice to Canada must be delivered to the Contracting Authority.

2035 34 (2008-05-12) Conflict of Interest and Values and Ethics Codes for the Public Service

The Contractor acknowledges that individuals who are subject to the provisions of the Conflict of Interest Act, 2006, c. 9, s. 2, the Conflict of Interest Code for Members of the House of Commons, the Values and Ethics Code for the Public Service or all other codes of values and ethics applicable within specific organizations cannot derive any direct benefit resulting from the Contract.

2035 35 (2008-05-12) No Bribe or Conflict

1. The Contractor declares that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of Canada or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.
2. The Contractor must not influence, seek to influence or otherwise take part in a decision of Canada knowing that the decision might further its private interest. The Contractor must have no financial interest in the business of a third party that causes or would appear to cause a conflict of interest in connection with the performance of its obligations under the Contract. If such a financial interest is acquired during the period of the Contract, the Contractor must immediately declare it to the Contracting Authority.
3. The Contractor warrants that, to the best of its knowledge after making diligent inquiry, no conflict exists or is likely to arise in the performance of the Contract. In the event the Contractor becomes aware of any matter that causes or is likely to cause a conflict in relation to the Contractor's performance under the Contract, the Contractor must immediately disclose such matter to the Contracting Authority in writing.
4. If the Contracting Authority is of the opinion that a conflict exists as a result of the Contractor's disclosure or as a result of any other information brought to the Contracting Authority's attention, the Contracting Authority may require the Contractor to take steps to resolve or otherwise deal with the conflict or, at its entire discretion, terminate the Contract for default. Conflict means any matter, circumstance, interest, or activity affecting the Contractor, its personnel or subcontractors, which may or may appear to impair the ability of the Contractor to perform the Work diligently and independently.

2035 36 (2008-05-12) Survival

All the Parties' obligations of confidentiality, representations and warranties set out in the Contract as well as the provisions, which by the nature of the rights or obligations might reasonably be expected to survive, will survive the expiry or termination of the Contract.

2035 37 (2008-05-12) Severability

If any provision of the Contract is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, that provision will be removed from the Contract without affecting any other provision of the Contract.

2035 38 (2008-05-12) Successors and Assigns

The Contract is to the benefit of and binds the successors and permitted assignees of Canada and of the Contractor.

2035 39 (2008-12-12) Contingency Fees

The Contractor certifies that it has not directly or indirectly, paid or agreed to pay and agrees that it will not, directly or indirectly, pay a contingency fee for the solicitation, negotiation or obtaining of the Contract to any person, other than an employee of the Contractor acting in the normal course of the employee's duties. In this section, "contingency fee" means any payment or other compensation that depends or is calculated based on a degree of success in soliciting, negotiating or obtaining the Contract and "person" includes any individual who is required to file a return with the registrar pursuant to section 5 of the Lobbying Act, 1985, c. 44 (4th Supplement).

2035 40 (2012-07-16) International Sanctions

1. Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.
2. The Contractor must not supply to the Government of Canada any goods or services which are subject to economic sanctions.
3. The Contractor must comply with changes to the regulations imposed during the period of the Contract. The Contractor must immediately advise Canada if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on a work around plan, the Contract will be terminated for the convenience of Canada in accordance with section 30.

2035 41 (2016-04-04) Integrity Provisions – Contract

The *Ineligibility and Suspension Policy* (the “Policy”) and all related Directives incorporated by reference into the bid solicitation on its closing date are incorporated into, and form a binding part of the Contract. The Contractor must comply with the provisions of the Policy and Directives, which can be found on Public Works and Government Services Canada’s website at *Ineligibility and Suspension Policy*.

2035 42 (2008-05-12) Harassment in the Workplace

1. The Contractor acknowledges the responsibility of Canada to ensure, for its employees, a healthy work environment, free of harassment. A copy of the Policy on Harassment Prevention and Resolution, which is also applicable to the Contractor, is available on the Treasury Board Web site.
2. The Contractor must not, either as an individual, or as a corporate or unincorporated entity, through its employees or subcontractors, harass, abuse, threaten, discriminate against or intimidate any employee, contractor or other individual employed by, or under contract with Canada. The Contractor will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the Contractor's response, the Contracting Authority will, at its entire discretion, determine if the complaint is founded and decide on any action to be taken.

2035 43 (2008-05-12) Entire Agreement

The Contract constitutes the entire and only agreement between the Parties and supersedes all previous negotiations, communications and other agreements, whether written or oral, unless they are incorporated by reference in the Contract. There are no terms, covenants, representations, statements or conditions binding on the Parties other than those contained in the Contract.

2035 44 (2012-07-16) Access to Information

Records created by the Contractor, and under the control of Canada, are subject to the Access to Information Act. The Contractor acknowledges the responsibilities of Canada under the Access to Information Act and must, to the extent possible, assist Canada in discharging these responsibilities. Furthermore, the Contractor acknowledges that section 67.1 of the Access to Information Act provides that any person, who destroys, alters, falsifies or conceals a record, or directs anyone to do so, with the intent of obstructing the right of access that is provided by the Access to Information Act is guilty of an offence and is liable to imprisonment or a fine, or both.

2035 45 (2016-04-04) Code of Conduct for Procurement—Contract

The Contractor agrees to comply with the Code of Conduct for Procurement and to be bound by its terms for the period of the Contract.

ANNEX E

SUPPLEMENTARY GENERAL CONDITIONS

1029 Ship Repairs

1029 01 (2010-08-16) Interpretation

1. In the Contract, unless the context otherwise requires,
 - "General Conditions" means the general conditions forming part of the Contract;
 - "Inspector" means the inspection authority or any other person designated in the Contract to carry out the inspection duties;
 - "vessel" means the ship or vessel to be repaired, fitted, converted or otherwise dealt with by the Contractor under the Contract and includes the whole of its hull, engines, boilers, machinery, auxiliaries, stores, equipment, fittings and appurtenances.
2. These supplemental general conditions must be read with the General Conditions, provided that, in the event of any inconsistencies between the provisions of the General Conditions and of these supplemental general conditions, the latter must prevail.

1029 02 (2010-08-16) Contractor to Provide Plant, etc.

Unless otherwise provided in the Contract, the Contractor must provide and make available, at its own expense, all labour, superintendence services, machinery, equipment, apparatus, tools, implements, materials, articles and things which may be requisite for the efficient carrying out and completion of the Work.

1029 03 (2010-08-16) Quality and Workmanship

All materials and parts used for the Work must be of the quality required by the Specifications and must be suitable for their particular purposes. They must be employed in the most substantial and workmanlike manner and only as approved by the Inspector.

1029 04 (2010-08-16) Inspector Final Judge of Work, Materials, etc.

1. If any part of the Specifications provides for a method of construction or for the supply and/or use of materials, equipment or parts which are not specified with particularity, the Contractor has the right of selection, provided that,
 - a. the construction so performed and the materials, equipment and parts so supplied and/or used are in accordance with good marine building practice for the type and class of vessels covered by the Contract; and
 - b. the Specifications and all other contract requirements are fully complied with.
2. Subject to the foregoing, the Inspector will be the final judge of the quality, quantity and suitability of the workmanship, parts, materials, plant, machinery, apparatus, tools and equipment used in or for the purposes of the Work and as to the meaning or interpretation of the Specifications. Its decision with regard to the foregoing matters, or any of them, will be final and binding upon the Contractor.
3. The Contractor must promptly and fully comply with all orders, directions or instructions at any time given by the Inspector with respect to the Work or the conduct or progress of the Work or

with respect to the parts, materials, plant, apparatus, machinery, tools or equipment used in or for the purposes of the Work.

1029 05 (2010-08-16) Re-execution of Inferior Work

If, in the opinion of the Inspector, any part of the Work is not in accordance with the Contract, the Inspector may notify the Contractor to properly re-execute the same, which must be done by the Contractor at its own expense. If the Contractor fails to do so within such reasonable time as may be fixed by the said or any subsequent notice, then the Inspector may cause such work to be re-executed and replaced at the expense of the Contractor by any means which the Inspector considers advisable.

1029 06 (2010-08-16) Removed Parts, etc., Remain Canada Property

Any parts, equipment, materials or accessories of any vessel permanently removed in the carrying out of the Work, remain the property of Canada, and must be disposed of as Canada may direct.

1029 07 (2010-08-16) Wharfage and Dockage Fees and Charges

1. Until the completion of the Work, the Contractor will be responsible for and must pay all charges, fees, expenses and disbursements of or incidental to the carrying out of the Work, including wharfage, towage, dockage, running lines, electric light and water for testing and refilling the tanks.
2. In the event of any assessments, taxes or duties, or other levies and charges whatsoever, being unpaid after the Work has been formally accepted by Canada, and Canada has complied with all the provisions imposed upon it by the Contract, the Contractor must reimburse Canada within thirty (30) days thereafter for any such assessments, taxes, duties, levies or charges as may have been paid by Canada.

1029 08 (2010-08-16) Where Vessel Remains in Commission

If the Vessel is to remain in commission while the Work is being carried out, then

- a. the Work must be carried out on the Vessel at such place as the Vessel is from time to time berthed, provided that every endeavour must be made consistent with the necessity for speedy execution of the Work to have the Vessel berthed at such place as will facilitate the Work required to be performed by the Contractor;
- b. the Contractor will not be in charge of or responsible for the care and protection of the Vessel but will be liable for all loss or damage or personal injury (to persons other than those in the employ of the Contractor) resulting from any negligent or wrongful act or omission on the part of the Contractor, its officers, servants, agents or employees during the carrying out of the Work. If any such loss or damage should occur to the Vessel or to the Work, the Contractor must immediately, unless otherwise directed by the Contracting Authority or the Inspector and subject to such conditions as the Contracting Authority or the Inspector may impose, at its own expense, repair, restore and/or replace the Vessel and/or the Work so lost or destroyed;
- c. the Contractor must indemnify and save harmless Canada against and from all loss, damages, costs and expenses arising from or in any way connected with any and all claims for or in respect of such loss, damages or personal injuries occasioned as aforesaid.

1029 09 (2010-08-16) Where Vessel out of Commission

If the Vessel be out of commission while the Work is being carried out, then

- a. unless the prior approval of Canada has been obtained to ground the Vessel, it must be berthed where it will not touch the ground at either high or low water;
- b. the Contractor will be in charge of and be entirely responsible for the care and efficient protection of the Vessel from the time of delivery to the Contractor until redelivered to and accepted by the person or persons appointed by Canada to receive and accept the same;
- c. a copy of all lists of fixtures and spare gear will be furnished to the Contractor who must check the same in conjunction with the Inspector and thereafter acknowledge receipt of the items. Upon completion of the Work, if such items are accounted for to the satisfaction of the Inspector, Canada will give a clearance to the Contractor;
- d. the Contractor must provide the necessary warehouse or storage accommodation for and maintain in good conditions, lubricated, painted and protected from the weather, all equipment, fittings, articles or things temporarily removed from the Vessel during the Work or which may be supplied to the Contractor by Canada for stowing or fitting in place on board the Vessel prior to delivery to Canada. The Contractor must redeliver the same to Canada in as good condition as when so removed by or supplied to the Contractor. The Contractor must also provide safe storage accommodation for any part or parts of the Vessel permanently removed until the same are disposed of as provided in the Contract;
- e. the Contractor must take the usual and proper precautions to maintain in a proper state of preservation any machinery, equipment, fittings, stores or things left in the Vessel which might become damaged by exposure;
- f. if the Work necessitates the removal of stores and no secure place of stowage is available on board the Vessel, the Contractor must provide the necessary labour for removal and a secure place for storage. The Contractor must furnish receipts for such stores. The Contractor undertakes that such stores must be well and carefully stored and not mingled with property of a similar nature;
- g. the Contractor will be liable for all loss or damage of or to the Vessel or the Work and for personal injury (to persons other than those in the employ of the Contractor) resulting from any negligent or wrongful act or omission on the part of the Contractor, its officers, servants, agents or employees from the time of the taking over of the Vessel until delivery of the Vessel and final acceptance of the Work pursuant to the provisions of the Contract. If any such loss or damage should occur before such delivery and final acceptance, the Contractor must immediately (unless otherwise directed by the Contracting Authority or the Inspector and subject to such conditions as the Contracting Authority or the Inspector may impose), at its own expense, repair, restore and/or replace the Vessel and/or the Work so lost or damaged. Canada will not be in any manner responsible or liable for any loss or damage which may happen to the Vessel and/or the Work, or any part or parts of the Work before delivery, or for any injury including injuries resulting in death, to any person or persons, or for any other damages or injuries whatsoever, caused by or in connection with the Vessel, or caused by or resulting from or in any way arising out of the Work. The Contractor must indemnify and save harmless Canada against and from all loss, costs, damages and expenses arising from or in any way connected with any and all claims for or in respect of such loss, damages or injuries.

1029 10 (2010-08-16) Insurance – NOT USED REFER TO ANNEX H

1029 11 (2010-08-16) Public Ceremony

The Contractor must not allow any public ceremony in connection with the Work without having previously obtained the written permission of Canada.

1029 12 (2010-08-16) Security Deposit

1. The security (if any) referred to in the Contract will be held and retained by Canada as security for the due and complete performance, observance and fulfillment by the Contractor of all the conditions of the Contract. Unless and until the security is forfeited to Canada as provided in the Contract, Canada will remit any revenues and income (provided that Canada must in no event be obligated to invest moneys as interest or otherwise) to the Contractor. In the case of interest coupons, or dividend coupons payable to bearer, Canada will deliver the same to the Contractor as and when they mature. In the event of any default by the Contractor in fulfillment of any of the conditions of the Contract, the security must (without prejudice to any and all other rights and recourses accruing to Canada) be forfeited to and retained by Canada as liquidated damages and not as a penalty. If the Contractor has duly performed, observed and fulfilled all the conditions of the Contract, the security will be returned to the Contractor.
2. Despite the foregoing, Canada may, at its discretion, authorize a return of the security to the Contractor at any time before the Contractor has fulfilled all its obligations under the Contract. In such event, the return of the security must not prejudice any rights or recourse accruing to Canada under the Contract.

4002 Software Development or Modification Services

4002 01 (2008-05-12) Software Interpretation

1. In the Contract, unless the context requires otherwise,

"Custom Software"

means the computer programs, data bases and documentation that Canada wishes to develop, or to have developed, either as new software or by modification of existing software, all as described in the Contract;

"Detailed Design Specifications"

means the specifications for the detailed technical design of the Custom Software;

"Functional Specifications"

means the functional description of the Custom Software set out or referred to in the Contract specifying the functions the Custom Software must perform and the features and capacities the Custom Software must have;

"General Conditions"

means the general conditions that form part of the Contract;

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions have the meanings given to them in the General Conditions unless provided otherwise. If the general conditions contain sections entitled "Ownership" or "Warranty", those sections do not apply to the Custom Software. Instead the ownership and warranty provisions in these supplemental general conditions apply to the Custom Software.
3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions will prevail.

Part I - Development of Functional Specifications and Detailed Design Specifications

4002 02 (2008-05-12) Application of Part I

This Part only applies if the Contract requires the Contractor either to design the Custom Software or to further develop an existing technical design for the Custom Software.

4002 03 (2008-05-12) Functional Specifications

The Functional Specifications developed by the Contractor under the Contract and accepted by Canada are incorporated in the Contract by reference and supersede any functional specifications that were originally incorporated in the Contract.

4002 04 (2008-05-12) Detailed Design Specifications

The Contractor must develop the Detailed Design Specifications for the Custom Software in accordance with the Functional Specifications and all other requirements of the Contract.

4002 05 (2008-05-12) Inspection Procedures for Detailed Design Specifications

1. The inspection procedures set out below will only apply in the absence of any other inspection procedures in the Contract.
2. In this section, "Review Period" means a period of five (5) working days from the date on which the Detailed Design Specifications must be submitted to Canada or from the actual date of submission of those specifications by the Contractor, whichever is later.
3. Canada may extend the Review Period by an additional five (5) working days by giving notice to the Contractor within the Review Period.
4. During the Review Period, Canada will inspect the Detailed Design Specifications submitted by the Contractor and, within two (2) working days following the end of the Review Period, will advise the Contractor whether or not the Detailed Design Specifications have passed inspection.
5. If the Detailed Design Specifications submitted by the Contractor are inconsistent with the Functional Specifications or fail in any other way to meet the requirements of the Contract, Canada will send a written description of the deficiencies to the Contractor within two (2) working days following the end of the Review Period.
6. Upon receipt of Canada's description of the deficiencies mentioned in subsection 5, the Contractor must immediately modify the Detailed Design Specifications to correct the deficiencies and promptly submit the corrected work to Canada for inspection.
7. During a second Review Period, Canada will inspect the corrected work submitted to Canada pursuant to subsections 4 and 5.
8. Despite anything else contained in this section, the Contractor must ensure that the Detailed Design Specifications developed by the Contractor pass inspection by Canada within thirty (30) days of their original delivery date set out in the Contract.

Part II - Implementation of Custom Software

4002 06 (2008-05-12) Coding and Pre-Installation Tests

1. The Contractor must develop the Custom Software based on the Detailed Design Specifications and the Functional Specifications. In the development of the Custom Software, the Contractor

must carry out all detailed programming and coding required under the Detailed Design Specifications, and, if necessary, must revise the Detailed Design Specifications in order to ensure that they are derived from and are consistent with the Functional Specifications and all other requirements of the Contract.

2. The Contractor must conduct pre-installation testing to ensure that the Custom Software will operate in accordance with the Functional Specifications and all other requirements of the Contract. The Contractor must notify Canada of all such tests. Upon request from Canada, the Contractor must give Canada an opportunity to witness those tests and provide Canada with a copy of all intermediate and final test records and results.

4002 07 (2008-05-12) New Source Code

1. In this section, "New Source Code" means all of the source code for the Custom Software that is written by the Contractor or any subcontractor as part of the Work performed under the Contract.
2. The Contractor must deliver the New Source Code to Canada at such time or times as the Contract may require, and if no time is specified in the Contract, within thirty (30) days following acceptance of the Custom Software by Canada.
3. The New Source Code provided by the Contractor must contain a complete description of the operation of the developed software in sufficient detail to enable a programmer, experienced in the programming language or languages in which the source code is written, to modify all aspects of that software without assistance from the Contractor.

4002 08 (2008-05-12) Pre-existing Software

1. In this section, "Pre-existing Software" means software that is not developed as part of the Work performed under the Contract and that is proprietary to the Contractor or any of its subcontractors or to a third party.
2. The Contractor must not develop the Custom Software by modifying Pre-existing Software or incorporate any Pre-existing Software into the Custom Software without first obtaining the written consent of Canada. However, the consent of Canada is not required if the use of Pre-existing Software is specifically authorized in the Contract.
3. If Pre-existing Software forms part of the Custom Software, unless provided otherwise in the Contract, the Contractor must, within thirty (30) days following acceptance of the Custom Software by Canada, at its option and expense, either:
 - a. deliver the source code for that software to Canada; or
 - b. deliver the source code to an escrow agent approved by Canada, to be held in trust by that agent, for release to Canada upon the occurrence of any of the following events:
 - i. Canada terminates either the Contract or any subsequent support or development arrangement relating to the Custom Software for default;
 - ii. the Contractor or its supplier ceases to do business or ceases to make support or development services in relation to the Custom Software reasonably available to Canada;

- iii. the Contractor or its supplier becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors;
 - iv. a receiver is appointed for the Contractor or its supplier under a debt instrument, or a receiving order is made against the Contractor or its supplier; or
 - v. an order is made or a resolution passed for the winding up of the Contractor or its supplier.
4. The source code delivered by the Contractor to Canada or to any escrow agent, in relation to any Pre-existing Software that forms part of the Custom Software, must contain a complete description of the operation of that Pre-existing Software in sufficient detail to enable a programmer, experienced in the programming language or languages in which the source code is written, to modify all aspects of that software without assistance from the Contractor. If the source code for the Pre-existing Software is delivered to an escrow agent, the Contractor must ensure that the source code in the possession of the escrow agent is updated from time to time to correspond with the most current version of the object code in the possession of Canada.
 5. Unless provided otherwise in the Contract or in any escrow agreement signed by Canada, Canada's rights to use, copy, modify and disclose any Pre-existing Software supplied under the Contract and any source code for that software must be identical to those set out in *Supplemental General Conditions 4003*.

4002 09 (2008-05-12) Object Code and User Documentation

1. Without limiting any of the Contractor's other obligations under the Contract, including its obligation with respect to the supply of source code, the Contractor must provide the Pre-existing Software and Custom Software to Canada in executable object code.
2. The operating manuals, technical manuals and other user documentation provided by the Contractor to Canada for use with the Custom Software must describe the operation of the Custom Software in sufficient detail to enable appropriately trained employees of Canada to use all functions and features of the Custom Software without assistance from the Contractor.

4002 10 (2008-05-12) Conversion of Data Files

The Contractor must convert, as required in the Contract, Canada's machine-readable data files, as they exist on any existing computer system used to fulfill all or part of the then-current functional requirements of Canada, to data files designed for use with the Custom Software. Canada is responsible for the accuracy and the completeness of data files delivered to the Contractor. The Contractor is responsible for the accuracy and completeness of the data files after conversion and for the compatibility of such data files with the Custom Software.

4002 11 (2008-05-12) Acceptance Procedures for Custom Software

1. The acceptance procedures set out in subsections 2 to 5 inclusive only apply in the absence of any other detailed acceptance procedures for the Custom Software in the Contract.
2. Canada must prepare and provide to the Contractor acceptance test data before the date specified in the Contract for the start of pre-installation testing of the Custom Software. Canada will consult with the Contractor in connection with the preparation of such data and the Contractor must assist in such preparation to the extent indicated in the Contract. Canada and the Contractor will use such data to determine whether the Custom Software, when executed on the

hardware and its operating system, performs in accordance with the Functional Specifications and all other requirements of the Contract. Unless otherwise agreed, the test data must be in the format and media required for direct input to the computer system, as provided in the Detailed Design Specifications.

3. Following receipt of the acceptance test data referred to in subsection 2, and before the date specified in the Contract for the start of acceptance testing of the Custom Software (the "Test Start Date"), the Contractor must provide an "Acceptance Test Plan" to Canada for Canada's review and approval. The Acceptance Test Plan must consist of a description of a series of tasks and verifications, based on the acceptance test data, in sufficient detail to enable Canada and the Contractor to determine whether the Custom Software performs in accordance with the Functional Specifications and all other requirements of the Contract.
4. On the Test Start Date, Canada must commence the acceptance tests in relation to the Custom Software using the pre-approved Acceptance Test Plan referred to in subsection 3. The acceptance tests must be conducted during the period of time specified in the Contract. If no other acceptance testing period is specified in the Contract, the acceptance tests must be conducted over a 40-day period from the Test Start Date. If the Custom Software passes the acceptance tests and if the Contractor has completed all other work under the Contract in accordance with the conditions of the Contract, Canada will promptly give notice to the Contractor that the Custom Software is accepted.
5. If the Custom Software fails to pass the acceptance tests referred to in subsection 4, Canada will send a written description of the deficiencies to the Contractor within ten (10) days following the end of the acceptance testing period referred to in that subsection. Upon receipt of Canada's description of the deficiencies, the Contractor must modify the Custom Software to correct the deficiencies within ten (10) days of receipt of such description. All acceptance tests in relation to the Custom Software must then be repeated, at no additional cost to Canada, and the Contractor must ensure that the Custom Software passes the second set of acceptance tests within the acceptance testing period specified in subsection 4.
6. Despite anything else contained in this section, if Canada is unable to commence or continue the acceptance tests in relation to the Custom Software because of an event reasonably beyond its control, the acceptance tests may be temporarily suspended for a period of time not to exceed sixty (60) days. The time limits for testing referred to in this section or elsewhere in the Contract will in such cases be extended by the number of days of the suspension. If the delay exceeds sixty (60) days, the Parties must use reasonable efforts to negotiate a mutually acceptable amendment to the Contract.

4002 12 (2008-05-12) Warranty

1. In this section, unless provided otherwise in the Contract, "Warranty Period" means a period of ninety (90) days commencing on the date of acceptance of the whole of the Work by Canada, with the exception only of warranty work.
2. Despite inspection and acceptance of the Custom Software by Canada and without restricting any condition of the Contract or any condition, warranty or provision imposed by law, the Contractor warrants that, during the Warranty Period, the Custom Software will perform in accordance with the Functional Specifications and all other requirements of the Contract on the computer system on which the Custom Software is installed under the Contract.
3. During the Warranty Period, if Canada notifies the Contractor in writing of any failure of the Custom Software to perform in accordance with the Functional Specifications or any other requirement of the Contract, the Contractor must, as soon as possible, provide, at no additional

charge to Canada, corrections to the Custom Software. If Canada reports a failure to the Contractor, Canada must give the Contractor reasonable access to the computer system on which the Custom Software resides and provide such information as the Contractor may reasonably request, including sample output and other information, in order to permit the Contractor to expeditiously correct the error which caused that failure.

