



# REQUEST FOR QUOTATION

FOR

*Point to Point (P2P) Ethernet Connections*

Date issued: March 30, 2017

Solicitation File # : 201700787

Solicitation Closes: April 13, 2017

Originating Department:

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Security Classification: PROTECTED

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Canada



## 1. GENERAL INFORMATION

CMHC wishes to enter into a contract with a supplier to supply, deliver and install Point to Point (P2P) connections between Cologix Data Centres in Toronto and Montreal. Cologix provides data centre services to CMHC including physical hosting of legacy applications and connection to the Microsoft Azure Cloud for cloud based applications.

The bidder must provide quotations for the product(s) described Section 2 – Table 1 and Table 2.

**All requirements in this RFQ are mandatory.**

## 2. SCOPE OF WORK AND DELIVERABLES:

**Table 1 – Supply, Deliver and Install:**

Item No.	Qty	Qty of Measure	Product	Product Description	Installation Locations
1	2	500 Mbps	Ethernet Private Line (EPL) Circuits	-EPL circuits, COS Standard and Protected  -Service Termination Detail : Port Ethernet 1 Gbps, full duplex Termination : RJ-45  -Product Bandwith : 2TB of transfer per month (if unlimited, please specify)  -Circuits must be have no single point of failure.  -Circuits must have full diversity.  -Circuits must allow CMHC use of any VLANs or Ethernet control protocol across the service.	Cologix Data Centres (2) locations :  (MTL 4) 7171, rue Jean-Talon est Anjou, QC, H1M_3N2  (TOR 2) 905, King Street West Toronto, ON, M6K3G9

**Table 2 – Options for Additional Quantities**

<b>Item No.</b>	<b>Qty</b>	<b>Qty of Measure</b>	<b>Product</b>	<b>Product Description</b>	<b>Installation Locations</b>
1	5	Per 100 Mbps	Same as described in Table 1 above.	EPL Circuit increments of 100 Mbps up to One (1) Gbps	Same as described in Table 1 above.

### **3. DELIVERABLES**

Proponent must deliver and install the products within thirty (30) business days of contract award.

The estimated duration of the contract is two (2) years, with the potential for three (3), one (1) year optional renewal periods.

CMHC intends to make an initial purchase of the product(s) described in Section 2, Table 1 after contract award.

The Proponent grants to CMHC the irrevocable option to purchase additional quantities of the product(s) described in Section 2, Table 2 on an as and when required basis during the duration of the contract term and under the same terms and conditions described in the RFQ and resulting contract.

### **4. PRICE QUOTATION**

The proponent must submit a fixed (firm) price relative to the deliverables outlined in this RFQ. Pricing should be itemize on the quotation for the products described in Section 2 - **SCOPE OF WORK AND DELIVERABLES**.

All prices and amounts of money are to be quoted in Canadian dollars and be exclusive of the Goods and Services Tax (GST), Harmonized Sales Tax (HST), and Provincial Sales Tax (PST), as applicable, unless otherwise indicated.

### **5. SUBMISSION INSTRUCTIONS**

Proponents are required to submit their **signed** quote to EBID@cmhc-schl.gc.ca, by 2:00 p.m. EDT, April 13, 2017. The subject line of the transmission must state: **RFQ, file #201700787.**

**Please be advised that EBID has a size limitation 10 MB. It is advisable and recommended that proponents submit their quote in multiple smaller files.**

Timely and correct delivery of quotes to the exact specified quotation delivery address is the sole responsibility of the proponent. All risks and consequences of incorrect delivery of quotes are the responsibility of the proponent. CMHC will not assume or have transferred to it those responsibilities. All registered times will be in accordance with the time CMHC computer servers **receive** the submission, not the time the quotation was sent by the proponent\*. Submissions received after **CLOSING TIME** will not be accepted.

\* Please be advised that electronic transmissions may not necessarily be immediate and can experience lengthy delivery delays. Proponents should ensure that sufficient delivery time is allowed for quotations to be received.

## 6. FORMAT

Quotations may be submitted in MS Word or Adobe Acrobat PDF in English or in French.

NOTE: In certain email programs the "Send" format may need to be specified as either "HTML" or "Plain Text". Rich Text formatted or Compressed (Zipped) documents cannot be opened by CMHC.

## 7. PROPONENT SELECTION

The policy pertaining to the selection of suppliers is based on the principle that all suppliers must be treated fairly and equally. Suppliers are defined as an individual or firm that could provide, or has provided, goods or services or construction under contract.