4. Although the Contractor must use all reasonable efforts to provide permanent corrections for all software errors, Canada acknowledges that certain errors may not be permanently corrected by the Contractor under this section. The Contractor must provide a software patch or by-pass around the error in all cases where the error will not be permanently corrected. As a minimum, any such software patch or by-pass must cause the Custom Software to meet the functional and performance criteria set out in the Functional Specifications.
5. The Contractor is not obligated to correct errors in the Custom Software which result from modifications to the Custom Software or any part of it unless those modifications were made by the Contractor or by someone authorized by the Contractor to perform those modifications.

Part III - Ownership and Risk

4002 13 (2008-05-12) Ownership of Media

1. For the purposes of this section, the term "media" does not include the information stored on the media.
2. All media containing the Custom Software or any part of it, as well as any specification, design, prototype or any other information provided as part of the Work, becomes the property of Canada upon either delivery to Canada of the Work or upon any payment being made to the Contractor for or on account of the media or the information stored on it, whichever comes first. It is agreed however that the transfer of ownership of the media to Canada does not constitute acceptance by Canada of the media or of the information stored on it and it does not relieve the Contractor of its obligation to perform the Work in accordance with the requirements of the Contract.
3. The intellectual property rights in the information stored on the media become the property of either Canada or the Contractor, as indicated in the intellectual property provisions of the Contract.

4002 14 (2008-05-12) Risk of Loss

1. Risk of loss of or damage to the media or to the information stored on it pass to Canada upon delivery of the media to Canada. However, if the Contractor has retained a copy of the information that was stored on the media, the Contractor must, upon request by Canada, replace the lost or damaged media and information at no additional charge to Canada except for costs reasonably and properly incurred in the carrying out of such replacement.
2. Despite subsection 1, the Contractor will be liable for loss of or damage to the media and the information stored on it that is caused by the Contractor or any of its subcontractors after delivery.

4002 15 (2008-05-12) Ownership of Developed Custom Software

1. For the purposes of this section, "Developed Custom Software" includes object code, source code, documentation, data bases, specifications, designs, prototypes and other related information conceived, developed or produced as part of the Work performed under the Contract.

2. The Developed Custom Software belongs either to Canada or to the Contractor, whichever is indicated in the intellectual property provisions of the Contract. If the Developed Software belongs to the Contractor, the Contractor grants to Canada the license with respect to the Developed Software set out or referred to in those provisions.

4003 Licensed Software

4003 01 (2008-05-12) Interpretation

1. In the Contract, unless the context otherwise requires,

"Client"

means the department or agency for which the Work is performed, or, in the event of a transfer under section 08 below, the department, agency or Crown corporation to whom the Licensed Software is transferred.

"Device"

means equipment having a physical central processor unit (CPU), mass storage and input output devices such as keyboard and monitor and includes servers, desktops, workstations, notebooks, laptops, personal digital assistants and mobile computing equipment.

"General Conditions"

means the general conditions that form part of the Contract;

"Licensed Programs"

means all of the computer programs, in object-code form, which must be provided by the Contractor to Canada under the Contract, and include all patches, fixes and other code that may be delivered to Canada under the Contract, including any code provided as part of the warranty, maintenance, or support;

"Licensed Software"

means the Licensed Programs and the Software Documentation collectively;

"Media"

means the material or medium on which the Licensed Programs are stored for delivery to Canada, including electronic media such as magnetic disks or electronic downloads. Media does not include the Licensed Software stored on the Media;

"Software Documentation"

means all of the manuals, handbooks, user guides and other human-readable material to be provided by the Contractor to Canada under the Contract for use with the Licensed Programs, whether that material is to be provided in printed form or on Media;

"User"

means an individual authorized by the Client to use the Licensed Software under the Contract and for the purposes of these supplemental general conditions, includes any employee, agent or contractor authorized to use the Licensed Software.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions have the meanings given to them in the General Conditions unless provided otherwise. If the General Conditions contain sections entitled "Ownership" and "Warranty", those sections do not apply to the Licensed Software and the Media. Instead, the ownership and warranty provisions in these supplemental general conditions apply to the Licensed Software and the Media.

3. If there is any inconsistency between the General Conditions and these supplemental general Conditions, the applicable provisions of these supplemental general conditions will prevail.

4003 02 (2008-05-12) License Grant

1. The Contractor grants to Canada a non-exclusive license to use and reproduce the Licensed Software in accordance with the conditions of the Contract.
2. Subject to the transfer rights described in section 08, the Client is the only entity authorized to use and reproduce the Licensed Software on behalf of Canada. If the Client is reconfigured, absorbed by another government department or agency, or is disbanded entirely, the Contracting Authority may, by giving notice to the Contractor, designate another department, agency or Crown corporation as the "Client" for the purposes of the Contract.
3. Unless provided otherwise in the Contract, the license granted under the Contract is unaffected by changes in the Client's environment, such as changes to the operating system, types of Devices, or other software products used by the Client from time to time in addition to the Licensed Software.
4. Unless provided otherwise in the Contract, the license granted under the Contract is a User License as described in section 04 below.
5. The Contractor must provide the English language version of the Licensed Software and, if available, the French version of the Licensed Software.

4003 03 (2008-05-12) Ownership

1. Canada acknowledges that ownership of the Licensed Software belongs to the Contractor or its licensor and is not transferred to Canada. As a result, any reference in the Contract to any part of Licensed Software as a deliverable must be interpreted as a reference to the license to use that Licensed Software, not to own the Licensed Software.
2. Canada acknowledges that, in performing any warranty, maintenance, support and professional services related to the Licensed Software (if required under the Contract), the Contractor and its employees, agents, and subcontractors may develop and share with Canada ideas, know-how, teaching techniques and other intellectual property. Unless otherwise provided in the Contract, ownership to that intellectual property will remain with the Contractor. As long as the Contractor at all times observes the confidentiality provisions of the Contract, the Contractor will be entitled to use that intellectual property for whatever purposes it sees fit, including in the services it provides to its other customers, on the condition that Canada also has the right to use that intellectual property for its own business purposes at no additional cost. The Contractor agrees that all data, know-how or other intellectual property created or owned by Canada will remain the property of Canada, regardless of whether that data is created, processed, or stored using the Licensed Software.

4003 04 (2008-05-12) User License

Unless provided otherwise in the Contract, a "User License" entitles the designated number of Users specified in the Contract to access, install, copy, deploy, test and use the Licensed Software for government purposes unrestricted by the number or type of installations, locations, servers, processors, data, documents, transactions, platforms, devices, networks, operating systems, application program interfaces or operating environments that a User may be using or processing at any time including any equipment required to allow Users to work remotely; all without requiring the purchase of any further licenses or rights.

4003 05 (2008-05-12) Device License

Unless provided otherwise in the Contract, a "Device License" entitles Users to access, install, copy, deploy, test and use the Licensed Software for government purposes on the designated number of Devices specified in the Contract without requiring Canada to purchase any additional licenses to software or components; all without any restriction on the use of associated peripheral equipment. The Device License allows the Client to use the Licensed Software unrestricted by the number or type of Users, data, documents and/or transactions a Client or a User may be using or processing at any time, or the location of a Device.

4003 06 (2008-05-12) Entity License

Unless provided otherwise in the Contract, an "Entity License" entitles the Client to use the Licensed Software for government purposes throughout the entity in association with any number of Devices or by any number of Users. The Entity License allows the Client to use the Licensed Software in whole or in part, unrestricted by the number or type of Users, data, documents and/or transactions a Client or a User may be using or processing at any time, or the location of the Device.

4003 07 (2008-05-12) Disabling Codes

1. If the Licensed Software contains 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, provided Canada is not in default of its obligations regarding the use of the Licensed Software, all the information required by Canada to continue to use the Licensed Software.
2. If the license is perpetual, the Contractor must deliver this information regardless of whether the Contract has otherwise expired and regardless of whether Canada is currently receiving maintenance or support for the Licensed Software.
3. If the existence or characteristics of any Disabling Code are not known to the Contractor, but the Contractor later becomes aware of them, the Contractor must correct or remove the Disabling Code from the Licensed Software or take whatever other steps are necessary to ensure that Canada is able to continue using the Licensed Software.

4003 08 (2008-05-12) Licensed Software - Transfer

The license to use the Licensed Software under the Contract is transferable by Canada under the same conditions of the Contract, to any Device or Client, as applicable, or to any Canadian government department, corporation or agency, as defined in the *Financial Administration Act*, R.S.C. 1985, c. F-11, as amended from time to time, or to any other party for which the Department of Public Works and Government Services Canada has been authorized to act under section 16 of the *Department of Public Works and Government Services Act*, S.C. 1996, c. 16, as long as Canada informs the Contractor of the transfer within thirty (30) days of the transfer occurring. For the purposes of this section, in the circumstances where an Entity License is transferred, such license will be capped at the number of users in the transferring department, corporation, agency or other party before the transfer.

4003 09 (2008-05-12) Software Documentation

1. Copyright in the Software Documentation will not be owned by or transferred to Canada. However, Canada has the right to use the Software Documentation and may, for its own internal purposes, copy it for use by individuals using or supporting the Licensed Software, as long as Canada includes any copyright and/or proprietary right notice that was part of the original document in any copy. Unless provided otherwise in the Contract, Canada must not otherwise

reproduce the Software Documentation without first obtaining the written consent of the Contractor.

2. The Contractor guarantees that the Software Documentation contains enough detail to permit a User to access, install, copy, deploy, test and use all features of the Licensed Programs. If the source code for the Licensed Programs must be provided to Canada under the Contract, the Contractor guarantees that the code provided will contain enough detail to permit a programmer, experienced in the use of the programming language or languages in which the source code is written, to modify the Licensed Programs.
3. If the Software Documentation is available in both of the two official languages of Canada, the Contractor must deliver it in both French and English. If the Software Documentation is only available in either English or French, it may be delivered in that language; however, Canada then has the right to translate it. Canada owns any translation and is under no obligation to provide it to the Contractor. Canada will include any copyright and/or proprietary right notice that was part of the original document in any translation. The Contractor is not responsible for technical errors that arise as a result of any translation made by Canada.
4. Unless provided otherwise in the Contract, at no additional cost to Canada, the Contractor must update the Software Documentation throughout the period of the Contract to the most current release level consistent with the Licensed Software delivered under the Contract. The Contractor must provide these updates to Canada within ten (10) days of the update being available. These updates must include supporting documentation for all modifications to the Licensed Software, including new versions and new releases that Canada is entitled to receive under the Contract and must identify any problems resolved, enhancements made, or features added to the Licensed Software, together with installation instructions.

4003 10 (2008-05-12) Media

1. The Contractor must deliver the Licensed Programs to Canada on the medium of Canada's choice from among those the Contractor makes available to its other customers (for example, CD-ROM or Internet download). The Contractor agrees that Canada may distribute the Licensed Software to Users on Canada's choice of Media.
2. The Contractor guarantees that the Media will be compatible with the computer systems, as detailed in the Contract, on which the Licensed Programs will be installed. The Contractor also guarantees that the Media, as supplied by the Contractor, will be free from computer viruses.
3. Canada will own the Media once it has been delivered to and accepted by or on behalf of Canada.

4003 11 (2008-05-12) Term of License

1. Unless provided otherwise in the Contract, Canada's license to use the Licensed Software is perpetual, regardless of any termination of the Contract by mutual consent, for the convenience of Canada or for default of the Contractor, as long as Canada has paid for the license to the Licensed Software. Any perpetual license granted under the Contract can only be terminated by the Contractor in accordance with subsection 2 below.
2. The Contractor may terminate Canada's license with respect to the Licensed Software by giving the Contracting Authority written notice to that effect if Canada is in breach of its license with respect to the Licensed Software, or fails to pay for the license in accordance with the Contract, and if that breach continues for a period of thirty (30) days after the Contracting Authority receives written notice from the Contractor giving particulars of the breach.

4003 12 (2010-01-11) Acceptance

1. **Work Subject to Acceptance:** All Licensed Programs delivered and all services provided under the Contract are subject to inspection by Canada. If any of the Licensed Programs does not meet all the requirements of the Contract, Canada may reject it or require that it be corrected, at the sole expense of the Contractor, before recommending payment.
2. **Effect of Acceptance:** Acceptance by Canada does not relieve the Contractor of any responsibility for defects or other failures to meet the requirements of the Contract or the Contractor's responsibilities with respect to warranty, maintenance or support under the Contract.
3. **Period of Acceptance:** Unless provided otherwise in the Contract, the acceptance procedures are as follows:
 - a. when the Work is complete, the Contractor must notify the Technical or Project Authority in writing, with a copy to the Contracting Authority, by referring to this provision of the Contract and requesting acceptance of the Work;
 - b. Canada will have thirty (30) days from receipt of the notice to perform its inspection (the "Acceptance Period").
4. If Canada provides notice of a deficiency during the Acceptance Period, the Contractor must address the deficiency as soon as possible and notify Canada in writing once the Work is complete, at which time Canada will be entitled to re-inspect the Work before acceptance and the Acceptance Period will begin again.

4003 13 (2008-05-12) Right to License

1. The Contractor guarantees that it has the right to license the Licensed Software and full power and authority to grant to Canada all the rights granted under the Contract. The Contractor also guarantees that all necessary consents to that grant have been obtained. Canada agrees that its only remedy and the Contractor's entire obligations in relation to a breach of this guarantee are the remedies and obligations set out in the section entitled "Intellectual Property Infringement and Royalties" contained in the General Conditions or in the Articles of Agreement, as the case may be.
2. The Parties agree that only the conditions that expressly form part of the Contract by being written out in full in the Articles of Agreement or an annex to the Contract listed in the Priority of Documents section in the Articles of Agreement form part of the Contract. Any conditions accompanying or enclosed with the Licensed Software, if any, do not form part of the Contract and, therefore, are not part of Canada's license and do not affect the rights of the Parties in any way. The Contractor agrees that in no event will Canada or any Client or User be required to enter into any additional license agreement with respect to the Licensed Software or any portion of it. The Contractor acknowledges that any additional license agreement relating to the Licensed Software signed by anyone other than the Contracting Authority is void and of no effect.
3. Canada is not bound by and does not accept any "shrink-wrap" or "click-wrap" conditions or any other conditions, express or implied, that are contained in or on the software packaging or conditions that may accompany the software in any manner, regardless of any notification to the contrary.

4003 14 (2008-05-12) Enhancements and Improvements

The Contractor agrees to provide Canada with all improvements, updates, upgrades and enhancements to the Licensed Software for ninety (90) days following the acceptance of the Licensed Software.

4003 15 (2008-05-12) Warranty

1. In this section, unless provided otherwise in the Contract, "Software Warranty Period" means a period of ninety (90) days from the date on which the Licensed Software is accepted in accordance with the conditions of the Contract, except for warranty work and any other work that is scheduled under the Contract to be performed after the start of the Software Warranty Period.
2. The Contractor warrants that, during the Software Warranty Period, the Licensed Programs will operate on the computer system or systems on which the Licensed Programs are installed in accordance with the Software Documentation that is associated with the Licensed Programs, as well as the Specifications set out in the Contract, if any. If the Licensed Programs fail to meet this warranty at any time during the Software Warranty Period, the Contractor, if requested by Canada, must, as soon as possible, correct, at the Contractor's expense, any programming errors and defects and make any additions, modifications or adjustments to the Licensed Software that are necessary to keep the Licensed Programs in operating order, in accordance with the Software Documentation that is associated with the Licensed Programs and the Specifications.
3. Although the Contractor must use all reasonable efforts to provide permanent corrections for all software errors, Canada acknowledges that certain errors may not be permanently corrected by the Contractor under the warranty. The Contractor must provide a software patch or by-pass around the error in all cases where the error will not be permanently corrected. As a minimum, any such software patch or by-pass must cause the Licensed Programs to meet the functional and performance criteria set out in the Software Documentation associated with the Licensed Programs and the Specifications.
4. The Contractor warrants that, throughout the Software Warranty Period, the Software Documentation will be free from all defects in materials and will conform with the requirements of the Contract. If Canada discovers a defect or non-conformance in any part of the Software Documentation during the Software Warranty Period, the Contractor must, if requested by Canada, as soon as possible, correct, at the Contractor's expense, the part of the Software Documentation found to be defective or not in conformance with the requirements of the Contract.
5. The Contractor warrants that, throughout the Software Warranty Period, the Media will be free from all defects in materials or workmanship, and will conform with the requirements of the Contract. Canada may return non-conforming or defective Media to the Contractor within the Software Warranty Period, with notice of the non-conformance or the defect, and the Contractor must promptly replace that Media with corrected Media at no additional cost to Canada.
6. If the Contractor must perform support services with respect to the Licensed Software during the Software Warranty Period, it is agreed that the provisions concerning support will not be interpreted so as to derogate from the warranty provisions set out in this section.
7. The warranties set out in this section will survive inspection and acceptance of the Work by or on behalf of Canada, and do not restrict any other provision of the Contract or any condition, warranty or provision imposed by law.

4003 16 (2008-05-12) Source Code Escrow

If requested by Canada, the Contractor must put in place for Canada, at no additional charge, whatever escrow arrangements, if any, it usually puts in place for its customers, and must give Canada, within thirty (30) days from the date of the Contract, a copy of the agreement with its escrow agent which sets out the conditions under which the escrow agent is authorized to release the source code to Canada.

4003 17 (2008-05-12) Right to Modify and no Reverse Engineer

1. If the source code for the Licensed Programs is provided to Canada under the Contract, that code forms part of the "Licensed Software" for the purposes of the Contract. Canada will have the right, at Canada's discretion, to copy and modify the Licensed Software for Canada's own purposes and use, through the services of Canada's own employees or of independent contractors, as long as those contractors agree not to disclose or distribute any part of the Licensed Software to any other person or entity or otherwise violate the proprietary rights of the owner of the Licensed Software.
2. Canada will be the owner of any modifications contemplated in this clause, but will obtain no ownership interest in the Licensed Software, and any portion of the Licensed Software contained in those modifications will remain subject to the conditions of Canada's license. The Contractor must not incorporate any such modifications into its software for distribution to third parties unless Canada has granted the necessary distribution rights to the Contractor under a written license agreement. The provisions of this section do not prevent the Contractor or its third-party licensors from independently developing modifications. Unless provided otherwise in the Contract, Canada agrees not to reverse engineer the Licensed Software.

4003 18 (2008-05-12) Risk of Loss

1. Risk of loss of or damage to the Licensed Software or the Media, or to any part of them, will pass to Canada upon delivery of the Licensed Software or the Media, or that part, to Canada.
2. Despite subsection 1, the Contractor will be liable for loss or damage to the Licensed Software or Media that is caused by the Contractor or any of its subcontractors after delivery.

4003 19 (2008-05-12) Destruction on Termination or Expiration

In the event of termination or expiration of Canada's license, Canada will, if requested by the Contractor, either return all copies of the Licensed Software to the Contractor or, at Canada's option, will confirm in writing to the Contractor that all copies of the Licensed Software have been destroyed except for one copy, which Canada may retain for archival purposes only.

4004 Maintenance and Support Services for Licensed Software

4004 01 (2008-05-12) Interpretation

1. In the Contract, unless the context requires otherwise,
"General Conditions"
means the general conditions that form part of the Contract;
"Maintenance Releases"
means all commercially available enhancements, extensions, improvements, upgrades, updates, releases, versions, renames, rewrites, cross-grades, components and back grades or other modifications to the Licensed Software developed or published by the Contractor or its licensor;

"Software Error"

means any software instruction or statement contained in or absent from the Licensed Programs, which, by its presence or absence, prevents the Licensed Programs from operating in accordance with the Specifications;

"Software Support Period"

means the period specified in the Contract during which the Contractor must support the Licensed Software, in accordance with the conditions of the Contract.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions have the meanings given to them in the General Conditions.
3. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions will prevail.
4. If Supplemental General Conditions 4003 form part of the Contract, words and expressions defined in those supplemental general conditions and used in these supplemental general conditions will have the meanings given to them in those supplemental general conditions.
5. If Supplemental General Conditions 4003 do not form part of the Contract, then,

"Software Documentation"

means all of the manuals, handbooks, user guides and other human-readable material which have been provided by the Contractor to Canada for use with the Licensed Programs, whether provided in printed form or on magnetic tape, disk or on other Media;

"Licensed Programs"

means all of the computer programs, in object-code form, that must be supported by the Contractor under the Contract;

"Licensed Software"

means the Licensed Programs and the Software Documentation collectively;

"Media"

means the material or medium on which the Licensed Programs are stored for delivery to Canada, including electronic media such as magnetic disks or electronic downloads. Media does not include the Licensed Software stored on the Media.

6. The sections of the General Conditions entitled "Ownership" and "Warranty" do not apply to the Licensed Software and the Media. The ownership, warranty and support provisions contained in these supplemental general conditions and in Supplemental General Conditions 4003, if that set forms part of the Contract, apply in place of those sections.

4004 02 (2008-05-12) Software Error Correction Services

1. Canada may report to the Contractor any failure of the Licensed Programs to operate in accordance with the Software Documentation or, if applicable, the Specifications during the Software Support Period. Canada may report failures either in writing or by telephone or other remote communication. Upon receipt of a report of a failure from Canada, unless provided otherwise in the Contract, the Contractor must use all reasonable efforts to provide Canada within the time frames established in subsections 2 and 3, with a correction of the Software Error which caused the failure. Any such software correction must cause the Licensed Programs to meet the Software Documentation or, if applicable, the Specifications during the Software Support Period. The Contractor must use all reasonable efforts to provide permanent corrections for all Software Errors and the Contractor warrants that the Licensed Software will meet the functional and performance criteria set out in the Specifications. All Software Error corrections will become part

of the Licensed Software and will be subject to the conditions of Canada's license with respect to the Licensed Software.

2. Unless provided otherwise in the Contract, the Contractor must respond to a report of a Software Error in accordance with the severity of the Software Error, as detailed in subsection 3. The severity will be reasonably determined by Canada, and communicated to the Contractor, based on the following definitions:

"Severity 1":

indicates total inability to use a Licensed Program, resulting in a critical impact on user objectives;

"Severity 2":

indicates ability to use a Licensed Program but user operation is severely restricted;

"Severity 3":

indicates ability to use a Licensed Program with limited functions which are not critical to overall user operations;

"Severity 4":

indicates that the problem has been by-passed or temporarily corrected and is not affecting user operations.

3. Unless provided otherwise in the Contract, the Contractor must use reasonable efforts to correct Software Errors as follows:

"Severity 1":

within twenty-four (24) hours of notification by Canada;

"Severity 2":

within seventy-two (72) hours of notification by Canada;

"Severity 3":

within fourteen (14) days of notification by Canada;

"Severity 4":

within ninety (90) days of notification by Canada.

4. If Canada reports a Software Error to the Contractor, Canada must give the Contractor reasonable access to the computer system on which the Licensed Program resides, and must provide such information as the Contractor may reasonably request, including sample output and other diagnostic information, in order to permit the Contractor to expeditiously correct the Software Error.

4004 03 (2008-05-12) Maintenance Releases

During the Software Support Period, the Contractor must provide to Canada all Maintenance Releases, in object-code form, at no additional cost. All Maintenance Releases will become part of the Licensed Software and will be subject to the conditions of Canada's license with respect to the Licensed Software. Unless provided otherwise in the Contract, Canada will receive at least one Maintenance Release during any twelve (12) month maintenance period.

4004 04 (2008-05-12) Media

1. The Contractor must provide to Canada all Software Error corrections, Maintenance Releases and updates on Media that are free of defects and of computer viruses, and which are compatible with the computer systems on which the Licensed Programs are installed.
2. Canada will own the Media provided to Canada in the performance of the software support services upon delivery to and acceptance of the Media by or on behalf of Canada. For the purposes of this subsection, "Media" does not include the Licensed Software stored on the Media.

4004 05 (2008-05-12) Support Services

If the Contract provides for support services, the Contractor must provide to Canada access to the Contractor's personnel, to help Canada in answering questions with respect to the Licensed Software, during the hours specified in the Contract. If the hours are not specified in the Contract, this access to the Contractor's personnel must be between the hours of 8:00 a.m. to 5:00 p.m., local time, at the site where the Licensed Programs are installed, Monday through Friday, exclusive of statutory holidays observed by Canada at such site. Canada's access to the Contractor's personnel must include telephone, fax, e-mail and Internet access and, if expressly provided in the Contract, on-site and Swift Action Tactical (SWAT) services. If applicable and if specified in the Contract, Canada will, by notice in writing to the Contractor, appoint a user representative or representatives who will be the only individual(s) entitled to access the support services on behalf of Canada. Canada may change any such appointment by subsequent notice to the Contractor.