CMHC utilizes the Supplier Information (SI) database, maintained by **Business Access Canada** as the Official CMHC source list. All proponents **must** be registered with **Business Access Canada** prior to submitting a quotation. The Procurement Business Number (PBN) provided by **Business Access Canada** must be included with your quotation. If you are not registered, and you wish to do so, you may access **Business Access Canada** (<https://buyandsell.gc.ca/>) or you may call their Information Line at: 1-800-811-1148). Present Suppliers not registered with Business Access Canada are required to self-register on the SI via the Business Access Canada Web site.

CMHC shall conduct the RFQ process in a visibly fair manner and will treat all proponents equitably. It is intended that the lowest cost quotation will be accepted, however, CMHC reserves the right to accept or reject any or all quotations and to verify that the supplier is able to meet the conditions outlined in the RFQ prior to awarding a contract.

Without changing the intent of this RFQ or the lead proponent's quotation, CMHC will enter into discussions with the lead proponent for the purpose of finalizing the contract. If at any time CMHC decides that the lead proponent cannot satisfy CMHC's requirements, CMHC may terminate negotiations. If at this time CMHC feels that the secondary proponent may meet the requirements, CMHC will continue the process with the secondary proponent and so on.

Announcement of the successful proponent will be made to all proponents following the signing of a contract.

## **8. TERMS AND CONDITIONS OF THE REQUEST FOR QUOTATION**

### **8.1 INVOICING**

The Contractor must allow 30 days from delivery of invoice for payment without interest charges. The Contractor may not invoice prior to performance of the service or delivery of the goods.

### **8.2 NON-COMPLIANCE OR DEFAULT BY CONTRACTOR**

If the Contractor fails to comply with a direction or decision of CMHC properly given under the terms of this RFQ, or is in default in any other manner under any ensuing contract, CMHC may do such things and incur such costs as it deems necessary to correct the Contractor's default, including without limitation the withholding of payment due or accrued due to the Contractor for services rendered pursuant to the contract, which moneys may be set off by the Corporation against any expenses that it may incur in remedying a default or failures as described above.

### **8.3 OWNERSHIP**

(a) Any and all information prepared exclusively for the Corporation shall remain the property of the Corporation and all copyrights thereto are the property of the Corporation and neither the Contractor nor its servants or agents shall divulge, release or publish any such documentation.

(b) Any and all information relating to the Corporation and obtained by the Contractor during the course of execution of its duties under any ensuing contract shall remain the property of the Corporation and shall not be used in any way or disclosed to anyone without the prior written consent of the Corporation.

### **8.4 DELIVERY**

Unless instructed otherwise, delivery of the services and/or goods hereunder shall be made free and clear of all liens and encumbrances, in the manner and to the destination stipulated. CMHC reserves the right to refuse pre shipment and, in addition to any other remedy or remedies which CMHC may have, CMHC reserves the right to cancel any ensuing contract in whole or in part if deliveries are not made as stipulated in any ensuing contract.

### **8.5 CONFIDENTIALITY**

All plans, drawings, specifications and other information, patterns, dies and other tools supplied by CMHC, and any information derived therefrom are confidential to CMHC and shall not be disclosed by the Contractor to any third party without the prior written consent of CMHC, or made use of by the Contractor except for the purpose of executing the work hereunder. All such plans, drawings, specifications and other information, patterns, dies and other tools shall be and remain the property of CMHC and shall be returned by the Contractor to CMHC upon request.

### **8.6 INSPECTION AND ACCEPTANCE**

All goods and/or services supplied under any ensuing contract are subject to inspection and acceptance by CMHC within a reasonable time after receipt thereof. CMHC will notify the Contractor in writing of the rejection of any goods and/or services which are not in accordance with the description or specifications stipulated in any ensuing contract, and such goods and/or services will then be held at the Contractor's risk for disposition by it and subject to all charges accruing as a result of such rejection.

### **8.7 WARRANTY**

The Contractor warrants and guarantees that the goods and/or services supplied under any ensuing contract are fit for the particular purpose or use for which they are purchased by CMHC and will perform in accordance with specifications and the Contractor also warrants and guarantees the goods against any and all defects in material, workmanship or design. This warranty and guarantee is in addition to any and all warranties and guarantees of the Contractor arising by operation of law and nothing contained herein shall be construed as limiting or restricting such warranties or guarantees or any right or remedy which CMHC may have.

### **8.8 INSURANCE**

It shall be the sole responsibility of the Contractor to determine what, if any, insurance coverage is necessary for its own protection or to fulfill its obligation under any ensuing contract. Any such insurance shall be provided and maintained by the Contractor at its own expense.

### **8.9 INCOME TAX REPORTING REQUIREMENT**

As a federal Crown Corporation, CMHC is obliged under the Income Tax Act and Regulations to report payments made by the Corporation to suppliers of goods and/or services by using a T1204 supplementary slip. CMHC must therefore obtain the necessary information from suppliers (including the Contractor's social insurance number and/or corporate identification number) in order to allow it to complete the T1204 supplementary slip. The Winning Proponent will be required to complete and sign a Supplier - Direct Deposit and Tax Information Form (CMHC/SCHL 3085) prior to execution of any ensuing contract.

### **8.10 COMPLIANCE WITH LAWS**

The Contractor shall comply fully with all applicable laws, ordinances, rules, regulations, code and standards, whether federal, provincial, or local, and shall furnish CMHC such evidence of compliance as CMHC may require at any time.

### **8.11 INDEMNITY**

The Contractor shall indemnify and save harmless CMHC from and against all claims, debts, demands, suits, actions and causes of action whatsoever and all losses, costs, damages, expenses and liabilities which may be suffered or incurred by CMHC, arising out of or in connection with (whether directly or indirectly, or by reason of negligence or otherwise) the supplying of goods

under any ensuing contract or any matter or thing done, suffered or permitted or omitted to be done by, or the operations of the Contractor, its subcontractors, or its or their employees or agents, under said contract.

## **8.12 TERMINATION**

If the Contractor shall become insolvent or shall make any assignment for the benefit of creditors or a receiver or trustee shall be appointed for all or part of its property, or if the contractor shall default in the observance or performance of any of its obligations hereunder, the contract may forthwith be cancelled at the option of CMHC without liability.

## **8.13 ASSIGNMENT**

The Contractor may not assign the whole or any part of its rights or obligations arising out of any ensuing contract without the prior written consent of CMHC.

## **8.14 DECLARATION RE: BID RIGGING, COLLUSION AND GRATUITIES**

In submitting its quotation, the Contractor certifies that:

- prices as submitted have been arrived at independently from those of any other Contractor;
- the prices as submitted have not been knowingly disclosed by the Contractor, and will not knowingly be disclosed by the Contractor prior to award, directly or indirectly, to any other Contractor or competitor; and
- no attempt has been made, nor will be made, to induce any other person to submit, or not to submit, a quotation, for the purpose of restricting competition.

In submitting its quotation, the proponent certifies that no representative for the Contractor has offered or given a gratuity (e.g. an entertainment or gift) to any CMHC employee, Board member or Governor-in-Council appointee; and intended, by the gratuity, to obtain a contract or favourable treatment under a contract.

## **8.15 ACCESS TO CMHC PROPERTY / THIRD PARTY DATA CENTRE FACILITIES**

CMHC agrees to permit access by the Contractor's employees onto CMHC's premises including any data centre facilities contracted by CMHC to provide data centre services for the purpose of fulfilling its obligations under any ensuing contract. However, CMHC reserves the right to refuse entry of the Contractor's personnel in cases of emergencies. CMHC further reserves the right to remove from and/or refuse entry to the work site, at any time, any Contractor's personnel who are incompetent or intemperate, or who violate CMHC's Safety and/or Security regulations or interfere with CMHC's operations.

The Contractor shall be fully responsible to CMHC for the acts and omissions (including negligence) of its subcontractors and of persons directly or indirectly engaged by such subcontractors as if such acts and omissions were those of the Contractor.

### **8.16 CMHC PROPERTY**

The Contractor shall be responsible for all loss or damage to CMHC's property delivered to, or in custody of, the Contractor in connection with a contract from the time of such delivery or custody until said property is returned to CMHC.

### **8.17 INDEPENDENT CONTRACTOR**

Any ensuing contract is an agreement for the provision or performance of goods and/or services and neither the Contractor, nor any of its employees, officers, or agents is engaged as an employee or agent of CMHC. The Contractor agrees to so advise its employees, officers, and agents.

### **8.18 EXTRAS**

Except as otherwise provided in any ensuing contract, no payment for extras shall be made unless such extras and the price thereof have been authorized in writing by CMHC.