4004 06 (2013-04-25) Support Charges and On-site Services

Unless provided otherwise in the Contract, the monthly or yearly support charge specified in the Contract is inclusive of all software support services described in the Contract, except for On-site services and On-site SWAT response services for Software Error correction. The Contractor must provide on-site services, when requested by Canada, at the hourly or daily labour rates specified in the Contract. Reasonable travel and living costs incurred by the Contractor in connection with on-site services, if approved in advance by Canada, will be reimbursed to the Contractor in accordance with the guidelines specified in the Contract, or, if no guidelines are specified, in accordance with applicable Treasury Board guidelines. All such pre-approved costs must be invoiced to Canada as a separate charge.

4004 07 (2008-05-12) Canada's Responsibilities

1. Unless provided otherwise in the Contract, Canada will maintain, for the Software Support Period, a telephone line and Internet access for use in connection with the software support services. Canada will be responsible for the installation, maintenance and use of such equipment and associated telephone charges. The Contractor may use the telephone line and electronic mail in connection with the provision of the software support services.
2. Unless provided otherwise in the Contract, Canada will be responsible for the installation of all Software Error corrections and Maintenance Releases and upgrades.
3. Canada will protect data from loss by implementing back-up procedures.

4004 08 (2008-05-12) Excluded Services

The Contractor is not obligated to correct a failure of the Licensed Programs to operate in accordance with the Specifications if the failure results from:

- a. use of the Licensed Software by Canada that is not in accordance with Canada's license;
- b. the use of hardware or software that is supplied by a person other than the Contractor or a subcontractor and that is not in accordance with the Specifications; or
- c. modifications to the Licensed Software that are not approved by the Contractor or a subcontractor.

4007 INTELLECTUAL PROPERTY

4007 01 (2008-05-12) Interpretation

1. In the Contract, unless the context otherwise requires:

"Background Information"

means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for the performance of the Work, regardless of whether it is owned by the Contractor or a third party;

"Firmware"

means computer programs that are stored in integrated circuits, read-only memory or other similar devices within the hardware or other equipment;

"Foreground Information"

means all Intellectual Property first conceived, developed, produced or reduced to practice as part of the Work under the Contract;

"General Conditions"

means the general conditions that form part of the Contract;

"Intellectual Property"

means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright; this includes but is not limited to any inventions, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, Software, and Firmware;

"Intellectual Property Right"

means any intellectual property right recognized by law, including any intellectual property right protected by legislation such as patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets and confidential information.

"Software"

means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, including any modification.

2. Words and expressions defined in the General Conditions and used in these supplemental general conditions have the meanings given to them in the General Conditions. In the event of any inconsistency between the General Conditions and these supplemental general conditions, the applicable provisions of these supplemental general conditions will prevail.
3. If supplemental general conditions 4001 and 4003 are also incorporated in the Contract, the provisions of those supplemental general conditions concerning the ownership of Intellectual Property will prevail in relation to the subject matter of those supplemental general conditions.

4007 02 Record and Disclosure of Foreground Information

1. During the performance of the Contract and for a period of six years after the expiry of the last warranty period on any equipment provided under the Contract, the Contractor must keep

detailed records of the Foreground Information, along with details of the Foreground Information that are necessary for Canada to understand it and to use it, including details of its creation. The Contractor must promptly report, fully disclose and deliver to Canada all such information, whether it is created before or after the completion of the Contract, and must mark the Foreground and Background Information as required by this section. Should a deliverable include both Foreground Information and Background Information, then the Contractor will mark the Foreground Information and the sources of Background information such that Foreground Information and Background Information may be distinguished from each other by Canada. Notification of Intellectual Property Rights on deliverables and the identification of intellectual property within deliverables will be addressed as follows:

2. Notification of Intellectual Property Rights

For each deliverable, the deliverable will include a single notification of Intellectual Property Rights in the vicinity of the title block or cover sheets, either on the deliverable if a document or on documents accompanying the deliverable if not, which notification is also repeated in the footer of each page.

- a) For deliverables that contain only Foreground Information, it will state:

“All Intellectual Property owned by Canada as per Contract No. WXXXX-XXXX. Copyright Her Majesty the Queen in right of Canada (2016). This document contains no Background Information.”

- b) For deliverables that contain only Background Information, the notification will record that no Intellectual Property Rights are owned by Canada as per Contract No WXXXX-XXXX, will state that the deliverable contains only Background Information, will identify the Contractor (if applicable) and each applicable grantor to the Contractor or to its Subcontractor of the rights in the Background Information, and will identify whether or not Canada has full license rights as per this Contract to use that Background Information. For TKMSC Information, the notification will state the wording in the example below. This notification will be repeated in the footer of each page of the deliverable or accompanying document verbatim, with the exception that in such footer, the Contractor or applicable grantor of the Background Information is not required to be so identified where full license rights, excepting for the TKMSC Information, have been provided as per this Contract. An example of the form of this notification is as follows:

“Intellectual Property Rights owned by (insert appropriate owner(s) such as Vancouver Shipyards Co. Ltd., other owner 1, other owner 2). For this deliverable Canada has full license rights and permitted uses as per Contract No. WXXXX-XXXX. (Insert the following commencing with the word “Some” or “All”, where such Intellectual Property Rights are in the deliverable) Intellectual Property Rights licensed by Canada from ThyssenKrupp Marine Systems Canada as per contract W8472-115312/001/JSS.”

- c) For deliverables that consist of some Background Information, the notification will record that some Intellectual Property Rights for the deliverable are owned by Canada as per Contract No. WXXXX-XXXX, will identify the Contractor (if applicable) and each applicable grantor to the Contractor or its immediate Subcontractor of the rights in the Background Information, and will identify whether or not Canada has full license rights as per this Contract to use that Background Information. For the TKMSC Information the notification will state the wording in the example below. This notification will be repeated in the footer of each page of the deliverable or accompanying document verbatim, with the exception that in such footer the Contractor or applicable grantor of the Background Information is not required to be so identified where full license rights, excepting for the TKMSC Information, have been provided as per this Contract. An example of the form of this notification is as follows:

“Some Intellectual Property Rights in the deliverable owned by Canada as per Contract No. WXXXX-XXXX. For these Intellectual Property Rights copyright resides in Her Majesty the Queen in right of Canada (2015). For all other Intellectual Property Rights Canada has full license rights from (insert appropriate owner(s) such as Vancouver Shipyards Co. Ltd., other owner 1, other owner 2) and permitted uses as per Contract No. WXXXX-XXXX (Insert the following where such Intellectual Property is in the deliverable) excepting for some Intellectual Property Rights licensed by Canada from ThyssenKrupp Marine Systems Canada as per contract W8472-115312/001/JSS.”

3 Identification within Deliverables

- a) Where requested by Canada either before or after delivery during the Contract, deliverables containing Background Information for which Canada is not granted the full license rights to use that Background Information as described in this Contract will, in addition to having the appropriate notifications identified above, indicate what elements of the deliverable contain that Background Information, such that
 - i. Where that Background Information is a readily-identifiable self-contained element, it will be enclosed within a chain dotted line, and annotated with the owner’s legal name; and.
 - ii. Where that Background Information is not as described in (i) above (for example, several different sources of Background Information are embedded within various elements of the deliverable) then clear demarcation boundaries will be provided at each interface where intellectual property ownership of that Background Information changes. The intellectual property owners’ legal names will be annotated at either side of these demarcation boundaries.
- b) The Contractor will not be required to mark under this section 3 deliverables which are Software in object code or 3D models.

4 All markings must be clearly distinguishable from markings used to identify document amendments. The Contractor must not knowingly mark on the cover or within any deliverable containing Foreground Information or Foreground and Background Information that it is entirely the intellectual property of the Contractor, a third party or both of them, nor restate the conditions of use of the Background Information the document contains other than stating that permitted uses are as per this Contract. The Contractor must only mark the applicable portions that contain Foreground or Background Information, and must not mark on or in such deliverables that they contain Contractor or third party confidential information. Any deliverable improperly marked which identifies information as owned by or confidential to the Contractor or a third party, which in Canada’s reasonable determination should not be marked as such may be rejected by Canada upon delivery or within three years thereafter and must be replaced by the Contractor at the sole cost of the Contractor unless it is determined that Canada’s determination was incorrect, in which case the reasonable cost will be paid by Canada.

5 Before and after final payment to the Contractor, Canada will have the right to examine and the Contractor must provide Canada with access to all records and supporting data that Canada considers pertinent to the identification of Foreground Information. Upon delivery and acceptance of the Work in accordance with the Contract Deliverable Requirements List of the Statement of Work the Contractor must provide Canada with a list which states which parts of the Work delivered under the Contract consist of Foreground Information and Background Information as required by the Data Management Support Plan in accordance with the applicable DID as specified in this Contract.

6 The Contractor warrants that it will not include Viral Open Source Materials (VOSM) in any custom Software or in source code to any Software that must be delivered to Canada under the Contract that would have a Viral Open Source Effect on other software, without written permission from Canada. In seeking Canada’s permission, the Contractor must advise Canada in writing of:

- a) the use and location of the VOSM (i.e.: whether embedded in Software modules or separate modules);
- b) the modifications made to the VOSM;
- c) the linking method (dynamic or static);
- d) the license details;
- e) the actual license terms by providing a copy of it to Canada; and
- f) the Contractor's risk assessment, in advance of Canada's decision to use VOSM, of the operational and legal impact of using the VOSM.

For the purposes of this clause, the term "Viral Open Source Materials" means any Software that is (in whole or in part) subject to any license that requires, as a condition of use, modification or distribution of such materials, that such materials, or any materials incorporated into, derived from or distributed with such materials be: (a) disclosed or distributed in source code form; (b) licensed for the purpose of making modifications or derivative works; (c) reproduced or redistributed at no or minimal charge; (d) permitted to be reverse engineered; or (e) used only for non-commercial purposes (each a "Viral Open Source Effect").

7. For any Intellectual Property that was developed or created in relation to the Work, Canada will be entitled to assume that it was developed or created by Canada, if the Contractor's records do not list that Intellectual Property or do not indicate that it was created by the Contractor, or by someone on behalf of the Contractor, other than Canada.

4007 03 Ownership of Intellectual Property Rights in Foreground Information

1. All Intellectual Property Rights in the Foreground Information belong to Canada as soon as they come into existence. The Contractor has no right in or to any such Intellectual Property Rights in the Foreground Information, except any right that may be granted in writing by Canada.
2. The Contractor must incorporate the copyright symbol and one of the following notices, as appropriate into all Foreground Information that is subject to copyright regardless of the form 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).
3. The Contractor must execute any documents relating to the Intellectual Property Rights in the Foreground Information as Canada may require. The Contractor must, at Canada's expense, provide Canada all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Rights in any jurisdiction, including the assistance of the inventor in the case on inventions.
4. This Annex E does not affect any existing Intellectual Property Rights belonging to or licensed to Canada or the Contractor. Notwithstanding anything to the contrary herein, if Canada holds Intellectual Property Rights pursuant to any other contract in Foreground Information as defined in that other contract, those rights will persist in accordance with the terms of that other contract, and no such Foreground Information under any other contract will be considered Background Information under this contract.
5. The determination that Intellectual Property is Foreground Information is not dependent upon its date of creation during the Contract, any payment by Canada, or any costing or accounting methods or allocations of the Contractor or a third party.

4007 04 License to Intellectual Property Rights in Background Information

1. Without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the Contractor grants to Canada a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise all Intellectual Property Rights in the Background Information to the extent that it is reasonably necessary for Canada to exercise fully all its rights in the deliverables and in the Foreground Information for Canada's activities in connection with the maintenance and operation of the AOPS and JSS . The license cannot be restricted in any way by the Contractor providing any form of notice to the contrary, including the wording on any shrink-wrapped license or any other packaging attached to any deliverable.
2. For greater certainty, Canada's license in the Background Information includes, but is not limited to:
 - a. the right to disclose the Background Information to third parties or their subcontractors bidding on or negotiating contracts for the benefit of Canada and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such contracts including subcontracting the work. Canada will require these third parties, contractors and subcontractors not to use or disclose that information except as may be necessary to bid, negotiate or carry out those contracts;
 - b. the right to disclose the Background Information on a confidential basis to other governments for information purposes;
 - c. the right to reproduce, modify, improve, develop or translate the Background Information, or have it done by a person hired by Canada. Canada, or a person designated by Canada, will own the Intellectual Property Rights associated with, modification, improvement, development or translation.
 - d. without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the right to exercise by or on behalf of Canada all of the Intellectual Property Rights in the Background Information as may be required for the following purposes:
 - i. For the use, operation, maintenance, repair or overhaul of the custom-designed or custom-manufactured parts of the Work;
 - ii. In the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada if those parts are not available from the manufacturer on terms determined by Canada to meet its operational requirements in the circumstances.
3. The Contractor agrees to make the Background Information, including in the case of Software, the source code, promptly available to Canada for any purpose mentioned above. The license does not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada applies only to source code that is within the control of or can be obtained by the Contractor or any subcontractor.

4007 05 (2008-05-12) Contractor's Right to Grant License

The Contractor represents and warrants that it has the right to grant to Canada the license and any other rights to use the Background Information. If the Intellectual Property Rights in any Background

Information are owned by a subcontractor or any other third party, the Contractor must have a license from that subcontractor or third party that permits compliance with section 4 or arrange, without delay, for the subcontractor or third party to grant promptly the required license directly to Canada.

4007 06 (2008-05-12) Waiver of Moral Rights

If requested by Canada, during and after the Contract, the Contractor must provide a written permanent waiver of moral rights, as defined in the Copyright Act, R.S., 1985, c. C-42, from every author that contributes to any Foreground Information subject to copyright protection that is a deliverable to Canada under the Contract. If the Contractor is an author of the Foreground Information, the Contractor permanently waives the Contractor's moral rights in that Foreground Information.

ANNEX F

TERMS OF MEDIATION

Notice:

If a dispute arises out of, or in connection with this Contract and the parties do not resolve some or all of that dispute through negotiation, then either party to the dispute may promptly submit to the other party (ies) a notice of intent to mediate. This notice shall be in writing and shall specify the issues in dispute.

Selection of Mediator:

The parties agree to jointly select a mediator. If the parties cannot agree on the choice of mediator within _____days from the date of the notice of intent to mediate, then a mediator will be chosen, upon application by the parties, by the _____(insert name of Dispute Resolution (DR) organization / centre / professional association).

Location:

The mediation shall be held at _____.

Exchange of information:

The parties agree to an exchange of all information upon which they intend to rely in any oral or written presentation during the mediation. This exchange shall be complete no later than ten (10) days prior to the date set for the mediation.

Costs:

The parties agree that they will each be responsible for the costs of their own legal counsel and personal travel. Fees and expenses of the mediator and all administrative costs of the mediation, such as the cost of the mediation room, if any, shall be borne equally by the parties.

Schedule:

The parties shall jointly select a date for the mediation that is no later than _____days from the date of the notice of intent to mediate.

Confidentiality:

All information exchanged during this mediation shall be regarded as "without prejudice" communications for the purpose of settlement negotiations and shall be treated as confidential by the parties and their representatives, unless otherwise required by law. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during the mediation.

Caucusing:

The mediator is free to caucus with the parties individually, as he sees fit to improve the chances of a mediated settlement. Any confidential information revealed to the mediator by one party during such caucusing may only be disclosed to the other party (ies) with the former party's express permission.

Prohibition against Future Assistance:

It is agreed that the mediator will neither represent nor testify on behalf of any of the parties in any subsequent legal proceeding between the parties or where they are opposed in interest. It is further agreed that the personal notes and written opinions of the mediator made in relation to this mediation are confidential and may not be used in any subsequent proceeding between the parties or where they are opposed in interest.

Termination:

Either party may terminate the mediation at any time.

Mediator's Report:

In the event that no agreement is reached, or is reached on some issues only, the mediator shall promptly provide a report to the parties stating only that no agreement was reached on some or all of the outstanding issues.

No New Steps:

During the course of the mediation, the parties agree to take no new steps in any legal proceeding between them which concerns the same matter as is the subject of this mediation.

ANNEX G

FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY – CERTIFICATION

I, the Bidder, by submitting the present information to the Contracting Authority, certify that the information provided is true as of the date indicated below. The certifications provided to Canada are subject to verification at all times. I understand that Canada will declare a bid non-responsive, or will declare a contractor in default, if a certification is found to be untrue, whether during the bid evaluation period or during the contract period. Canada will have the right to ask for additional information to verify the Bidder's certifications. Failure to comply with any request or requirement imposed by Canada may render the bid non-responsive or constitute a default under the Contract.

For further information on the Federal Contractors Program for Employment Equity visit [Employment and Social Development Canada \(ESDC\) – Labour's website](#).

Date: _____(YYYY/MM/DD) (If left blank, the date will be deemed to be the bid solicitation closing date.)

Complete both A and B.

A. Check only one of the following:

- A1. The Bidder certifies having no work force in Canada.
- A2. The Bidder certifies being a public sector employer.
- A3. The Bidder certifies being a federally regulated employer being subject to the Employment Equity Act.
- A4. The Bidder certifies having a combined work force in Canada of less than 100 employees (combined work force includes: permanent full-time, permanent part-time and temporary employees [temporary employees only includes those who have worked 12 weeks or more during a calendar year and who are not full-time students]).
- A5. The Bidder has a combined workforce in Canada of 100 or more employees; and
 - A5.1. The Bidder certifies already having a valid and current Agreement to Implement Employment Equity (AIEE) in place with ESDC-Labour.
 - OR**
 - A5.2. The Bidder certifies having submitted the Agreement to Implement Employment Equity (LAB1168) to ESDC-Labour. As this is a condition to contract award, proceed to completing the form Agreement to Implement Employment Equity (LAB1168), duly signing it, and transmit it to ESDC-Labour.

B. Check only one of the following:

- B1. The Bidder is not a Joint Venture.
- OR**
- B2. The Bidder is a Joint venture and each member of the Joint Venture must provide the Contracting Authority with a completed annex Federal Contractors Program for Employment Equity - Certification. (Refer to the Joint Venture section of the Standard Instructions)

ANNEX H

INSURANCE REQUIREMENTS

Ship Repairer's Liability Insurance

1. The Contractor shall procure and maintain, or cause to be procured and maintained Ship Repairer's Liability Insurance and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$10,000,000 per accident or occurrence.
2. The Ship Repairer's Liability insurance must include the following:
 - a) Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's or the subcontractor's performance of the Contract. The interest of Canada as additional insured should read as follows: Canada, represented by Public Services and Procurement Canada.
 - b) Waiver of Subrogation Rights: Contractor's Insurer to waive all rights of subrogation against Canada as represented by Department of National Defence and Public Services and Procurement Canada for any and all loss of or damage to the vessel, however caused.
 - c) Notice of Cancellation: The Insurer will endeavor to provide the Contracting Authority thirty (30) days written notice of cancellation.
 - d) Contractual Liability: The policy must, on a blanket basis or by specific reference to the contract, extend to assumed liabilities with respect to contractual provisions.
 - e) Cross Liability/Separation of Insured: Without increasing the limit of liability, the policy must protect all insured parties to the full extent of coverage provided. Further, the policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each. Litigation Rights: Pursuant to subsection 5(d) of the *Department of Justice Act*, S.C. 1993, c. J-2, s.1, if a suit is instituted for or against Canada which the Insurer would, but for this clause, have the right to pursue or defend on behalf of Canada as an Additional Named Insured under the insurance policy, the Insurer must promptly contact the Attorney General of Canada to agree on the legal strategies by sending a letter, by registered mail or by courier, with an acknowledgement of receipt.

For the province of Quebec, send to:

*Director Business Law Directorate,
Quebec Regional Office (Ottawa),
Department of Justice,
284 Wellington Street, Room SAT-6042,
Ottawa, Ontario, K1A 0H8*

For other provinces and territories, send to:

*Senior General Counsel,
Civil Litigation Section,
Department of Justice
234 Wellington Street, East Tower
Ottawa, Ontario K1A 0H8*

A copy of the letter must be sent to the Contracting Authority. Canada reserves the right to co-defend any action brought against Canada. All expenses incurred by Canada to co-defend such actions will be at Canada's expense. If Canada decides to co-defend any action brought against it, and Canada does not agree to a proposed settlement agreed to by the Contractor's insurer and the plaintiff(s) that would result in the settlement or dismissal of the action against Canada, then Canada will be responsible to the Contractor's insurer for any difference between the proposed settlement amount and the amount finally awarded or paid to the plaintiffs (inclusive of costs and interest) on behalf of Canada.

Commercial General Liability Insurance

1. The Contractor shall procure and maintain, or cause to be procured and maintained Commercial General Liability Insurance, and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$5,000,000 per accident or occurrence and in the annual aggregate.
2. The Commercial General Liability policy must include the following:
 - a. Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's or subcontractor's performance of the Contract. The interest of Canada should read as follows: Canada, as represented by Public Services and Procurement Canada
 - b. Bodily Injury and Property Damage to third parties arising out of the operations of the Contractor.
 - c. Products and Completed Operations: Coverage for bodily injury or property damage arising out of goods or products manufactured, sold, handled, or distributed by the Contractor and/or arising out of operations that have been completed by the Contractor.
 - d. Personal Injury: While not limited to, the coverage must include Violation of Privacy, Libel and Slander, False Arrest, Detention or Imprisonment and Defamation of Character.
 - e. Cross Liability/Separation of Insureds: Without increasing the limit of liability, the policy must protect all insured parties to the full extent of coverage provided. Further, the policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.
 - f. Blanket Contractual Liability: The policy must, on a blanket basis or by specific reference to the Contract, extend to assumed liabilities with respect to contractual provisions.
 - g. Employees and, if applicable, Volunteers must be included as Additional Insured.
 - h. Employers' Liability (or confirmation that all employees are covered by Worker's compensation (WSIB) or similar program)
 - j. Notice of Cancellation: The Insurer will endeavour to provide the Contracting Authority thirty (30) days written notice of policy cancellation.
 - k. Owners' or Contractors' Protective Liability: Covers the damages that the Contractor becomes legally obligated to pay arising out of the operations of a subcontractor.

- I. All Risks Tenants Legal Liability - to protect the Contractor for liabilities arising out of its occupancy of leased premises.

All Risk Property Insurance

1. The Contractor shall procure and maintain, or cause to be procured and maintained All Risks Property insurance to cover Government Property while in the Contractor's care, custody or control. The All Risk Property insurance must be maintained in force throughout the duration of the Contract and be insured on a Replacement Cost basis. Notwithstanding the requirement for the Contractor to insure Government property on a replacement cost basis, Canada may, in certain circumstances, require the Contractor to insure Government property based on an Agreed or Appraised Valuation. In such cases, Canada will provide reasonable advance notification to the Contractor where such Agreed or Appraised Value insurance coverage is required.

Administration of Claims: The Contractor must notify Canada promptly about any losses or damages to Government Property and monitor, investigate and document losses of or damage to ensure that claims are properly made and paid.

2. The All Risks Property insurance policy must include the following:
 - a. Notice of Cancellation: The Insurer will endeavour to provide the Contracting Authority at least thirty (30) days written notice of policy cancellation.
 - b. Canada as a Loss Payee, as its interest may appear or as it may direct. The proceeds of such insurance shall be paid to Canada unless the Contracting Authority otherwise directs by notice to the insurers.
 - c. Waiver of Subrogation Rights: Contractor's Insurer to waive all rights of subrogation against Canada as represented by the Department of National Defence and Public Services and Procurement Canada for any and all loss of or damage to the property however caused.

Automobile Liability Insurance

1. The Contractor shall procure and maintain, or cause to be procured and maintained Automobile Liability Insurance, and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$2,000,000 per accident or occurrence.
2. The policy must include the following:
 - a. Third Party Liability - \$2,000,000 Minimum Limit per Accident or Occurrence
 - b. Accident Benefits - all jurisdictional statutes
 - c. Uninsured Motorist Protection
 - d. Notice of Cancellation: The Insurer will endeavour to provide the Contracting Authority thirty (30) day

Environmental Impairment Liability Insurance

1. The Contractor shall procure and maintain, or cause to be procured and maintained Contractor's Pollution Liability insurance, and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$5,000,000 per accident or occurrence and in the annual aggregate.
2. If the policy is written on a claims-made basis, coverage must be in place for a period of at least 12 months after the completion or termination of the Contract.
3. The Contractor's Pollution Liability policy must include the following:
 - a. Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's or subcontractor's performance of the Contract. The interest of Canada as additional insured should read as follows: Canada, represented by Public Services and Procurement Canada.
 - b. Notice of Cancellation: The Insurer will endeavour to provide the Contracting Authority thirty (30) days written notice of policy cancellation.
 - c. Separation of Insureds: The policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.
 - d. Contractual Liability: The policy must, on a blanket basis or by specific reference to the Contract, extend to assumed liabilities with respect to contractual provisions.
 - e. Incidental Transit Extension: The policy must extend to losses arising from any waste, products or materials transported, shipped, or delivered via any transportation mode to a location beyond the boundaries of a site at which the Contractor or any entity for which the Contractor is legally liable is performing or has performed the operations described in the contract.
 - f. Litigation Rights: Pursuant to subsection 5(d) of the *Department of Justice Act*, S.C. 1993, c. J-2, s.1, if a suit is instituted for or against Canada which the Insurer would, but for this clause, have the right to pursue or defend on behalf of Canada as an Additional Named Insured under the insurance policy, the Insurer must promptly contact the Attorney General of Canada to agree on the legal strategies by sending a letter, by registered mail or by courier, with an acknowledgement of receipt.