### **8.19 SECURITY CLEARANCE**

The Contractor agrees that it or any other persons for which it is responsible who are to perform the Contractor's obligations under any ensuing contract shall not be acceptable to CMHC unless, at the request of CMHC, those persons have received a security clearance from CMHC's Corporate Security and Risk Management. It is agreed that should the Contractor or any other person who is to perform work under any ensuing contract and for whom the Contractor is responsible, fail to receive such a security clearance, that CMHC shall have the sole discretion to exclude such person from performing any work on any ensuing contract, or to terminate an existing contract immediately.

### **8.20 SEVERABILITY**

If any provisions of the Terms and Conditions of any ensuing contract shall for any reason be held illegal or unenforceable, such provision shall be deemed separable from the remaining provisions of the Terms and Conditions of any ensuing contract and shall in no way affect or impair the validity or

## **9. PROPOSED CONTRACT**

### **9.1 OVERVIEW OF SECTION 9**

Attached in Section 9 is a proposed contract. The terms and conditions in this draft contract may be incorporated into any contract resulting from this RFQ. CMHC reserves the right to add



terms and conditions during negotiations. These terms and conditions will be within the scope of the RFQ and will not affect the quotation evaluations.

The proponent’s quotation and all associated correspondence from the proponent, where relevant, shall to the extent desired by CMHC form part of the final contract and the proponent must accept that the final contract form will be in a format acceptable to CMHC.

Submission of a quotation constitutes acknowledgement that the proponent has read and, unless otherwise stated in the proponent’s quotation (including a declaration in the attached draft contract of any potential conflicts of interest), agrees to be bound by the terms and conditions in the draft contract in Section 9 in the event that the proponent is selected by CMHC to enter into a contract agreement.

For the purposes of this section the term “Contractor” refers to the successful proponent with whom CMHC enters into a contract agreement.

**9.2 MANDATORY CONTRACT TERMS AND CONDITIONS**

The terms, conditions or sections of the draft contract in Section 9 that are labelled mandatory must be accepted by the proponent without alteration.

**9.3 PROPOSED CONTRACT**

**The attached proposed contract forms Section 9 of this RFQ.**

**PROPOSED CONTRACT**

**CMHC FILE No.** \_\_\_\_\_

**THIS AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BETWEEN**

CANADA MORTGAGE AND HOUSING CORPORATION  
 National Office  
 700 Montreal Road  
 Ottawa, Ontario, Canada  
 K1A 0P7

(hereinafter referred to as "CMHC")

**AND**

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(hereinafter referred to as "the Contractor")

**WITNESSES THAT** in consideration of the respective covenants and agreements hereinafter contained, CMHC and the Contractor mutually covenant and agree as follows:

### **Article 1.0 - The Work**

**1.1** The Contractor covenants and agrees to provide \_\_\_\_\_

**1.2** The Contractor grants to CMHC the irrevocable option to purchase additional quantities of Products on an as a when required basis for the duration of the term of the Agreement and under the same terms and conditions described herein.

**1.2** The locations where the products are to be delivered and installed are:

### **Article 2.0 - Term of the Agreement**

**2.1** This agreement shall be for a period of \_\_\_\_ (months / years) commencing on \_\_\_\_\_ and ending on \_\_\_\_\_.

**2.2** Notwithstanding article 2.1 above, CMHC shall conduct on an annual basis, an assessment of the Contractor's work performed for the past year and based on this assessment, at no less than sixty (60) days prior to each year's anniversary date of signing the agreement, CMHC will advise the Contractor in writing of their decision to continue or terminate the Agreement.

### **Article 3.0 - Financial**

**3.1** In consideration of the carrying out of the work, as described in Article 1.0, CMHC agrees to pay the Contractor an amount based on the Contractor's rates attached as Schedule B. Notwithstanding this however, CMHC's total financial liability under the terms and conditions of the agreement shall not exceed \$ \_\_\_\_\_ for the first year of the contract. Proponents' pricing provided to CMHC in their submission, will form part of the contract and must be fixed for one year from contract award. Price increases may be negotiated for each successive renewal term.

**3.2** The amount payable to the Contractor by CMHC pursuant to article 3.1 is exclusive of all taxes, assessments, duties or other levies that may be payable under this Contract to the Contractor, including any goods and services tax/harmonized sales tax (GST/HST) or retail sales tax (RST). No taxes, assessments, duties or other levies shall be payable to the Contractor in addition to the amount payable pursuant to article 3.1 unless specifically agreed to between the Contractor and CMHC.