For the province of Quebec, send to:

*Director Business Law Directorate,
Quebec Regional Office (Ottawa),
Department of Justice,
284 Wellington Street, Room SAT-6042,
Ottawa, Ontario, K1A 0H8*

For other provinces and territories, send to:

*Senior General Counsel,
Civil Litigation Section,
Department of Justice
234 Wellington Street, East Tower
Ottawa, Ontario K1A 0H8*

A copy of the letter must be sent to the Contracting Authority. Canada reserves the right to co-defend any action brought against Canada. All expenses incurred by Canada to co-defend such actions will be at Canada's expense. If Canada decides to co-defend any action brought against it, and Canada does not agree to a proposed settlement agreed to by the Contractor's insurer and the plaintiff(s) that would result in the settlement or dismissal of the action against Canada, then Canada will be responsible to the Contractor's insurer for any difference between the proposed settlement amount and the amount finally awarded or paid to the plaintiffs (inclusive of costs and interest) on behalf of Canada.

Errors and Omissions Liability Insurance

1. The Contractor shall procure and maintain, or cause to be procured and maintained Errors and Omissions Liability (a.k.a. Professional Liability) insurance, and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature but for not less than \$5,000,000 per loss and in the annual aggregate, inclusive of defence costs.
2. If the policy is written on a claims-made basis, coverage must be in place for a period of at least 12 months after the completion or termination of the Contract.
3. The following endorsement must be included:

Notice of Cancellation: The Insurer will endeavour to provide the Contracting Authority thirty (30) days written notice of cancellation.

ANNEX I

EMERGENT WORK - TASK AUTHORIZATION PROCESS AND DND 626 FORM

1. Tasking Procedures

- 1.1 Each task will only be performed by the Contractor when a duly authorized Task Authorization has been issued by the Procurement Authority (PA) or the Contracting Authority, in accordance with the sub-article entitled "Task Approval Limitations" using a form DND 626, entitled "Task Authorization".
- 1.2 The following administrative process applies:
 - a) Prior to issuing a Task Authorization, the TA will prepare a draft Task SOW fully describing the Scope of Work required for the Task and specifying the details listed in sub article b) below;
 - b) The TA will submit this draft Task SOW (without the DND 626 form) through the PA to the Contractor specifying the funding limitation for the Task, the Work requirement, the acceptance criteria for the Work, the types of reports required, and the scheduled date of completion. The PA must ensure that the Task is within the Scope of Work for this Contract;
 - c) The PA will request that the Contractor review the draft Task SOW and provide an accurate quote within a specified time limit, using the rates established in the Contract and based on the Contractor's Level of Effort needed to complete the Task. The Level of Effort quote must provide an accurate cost estimate and schedule for producing the requested deliverables. The Level of Effort quote must clearly identify all the applicable charges.
 - d) The Contractor must, within the time limit specified by the TA or its designated representatives, provide the Level of Effort quote and/or notify the TA of the status of the proposed Task SOW response. Should the time limit specified by the TA not be sufficient, the Contractor must submit the Level of Effort quote within a time period that is mutually acceptable to the TA and the Contractor.
 - e) The Contractor must ensure that the requested Task does not exceed the Scope of Work for this Contract and that the Contractor is fully capable of producing the requested deliverables by achieving the essential functions at the lowest cost consistent with the required performance, reliability, quality and safety. Should the Contractor have any doubt with respect to the Work requested in the Task SOW, the Contractor must submit Task SOW change recommendations to the PA prior to acceptance of the Task Authorization (DND 626).
 - f) The Contractor must submit to the TA through the PA, the following written details:
 - i. The estimated labour hours, the total estimated cost, calculated in accordance with the terms and conditions of the Contract;
 - ii. A list of personnel (including their associated Labour Category and Labour Rate) assigned to perform the Task;
 - iii. The schedule for completion of the Work;
 - iv. An activity resource listing; and

- v. The Contractor's acceptance or rejection of the proposed Task SOW, subject to receipt of a certified Task Authorization (DND 626).
 - g) The Contractor must include, in the cost estimate referred to above, all applicable charges, including direct labour charges, material, subcontracting, travel and living expenses, applicable profit/fees, and applicable taxes - all in accordance with Annex B, Basis of Payment and the Contract.
 - h) Once the TA, PA and Contractor have understood and agreed with the Task details, the TA will review the Level of Effort quote with the PA and in accordance with the Contract sub-article entitled "Approval Limitations", seek approval to proceed as follows:
 - i. If the Level of Effort quote is within the DND Task approval ceiling listed in the Contract subarticle entitled "Task Approval Limitations", the PA will sign the DND 626 form (with the Contractor approved Task SOW and Level of Effort attached) and forward a signed copy to both the Contractor and the CA; or
 - ii. If the quote exceeds the DND Task approval ceiling, the CA must also review and sign the DND 626 (with the Contractor approved Task SOW and Level of Effort attached) prior to DND releasing the Task Authorization to the Contractor.
 - i) Work on any Task may not commence prior to the date that the DND 626 is signed by the applicable Canadian Government Authorities. DND must ensure that the CA is forwarded a copy of all authorized DND 626 Task Authorizations regardless of the dollar value.
 - j) If at any time it becomes evident to the Contractor that the following conditions are exceeded:
 - i. The authorized level of expenditure for a Task;
 - ii. The total value of all the Task Work;
 - iii. The approved schedule deadline; or
 - iv. The scope of Work.

The Contractor must immediately request an amendment to the Task Authorization. The request must refer to the original Task Authorization serial number (DND 626#) and include a revised proposal with the appropriate justification for Canada's consideration. Under no circumstance is the authorized level of expenditure to be exceeded. Canada must have no obligation to pay for any Work that exceeds the authorized funding limitation.

- k) Amendments to the Work, cost or scope of the original DND 626 will require that a formal DND 626 amendment be created. Tasks originally approved by DND and within the amendment ceiling established in the Contract, will be approved by the PA. All other amendments will be approved by DND and sent to the CA for review and signature prior to releasing to the Contractor. DND must ensure that the CA is forwarded a copy of all authorized DND 626 amendments regardless of the dollar value. The Contractor must complete any Tasks at the original price/scope if the approval authority rejects an amendment request. Additional Work on any Task may not commence prior to the date that the DND 626 Amendment is signed by the applicable Canadian Government Authorities.

2 Task Pricing Approach

- 2.1 The Level of Effort quote for each Task must clearly identify one of the following pricing approaches that the Contractor has selected for the Task:
- a) The Contractor may submit a "Firm Price" quote to the TA when the Scope of Work for a DND 626, referred to herein as "Task", is clearly understood by both parties and no changes are anticipated in the Scope of the Work;
 - b) The Contractor may submit a "Ceiling Price" quote to the TA. The term "Ceiling Price" is the maximum price that is to be paid to the Contractor and beyond which the Contractor will not receive additional compensation for the defined Work. In such a case, both parties agree prior to the Work authorization that the price may be subject to downward revision, based on the actual price on completion of the Task.
 - c) When it is not possible for the Contractor to submit a "Firm Price" or a "Ceiling Price" as described above, the Contractor may submit a "Limitation of Expenditure" quote to the TA. The Contractor must be paid at the rates and mark-ups in this Contract subject to the financial limitation specified in the Task authorization documentation.
- 2.2 The "Firm Price", "Ceiling Price" and/or the "Limitation of Expenditure" quote must be based on the rates identified in the Basis of Payment (Annex B). All proposed prices and cost estimates must be supported by a detailed cost breakdown.
- 2.3 For a Task which is subject to a "Limitation of Expenditure" as described in sub-article 2.1 (c) above, the Contractor must notify the proper authority in writing as to the inadequacy of its "Limitation of Expenditure" when:
- a) The resources required for its timely completion reaches 75% of the authorized Task funding, or
 - b) If during the execution of the authorized Tasking it appears to the Contractor that the Scope of Work is greater than had been anticipated and that the funds provided for a Task are inadequate, whichever comes first.
- 2.4 When providing the notification described in sub-article 2.3 above, the Contractor must, as a minimum, identify:
- a) Estimated person-days and schedule forecast to complete;
 - b) Resources available and impact on other Tasks versus overall person-days available;
 - c) Work around plan; and
 - d) Risk assessment.
- A revised proposal and proper justification for the requested amendment must be submitted to the proper approval Authority for consideration. The Contractor must complete any Tasks at the original price and scope if the approval Authority rejects an amendment request.
- 2.5 All amounts charged on a "Ceiling Price" or "Limitation of Expenditure" basis must be subject to Government audit before or after payment of an invoice.

3 Task Approval Limitations

3.1 Work on any Task may not commence prior to the date that the DND 626 is signed by the applicable Canadian Government Authorities.

3.2 The Approval Limitations for each Task Authorization are as follows:

a) Procurement Authority: For Work, up to \$_____ (Goods and Services Tax [GST] or Harmonized Sales Tax [HST] included) for a signed DND 626; for amendment(s) to an existing DND 626 authorized by the PA, the aggregate value (original DND 626 value plus all Amendments) may not exceed \$_____ (GST or HST included).

b) Contracting Authority: Unlimited for any Task DND 626 costing more than \$_____ (GST or HST included); and for amendment(s) to any existing Task authorized in aggregate value of more than \$_____ (GST or HST included).

3.3 In the event that the estimated price to complete a Task is anticipated to exceed \$_____, the Task must be authorized in writing by both the PA and CA. The Contractor must verify that both signatures are present prior to commencing Work.

3.4 For a Task which is subject to a "Limitation of Expenditure" the Contractor must:

a) Monitor the cost of Work and advise the PA (one copy to the CA) when 75% of the funds authorized for each Task have been expended, and provide an estimate with backup support indicating if the remaining 25% will be sufficient to cover the balance of the Work forecasted for the Task;

b) If at any time during the Work it becomes evident to the Contractor that the authorized level of expenditure will be exceeded, the Contractor must immediately submit a written request for a Task Authorization Amendment in accordance with the Contract sub-article entitled "Tasking Procedure"; and

c) When expenditures reach the authorized level of the DND 626, the Contractor must stop Work, notify the PA and await further written instructions from the PA and/or CA. Under no circumstances must the authorized level of the DND 626 be exceeded without prior written approval by the PA and/or CA.

3.5 The Contractor must not be obliged to perform any Work or provide any service that would cause the total liability of Canada to be exceeded without the prior written approval of the PA and/or CA in accordance with the Contract Article entitled "Limitation of Expenditure".

4 Task Completion/Closure Procedures

4.1 The Contractor must monitor all Tasks issued under this Contract.

4.2 If at any time the Contractor believes that a specific Task has been completed or has been inactive for a period of at least six (6) months, the Contractor must proceed as follows to request closure:

a) The Contractor must determine the final costs to Canada, itemized as necessary for each individual Task being considered for closure;

b) The Contractor must submit a letter to the TA (one copy each to PA and CA) requesting closure of the Task with reference to reports or letters and complete a Certificate of Compliance (see Annex I a) concerning the Task as applicable;

- c) Closure will be subject to TA written acceptance of final results of the Tasking. If acceptable, the TA will authorize closure at the detailed funding levels; and
- d) In cases where authorized funds were not all expended to complete specific Tasks, these funds are considered returned to the Contract funding baseline for re-issuance/redistribution as necessary.

**TASK AUTHORIZATION
 AUTORISATION DES TÂCHES**

All invoices/progress claims must show the reference Contract and Task numbers. Toutes les factures doivent indiquer les numéros du contrat et de la tâche.		Contract no. – N° du contrat <hr/> Task no. – N° de la tâche
Amendment no. – N° de la modification	Increase/Decrease – Augmentation/Réduction	Previous value – Valeur précédente
To – A Delivery location – Expédié à Delivery/Completion date – Date de livraison/d'achèvement	<p>TO THE CONTRACTOR</p> <p>You are requested to supply the following services in accordance with the terms of the above reference contract. Only services included in the contract shall be supplied against this task.</p> <p>Please advise the undersigned if the completion date cannot be met. Invoices/progress claims shall be prepared in accordance with the instructions set out in the contract.</p> <p>À L'ENTREPRENEUR</p> <p>Vous êtes prié de fournir les services suivants en conformité des termes du contrat mentionné ci-dessus. Seuls les services mentionnés dans le contrat doivent être fournis à l'appui de cette demande.</p> <p>Prière d'aviser le signataire si la livraison ne peut se faire dans les délais prescrits. Les factures doivent être établies selon les instructions énoncées dans le contrat.</p> <p align="center"> _____ Date </p> <p align="right"> _____ for the Department of National Defence pour le ministère de la Défense nationale </p>	
Contract item no. N° d'article du contrat	Services	Cost Prix
		GST/HST TPS/TVH
		Total
<p>APPLICABLE ONLY TO PWGSC CONTRACTS: The Contract Authority signature is required when the total value of the DND 626 exceeds the threshold specified in the contract.</p> <p>NE S'APPLIQUE QU'ÀUX CONTRATS DE TP&GC : La signature de l'autorité contractante est requise lorsque la valeur totale du formulaire DND 626 est supérieure au seuil précisé dans le contrat.</p>		
<p align="center"> _____ for the Department of Public Works and Government Services pour le ministère des Travaux publics et services gouvernementaux </p>		

ANNEX J

CARE AND CUSTODY FORMS

APPENDIX 1

ACCEPTANCE CERTIFICATE

ASSUMPTION OF CUSTODY OF CANADIAN GOVERNMENT SHIPS BY

CONTRACTORS ACCEPTANCE OF (Name of Ship) _____

1. The undersigned, on behalf of the Department of National Defence and of (Name Of Contractor) acknowledge to have handed over and received respectively (Name of Ship) for the purpose of towing, all in accordance with the terms and conditions of PWGSC Contract Serial Number _____ and such documents which form part of the said contract.

2. It is mutually agreed by all parties that the condition report by compartment or area will be considered as an addendum to this agreement; and will be a valid document in the taking over of the vessel by the Contractor, even if the inspection and signing occur after the signing of the agreement but within the agreed ten (10) day period.

SIGNED AT _____ PROVINCE _____

ON THE _____ DAY OF _____ (Month) (Year).

AT _____ HOURS.

FOR: _____
(CONTRACTOR)

FOR: _____
Department of National Defence

WITNESSED BY: _____
PUBLIC WORKS AND GOVERNMENT SERVICES
CANADA

CARE AND CUSTODY CERTIFICATES

APPENDIX 2

ACCEPTANCE CERTIFICATE

RESUMPTION OF CUSTODY OF CANADIAN GOVERNMENT SHIPS BY CONTRACTOR

ACCEPTANCE OF (Name of Ship) _____

1. The undersigned, on behalf of _____ and of the Department of National Defence, acknowledge to have handed over and to have received respectively the (Name of Ship) , said vessel having been received by _____ on _____ (date), for the purpose of towing in accordance with the terms and conditions of PSPC Contract Serial Number _____.
2. It is mutually agreed by all parties that the liabilities and responsibilities of the (Name of Ship), will automatically cease as at..... hours on..... (date), and that responsibility for the care and protection of the said vessel shall revert to Canada.

SIGNED AT _____ PROVINCE _____ ON,

THE _____ DAY OF _____ (Month) (Year).

AT _____ HOURS.

FOR: _____
(CONTRACTOR)

FOR: _____
Department of National Defence

WITNESSED BY: _____

PUBLIC WORKS AND GOVERNMENT SERVICES CANADA

AJISS
CERTIFICATE OF COMPLIANCE/ ACCEPTANCE

Delivery Date:
Contractor:
Address:
Contract No: W8482-0XXXXXX
Task No:
Task Title:

Description of Required Deliverables:
The following items were delivered to the Task OPI under the terms of this task and as described in the SOW. List deliverables.

If applicable, list SOW deliverables that were not delivered:

I hereby certify that all work set out in the task SOW attached to the DND 626, has been completed and the deliverable item(s) comply with the requirements of the task.

Date
Name:
Contractor XXX OPI

I hereby certify that the work completed for this task activity, as described in the task SOW, has been received, ~~evaluated~~ and that it is hereby accepted by the Crown. All deliverables have been received in the correct quantity and format.

As all items within the SOW have been completed, this current activity, TASK NO. _____ can be considered closed.

This Certificate of Compliance is forwarded for your records.

Date
Name:
DND Task OPI

Completed form to be provided to the DND AJISS Technical Authority MWVA XXX

ANNEX K

ITB TERMS AND CONDITIONS

TABLE OF CONTENTS

1. Definitions
2. Canada's ITB Objectives
3. Statement of Obligations
4. Annual reporting
5. Contract value changes
6. Overachievement of Commitments
7. Transaction types
8. Transaction eligibility criteria
9. Canadian content value (CCV)
10. Strategic plans
11. Pooling
12. Banking
13. Public communications
14. Information Management
15. Transaction alterations
16. Verification and access to records
17. Conflict resolution
18. Remedies
19. Changes to Plans
20. Responsibilities of the parties
21. Compliance with *the Lobbying Act*
22. Contingency and/or success fees
23. List of approved eligible donors

Attachments:

- 1 VP Commitments and Transactions
- 2 Transaction sheet - template
- 3 Annual Report - template
- 4 IF business plan – template
- 5 Rated criteria certificate

1. DEFINITIONS

- 1.1. Defined terms not otherwise defined in this document have the meaning given to them in the Contract. For the purpose of these ITB Terms and Conditions, unless the context otherwise requires, the following definitions apply:
- 1.1.1. **“Achievement Period”** means the period commencing on August 17, 2012 and ending two (2) years following the completion of the Contract Period, as defined in Article 8 of the Contract ;
- 1.1.2. **“Allowable Investment”** For cash contributions, an Allowable Investment means: a grant; or, a purchase of non-controlling common or preferred shares of a Canadian Company. It does not include either the purchase of debentures or a repayable loan. For in-kind contributions, an Allowable Investment means: a licence for Intellectual Property (authorization to use the licensed material); equipment (equipment, software or systems to develop new or improved goods/services); knowledge transfer (lending of an employee to provide technical or managerial know-how); or, marketing and sales support (lending of an employee to undertake marketing/sales activities and share market intelligence; or, a licence for brand or trademarks);
- 1.1.3. **“Canadian Company”** means a commercial enterprise that is incorporated pursuant to the laws of Canada and which has ongoing business activities in Canada;
- 1.1.4. **“Capitalization”** means the total value of a company's issued shares plus the value associated with instruments which can be converted into shares. For publicly traded companies, this is equal to the total number of issued shares multiplied by the market price plus the equity portion of any derivative instrument according to Canadian generally accepted accounting principles. For privately held companies, this is equal to the total number of issued shares multiplied by the most recent price at which they were sold plus the equity portion of any derivative instrument according to Canadian generally accepted accounting principles;
- 1.1.5. **“Commercialization Activity”** means a process through which economic value is extracted from knowledge through the production and sale of new or significantly improved goods and services. It can also include advertising, sales promotion and other marketing activities. Specific commercialization activities consist of: business and market planning; project feasibility studies; identifying customer needs; market engagement and testing;; profitability analysis and financing; and, launch advertising;
- 1.1.6. **“Commitment”** means the Contractor’s specific undertakings related to its Value Proposition (VP) activities, its Plans, and its Transactions, as reference in Attachment 1 ;
- 1.1.7. **“Contract Value”** means, for the purposes of the ITB Commitments, the amount specified in the Limitation of Expenditure Clause set out in the Contract (applicable taxes extra);
- 1.1.8. **“Credit”** means the value that a Transaction, measured in CCV, has achieved in whole or in part, as confirmed by written notice from the ITB Authority. All Transactions are subject to annual reporting, verification and approval before Credit is awarded;
- 1.1.9. **“Defence Sector”** means : direct activities related to the AJISS Performance Work Statement; indirect in-service support activities on other naval platforms; and indirect in-service activities that are Dual Use;
- 1.1.10. **“Designated Regions of Canada”** means the following regions which have been

designated by the Government of Canada for socio-economic purposes: the Atlantic Region (consisting of the Provinces of Newfoundland and Labrador, Prince Edward Island, New Brunswick and Nova Scotia); the Quebec Region (consisting of the Province of Quebec); the Northern Ontario Region (consisting of that part of the Province of Ontario north of and including Nipissing and Parry Sound Districts); the Southern Ontario Region (consisting of that part of the Province of Ontario south of Nipissing and Parry Sound Districts); the Western Region, (consisting of the Provinces of Manitoba, Alberta, Saskatchewan, and British Columbia); and, the Northern Region (consisting of the Territories of Yukon, Northwest Territories and Nunavut);

- 1.1.11. **“Direct Transaction”** means a Transaction that is entered into for the performance of any part of the Work under this Contract as outlined in Annex A, Performance of Work;
- 1.1.12. **“Dual Use ”** means technologies or processes that can be used or have an application on both a naval and marine commercial platforms;
- 1.1.13. **“Eligible Donor”** means the parent corporation of the Contractor, and all of the parent’s subsidiaries, divisions and subdivisions; and the Contractor’s Tier-One suppliers related to the performance of the Work under this Contract, their respective parent corporations and all of the parent’s subsidiaries, divisions and subdivisions. See Article 8.1.4;
- 1.1.14. **“Grouped Transaction”** means a Direct Transaction that has more than one recipient. Grouped Transactions may only include activities involving Canadian suppliers with similar characteristics of product, size and/or region; and, a total Canadian content value (CCV) of not more than 10 percent of the Obligation contained in Article 3.1.1;
- 1.1.15. **“Indirect Transaction”** means a Transaction that is entered into for a business activity not related to the performance of any part of the Work under this Contract.;
- 1.1.16. **“In-Kind Valuation”** means a valuation report provided by a qualified party who possesses a professional designation related to business valuation, financial accounting, chartered accounting or similar area of expertise. Valuation reports will be detailed and contain a statement from the qualified party regarding its expertise and adherence with the standards of its professional designation. The Contractor or its Eligible Donor will assume all costs associated with obtaining the In-kind Valuation report;
- 1.1.17. **“Intellectual Property”** or **“IP”** means all patents, inventions, trade-marks, copyrights, industrial designs, trade secrets, technical information and other intellectual property belonging to or licensed to a company;
- 1.1.18. **“ITB Authority”** means the Minister of Industry or any other person designated by the Minister of Industry to act on the Minister’s behalf. The ITB Authority is responsible for evaluating, accepting, monitoring, verifying and crediting ITB, and for assessing the Contractor’s ITB performance under these Terms and Conditions;
- 1.1.19. **“Marine In-Service Support Sector”** means industrial activities that include: maintenance, repair and overhaul, research and development, design, engineering, testing and evaluation services, logistics and management support related to technologies and sub-systems used in marine naval and commercial in-service support activities. This category includes activities associated with modifications or replacements of such equipment to address initial or changing requirements as well as extension of their lifetime;
- 1.1.20. **“Obligation”** means each contractual Obligation that the Contractor must meet as set forth in Article 3, which are collectively referred to as Obligations;

- 1.1.21. **“Overachievement”** means the amount by which the Contractor's Credits, awarded on a Transaction during the Achievement Period, are greater than the Commitment for that Transaction;
- 1.1.22. **“Plans”** means the Plans prepared by the Contractor, that is the company business Plan, the ITB management Plan, the regional development Plan, and the Small and Medium Business development plan, all dated XXX and bearing reference number XXX;
- 1.1.23. **“Post-Secondary Institution”** means an institution or other organizational entity in Canada involved in developing and delivering formal education activities and in awarding academic credentials to people for whom the normal entrance requirement is high school completion. The Post-Secondary Institution should be available to the general public, be recognized by a province or the Canada Student Loans Program, and offer programs leading to degrees and diplomas that are recognized by the academic community in Canada;
- 1.1.24. **“Proposal”** means the proposal submitted by the Contractor on [insert date] bearing reference number [xxx];
- 1.1.25. **“Public Research Institution”** means a federal or provincial organization in Canada that: is engaged in research, research training and related activities in Canada; has as its primary goals the conduct of research, peer review, and the dissemination of results by way of publication, technology transfer or training; reinvests its profits into its research activities or into the dissemination of results; and, is funded primarily from public resources and has established processes, systems, procedures and controls in place to ensure achievement of public objectives;
- 1.1.26. **“Recipient”** means the Canadian Company or organization that receives, from the Contractor or an Eligible Donor, the commercial or business activity described in a Transaction;
- 1.1.27. **“Reporting Period”** means the annual periods within the Achievement Period upon which the Contractor's annual reporting will be based. Reporting Period 1 commences on the first day of the Achievement Period and ends on the last day of the twelfth month after the Effective Date of the Contract. Subsequent Reporting Periods (Period 2, 3, etc.) will be each in consecutive twelve-month period thereafter until the end of the Achievement Period;
- 1.1.28. **“Research and Development”** or **“R&D”** means a scientific investigation that explores the development of new goods and services, new inputs into production, new methods of producing goods and services, or new ways of operating and managing organizations. Specific R&D activities consist of Marine In-Service Support in the areas of: program management; data analytics; predictive maintenance; logistics support analysis; life cycle management; and in-service support productivity improvements;
- 1.1.29. **“Semi-processed Goods”** means goods converted from their natural state of a raw material through the use of a specialized process into a state of readiness for use or assembly into a final product;
- 1.1.30. **“Shortfall”** means the amount by which the Credits, awarded for a Transaction during the Achievement Period, are less than the original value for that Transaction;
- 1.1.31. **“Skills Development”** means the Contractor or an Eligible Donor undertaking Transactions with Canadian Companies and/or Post-Secondary Institutions, leading to an increased capability or skill through an investment, or knowledge/technology transfer in Marine In-Service Support. These activities will be in the areas of program and

subcontract management, intellectual property management, life cycle management, logistics support analysis, skilled apprenticeships and engineering;

- 1.1.32. **“Small and Medium Business”** or **“SMB”** means a Canadian Company with fewer than 250 full-time personnel as of the date of entering into a Transaction. Agents and distributors of foreign goods and services, as well as subsidiaries of the Contractor or an Eligible Donor on any contract with IRB/ITB obligations, do not qualify as SMB;
- 1.1.33. **“Supplier Development”** means the Contractor or an Eligible Donor undertaking Transactions with Canadian-Companies that are not part of its parent corporation or related subsidiaries within the marine naval and commercial sectors;
- 1.1.34. **“Tier One Supplier”** means a company that takes on a specific portion of the Work under this Contract directly for the Contractor, producing or servicing a major subassembly or major component that is installed or used in the platform or system being procured under this Contract;
- 1.1.35. **“Transaction”** means a commercial or business activity involving the Contractor or an Eligible Donor and a Recipient, that is carried out by means of a contract, sales agreement, license agreement, letter of agreement or other similar instrument in writing, and which has an identified dollar value. A Transaction meets all eligibility criteria, aligns with the Terms and Conditions with respect to valuation and Transaction types, and has been formally accepted as such in writing by the ITB Authority;
- 1.1.36. **“Value Proposition”** or **“VP”** means the portion of Commitments and Transactions along with any other information, which was submitted in the Proposal at the time of the Bid; and
- 1.1.37. **“World Product Mandate”** means a purchase of goods or services from a Canadian Company where there is a long-term supplier relationship between the Contractor or an Eligible Donor and the Canadian Company, pursuant to which the Canadian Company has been legally authorized to carry out and has sole responsibility for specific activities, including the design, development, manufacture and marketing related to the supply of products, components, modules or services destined for domestic and world markets.

2. CANADA’S ITB OBJECTIVES

- 2.1. Canada has responsibility to set in place programs and policies which ensure Canada’s significant investments in defence-related goods and services generate economic benefit to Canada that has long-term and high-value impacts on Canadian industry, and to establish ITB Objectives which include:
- 2.1.1. The economic development and long-term sustainment of Canada’s Defence Sector, by maximizing the amount of business activities in Canada involving work directly on the procurement and work in the Defence Sector more broadly;
- 2.1.2. Increased productivity and competitiveness among Canadian-based suppliers, through meaningful opportunities for growth and supply chain integration into major global systems suppliers;
- 2.1.3. Strengthened innovation and R&D in Canada, that positions Canadian Companies to move up the value chain, capture market opportunities and benefit from subsequent commercialization opportunities;
- 2.1.4. Canadian Company success in tapping traditional and non-traditional export markets that

- have been leveraged from the AJISS project, sharing in long-term jobs and growth;
- 2.1.5. Encouraging the participation of Canadian Companies in the Designated Regions of Canada, assisting with long-term quality improvements to their capability, capacity, international competitiveness and growth potential; and,
- 2.1.6. Encouraging the participation of Canadian SMB as suppliers on major federal procurements and to increase their competitiveness and export market access.

3. STATEMENT OF OBLIGATIONS

- 3.1. The Contractor will by the end of the Achievement Period:
 - 3.1.1. Achieve not less than 100% of the Contract Value in CCV as Transactions, as specified in Attachment 1, as updated from time to time;
 - 3.1.2. Achieve the following Value Proposition Commitments:
 - 3.1.2.1. Achieve not less than 50 percent of the Contract Value *(to be inserted from the Contractor's Proposal – must not be less than 50 percent of the Contract Value)* as Direct Transactions in the Defence Sector;
 - 3.1.2.2. Achieve not less than xx percent of the Contract Value *(to be inserted from the Contractor's Proposal)* as Indirect Transactions in the Defence Sector;
 - 3.1.2.3. Achieve not less than xx percent of the Contract Value *(to be inserted from the Contractor's Proposal)* in CCV as Transactions involving Skills Development;
 - 3.1.2.4. Achieve not less than xx percent of the Contract Value *(to be inserted from the Contractor's Proposal)* as Transactions involving Supplier Development with non-Small and Medium Business;
 - 3.1.2.5. Achieve not less than 15 percent of the Contract Value *(or the CCV of SMB Transactions identified in Proposal, whichever is higher)* as Transactions involving Supplier Development with Small and Medium Business Transactions; and
 - 3.1.2.6. Achieve not less than xx percentage of the Contract Value *(percentage to be inserted from the Contractor's Proposal)* as Transactions involving Research and Development;
 - 3.1.3. Achieve Transactions in the Designated Regions of Canada, as specified in Attachment 1 and representing not less than the following:

[Note: Percentages below are calculated based on: CCV of Transactions identified in Proposal, divided by the Contract Value at the time of Contract award. The percentages will not change over the life of the Contract, but their corresponding dollar value may change if there are changes to the Contract Value.]

 - 3.1.3.1. Atlantic Region: xx percent;
 - 3.1.3.2. Quebec Region: xx percent ;
 - 3.1.3.3. Northern Ontario Region: xx percent;

- 3.1.3.4. Southern Ontario Region: xx percent;
- 3.1.3.5. Western Region: xx percent; and
- 3.1.3.6. Northern Region: xx percent.

- 3.1.4. Submit to the ITB Authority proposed new Transactions as follows:
 - 3.1.4.1. At one (1) year following the Effective Date of Contract such that the cumulative total of Transactions is not less than 30 percent of the Contract Value, including any exercised options, measured in CCV;
 - 3.1.4.2. At three (3) years following the Effective Date of Contract, such that the cumulative total of Transactions is not less than 60 percent of the Contract Value, including any options, measured in CCV.

- 3.1.5. Achieve Credits related to the Value Proposition Commitments in Articles 3.1.2.1 to 3.1.2.6, along the following timeline:
 - 3.1.5.1. By the end of Reporting Period 4, the cumulative total of Credits is valued at not less than 50 percent of the Contract Value;
 - 3.1.5.2. By the end of Reporting Period 5, the cumulative total of Credits is valued at not less than 55 percent of the Contract Value;
 - 3.1.5.3. By the end of Reporting Period 6, the cumulative total of Credits is valued at not less than 60 percent of the Contract Value;
 - 3.1.5.4. By the end of Reporting Period 7, the cumulative total of Credits is valued at not less than 65 percent of the Contract Value;
 - 3.1.5.5. By the end of Reporting Period 8; the cumulative total of Credits is valued at not less than 70% of the Contract Value; and
 - 3.1.5.6. By the end of Reporting Period 9 and for each additional contract option year, the cumulative total of Credits is valued at not less than 75 percent of the Contract Value.

- 3.1.6. Carry out each and every Transaction as set out in the Transaction list attached at Attachment 1.

- 3.2. The Contractor will submit to the ITB Authority, through the Contracting Authority, annual reports describing the performance achieved during the relevant Reporting Periods. These reports will be submitted sixty (60) calendar days after the end of each annual Reporting Period. The Contractor will use the format and template outlined in Article 4 (Annual Reporting).
 - 3.2.1. As evidence of the achievement of the Obligations and compliance with the *Lobbying Act*, the Contractor will provide, appended to the annual report, a certificate of compliance, in the form provided in Attachment 3, signed by the senior company Comptroller in respect of the Transactions for which there was activity in that Reporting Period. This certificate of compliance also applies to those achievements and activities of Eligible Donors.

4. ANNUAL REPORTING

- 4.1. Each annual report will consist of five parts, as outlined below, using the template attached in Attachment 3 :
- 4.1.1. Part A must include:
- 4.1.1.1. Overview and status of the Work on the AJISS project:
- A high level overview of the work performed on the AJISS project during the Reporting Period, including major highlights and schedule changes.
- 4.1.1.2. Progress payments:
- a. A list of all the progress payment claims that have been submitted to the Contracting Authority for Work completed since the Effective Date of the Contract, broken down by Reporting Period and including the amount, date submitted and payment status.
- 4.1.1.3. Plans:
- A description of any substantive changes to the Plans, including changes to company officials responsible for administering the Obligation.
- 4.1.1.4. Value Proposition Overview:
- A detailed overview of the Contractor's VP Commitments, the related activities during the Reporting Period and a cumulative summary of the achievement status of each.
- 4.1.2. Part B must include, for each Transaction being reported:
- 4.1.2.1. An update on any changes to details, such as the CCV percentage or Recipient contact information;
- 4.1.2.2. A description of significant achievements and activities, particular those associated with Transactions involving multipliers; and
- 4.1.2.3. A description of any delays, problems or achievement Shortfalls, along with a plan of action to resolve them.
- 4.1.3. Part C must include, for each Transaction being reported:
- 4.1.3.1. The CCV value of the achievement claimed for the current Reporting Period.
- 4.1.4. Part D must include, for each Transaction reported:
- 4.1.4.1. The CCV value of the achievement claimed to date in all the Reporting Periods since the beginning of the Achievement Period.
- 4.1.5. Part E must include:
- 4.1.5.1. SMB and regional development activities:
- Overview and highlights of activities undertaken during the Reporting Period.

- 4.1.5.2. New, changed or cancelled Transactions:
- A list of Transactions which have been cancelled, added or substantially altered during the Reporting Period with the approval of the ITB Authority, and their status vis-à-vis contract amendment.
- 4.1.5.3. A Certificate of Compliance related to the Contractor's achievements and compliance with the *Lobbying Act*, signed by the senior company comptroller in respect of the Transactions for which there was activity in that Reporting Period. This Certificate of Compliance also covers the Contractor's Eligible Donors.

5. CONTRACT VALUE CHANGES

- 5.1. In the event that the Contract Value is increased or decreased, the Contractor's Obligations in Article 3.1 will correspondingly be either increased or decreased.

6. OVERACHIEVEMENT OF COMMITMENTS

- 6.1. The Contractor may achieve Credits for any Transaction in excess of its original value. When an Overachievement occurs, it may be applied against a Shortfall on another Transaction in this Contract or towards meeting the identification milestones in Article 3, as long as the relevant regional, SMB and VP Commitments are achieved. Applying an Overachievement requires the prior written approval of the ITB Authority.

7. TRANSACTION TYPES

- 7.1. Transactions may be Direct Transactions or Indirect Transactions.
- 7.2. Transactions may involve the purchase of goods or services from a Canadian supplier. These Transactions are valued for Credit by calculating the CCV of the purchases, in accordance with Article 9.
- 7.2.1.** SMB Transactions: A Transaction where an SMB is the Recipient, and the SMB's product or service has a CCV of at least seventy (70) percent, will have its Credit awarded as follows:
- 7.2.1.1. The portion of the Transaction's CCV that is equal to or less than \$1,000,000 will be deemed to have 100 percent CCV for reporting and verification purposes;
- 7.2.1.2. Any portion of the Transaction's CCV that is over \$1,000,000 will use the actual CCV as calculated using Article 9.
- 7.2.2. World Product Mandate: When an Indirect Transaction involves a World Product Mandate and where the CCV of the product is verified to be seventy (70) percent or greater, the CCV will be deemed to be 100 percent for reporting and verification purposes.
- 7.3. Transactions may also involve Allowable Investments within Canada.
- 7.3.1. The full CCV of any Allowable Investment Transaction, including both the initial investment and any multiplied or future sales Credits, are part of the Obligations. If the Contractor fails to achieve an Allowable Investment Transaction, the full CCV of this

Obligation at the multiplied value will be made up with other Transactions, as detailed in Article 15, Transaction alterations.

7.3.2. The specific requirements and Credit valuation approaches for different types of Allowable Investment Transactions are outlined below.

7.3.3. Post-Secondary and Public Research Institution Transactions

7.3.3.1. A Transaction involving a contribution to a Post-Secondary or Public Research Institution may receive a Credit multiplier of five (5) if it involves: a cash contribution to a Post-Secondary Institution for research or the establishment of research chairs; a contribution to advanced technology skill development at a Post-Secondary Institution; or, collaborative research undertaken with a Public Research Institution.

7.3.4. Consortium Transactions

7.3.4.1. A Transaction may involve an Allowable Investment to a consortium, which meets the following membership criteria:

- The Contractor or an Eligible Donor;
- A minimum of one (1) Canadian Company, and;
- A minimum of one (1) Post-Secondary Institution or Public Research Institution.

7.3.4.2. Valuation for Credit purposes:

- An initial value will be calculated, and will be the sum of the following:
 - The value of cash contributions from the Contractor or an Eligible Donor to the consortium; and, the value of cash contributions from other consortium members, up to a maximum value equal to that of the contribution of the Contractor or an Eligible Donor, which have been leveraged by the Contractor or Eligible Donor's participation in the consortium. The Contractor or Eligible Donor will demonstrate how its involvement contributed to the contributions of the other consortium members.
- Once the initial value is established, it will be multiplied by five (5).
- The value of any in-kind contributions would then be added, based on an In-Kind Valuation. In-kind contributions to a consortium are not eligible for the Credit multiplier.
- The following will not be eligible for Credit:
 - Any contribution made to the consortium by Post-Secondary Institutions or Public Research Institutions; and
 - Any contribution made directly into the consortium by any level of government.

7.3.4.3. Other Criteria

- The combined total investment of non-Canadian Companies in the consortium will not exceed fifty (50) percent of the total investment in the consortium.
- In cases where an Eligible Donor participates in the same consortium as the Contractor, separate transaction sheets will be submitted that describe the Contractor's and the Eligible Donor's individual contributions to the consortium. The Contractor and the Eligible Donor may only claim the Credits associated with the contributions that each has made or leveraged into the consortium.

7.3.5. **Investment framework (IF) Transactions**

7.3.5.1. A Transaction may involve a long-term and innovation-related contribution made directly to a Canadian SMB. IF Transactions will meet the following criteria:

- Must be linked to Research and Development (R&D) Activities and/or Commercialization Activities in Canada;
- Must be undertaken by the Contractor or an Eligible Donor with a Canadian SMB. For the purposes of the IF Transaction, the Eligible Donor and Recipient cannot be the same company;
- Must meet the Transaction eligibility criteria, as outlined in Article 8;
- Must be an Allowable Investment;
- Must have a duration of at least five (5) continuous years, beginning at the date the investment is made; and,
- A business plan must be submitted to the ITB Authority, substantially in the form attached in Attachment 4.

7.3.5.2. Credit valuation:

- Allowable Investments made in cash will be valued based on the actual amount of money that has been invested. In-kind investments will be subject to an In-Kind Valuation.
- The following Credit multipliers will be applied to the value of the Allowable Investment:
 - Cash for R&D Activities or license for IP – nine (9)
 - Cash to purchase, or in-kind transfer of, equipment – seven (7)
 - In-kind transfer of knowledge and/or marketing/sales support – four (4)
- The total issued Credits associated with an IF Transaction will not exceed twenty-five (25) percent of the Obligation, specified in Article 3.1.1.

7.3.5.3. Timeline for Credit award:

- 50 percent of Credits will be awarded once the Allowable Investment is made according to the business plan, then reported to and verified by the

ITB Authority. The remaining 50 percent of Credits will be apportioned over the remaining years of the Transaction, as annual reporting requirements are achieved.

- The entire investment must remain with the SMB for at least five (5) continuous years and be used for the purposes outlined in the business plan in order for Credit to be awarded each year.

7.3.6. General investments

7.3.6.1. Transactions may take the form of a general Allowable Investment to a Canadian Company.

7.3.6.2. Valuation for Credit purposes:

- Credit is based on the CCV of future sales achieved by the Recipient as a result of the Allowable Investment.
 - Eligible future sales are limited to work that is not associated with this Contract; and, work that is not counted for Industrial and Regional Benefits (IRB) or ITB credit on any other contract or agreement.
 - Eligible future sales will be pro-rated by multiplying the resulting future sales by the ratio of the Contractor's Allowable Investment in the Recipient, relative to either: i) the Recipient's Capitalization at the time the investment was made (in cases of purchase of non-controlling shares); or ii) the combined total contributions made by all parties in the activity (in all other cases).
- In the case of a cash Allowable Investment, the value of the Allowable Investment itself will also be credited, once the Recipient's future sales achievement surpasses the amount of the Allowable Investment.
- In the case of an in-kind Allowable Investment, the value of reasonable transfer costs, as determined by the ITB Authority, will be credited once the Recipient's future sales achievement surpasses the amount of the costs. Reasonable transfer costs include training and infrastructure set-up to exploit the technology. The value of the in-kind Allowable Investment itself will not be credited.

7.3.6.3. The Allowable Investment will remain with the Canadian Company for a minimum of three (3) years, starting from the date the investment is placed with the Recipient. Failure to do so will result in the immediate deduction of all Credits for the Transaction.

7.3.6.4. The capital associated with the purchase of a Canadian Company that is considered a "going concern" is not an Allowable Investment for ITB Credit. If the investment is for a Canadian Company that is insolvent, or has initiated, or had initiated in respect of it, any proceeding seeking relief under any bankruptcy or insolvency law, or similar law affecting creditors' rights, then the investment can be considered for ITB purposes.

7.3.6.5. General Allowable Investments will be assessed as to whether they:

- Help provide a capability that does not already exist in Canada;

- Develop joint ventures with Canadian Companies that contribute to their long-term viability and increase sales; and,
- Do not result in overcapacity, shutdowns of existing companies or losses of prospective sales by existing companies in Canada.

7.3.6.6. In-kind contributions related to technology and skills transfer will involve technology and skills that are proprietary, current, complete and exploitable, with all required permits and assistance, sufficient to allow the Recipient to participate in the design, development and manufacture of products or processes and exploit domestic and foreign markets. The Contractor or Eligible Donor will make available, upon request by the ITB Authority, any licensing agreement with the Recipient.

7.3.7. Venture Capital Fund (VCF) Transactions

7.3.7.1. A VCF Transaction is a transaction in which the Contractor or an Eligible Donor provides funds to a VCF for investment. A VCF is a pooled group of investments directed at assisting the growth of Canadian small businesses and is managed by an unrelated third party.

7.3.7.2. VCF criteria:

- A VCF is any organization which manages investments, such as but not limited to banks, trust companies, venture capital funds, and investment companies. A VCF must be both registered to do business as such and managed in Canada.
- A high percentage of a chosen VCF's investment activity will be with small businesses involved in the development, manufacture or commercialization of advanced technology products or services in one or more of the following sectors:
 - Life sciences (biotechnology, medical devices and pharmaceuticals);
 - Health;
 - Advanced materials;
 - Advanced manufacturing;
 - Environment;
 - Information and communications technologies; and,
 - Aerospace and defence.
- Small businesses receiving the VCF investment will be privately held and have 50 employees or less in service based industries or 100 employees or less in manufacturing based industries at the commencement of the investment. In the event that a small business decides to make an initial public offering, no further Credit will be granted by the ITB Authority for that company within the VCF Transaction.
- Initial investments by the VCF manager, including co-investments, in eligible small businesses will not exceed \$1,000,000.

7.3.7.3.

Valuation for Credit purposes:

- The Credit multiplier for VCF investments is five (5). Credit may be claimed for the initial contribution once the Contractor or Eligible Donor deposits it to the VCF. Credit for the remaining multiples may be claimed when the VCF manager assigns the funds to a Canadian small business as defined above.
- The VCF funds must remain with the Recipient for a minimum of three (3) years, starting from the date the funds are placed. Failure to do so will result in the immediate deduction of all Credits for the Transaction.
- The multiplied Credit related to VCF investments will not exceed 5 percent of the Obligation value in Article 3.1.1.

8. TRANSACTION ELIGIBILITY CRITERIA

8.1. Each proposed Transaction is assessed by the ITB Authority against all of the eligibility criteria outlined below:

8.1.1. **Causality** - each Transaction must be one which was brought about by either the Contractor or an Eligible Donor, due in part to a current or anticipated ITB or Industrial and Regional Benefit (IRB) obligation to Canada. It will not be one which likely would have been entered into if an obligation had not existed or been anticipated. Causality may be demonstrated to a specific project or more broadly to a company's obligations in general.

8.1.1.1. The Contractor or an Eligible Donor must demonstrate causality by providing a detailed statement on causality using the space provided in the transaction sheet template attached at Appendix B. The statement will outline the steps and timelines involved in its decision about a business activity and clearly show the link between the steps and decision on that business activity and Canada's IRB/ITB policy.

8.1.1.2. The Contractor or an Eligible Donor must also provide a certificate as to causality, in support of its detailed statement referred to in Article 8.1.1.1. A certification template is found in Attachment 2.

8.1.2. **Timing** - Transactions will be implemented within the Achievement Period.

8.1.2.1. Transactions that are identified after the Effective Date of the Contract must only involve work occurring after the date that the Transaction was proposed to the ITB Authority.

8.1.3. **Incrementality** – Transactions will involve new work in Canada.

8.1.3.1. Should an Indirect Transaction involve the purchase of goods or services from an existing Canadian supplier to the Contractor or an Eligible Donor, the incremental method of calculating the Credits will apply, as follows:

- A three-year average of previous purchases is calculated, based on the three years immediately preceding the date that the Transaction was proposed to the ITB Authority; and,
- Credit will be awarded only for the amounts which exceed the three year average, in each of the Reporting Periods.

8.1.3.2. The incremental method of calculation outlined in Article 8.1.3.1 does **not** apply in cases where the product or service being purchased in the Transaction:

- Involves a Direct Transaction;
- Is substantially different than what was previously purchased;
- Involves a different end use (market sale, application, etc.) for what was previously purchased; or,
- Follows a competitive process to re-select the Canadian supplier.

8.1.3.3. The Contractor or an Eligible Donor will demonstrate incrementality by providing a statement on incrementality for every proposed Indirect Transaction, using the template attached at Attachment 2. The Contractor or an Eligible Donor will also provide supporting evidence of incrementality as indicated in the template.

8.1.4. **Eligible Donor** - Transactions will be undertaken by the Contractor or an Eligible Donor as defined in these Terms and Conditions.

8.1.4.1. For proposed Eligible Donors that are Canadian Companies with less than 500 employees, the Canadian Company will certify that it understands and has the capacity to undertake Obligations with respect to this Contract. Capacity includes factors such as: company size, product offerings, market conditions, corporate ownership, management processes, and level of Canadian content. A certification template is attached in Attachment 2. For Transactions proposed after the Effective Date of the Contract, Contractors must clearly demonstrate that the Canadian Company has the capacity to undertake ITB Obligations with respect to this Contract and the ITB Authority may seek additional information confirming Canadian Company capacity.

8.1.4.2. The Contractor, and not the Eligible Donors, will be fully responsible to Canada for all Obligations related to this Contract, regardless of any subcontracting arrangements with Eligible Donors.

8.1.4.3. The Contractor shall include in the subcontract with each Eligible Donor the consents, authorities and approvals that it requires to meet its obligations under these Terms and Conditions.

8.1.4.4. A list of approved Eligible Donors for the Contract is found in Article 23.

8.1.5. **Other Eligibility Criteria –**

8.1.5.1. Transaction Recipient – Transactions will have one Recipient, unless it is a Grouped Transaction. Government organizations cannot be Recipients, unless it is a Public Research Institution.

8.1.5.2. Level of Technology – Indirect Transactions will involve a level of technology that is the same or higher than that of the AJISS project, with applications in Canadian advanced technology industries.

8.1.5.3. CCV – Indirect Transactions will have a CCV of no less than 30 percent of the total value of the Transaction.

8.1.5.4. Alignment with policy features – Transactions will comply with any specific criteria

and valuation features outlined within these Terms and Conditions.

- 8.2. The ITB Authority will assess eligibility prior to a proposed Transaction becoming an Obligation in the Contract. Contractors should note that all Transactions are subject to annual reporting and verification before Credits are confirmed.
- 8.3. Failure to provide the information and certifications outlined in the above articles may result in a proposed Transaction being rejected. Further, the provision of this information and certification should not be seen as limiting the discretion of the ITB Authority in any decisions related to the eligibility of proposed Transactions.

9. CANADIAN CONTENT VALUE (CCV)

- 9.1. CCV is that portion of the value of a product or service that involves Canadian costs. For the purposes of valuing Transactions and their associated Credits, only the CCV of a Canadian Company's product or service is counted. The CCV of a Transaction is determined by using either the net selling price method or the cost aggregate method.
- 9.1.1. Net selling price method: This method is used when a product or service included in a Transaction has a substantiated selling price. This method of calculating CCV is as follows:
- 9.1.1.1. Begin with the total selling price of the product or service;
- 9.1.1.2. Minus the applicable customs duties, excise taxes, Goods and Services Taxes (GST), Harmonized Sales Taxes (HST) and all provincial sales taxes; and,
- 9.1.1.3. Minus any ineligible costs, as detailed in Article 9.2.
- 9.1.1.4. The remaining value is the CCV.
- 9.1.2. Cost aggregate method: This method is used where a product or service contained in a Transaction cannot be assigned a substantiated selling price (i.e. in-house production). This method of calculating CCV is the aggregate of the following items:
- 9.1.2.1. The cost of parts produced in Canada and the cost of materials, to the extent that they are of Canadian origin, that are incorporated in the product in the factory of the manufacturer in Canada;
- 9.1.2.2. The cost of parts or materials of Canadian origin, in that they have been exported from Canada and subsequently imported into Canada as parts or finished goods;
- 9.1.2.3. Transportation costs, including insurance charges, incurred in transporting parts and materials from a Canadian supplier or frontier port of entry to the factory of the manufacturer in Canada for incorporation in the product, to the extent that such costs are not included in the foregoing paragraph; and
- 9.1.2.4. Such part of the following costs, as are reasonably attributable to the production or implementation of the product, service or activity:
- Wages and salaries paid for direct and indirect production and non-production labour, paid to employees residing and working in Canada, who are Canadians or permanent residents, as defined in the *Immigration and Refugee Protection Act 2001, c.27*;

- Materials of Canadian origin used in the work but not incorporated in the final products;
- Utilities paid in Canada, such as light, heat, power and water;
- Workers compensation, employment insurance and group insurance premiums, pension contributions and similar expenses incurred with respect to wages and salaries of Canadians or permanent residents referred to above;
- Taxes on land and buildings in Canada;
- Fire and other insurance premiums relative to the production plant, its equipment and production inventories, paid to a company authorized by the laws of Canada or any province to carry on business in Canada or such province;
- Rental for factory or office premises in Canada paid to a registered owner in Canada;
- Maintenance and repairs that are executed in Canada to buildings, machinery and equipment used for production purposes;
- Tools, dies, jigs, fixtures and other similar plant equipment items of a non-permanent nature that have been designed, developed or manufactured in Canada;
- Engineering and professional services, experimental work and product or process development work executed and completed in Canada by Canadians or permanent residents;
- Miscellaneous factory and office expenses paid in Canada, such as: administrative and general expenses; depreciation with respect to production machinery and permanent plant equipment and the installation costs of such machinery and equipment; and, a capital allowance not exceeding five (5) percent of the total capital outlay incurred for buildings in Canada owned by the producer of the work;
- Travel expenses, including Canadian carriers, accommodations and meals, for travel by Canadians or permanent residents that are specifically associated with Direct Transactions in the Contract;
- Fees paid for services performed by Canadians or permanent residents in Canada not elsewhere specified; and
- Pre-tax net profit upon which Canadian taxes are paid or are payable.

9.2. Costs or business activities that are ineligible for Credit:

9.2.1. The value of materials, labour and services imported into Canada;

9.2.2. In the case of an Indirect Transaction, the value of raw materials and Semi-processed Goods exported from Canada;

9.2.3. The value of any remuneration, living costs, travel expenses and relocation costs paid to

non-Canadians for work on the AJISS project;

- 9.2.4. The amount of all Excise Taxes, Import Duties, Federal and Provincial Sales Taxes, Goods and Services Taxes, Harmonized Sales Taxes and other duties;
- 9.2.5. The value of any royalties and license fees paid by the Contractor or an Eligible Donor to a person, company or entity outside of Canada;
- 9.2.6. The value of goods and services with respect to which Credits have been received or are being claimed by the Contractor or an Eligible Donor as a Transaction to Canada under any other obligation or agreement;
- 9.2.7. Any proposal or bid preparations costs;
- 9.2.8. All transportation or travel costs not covered under Articles 9.1.2.3 or 9.1.2.4;
- 9.2.9. The cost of government furnished equipment (equipment supplied by Canada to be used in the production process; for example, tooling, jigs, dies, production equipment);
- 9.2.10. License fees paid by the Recipient and any on-going royalty payments;
- 9.2.11. Transactions claimed by a Contractor that pertain to its influence or that of an Eligible Donor over any country's purchasing agent/department;
- 9.2.12. Interest costs associated with letters of credit or other financial instruments to support Transactions;
- 9.2.13. Fees paid to lobbyists (as per the *Lobbying Act*); and
- 9.2.14. Fees paid to third-party consultants or agents for work related to obtaining Credit against this Contract. This includes, but is not limited to: providing advice on the ITB/IRB policy; preparation of proposed Transactions and/or reports; representing the interests of the Contractor to the ITB Authority; and/or searching for potential Recipients.

10. STRATEGIC PLANS

- 10.1. Contractors are encouraged to address their ITB obligations in a strategic manner, considering how the Contractor's broad corporate plans and vision for Canada might translate in Transactions.
- 10.2. At the discretion of the ITB Authority, Contractors that hold IRB/ITB obligations in Canada may be asked to submit a strategic plan to the ITB Authority and to meet to review, discuss and/or update it.
- 10.3. The Contractor's strategic plan would include:
 - 10.3.1. A description of the Contractor's broad corporate plans and overarching strategic vision for Canada over the medium-term (3-5 years) and long-term (5+ years);
 - 10.3.2. How these corporate plans and vision may translate into Transactions;
 - 10.3.3. An overview of the Contractor's current and anticipated obligations to Canada; and,
 - 10.3.4. ITB partnerships with Eligible Donors and major suppliers.

11. POOLING

- 11.1. Pooling refers to the act of splitting the Credits achieved on a single Transaction and applying each portion to one of two or more IRB or ITB obligations.
- 11.2. Pooled Transactions must meet the following criteria:
 - 11.2.1. Meet all of the Transaction eligibility criteria as described in Article 8;
 - 11.2.2. Have a value of not less than \$50 million, measured in CCV; and
 - 11.2.3. Have strategic and long term impacts on the Recipient, including but not limited to: R&D support; first purchase of innovative Canadian technologies; World Product Mandate; global value chain activities; consortia activities; Small and Medium Business activities; and/or technology advancement.
- 11.3. The Contractor must describe and document how any proposed transaction for pooling meets the criteria in Article 11.2.
- 11.4. A portion of a pooled Transaction may be applied to this Contract. The Contractor will report on the pooled Transaction through the annual reporting process and schedule agreed to with the ITB Authority at the time of pooled Transaction approval.
- 11.5. If a portion of a pooled Transaction originates in the bank and Credits have already been confirmed, the value of those Credits will transfer to this Contract, if the Eligible Donor criterion is met. In addition, any uncredited Transaction value, measured in CCV, will also be transferred to the Contract and be subject to the annual reporting and verification processes and the remedies in these Terms and Conditions.
- 11.6. Pooling guidelines are available on the ITB Website (www.ic.gc.ca/itb).

12. BANKING

- 12.1. The Contractor may apply bank transactions to this Contract up to a total value of 50 percent of the Obligation cited in Article 3.1.1, measured in CCV.
- 12.2. Any bank transaction applied to this Contract, or portion thereof, will clearly state that it originated from the bank and be the same in description and details as the approved bank transaction. The bank transaction must meet the Eligible Donor criteria outlined in Article 8.1.4.
- 12.3. The Contractor may submit bank overachievements to the bank arising from Transactions in this Contract. For the purposes of banking, a bank overachievement is the amount of Credit achieved that exceeds the Obligation in Article 3.1.1 and where the Contractor has:
 - 12.3.1. Completed its Obligations in Articles 3.1.1 to 3.1.3 prior to the expiration of the Achievement Period;
 - 12.3.2. Elected to continue business activities on selected Transactions and to continue its annual reporting process until the end of the Achievement Period; and,
 - 12.3.3. Applied to bank, within one (1) year after the final notification of Credits from the ITB Authority, those overachieved portions of the selected Transactions.
 - 12.3.4. Apply to bank only those bank overachievements that:

- 12.3.4.1. Were achieved between the date of early completion of the Obligations and the end date of the Achievement Period.
- 12.3.4.2. Reflect the achievement of all portions of a pooled Transaction (if applicable).
- 12.4. With respect to any bank transaction involving a bank overachievement, the bank account holder is deemed to be the donor for the purposes of assessing the Eligible Donor criteria.
- 12.5. A bank transaction involving a bank overachievement, or any portion thereof, is not eligible to be re-banked at a later date as part of a subsequent bank overachievement.
- 12.6. Trading and/or transfer between companies of bank transactions is not permitted.
- 12.7. Banking guidelines are available on the ITB Website (www.ic.gc.ca/itb).

13. PUBLIC COMMUNICATIONS

- 13.1. The Contractor, its Eligible Donors and/or Recipients are encouraged to be as transparent as possible regarding the Obligations, Commitments and specific Transactions, making them publicly available whenever possible.
- 13.2. The Contractor and the ITB Authority will jointly coordinate public communications related to the Transactions. The two parties will also collaborate to identify success stories associated with specific Transactions.
- 13.3. The Contractor consents to public announcements regarding the AJISS project, made by or on behalf of the ITB Authority, which are related to Obligations, Commitments and Transactions. These announcements would include company names, general descriptions of the work being proposed and approximations of CCV. In these cases, the ITB Authority will make all reasonable efforts to ensure that the Contractor has the opportunity to participate in the announcement and/or the preparation of any related materials. The Contractor will obtain a similar consent from each of the Eligible Donors and Recipients.
- 13.4. The Contractor consents to allow the ITB Authority to publish and openly disclose the Contractor's track record in fulfilling its Obligations, in a manner that respects commercial confidentiality.
- 13.5. For all other public communications regarding the Transactions, drafts of announcements and their publication schedule will be delivered by either party to the other as soon as is reasonably possible, but in any event prior to the proposed release date. Each party will make every effort to inform the other, and seek resolution of, any objections to the content or timing of a proposed announcement.
- 13.6. Nothing in this Article will be interpreted as preventing the fulfillment by any company involved in an Obligation or Transaction of its reporting obligations under applicable securities laws.

14. INFORMATION MANAGEMENT

- 14.1. It is understood and agreed that the Contractor will submit corporate and transactional business information to the ITB Authority in the implementation of these Terms and Conditions and/or through a strategic plan, some of which may contain information that is sensitive and confidential to the Contractor. The ITB Authority will ensure, to the best of its ability, that this information is protected, stored and used according to the Government of Canada's information management and security guidelines.

- 14.2. The Contractor agrees that the overall, aggregate information related to Obligations, Transactions and Credits is considered by the ITB Authority to be information available to Parliament and the public.
- 14.3. Subject to all applicable federal laws and processes, such as the *Access to Information Act*, the *Privacy Act* and the *Library and Archives of Canada Act*, the ITB Authority will not release or disclose outside the Government of Canada any of the Contractor's commercially confidential business information.
- 14.3.1. Data may be used by the ITB Authority for internal policy analysis purposes. Certain relevant information may also be shared, subject to applicable laws and processes, with other government organizations and agencies with whom the ITB Authority collaborates in the administration of the ITB policy.

15. TRANSACTION ALTERATIONS

- 15.1. The Contractor will not alter the Transactions listed in Appendix A unless:
- 15.1.1. The Contractor has submitted a proposal to the ITB Authority through the Contracting Authority, with respect to the alteration; and
- 15.1.2. The ITB Authority through the Contracting Authority has given written approval to the Contractor and requested the Contracting Authority to amend the Contract accordingly.
- 15.2. The Contractor may propose alterations to or substitutions for any of the Transaction(s) listed in Appendix A, and the ITB Authority may accept these requests provided that in the judgment of the ITB Authority:
- 15.2.1. The circumstances requiring the change are exceptional and likely to result in undue hardship upon the Contractor if a change is not made;
- 15.2.2. The Obligations in Article 3 of these Terms and Conditions are maintained;
- 15.2.3. The proposed alterations or substitutions meet the eligibility criteria stated in these Terms and Conditions;
- 15.2.4. The proposed substitute Transaction is not less than the Transaction to be replaced as to the level of technological sophistication of the work to be performed, the CCV, and the extent to which it meets the original Value Proposition Proposal submitted by the Contractor in its bid submission. For greater clarity, a Transaction in one VP evaluation criteria area must be replaced by a new Transaction under the same VP evaluation criteria area; and,
- 15.2.5. The proposed substitute Transaction would not have lowered the Contractor's VP score as determined in the original selection process.
- 15.3. Mutual Abatement and Trading
- 15.3.1. Mutual Abatement is the reduction of the Contractor's Obligation in exchange for the reduction of a Canadian Company's obligations to a foreign offset authority and is not permitted. Trading of Obligations, or of Credits, is also not permitted.

16. VERIFICATION AND ACCESS TO RECORDS

- 16.1. The Contractor will implement the procedures and practices as described in the ITB

Management Plan.

- 16.2. The Contractor will keep proper records and all documentation relating to the Transactions, including invoices and proof of payments. The Contractor will not, without the prior written consent of the ITB Authority, dispose of any such records or documentation until the expiration of two (2) years after final payment under this Contract, until settlement of all outstanding claims and disputes, or the end of the Achievement Period, whichever is later.
- 16.3. All such records and documentation will, during the aforementioned retention period, be open to verification, inspection and examination by the ITB Authority, through access at reasonable times, and within sixty (60) calendar days of being notified by the ITB Authority. The Contractor will obtain similar undertakings in the subcontracts of all Eligible Donors and arrange for the same in respect of work performed by such Eligible Donors for which Credits are claimed.
- 16.4. Where, subsequent to the verification action taken pursuant to this Article, the ITB Authority determines that the records are insufficient to verify the Contractor's achievements in respect of any Obligation or Commitment, the Contractor will provide such additional information as may be required by the ITB Authority.
- 16.5. Where it cannot be verified that a Transaction has been achieved as claimed, that portion of the Transaction which cannot be verified will be considered as not having been achieved and the ITB Authority will give notice to the Contractor of the Shortfall through the Contracting Authority.
- 16.6. If the ITB Authority determines that a significant deficiency in the Contractor's achievements exists such that the ITB Authority believes that the Contractor will not meet its Obligations, the ITB Authority may give, through the Contracting Authority, notice to the Contractor and request the Contractor to submit a proposal showing how the Contractor plans to correct the deficiency. The Contractor will submit its proposal within sixty (60) calendar days of receipt of such notice. If the proposal is not provided within this time period or is not acceptable to the ITB Authority, the ITB Authority may request the Contracting Authority to terminate the Contract.

17. CONFLICT RESOLUTION

- 17.1. The ITB Authority and the Contractor acknowledge that they have entered into a long-term relationship, with the goal that the Contractor achieves the Obligations and Commitments stated herein, delivers long-term economic benefits to Canada and carries out these Terms and Conditions.
- 17.2. Guiding this long-term relationship are common values and approaches, such as mutual accountability, open communication, mutual respect and effective collaboration. The relationship will involve officials at the project level (i.e. ITB and contract managers) and at the management level (i.e. Departmental and Executive officials). Discussions will be frequent and ongoing over the life of the Contract.
- 17.3. In the event that a disagreement arises between the ITB Authority and the Contractor regarding an ITB matter, each party will bring their concerns forward to the other for discussion and resolution. Parties are encouraged to raise concerns first at the project level. Should discussions at the project level fail to resolve the issue, the parties are then encouraged to engage at the management level. If these discussions fail to reach a satisfactory resolution, either party is then free to make use of the broader dispute resolution process outlined in Article 7.36 of the Contract.

18. REMEDIES

- 18.1. The long-term relationship between the Contractor and ITB Authority is supported by several

processes aimed at promoting regular, ongoing engagement between the two parties. These processes include the Transaction identification schedule outlined in Article 3.1.4 and the annual reporting process outlined in Article 4. Taken together, these and other monitoring measures are aimed at encouraging positive engagement, use of best practices and the successful completion of the Contractor's Obligations in this contract.

18.2. Notwithstanding the terms of this Contract that provide remedies in the event of default by the Contractor, one or more of the following remedies may be exercised in the event of default under these Terms and Conditions. Some or all remedies may apply, but combined will not exceed 10 percent of the overall Contract Value. In the event of a default by the Contractor of its obligations pursuant to these Terms and Conditions, the remedies contained in this Article are in addition to, and not in substitution for, any remedies provided elsewhere in the Contract.

18.3. Holdback/Stop Payment

18.3.1. If the Contractor has failed to meet any of its Obligations contained in Article 3.1.4 and 3.1.5, the ITB Authority will notify the Contractor in writing, through the Contracting Authority, of such deficiency and Canada may apply a holdback (the Holdback) from any claim for payment then due or payable under the Contract.

18.3.2. With respect to the Holdback, a cure period of sixty (60) calendar days (the Cure Period), beginning on the date of notification by the ITB Authority, will apply before the Holdback takes effect.

18.3.2.1. Within the Cure Period, the Contractor may take corrective action by providing to the ITB Authority a corrective action plan to remedy the deficiency. If the plan is accepted by the ITB Authority, no Holdback will be made.

18.3.2.2. If, after the Cure Period, the plan has not been delivered, or if delivered, has not been accepted pursuant to Article 18.3.2.1, then 10 percent of subsequent claims for payment will be withheld.

18.3.2.3. The Holdback will accrue until it reaches the amount of the deficiency, or until the Contractor submits a plan that is approved by the ITB Authority, whichever occurs first.

18.3.3. The Holdback will be released progressively as the deficiency is extinguished. During the Holdback period, the ITB Authority will confirm the amount of Credits achieved and/or Transactions identified within a reasonable amount of time from when the claims or proposed Transactions are submitted by the Contractor. The corresponding amount of the Holdback will be released when the next payment under the Contract is made.

18.4. Liquidated Damages

18.4.1. If the Contractor fails to achieve any of the Obligations in Article 3.1.1 or 3.1.3 by the end of the Achievement Period, after taking into account the provisions of Article 6, Canada may in its sole discretion elect to require the Contractor to pay to Canada as liquidated damages 10 percent of the total deficiency, less the amount of any Holdback.

18.4.1.1. In the event that a deficiency is comprised of more than one of the Obligations in Articles 3.1.1. and 3.1.3, the Contractor will be liable only for the deficiency that arises under the Obligation that results in the highest liquidated damages.

18.4.2. If the Contractor fails to achieve any of the VP Obligations in Article 3.1.2 by the end of the Achievement Period, after taking into account the provisions of Article 6, Canada may in its sole discretion require the Contractor to pay to Canada as liquidated damages 20

percent of the total deficiency, less the amount of any Holdback.

- 18.4.2.1. In the event that a deficiency is comprised of more than one of the Obligations in Articles 3.1.2 the Contractor will be liable in respect to Article 18.4.2 under all deficiencies on an additive basis.
- 18.4.3. The obligation of the Contractor to pay liquidated damages, if such obligation exists, pursuant to Article 18.4.1 or 18.4.2, will be triggered by notice by either the Minister or the Deputy Minister of Public Services and Procurement to the Contractor, stating that the Contractor is in default under the Contract for failure to achieve the identified Obligations within the Achievement Period and that Canada is demanding payment of liquidated damages in accordance with this Article.
- 18.5. Contract Termination
- 18.5.1. Default by the Contractor - In the event that this Contract is terminated for default pursuant to Clause 29 (Default by the Contractor) of General Conditions 2035 – Higher Complexities - Services, the ITB Authority will notify the Contractor, and the Contractor will identify Transactions equal to 100 percent of the value of Contract revenue earned by the date of termination.
- 18.5.1.1. The Contractor will then, in its sole discretion, elect either:
- To take action to achieve all identified Transactions with two (2) years; or,
 - To pay Canada as liquidated damages the amount calculated in accordance with Article 18.4, less the amount of any Holdback, after taking into account the provisions of Article 6.
- 18.5.1.2. For the purposes of Article 18.5.1.1, the amount of liquidated damages shall be calculated on the basis of the funds earned by the Contractor from Canada up to the date of termination of the Contract.
- 18.5.1.3. The parties agree that Canada's right under Section 29 of General Conditions 2035 – Higher Complexities - Services to terminate the Contract for default shall not apply to a failure to meet the Contractor's Obligations under these Terms and Conditions, unless the Contractor fails or neglects, within sixty (60) days of the ITB Authority's demand to do so, to satisfy any of the material Obligations listed below:
- Pay the liquidated damages amounts required by Article 18.4; and
 - Satisfy its VP Obligations described in Article 3.1.2.
- 18.5.1.4. The Parties agree that: the obligations contained in Article 18.5.1.3 constitute material obligations under the Contract; and, the obligations contained in Article 18.5.1.1 shall survive termination of the Contract.
- 18.5.2. Termination for Convenience - In the event that this Contract is terminated for convenience pursuant to Section 30 of General Conditions 2035 – Higher Complexities - Services, the Contractor will have no further obligations and liabilities under these Terms and Conditions,, including any liabilities arising from VP Obligations. In the event of partial termination of the Contract under Clause 30 (Termination for Convenience) of General Conditions 2035 Higher Complexities - Services, the Contractor will be released from the terminated portions of the Obligations and from the provisions of Article 3 as it relates to such terminated portions.

18.6. Letter of Credit

18.6.1. In the event that the Contractor has not completed its Obligations at the time of completing the Work under the Contract and being entitled to receipt of the final payment from Canada, the Contractor may be required to provide to Canada a guarantee for completion of the Obligations prior to the expiration of the Achievement Period in the form of a letter of credit. The letter of credit will be in the amount of monies that would be owing by way of liquidated damages should the Contractor not achieve any further Credits after the date of the final payment.

18.6.2. The letter of credit will be:

- Issued by a financial institution which is a member of the Canadian Payment Association;
- In form and substance satisfactory to the ITB Authority;
- Solely at the cost of the Contractor;
- Abated as set forth below;
- Unconditional and irrevocable; and,
- Subject to the Uniform Customs and Practice for Documentary Credits, as set out in Publication No. 600, July 2007.

18.6.3. The letter of credit will remain in force until the earliest of:

- The achievement of the Obligations; and
- Six months following the submission of the ensuing final annual report at which time the letter of credit will be abated in full and will be returned by Canada to the Contractor. Provided that, if the Obligations have not been achieved, Canada will draw down on the letter of credit in the amount of the outstanding Obligations, as liquidated damages, prior to returning it to the Contractor.

18.6.4. The obligation of the financial institution to pay under the letter of credit will be triggered by notice executed by the Contracting Authority to the issuing bank, stating that the Contractor is in default under the Contract for failure to achieve the Obligations within the Achievement Period, that Canada has made a demand by notice for payment of liquidated damages in accordance with the liquidated damages articles and that the Contractor has failed to pay Canada such liquidated damages. No other event will trigger payment under the letter of credit.

18.7. If, during the term of the Contract, a change in the Work is initiated by Canada which results in the Contractor no longer being able to source from a Canadian Company and, as a consequence, Obligations may not be met, the Contractor will immediately notify the ITB Authority through the Contracting Authority. The Contractor will fully describe the issue and provide all supporting data, including a complete record of attempts to purchase from Canadian sources and Canadian suppliers' responses, together with an analysis of specific technical, commercial or other factors which result in the inability to source from a Canadian Company. In such instances, the Obligations shall be reduced to the extent the CCV associated with the change differs from the CCV of the original Work. Notwithstanding the foregoing, the Obligation in Article 3.1.1 will remain.

- 18.8. The Contracting Authority in accordance with this Article, will have the right to holdback, drawback, deduct and set off from and against the monies owing at any time by Canada to the Contractor, any amounts owing under this Contract.
- 18.9. Nothing in this Article will be interpreted as limiting the rights and remedies which the Contracting Authority may otherwise have in relation to any breach of the Contract by the Contractor.
- 18.10. Actual damages which would be sustained by Canada in the event of a breach by the Contractor of the Obligations in this Contract would be commercially impracticable or extremely difficult to compute or ascertain and, therefore, the provisions for liquidated damages are agreed to be a fair and reasonable best estimate of such actual damages, and the manner provided herein for the enforcement and collection of liquidated damages is agreed to be fair and reasonable.

19. CHANGES TO THE PLANS

- 19.1. The Contractor may propose revisions to the Plans. Any proposed revisions must be agreed to by the ITB Authority in writing. Revisions will be incorporated into this Contract by administrative amendment, executed by the Contracting Authority.

20. RESPONSIBILITIES OF THE PARTIES

- 20.1. The award of this Contract to the Contractor resulted from a procurement process in which the Contractor committed to fulfill the Obligations set out in Article 3, Statement of Obligations.
- 20.2. It is the responsibility of the Contractor to ensure that it can complete the Transactions and that these are not limited by applicable laws, regulations, policies or standards.

21. COMPLIANCE WITH THE *LOBBYING ACT*

- 21.1. The Contractor represents, warrants and undertakes that it and the Eligible Donors are and will remain in compliance with Canada's *Lobbying Act* with respect to these Terms and Conditions.

22. CONTINGENCY AND/OR SUCCESS FEES

- 22.1. The Contractor represents warrants and undertakes that neither it nor an Eligible Donor will make or agree to make any payment to an individual, company or entity that is contingent on the approval of Credit by the ITB Authority under these Terms and Conditions or upon the entity's success in arranging meetings with public office holders.
- 22.2. The ITB Authority acknowledges that the Contractor, for the purposes of making the representation and warranties in Articles 21.1 and 22.1 on behalf of the Eligible Donors, has relied on a representation provided by each of them to it.

23. LIST OF APPROVED ELIGIBLE DONORS

- 23.1. The Eligible Donors to this Contract include the companies and coordinates listed below:

[List to be included at contract award]

ATTACHMENT 1

VALUE PROPOSITION COMMITMENTS, PLANS AND TRANSACTIONS

Value Proposition Commitments – to be referenced from Contractor's Proposal.

Plans – to be referenced from Contractor's Proposal

Transactions – a detailed list and tabular chart to be attached based on the Contractor's Proposal and then updated throughout the Achievement Period.

Transaction # and Version	Title	Description	Donor	Recipient	CCV\$
					<i>Sub-totals for direct, indirect, regional, SMB and VP criteria</i>

ATTACHMENT 2 – TEMPLATE – TRANSACTION SHEET

(Electronic copy available from ITB Authority)

OVERVIEW

Title and number:

Date of submission to ITB Authority: Tranche: (1/2/3)

CONTRACTOR INFORMATION

Canadian procurement project:

Company name:

ITB contact name/email/telephone:

Address/city/province/state/country/postal code:

ELIGIBLE DONOR

Company name:

ITB contact name/email/telephone:

Address/city/province/state/country/postal code

NAICS code: (See NAICS website -

<http://www23.statcan.gc.ca/imdb/p3VD.pl?Function=getVDPPage1&TVD=118464>)

Description of core capabilities:

Tier:

Number of employees:

RECIPIENT

Company name:

ITB contact name/email/telephone:

Address/city/province/country/postal code:

NAICS code:

Description of company and core capabilities:

Description of Transaction quality and impact on Recipient:

Number of employees:

Small and Medium Business?

VALUATION AND TIME PHASING

Total value of Transaction OR initial investment (as applicable):

Multiplier (if applicable):

CCV percent of Recipient:

Estimated future sales, if applicable:

CCV \$ of Transaction:

[Time Phasing Chart by period and region on templates]

DETAILS OF TRANSACTION

Type of Transaction:

Direct (y/n) Indirect (y/n)

Pooled Transaction (y/n) **Bank Transaction** (y/n)

Description of Transaction:

VP Activity (y/n)

Defence Sector (y/n/dual use)

Skills Development (y/n)

Supplier Development (y/n)

R&D (y/n)

Justification for VP classification:

(Provide clear information on how Transaction meets the VP criteria above. Attach any supporting documentation)

Activity type: Consortium, investment framework, general investment, post-secondary investment, purchase, technology transfer, venture capital fund

Business activity type:

Airborne Communications and Navigation; Airborne Electro Optical, Radar, Sonar, Sensor, Fire Control, Countermeasures; Aircraft Fabrication; Aircraft Maintenance, Repair and Overhaul; Ammunition and other Munitions; Combat Vehicles; Combat Vehicles Maintenance, Repair and Overhaul; Firearms and other Weapons; Land based or Man Portable Electro Optical, Radar, Sonar, Sensor, Fire Control, Countermeasures; Land-based or Man Portable Communications and Navigation; Live Personnel and Combat Training Services; Missiles and Rockets; Naval Shipborne Systems; Naval Ship Fabrication; Naval Ship Maintenance, Repair and Overhaul; Simulation Systems for Aircraft; Simulation Systems for Land Vehicles or Other; Simulation Systems for Naval Vessels; Space; Troop Support; Unmanned Aerial Systems Vehicles; Other (specify)

Federal Supply Class (FSC) Code:

(See <http://www.ic.gc.ca/itb>)

Investment framework details (if applicable)

Allowable investment type: Cash grant, cash purchase of shares, licence for brand or trademark, licence for IP, loan of employee for technical/managerial support, loan of employee for marketing/sales support, transfer of Equipment, transfer of software, transfer of systems

Type of R&D/commercialization activity:

(Cite item from definitions in Article 1)

Business plan

(Attach using template in Attachment 4)

Valuation documentation included

- Copy of draft legal agreement or signed certificate (cash)
- Valuation report (in-kind)

CONSORTIUM MEMBER (if applicable)

Company Name:

ITB contact name/email/telephone:

Address/city/province/state/country/postal code:

ELIGIBILITY CRITERIACausality:

(For Indirect Transactions, insert detailed causality statement here and attach causality certification)

Timing

(For all Transactions, briefly describe here how the transaction meets the timing criteria)

Incrementality:

(For Indirect Transactions, complete and attach incrementality information and supporting documentation)

Eligible Donor:

(For all Transactions, briefly describe here how the donor meets the Eligible Donor criteria and attach Eligible Donor certification, if applicable)

OTHER

Government assistance or participation in Transaction: *(Describe the date and details of any assistance provided – either to the specific activity, the Eligible Donor, or the Recipient – from any level of government in Canada)*

Other – Canadian content value (CCV) overview

(For all Transactions, indicate here which CCV calculation method was used)

Other – Level of Technology

(For Indirect Transactions, briefly describe here how the level of technology is the same or higher than that of the project)

SIGNATURES

By signing below, the undersigned party, as a representative of (*donor company*), attests that the information included in and attached to this document is complete and accurate to the best of our knowledge, and can be relied upon by the ITB Authority for the purposes of compliance monitoring.

Signature

Date

Name and Title

Protected B (when completed)

**CERTIFICATE OF CAUSALITY -
INDUSTRIAL AND TECHNOLOGICAL BENEFITS (ITB)**

WHEREAS the ITB policy requires that, as evidence of causality, the Contractor shall provide a detailed statement on causality and submit a signed certificate of causality as supporting evidence to the ITB Authority;

NOW THEREFORE, I _____, in my capacity as a senior officer of the (*donor company*), do hereby declare and certify as follows:

- i) I am aware of the meaning of causality, as outlined in the Terms and Conditions;
- ii) The information contained in the transaction sheet(s) appended herewith provides a detailed statement on causality, which outlines the steps and timelines involved in the decision about a procurement or investment activity and which clearly shows the link between the steps and decision on a business activity and Canada's ITB or IRB policy;
- iii) The information contained in the transaction sheet(s) appended herewith, is to the best of our knowledge and ability complete, true and accurate;
- iv) Failure to provide a detailed statement on causality and this certificate may result in the proposed Transaction being rejected pursuant to the Terms and Conditions. Provision of this causality information should not be seen as limiting the discretion of the ITB Authority in decisions related to the eligibility of specific Transactions submitted for approval.

IN WITNESS THEREOF THIS CERTIFICATE OF CAUSALITY HAS BEEN SIGNED THIS _____ DAY OF _____ BY THE SENIOR OFFICER WHO IS DULY AUTHORIZED IN THAT BEHALF.

SIGNATURE

NAME AND TITLE OF SENIOR OFFICER

AT: _____

Project and Transaction number(s): _____

Title(s): _____

Recipient Company(ies): _____

INCREMENTALITY CHECKLIST

For Indirect Transactions, complete this checklist and attach supporting documentation

<p>Incremental work is the purchase of a good or service that represents new or additional purchases from a Canadian supplier. These new or additional purchases may take various forms. They may involve:</p>	<p>Please check the appropriate box</p>
<p>i) purchase of a new product or service from a new Canadian supplier on an Indirect Transaction</p>	<p><input type="checkbox"/> Written statement attesting the Canadian Recipient is a new supplier + Purchase Order (or PO equivalent if the order has not taken place)</p>
<p>ii) purchase of a new product or service from an existing Canadian supplier on an Indirect Transaction</p>	<p><input type="checkbox"/> Written statement attesting the product/service has not previously been purchased + Purchase Order (or PO equivalent if the order has not taken place)</p>
<p>iii) purchase of an existing product or service from an existing Canadian supplier on an Indirect Transaction, but which involves a new application or end use of the product (see example below)</p>	<p><input type="checkbox"/> Written statement detailing the new application or end use of the product/service + New part number (where applicable) + Purchase Order (or PO equivalent if the order has not taken place)</p>
<p>iv) purchase of an existing product or service from an existing Canadian supplier on an Indirect Transaction, but where there has been a new competitive process to re-select the supplier</p>	<p><input type="checkbox"/> Written statement detailing the Request for Quote (or equivalent) proving a new competition has taken place + Purchase Order (or PO equivalent if the order has not taken place)</p>
<p>v) purchase of an existing product or service from an existing Canadian supplier on an Indirect Transaction, but where none of the above circumstances apply. (in these cases, a three-year average of previous purchases will be calculated, based on the three years immediately preceding the date of identification of the Transaction to the ITB Authority, and Credit may be awarded on those purchase amounts which exceed the three year average, in each of the ensuing Reporting Periods)</p>	<p><input type="checkbox"/> Written statement detailing the three-year average calculation</p>
<p>vi) other: _____</p>	<p><input type="checkbox"/> Written statement detailing the activity + other evidence</p>
<p><i>An example of a new application or end use: The Contractor has previously purchased military tripods from a Canadian supplier that mount to Gun A for sale to Country A. The new application or end use could be the purchase of the same military tripods from the Canadian supplier, but instead of mounting to Gun A for sale to Country A, they are mounted to Gun A for sale to Country B, or they are mounted to Gun B for sale to Country B.</i></p>	<p align="center"><i>The ITB Authority at its discretion will determine if the proposed Transaction is incremental taking the information provided into account.</i></p>

**CERTIFICATE OF ELIGIBLE DONOR
INDUSTRIAL AND TECHNOLOGICAL BENEFITS (ITB)**

WHEREAS the ITB policy requires Transactions be undertaken by an Eligible Donor, as outlined in the Terms and Conditions;

AND WHEREAS, the ITB policy requires that when a proposed Eligible Donor is a Canadian Company with less than 500 employees, it has the capacity to undertake Obligations with respect to this Contract;

NOW THEREFORE, I _____, in my capacity as an officer of (*Canadian Company name*), do hereby declare and certify as follows:

- i) I am familiar with Canada's ITB policy, goals and objectives.
- ii) I am aware of the meaning of Eligible Donor, as defined in Article 8 of the Terms and Conditions;
- iii) I understand and accept the responsibilities associated with acting as an Eligible Donor and strategic partner in the delivery of the Obligation on the AJISS project. These responsibilities may include sharing a portion of the Obligation, remedies, planning and undertaking Direct and Indirect Transactions, record keeping and supporting the prime contractor in the areas of annual reporting and verification.
- iv) My company has the capability and resources to undertake the role of Eligible Donor on this project.
- v) Failure to provide a certificate of Eligible Donor may result in the proposed Transaction being rejected pursuant to the Terms and Conditions. Provision of this certificate should not be seen as limiting the discretion of the ITB Authority in decisions related to the overall eligibility of specific Transactions submitted for approval.

IN WITNESS THEREOF THIS CERTIFICATE OF ELIGIBLE DONOR HAS BEEN SIGNED THIS _____ DAY OF _____ BY THE SENIOR OFFICER WHO IS DULY AUTHORIZED IN THAT BEHALF.

SIGNATURE

NAME AND TITLE OF OFFICER

AT: _____

ATTACHMENT 3 – TEMPLATE - ANNUAL REPORT

(Electronic copy available from ITB Authority)

Protected B (when completed)

GENERAL INFORMATION

Project Name:
Contractor Name:
Reporting Period:
Date of Report
ITB Manager:
Currency
Contract Award Date
Total # of Reporting Periods
Reporting Period # and dates

CONTRACTUAL OBLIGATIONS

Total Obligation:
Direct:
SMB:
Atlantic
N Ontario:
Ontario
Quebec
West
North

PART A – Overview

An overview and Status of Work on the AJISS Project:

Please provide a very high level overview of the project over the past year, including any annual report highlights and the project schedule. Proposed length of response is 5-10 lines.

Contract Payments:

Please provide a brief written overview of the payment activities since contract award. Proposed length of response is 5-10 lines. In addition, please populate the Progress Payments Tab below.

[Progress Payments chart on excel]

Plans:

Please provide an overview of any substantive changes to the Plans, including changes to ITB officials working on the project. Please indicate if no changes are proposed. Proposed length of response is 5-10 lines.

Value Proposition Overview:

Please provide a detailed overview of each VP Commitment and related activity during the Reporting Period, along with a cumulative summary of the achievement status of each.

PART B, C and D – Transactions

Please fill in all of the information requested in a chart format.

PART E – Additional Information

SMB and Regional Development Activities:

Please provide an overview of the activities that were undertaken on this project with Small and Medium size Businesses. Include highlights of work activities undertaken during this period. Proposed length of response is 5-10 lines.

New, Changed or Cancelled Transactions:

Please provide a brief overview of any changes (listed by Transaction) including any cancelled, new or altered Transaction in the last Reporting Period. Ensure these changes are reflected in the Transaction Tab by highlighting in red all changes indicated below. Proposed length of response if dependent on the number of applicable Transactions.

Certificate of compliance:

Submission of this annual report should be accompanied by the completed and signed certificate of compliance. The template is available below.

Certificate of compliance
For Annual Reporting Purposes

WHEREAS Her Majesty the Queen in right of Canada as represented by the Minister of Public Services and Procurement Canada (referred to herein as the Minister) on the ____ day of ____ has entered into contract with _____ for the Contract.

AND WHEREAS Such Contract requires that, as evidence of the achievement of Canadian content value (CCV) of Transactions and compliance with the *Lobbying Act*, the Contractor will submit a certificate of compliance to that effect to the ITB Authority;

NOW THEREFORE, The Contractor declares and certifies as follows:

- The information contained in the documents appended herewith, which applies to the reporting of the Transaction periods, is to the best of our knowledge and ability complete, true and correct;
- The information contained in the documents appended herewith is compliant with information contained in certificates of compliance submitted to the Contractor by Eligible Donors;
- The CCV shown in documents appended herewith have been determined in accordance with Article 9 of the Contract;
- The Contractor and all Eligible Donors are, subject to Article 22.2, in compliance with Canada's *Lobbying Act* with respect to this Contract.

IN WITNESS THEREOF THIS CERTIFICATE OF COMPLIANCE HAS BEEN SIGNED THIS
_____ DAY OF _____ BY THE SENIOR COMPTROLLER WHO IS DULY
AUTHORIZED IN THAT BEHALF.

SIGNATURE

NAME AND TITLE OF SENIOR COMPTROLLER

AT: _____

ATTACHMENT 4 – IF BUSINESS PLAN TEMPLATE

(Electronic copy available from ITB Authority)

The IF business plan describes the proposed IF project, details the specific activities, goals and duration, outlines how an investment will be used by the SMB, includes a market assessment and provides company information.

Template IF Business Plan
<i>Protected B (when completed)</i>
IF Transaction title:
Donor:
SMB Recipient:
Date:
<p>Description of IF activity: <i>Provide a detailed description of the IF activity, including but not limited to: specific activities to be undertaken; goals; duration; value of the investment and how it will be used by the SMB; the anticipated impacts/outcomes for the SMB; and key IF activity assumptions and risks.</i></p> <p><i>Anticipated length: 8-10 paragraphs.</i></p>
<p>Market Assessment: <i>Provide an outline of the opportunity, market size, key competitors, sales strategy and the donor/SMB Recipient’s competitive advantage.</i></p> <p><i>Anticipated length: 3-5 paragraphs</i></p>
<p>Company profile of SMB: <i>Provide a description of the SMB’s operations, product lines, corporate structure and ownership.</i></p> <p><i>Anticipated length: 2-3 paragraphs + organizational chart</i></p>
<p>Certification and signatures</p> <p>WHEREAS the ITB policy requires that a proposed IF Transaction be accompanied by a business</p>

plan outlining the IF activity in detail;

NOW THEREFORE, we the undersigned, in our capacities as senior officers at the Donor and SMB Recipients, do hereby declare and certify that the information included in and attached to this business plan is complete, accurate and can be relied upon by the ITB Branch for the purposes of monitoring the compliance of the proposed IF Transaction.

IN WITNESS THEREOF THIS CERTIFICATION HAS BEEN SIGNED THIS _____ DAY OF _____, 20____ BY A SENIOR OFFICER WHO IS DULY AUTHORIZED IN THAT BEHALF.

Donor

Signature

Name and Title of Senior Officer

SMB Recipient

Signature

Name and Title of Senior Officer

ATTACHMENT 5 - RATED CRITERIA CERTIFICATE

The Bidder, _____, declares and certifies that, through this Proposal for the AJISS project, the Bidder makes the following Commitments, in response to the rated criteria outlined in Section 5 of Attachment 2 to Part 4:

Rated Criteria	Bidder Commitment	Maximum Points Available	Contract Commitment
Defence Sector			
Direct Commitment	%	45	Article 3.1.2.1
Indirect Commitment	%	22.5	Article 3.1.2.2
Identified Transactions	%	7.5	Article 3.1.2.1 and Article 3.1.2.2
Skills Development			
Commitment	%	27.5	Article 3.1.2.3
Identified Transactions	%	10	Article 3.1.2.3
Supplier Development			
Commitment (Non-SMB)	%	18	Article 3.1.2.4
Commitment (SMB)	%	4.5	Article 3.1.2.4
Research and Development			
Commitment	%	15	Article 3.1.2.5

IN WITNESS THEREOF THIS RATED CRITERIA CERTIFICATE HAS BEEN SIGNED THIS _____ DAY OF _____ BY A SENIOR COMPANY OFFICIAL WHO IS DULY AUTHORIZED TO BIND THE COMPANY.

SIGNATURE

NAME AND TITLE OF SENIOR COMPANY OFFICIAL

ANNEX L

WARRANTY PROCEDURES

1. Scope

a. The following are the procedures for warranty for a vessel on completion of a refit.

2. Reporting Failures with Warranty Potential

a. The initial purpose of a report of a failure is to facilitate the decision as to whether or not to involve warranty and to generate action to effect repairs. Therefore in addition to identification, location data, etc. the report must contain details of the defect. Warranty decisions as a general rule are to be made locally and the administrative process is to be in accordance with procedures as indicated.

b. These procedures are necessary as invoking a warranty does not simply mean that the warrantor will automatically proceed with repairs at his expense. A review of the defect may well result in a disclaimer of responsibility, therefore, it is imperative that during such a review Canada is directly represented by competent technical authority qualified to agree or disagree with the warrantor's assertions. Since the Quality Assurance Representative (QAR) has the closest and most active involvement of the contracted work completed this agency must assume this role.

3. Procedures

a. Immediately it becomes known to the ship's staff that an equipment/system is performing below accepted standards or has become defective, the procedures for the investigation and reporting are as follows:

i. The ship's staff advises the Technical Authority when a defect, or substandard performance, which is considered to be directly associated with the refit work, has occurred.

ii. On review of the Specification and the Acceptance Document, the Technical Authority in consort with Ship's Staff is to complete the Tombstone Data and section 1 of the Warranty Claim Form Appendix 1 of Annex "L" and forward the original to the Contractor for review with a copy to the PWGSC Contracting Authority. If the PWGSC Contracting Authority or QAR is unable to support warranty action, the Defect Claim Form will be returned to the originator with a brief justification. (It is to be noted that in the latter instance PWGSC will inform the Contractor of its decision and no further action will be required of the Contractor. Warranty defect claims may be forwarded in hard copy, by fax or by e-mail whichever format is the most convenient.

iii. Where the Contractor agrees that the substandard performance or defect in the equipment or system is a result of the work performed by the Contractor, and repairs the defect or substandard performance, the Contractor completes Section 2 and 3 of the Warranty Claim Form, returns it to the QAR who confirms corrective action has been completed, and who then distributes the form to the Technical Authority and the PWGSC Contracting Authority.

b. In the event that the Contractor disputes the claim as a warranty defect, or agrees to share, the Contractor is to complete Part 2 and 3 of the Warranty Claim Form with the appropriate information and forward it to the Contracting Authority who will distribute copies as necessary.

c. When a warranty defect claim is disputed by the Contractor, the Technical Authority may arrange to correct the defect by in-house resources or by contracting the work out. All associated costs must be tracked and recorded as a possible charge against the contractor by PWGSC

action. Material costs and man-hours expended in correcting the defect are to be recorded and entered in Section 5 of the warranty defect claim by the Technical Authority who will forward the warranty defect claim to the PWGSC Contracting Authority for action. Defective parts of equipment are to be retained pending settlement of claim.

d. Defective equipment associated with potential warranty should not normally be dismantled until the Contractor's representative has had the opportunity to observe the defect. The necessary work is to be undertaken through normal repair methods and costs must be segregated as a possible charge against a contractor by PWGSC action.

4. Liability

a. Agreement between the Contracting Authority, QAR, Technical Authority and the Contractor will result in one of the following conditions:

i. The Contractor accepts full responsibility for costs to repair or overhaul under the warranty provisions of the contract;

ii. The Technical Authority accepts full responsibility for repair and overhaul of item concerned; or

iii. The Contractor and the Technical Authority agree to share responsibility for the costs to repair or overhaul the unserviceable item, in such cases the PWGSC Contracting Authority will negotiate the best possible sharing arrangement.

b. In the event of a disagreement, PWGSC will take necessary action with the Contractor while the Technical Authority informs its Senior Management including pertinent data and recommendations.

c. The total cost of processing warranty claims must include accommodation and travel costs of the Contractor's employees as well as equipment/system down time and operational constraints. Accordingly, the cost to remediate the defect, in man-hours and material, will be discussed between the Contracting/Inspection Authorities and the Technical Authority to determine the best course of action.

5. Alongside Period For Warranty Repairs and Checks

a. If at all possible, an alongside period for the vessel is to be arranged just before the expiration of the 90 day warranty period. This alongside period is to provide time for warranty repair and check by the contractor.

b. In respect to the underwater paint, should it become defective during the associated warranty period, the contractor is only liable to repair to a value determined as follows:
"Original cost to Canada for painting and preservation of the underwater section of the hull, divided by 365 days and multiplied by the number of days remaining in the 365 days warranty period. The resultant would represent accredit due to Canada from the Contractor."

c. The Underwater paint system, before expiration of the warranty, should be checked by divers. The Technical Authority is to arrange the inspection and ensure that a representative of the Contractor will attend. The Technical Authority will inform the Contracting Authority of any adverse results.

ANNEX M

JOINT SUPPORT SHIP END USE CERTIFICATE

In accordance with the regulations of the Federal Republic of Germany which state that granting of an individual export licence is dependent on the presentation of an end-use certificate, we certify that the technology supplied by

Name of the supplier : Blohm + Voss Naval GmbH, Hamburg/Emden

Description of the technology : Documents and/or technology of the EGV in accordance with Contract # W8472-115312/001/JSS

which is for the development/production or use of the Canadian Joint Support Ship II (JSS II) within the frame of a contract between the Crown and ThyssenKrupp Marine Systems Canada Inc., will be treated strictly confidential. We shall neither pass the technology on to other companies nor shall we make knowledge available to third parties except for other governmental offices within Canada involved

ThyssenKrupp Marine Systems Canada

Contractors and subcontractors, and Bidders for such contracts, involved in the design, construction, building, maintenance and modification of the ships in Canada, and training of personnel.

We certify that the goods which will be produced by the help of the transferred technology (derived goods) are intended for our final use in Canada except for operation and necessary maintenance of the JSS II anywhere in the world, and will only be used by us for the Canadian Joint Support Ship II (JSS II).

We certify that we will neither re-export the technology nor export the derived goods without the approval of the Federal Export Office (BAFA) of the Federal Republic of Germany. Re-exports of the technology to contractors and subcontractors, and Bidders for such contracts, involved in the design, construction, building, maintenance and modification of the ships from the following countries do not require any approval of BAFA.

Australia	Germany	Luxembourg	Spain
Austria	Great Britain	Malta	Sweden
Belgium	Greece	Netherlands	Switzerland
Czech Republic	Hungary	New Zealand	United States of America
Denmark	Ireland	Norway	Cyprus (i.e. in the areas
Estonia	Italy	Poland	in which the
Finland	Japan	Portugal	government of
France	Latvia	Slovak Republic	Republic Cyprus
	Lithuania	Slovenia	Exercises control

The technology will only be delivered to a third person/company, including Bidders for contracts, on condition that this third person/company accepts the commitments of the above declaration as binding for itself and on condition that this third person/company is known to be trustworthy and reliable in the observance of such commitments.

ANNEX N

IT SECURITY GUIDE

CONTRACTOR INFORMATION SYSTEM (IS) CONNECTIVITY CRITERIA

For Connecting DND IS to those of the private sector (Contractors), the terms Information Technology System (ITS) and IS are used interchangeably. The IS connectivity rules shall be, as a minimum, consistent with the DND Policy Standards, the GPS and the Technical Security Standards for Information Technology (TSSIT), August 1995. The following rules and information shall be made available to the accreditor **before** the DND IS connects to the private sector:

- a) The Contractor shall identify the following, by name and phone number, to DND:
 - i. Contractor Information Systems (IS) Manager, and
 - ii. Contractor IS Security Officer (ISSO);
- b) The Contractor shall fully describe the architecture and the configuration of the contractors IS;
- c) The Contractor shall provide a Detailed Topology (Block Level) Diagram of the contractor's IS;
- d) The Contractor shall provide detail regarding any modems on the contractor's IS and to what the modems connect;
- e) The Contractor IS shall be dedicated to DND use only. No other external connection to other contractor IS or public domains is permitted without express consent of DND NDHQ Security authorities;
- f) DND Project Manager and the IPC are to be provided with results of PWGSC IS Security Inspections of the contractor IS that connects or is scheduled for connection to DND IS;
- g) Access to the contractors IS shall be limited to security cleared personnel with a "need to know";
- h) LOGIN ID/ password shall be used by all contractor personnel accessing either IS;
- i) Audit logs of both IS shall be maintained and reviewed on a regular basis;
- j) The contractors IS shall be protected against unauthorized access;
- k) Media of the connected Contractor IS shall be marked at the appropriate security level and secured to DND standards;
- l) Anti-virus scanning software shall be used on both the contractor and DND IS;
- m) The Contractor shall exercise Configuration Management to track changes to the contractor's ITS. Changes to the connecting Contractor's IS require prior approval of the DND accreditor; and
- n) The contractor's IS shall be available to the DND accreditor at all times for DND security inspection and verification.

REFERENCE DOCUMENTS

1031-2 CONTRACT COST PRINCIPLES

1031-2 01 (2008-05-12) General Principle

The total cost of the Contract must be the sum of the applicable direct and indirect costs which are, or must be reasonably and properly incurred and/or allocated, in the performance of the Contract, less any applicable credits. These costs must be determined in accordance with the Contractor's cost accounting practices as accepted by Canada and applied consistently over time.

1031-2 02 (2008-05-12) Definition of a Reasonable Cost

1. A cost is reasonable if the nature and amount do not exceed what would be incurred by an ordinary prudent person in the conduct of a competitive business.
2. In determining the reasonableness of a particular cost, consideration will be given to:
 - a. whether the cost is of a type generally recognized as normal and necessary for the conduct of a contractor's business or performance of the Contract;
 - b. the restraints and requirements by such factors as generally accepted sound business practices, arm's length bargaining, federal, provincial and local laws and regulations, and contract conditions;
 - c. the action that prudent business persons would take in the circumstances, considering their responsibilities to the owners of the business, their employees, customers, the Government and public at large;
 - d. significant deviations from the established practices of the Contractor which may unjustifiably increase the contract costs; and
 - e. the specifications, delivery schedule and quality requirements of the particular contract as they affect costs.

1031-2 03 (2008-05-12) Direct Costs

There are three categories of direct costs:

- a. "Direct Material Costs" meaning the cost of materials which can be specifically identified and measured as having been used or to be used in the performance of the Contract and which are so identified and measured consistently by the Contractor's cost accounting practices as accepted by Canada.
 - i. These materials may include, in addition to materials purchased solely for the performance of the Contract and processed by the Contractor, or obtained from subcontractors, any other materials issued from the Contractor's general stocks.
 - ii. Materials purchased solely for the performance of the Contract or subcontracts must be charged to the Contract at the net laid-down cost to the Contractor before cash discounts for prompt payment.
 - iii. Materials issued from the Contractor's general stocks must be charged to the Contract in accordance with the method as used consistently by the Contractor in pricing material inventories.
- b. "Direct Labour Costs" meaning the costs of the portion of gross wages or salaries incurred for the Work, which can be specifically identified and measured as having been incurred or to be incurred in the performance of the Contract and which are so identified and measured consistently by the Contractor's cost accounting practices as accepted by Canada.
- c. "Other Direct Costs" meaning those applicable costs, not falling within the categories of direct material or direct labour, but which can be specifically identified and measured as having been

incurred or to be incurred in the performance of the Contract and which are so identified and measured consistently by the Contractor's cost practices as accepted by Canada.

1031-2 04 (2012-07-16) Indirect Costs

1. "Indirect Costs (overhead)" meaning those costs which, though necessarily having been incurred during the performance of the Contract for the conduct of the Contractor's business in general, cannot be identified and measured as directly applicable to the performance of the Contract.
2. These Indirect Costs may include, but are not necessarily restricted to, such items as:
 - a. indirect materials and supplies (*);
 - b. indirect labour;
 - c. fringe benefits (the Contractor's contribution only);
 - d. public services expenses: expenses of a general nature such as power, heat, light, operation and maintenance of general assets and facilities;
 - e. fixed/period charges: recurring charges such as property taxes, rentals and reasonable depreciation costs;
 - f. general and administrative expenses: including remuneration of executive and corporate officers, office wages and salaries and expenses such as stationery, office supplies, postage and other necessary administration and management expenses;
 - g. selling and marketing expenses associated with the goods, services or both being acquired under the Contract;
 - h. general research or development expenses as considered applicable by Canada.

(*) For supplies of similar low-value, high-usage items the costs of which meet the above definition of Direct Material Costs but for which it is economically expensive to account for these costs in the manner prescribed for direct costs, then they may be considered to be indirect costs for the purposes of the Contract.

1031-2 05 (2008-05-12) Allocation of Indirect Costs

Indirect Costs must be accumulated in appropriate indirect cost pools, reflecting a contractor's organizational or operational lines and these pools subsequently allocated to contracts in accordance with the following two principles:

- a. the costs included in a particular indirect cost pool should have a similarity of relationship with each contract to which that indirect cost pool is subsequently distributed; further, the costs included in an indirect cost pool should be similar enough in their relationship to each other that the allocation of the total costs in the pool provides a result which would be similar to that achieved if each cost within that pool were separately distributed;
- b. the allocation basis for each indirect cost pool should reflect, as far as possible, the causal relationship of the pooled costs to the contracts to which these costs are distributed.

1031-2 6 (2008-05-12) Credits

The applicable portion of any income, rebate, allowance, or any other credit relating to any applicable direct or indirect cost, received by or accruing to the Contractor, must be credited to the Contract.

1031-2 07 (2012-07-16) Non-applicable Costs

Despite that the following costs may have been or may be reasonably and properly incurred by the Contractor in the performance of the Contract, they are considered non-applicable costs to the Contract:

- a. allowance for interest on invested capital, bonds, debentures, bank or other loans together with related bond discounts and finance charges;

- b. legal, accounting and consulting fees in connection with financial reorganization, security issues, capital stock issues, obtaining of patents and licenses and prosecution of claims against Canada;
- c. losses on investments, bad debts and collection charges;
- d. losses on other contracts;
- e. federal and provincial income taxes, excess profit taxes or surtaxes and/or special expenses in connection with those taxes;
- f. provisions for contingencies;
- g. premiums for life insurance on the lives of officers and/or directors where proceeds accrue to the Contractor;
- h. amortization of unrealized appreciation of assets;
- i. depreciation of assets paid for by Canada;
- j. fines and penalties;
- k. expenses and depreciation of excess facilities;
- l. unreasonable compensation for officers and employees;
- m. specific product development or improvement expenses not associated with the product being acquired under the Contract;
- n. advertising, except reasonable advertising of an industrial or institutional character placed in trade, technical or professional journals for the dissemination of information for the industry or institution;
- o. entertainment expenses;
- p. donations except those to charities registered under the *Income Tax Act*;
- q. dues and other memberships other than regular trade and professional associations;
- r. fees, extraordinary or abnormal for professional advice in regard to technical, administrative or accounting matters, unless approval from the Contracting Authority is obtained.
- s. compensation in the form of dividend payments or calculated based on dividend payments;
- t. compensation calculated, or valued, based on changes in the price of corporate securities, such as stock options, stock appreciation rights, phantom stock plans or junior stock conversions; or, any compensation in the form of a payment made to an employee in lieu of an employee receiving or exercising a right, option, or benefit.

RELATIONSHIP CHARTER

The following is a draft of a document that will form the basis for the joint development of a Relationship Charter between representatives of Canada and the Contractor after contract award.

AJISS
Relationship Charter
Between Canada
and
(Contractor)

Version	Description	Date

Statement of Intent:

The senior leadership of both Parties to the AJISS Contract hereby endorse this Charter and give their full commitment and support to working collaboratively to achieve the AJISS Objective and comply with the principles set out herein.

Canada:

Name:
Position: ADM Acquisitions
Branch
Representing: Public Services
and Procurement Canada

Name:
Position: ADM(Mat)
Representing: National
Defence

Name:
Position: ADM X
Representing: Innovation,
Science and Economic
Development

Contractor:

Name:
Position: X
Representing: (Contractor)

Effective Date: (date)

Table of Contents

RELATIONSHIP CHARTER.....	208
CHARTER PURPOSE	211
CONTEXT 211	
PURPOSE OF CHARTER.....	211
RELATIONSHIP TO CONTRACT	211
AMENDMENTS	211
PARTIES TO THE CHARTER.....	212
GOAL & BEHAVIOURS	213
AJISS OBJECTIVE.....	213
BEHAVIOURAL PLEDGE.....	213
JOINT GOVERNANCE	214
EXECUTIVE GOVERNANCE COMMITTEE (EGC).....	214
<i>Membership</i>	214
<i>Roles and Responsibilities</i>	215
<i>Meetings</i>	215
PROGRAM MANAGEMENT COMMITTEE (PMC).....	215
<i>Membership</i>	215
<i>Roles and Responsibilities</i>	216
<i>Meetings</i>	216
INTEGRATED PROJECT TEAMS.....	217
<i>Membership</i>	217
<i>Roles and Responsibilities</i>	217
<i>Meetings</i>	218
<i>Joint Decision Making</i>	218
COLLABORATIVE PROCESSES.....	219
ANNEX A – DEFINITIONS.....	220

Charter Purpose

Context

1. The Government of Canada has a requirement for in-service support (ISS) for the Arctic Offshore Patrol Ships (AOPS) and the Joint Support Ships (JSS). (Contractor) was awarded the contract to perform this work.

Purpose of Charter

1. The purpose of this Relationship Charter (the "Charter") is to define the roles, responsibilities, principles, and processes involved in the interactions between Canada and the Contractor as the work is performed.
2. The aim of relational contracting is to enable collaboration between Canada and the contractor by mandating common goals and joint governance supporting streamlined processes and desired behaviours.

Relationship to Contract

1. This Charter is a companion document to the Contract. The Charter is not intended to replace, conflict with, or supersede the rights and obligations stipulated in the Contract. The Charter simply documents the agreed approach to maintaining an effective relationship.

Amendments

1. This Charter is intended to be a living document. Amendments must be approved by the Program Management Committee (*defined herein*).

Parties to the Charter

1. The following are the parties to this Charter, hereafter referred to as "the Parties".
 - a. Canada:
 - i. Department of National Defence (DND), represented by ADM(Mat);
 - ii. Public Services and Procurement Canada (PSPC), represented by ADM Acquisitions Branch; and
 - iii. Innovation, Science and Economic Development Canada (ISED), represented by (ADM X).
 - b. AJISS Contractor.

Goal & Behaviours

AJISS Objective

1. The objective of the AJISS Program is to achieve the target readiness and availability for the Arctic/Offshore Patrol Ship (AOPS) and the Joint Support Ship (JSS) as specified in the RCN's annual Operational Schedule readiness requirements.
2. A key aim of the relationship between Canada and the Contractor is to ensure alignment between the individual objectives of both Parties and the AJISS Objective so that both Parties mutually benefit from the achievement of the AJISS Objective.

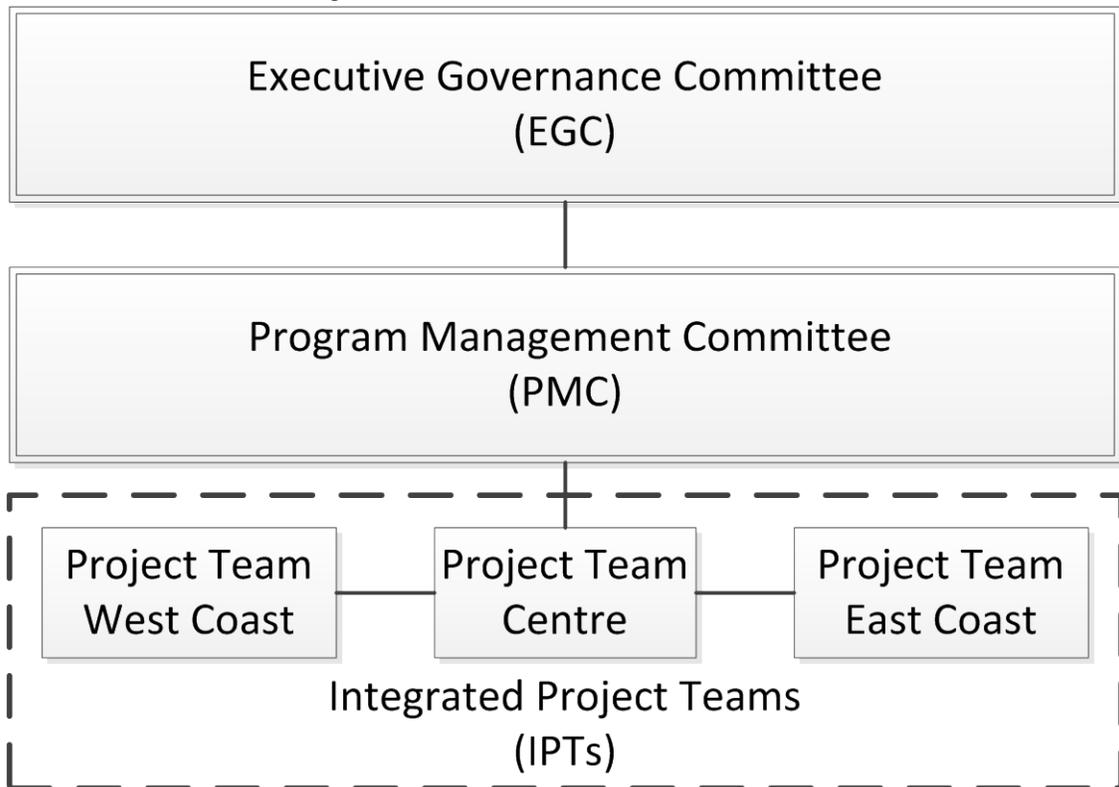
Behavioural Pledge

1. The Parties commit to acting at all times in a manner that is consistent with the following principles, which expand on "do no harm, no secrets, no surprises, and no blame":
 - a. focusing on mutual success;
 - b. acting at all times in good faith;
 - c. striving for a harmonious long term relationship;
 - d. being fair, honest, reasonable, and acting with integrity at all times;
 - e. being willing to flexibly adjust practices & policies;
 - f. minimizing surprises with open and honest communication;
 - g. making decisions from the perspective of "what is best for the AJISS Program", rather than "what is best for self";
 - h. promptly and collaboratively resolving problems; and
 - i. promoting efficiency, innovation and continual improvement.

Joint Governance

1. The AJISS work will be jointly governed by representatives of Canada and the Contractor.
2. Joint governance fits within the contractual structure that has Canada in the role of client, program authority, and technical authority; and the Contractor in the role of service provider.
3. In addition to their individual roles in the contractual relationship, Canada and the Contractor will jointly govern the conduct of the work.
4. Key aims of joint governance include: enabling collaboration, enhancing timely and informed planning and decision making, and increasing efficiency.
5. The joint governance structure is comprised of three-tiers:
 - a. Strategic Level: Executive Governance Committee (EGC);
 - b. Program Level: Program Management Committee (PMC); and
 - c. Project Level: Integrated Project Teams, Centre, East Coast, and West Coast.
6. The governance structure is illustrated in the figure below:

Figure 3: AJISS Joint Governance Structure



Executive Governance Committee (EGC)

Membership

1. The membership of the EGC is as follows:

- a. ADM(Mat)
 - b. ADM PSPC
 - c. ADM ISEDC
 - d. CEO, Contractor
2. The EGC is co-chaired by ADM(Mat) and CEO of the Contractor.
 3. All members of the EGC, including persons attending on behalf of an EGC member, must be authorized to make decisions on matters within the scope of authority of the EGC.
 4. The role of Secretary of the EGC will be provided by the Contractor. The Secretary will ensure that all decisions and actions are documented and disseminated. This includes the creation, management and dissemination of agendas, minutes, action log, issues log, and record of decisions.

Roles and Responsibilities

1. The role of the EGC is to provide leadership and strategic direction in the conduct of the AJISS work. Responsibilities of the EGC, with regard to the AJISS Program, include the following:
 - a. Establishing governance and accountability structures for the AJISS Program;
 - b. Approving annual performance targets for the AJISS Program;
 - c. Championing the vision, principles, and objectives of the AJISS Program;
 - d. Providing support to the PMC;
 - e. Monitoring performance against the annual targets; and
 - f. Acting to maintain a successful relationship among the Parties.
2. EGC members, within their respective organizations, will endeavour to provide leadership and management to the AJISS work by being visible, available and attentive, communicating constantly, showing respect for the collaborative process, facilitating and clarifying issues, encouraging timely decisions, and resolving disputes.

Meetings

1. The EGC will hold a meeting at intervals of no greater than 12 months and otherwise when reasonably required by any of the Parties to the Charter. EGC meetings may be held in-person or via videoconference as agreed between the members. Meetings will typically include discussions on:
 - a. Achievement of performance targets;
 - b. Resolution of issues brought to the EGC's attention by the PMC; and
 - c. Review and assessment of the relationship.

Program Management Committee (PMC)

Membership

1. The membership of the PMC is as follows:

- a. DGMEPM, Department of National Defence (DND)
 - b. DG Marine Sector (PSPS)
 - c. DG ISEDC
 - d. X, Contractor
2. The PMC is co-chaired by the DGMEPM and X, Contractor.
 3. Additional representatives and subject matter experts may be invited on an as-needed basis as determined by the co-chairs of the PMC.
 4. All members of the PMC, including persons attending on behalf of a PMC member, must be authorized to make decisions on matters within the scope of authority of the PMC.
 5. The role of Secretary of this committee will be provided by the Contractor. The Secretary will ensure that all decisions and actions are documented and disseminated. This includes the creation, management and dissemination of agendas, minutes, action log, issues log, and record of decisions.

Roles and Responsibilities

1. The role of the PMC is to ensure successful and timely accomplishment of the AJISS Program Objective. Responsibilities of the PMC include the following:
 - a. Prioritizing, scheduling and monitoring the conduct of the AJISS work;
 - b. Providing direction, coordination, and support to the Integrated Project Teams;
 - c. Coordinating external stakeholders;
 - d. Monitoring and responding to risks and issues;
 - e. Monitoring and acting to maintain a successful relationship among the Parties;
 - f. Resolution of issues brought to the PMC's attention by the Integrated Project Teams;
 - g. Providing reports to the EGC; and
 - h. Informing the EGC of unresolved issues.
2. PMC members, within their respective organizations, will endeavour to provide leadership and management to the AJISS work by being visible, available and attentive, communicating constantly, showing respect for the collaborative process, facilitating and clarifying issues, encouraging timely decisions, and resolving disputes.

Meetings

1. Meetings will be scheduled quarterly. Additional meetings will take place when called by either of the PMC co-chairs. PMC meetings will typically occur in person, but may also be held via teleconference or videoconference as agreed between the members. Meetings will typically include discussions on:
 - a. Monitoring and control the conduct of the AJISS work;

- b. Identification and resolution of risks and issues; and
- c. Review and assessment of the relationship.

Integrated Project Teams

Membership

1. There will be three Integrated Project Teams, one for the Center, one for the East Coast, and one for the West Coast. The coastal Project Teams will feed their information through the Central Project Team to the PMC.
2. The membership of the Central Project Team is as follows:
 - a. AJISS Program Manager (DND);
 - b. PSPC Contracting Authority; and
 - c. Contractor Program Manager.
3. The membership of the West-Coast Project Team is as follows:
 - d. X, Department of National Defence (DND)
 - e. Support Supervisor, Esquimalt, B.C., Contractor
4. The membership of the East-Coast Project Team is as follows:
 - a. X, Department of National Defence (DND)
 - b. Support Supervisor, Halifax, N.S., Contractor
5. Meetings are co-chaired by the Support Supervisor of the Contractor and X of the Department of National Defence (DND).
6. The Project Team may also include Tier 1 Subcontractors that are key to the implementation of the Contract. Additional representatives and other subject matter experts may be invited on an as-needed basis as determined by the team members.
7. All members of the Project Team, including persons attending on behalf of a Project Team member, must be authorized to make decisions on matters within the scope of authority of the Project Team.
8. The role of Secretary of these teams will be provided by the Contractor. The Secretary will ensure that all decisions and actions are documented and disseminated. This includes the creation, management and dissemination of agendas, minutes, action log, issues log, and record of decisions.

Roles and Responsibilities

1. The role of the Project Teams is to perform day-to-day management of the AJISS work. Responsibilities include the following:
 - a. Managing the implementation of the AJISS work by the Contractor;

- b. Providing leadership and empowerment of the persons conducting the work;
 - c. Measuring, forecasting, and reporting performance to the PMC;
 - d. Assessing, managing, and reporting on risks and issues to the PMC;
 - e. Monitoring and acting to maintain a successful relationship among the parties at the working level; and
 - f. Providing reports to the PMC; and
 - g. Informing the PMC of unresolved issues.
2. Project Team members will endeavour to provide leadership and management to the AJISS work by being visible, available and attentive, communicating constantly, showing respect for the collaborative process, facilitating and clarifying issues, encouraging timely decisions, and resolving disputes.

Meetings

1. Meetings will be scheduled weekly, and more frequently as needed. Project meetings will typically occur in person. Meetings will typically include discussions on:
 - a. Scheduling of the work;
 - b. Identification and resolution of risks and issues; and
 - c. Review and assessment of the relationship.

Joint Decision Making

1. Decisions made by each level of the joint governance structure (EGC, PMC, and Project Teams) should:
 - a. be made involving at least one representative of Canada and one representative of the Contractor present at the meeting;
 - b. be unanimous;
 - c. be consistent with the principles outlined in this Charter; and
 - d. be within the scope of and in accordance with the Contract.
2. Decisions should be made based on consensus, with all parties having equal say. If consensus cannot be reached, an issue may be escalated to the next higher level of the joint governance structure. At the highest level, the EGC, if consensus cannot be reached, as a last resort, Canada, as the client, will have decision-making authority.

Collaborative Processes

1. The following collaborative processes will be outlined in this Relationship Charter upon acceptance of the Contractor's Relationship Management Plan:
 - a. a process for promoting and managing the desired behaviours listed in section 3.2;
 - b. a process for periodically performing a relationship health assessment;
 - c. a process for collaborative information sharing;
 - d. a process for joint escalation;
 - e. a process for delegated decision making;
 - f. a process for collaborative risk and issue management;
 - g. a process for collaborative change management;
 - h. a process for promoting and managing innovation and continual improvement; and
 - i. a process for updating the Relationship Charter.

Annex A – Definitions

Terms used in this Charter are to be interpreted in accordance with the definitions contained within the Contract according to General Condition 2035 01 (2013-04-25) Interpretation.

The following definitions are for terms not defined in the Contract.

In this Charter, unless the context otherwise states:

"Executive Governance Committee" or "EGC"

means the Executive Governance Committee established under clause 4.1 of the Relationship Charter.

"Integrated Project Team" or "Project Team"

means the Integrated Project Teams established under clause 4.3 of the Relationship Charter.

"Program Management Committee" or "PMC"

means the Program Management Committee established under clause 4.2 of the Relationship Charter.

"Relationship Charter" or "Charter"

means the Relationship Charter (including the objectives and principles) developed by the Parties for the conduct of the work as set out in the Contract that, together with the other terms of the Contract, governs the relationship between the Parties under the Contract.

"Tier 1 Subcontractor"

means a contractor providing goods and services directly to DND who is engaged by a prime contractor who is responsible for the completion of work under contract with DND.