**3.3** Notwithstanding article 3.2 above, GST/HST or RST, to the extent applicable and required to be collected by the Contractor, shall be collected by the Contractor on the consideration due and shown as a separate item on an invoice. Where the Contractor is required to collect the GST/HST, the invoice issued by the Contractor shall show the Contractor's GST/HST number.

Where the Contractor is also required to collect the Quebec Sales Tax (QST), the invoice shall show the QST number. The Contractor shall duly remit to the Canada Revenue Agency any amounts of GST/HST collected on the consideration payable pursuant to this Contract. The Contractor shall remit to the appropriate provincial taxing authorities any amounts of RST or QST collected by the Contractor from CMHC pursuant to this Contract.

**3.4 Invoicing** - The Contractor must allow 30 days from delivery of invoice for payment without interest charges. The Contractor cannot invoice prior to performance of the service or delivery of the goods.

**3.5 Audit** - The Contractor shall maintain proper records and accounts during the term of the Agreement and for a period of three (3) years following the end of the term and any renewals thereof. The Contractor agrees to allow CMHC's internal and external auditors the right to examine, at any reasonable time, any and all records relating to the services identified herein

The Contractor agrees to provide the Corporation's internal or external auditors with sufficient original documents in order to conduct any audit procedures. Any audit may be conducted without prior notice, however the Corporation agrees to cooperate with the Contractor in the course of conducting any audit in order to avoid disruption in day-to-day operations and not to break confidentiality.

**3.6** All invoices, notices and requests for payment must make reference to this contract by quoting **CMHC file number** \_\_\_\_\_ and be forwarded to CMHC at the following address:

**Canada Mortgage and Housing Corporation**

**Name** \_\_\_\_\_

**Title** \_\_\_\_\_

**Room** \_\_\_\_\_

**700 Montreal Road**

**Ottawa, Ontario**

**K1A 0P7**

## **Article 4.0 - General Terms and Conditions**

### **4.1 Contract Termination**

Notwithstanding articles 2.1 and 2.2 above, CMHC may terminate the contract for any reason with no penalty by giving thirty (30) days written notice, at any time during the contract period.

Upon termination of this Contract or upon delivery of notice of intent to terminate this Contract, the Contractor shall promptly review all work in progress and, if this Contract is terminated prior to the expiry of the term, the Contractor shall nevertheless complete or arrange for the completion of any and all work in process at the time of termination.

#### **4.2 Contract Administrator**

CMHC has assigned a contract administrator to oversee the contract (see article 5.1). The Contractor shall be expected to name a counterpart representative. The Contractor's representative will be responsible for providing scheduled status reports to the contract administrator or a designate.

#### **4.3 Contract Renewal**

This Contract may be renewed, at the sole discretion of CMHC, for additional one-year periods, not to exceed a cumulative total of \_\_\_\_\_ years, including the initial term. At its discretion, CMHC shall within thirty (30) days prior to contract termination, advise the Contractor in writing of CMHC's wish to either extend or terminate the Agreement.

#### **4.4 Assignment of the Contract**

#### **Mandatory**

The Contract shall not be assigned in whole or in part by the Contractor without the prior written consent of CMHC, which consent may be withheld by CMHC for any reason. It is understood and agreed that the Contractor may engage other entities to assist the Contractor in providing any of the Services, provided that the Contractor shall at all times remain responsible for the provision and quality of the Services in a manner which fully recognizes and respects the confidential nature of the Services. The Contractor undertakes to advise such entities in writing that they are independent contractors, and are not employees or agents of CMHC. No assignment of the contract shall relieve the Contractor from any obligation under the Contract or impose any liability upon CMHC.

#### **4.5 Contractor's Indemnification**

The Contractor agrees to indemnify CMHC, and its officers for all loss, damages, costs, expenses, claims, demands, actions, suits or other proceedings of every nature and kind arising from or in consequence of the performance of this agreement, provided such loss, damages, costs, expenses, claims, demands, actions, suits or proceedings arise without negligence on the part of CMHC or its officers or employees, and whether such actions, suits or proceedings are brought in the name of CMHC or in the name of the Contractor.

#### **4.6 Liquidated Damages**

No specific remedy expressed in the Contract is to be interpreted as limiting the rights and remedies which CMHC may be entitled to under any contract or otherwise in law.

#### **4.7 Termination for Default of Contractor**

Notwithstanding anything to the contrary in this document, CMHC may, by giving 10 days prior written notice to the Contractor, terminate this contract without charge with respect to all or any part of the contract for any of the following reasons:

1. The Contractor commits a material breach of its duties under this contract, unless, in the case of such breach, the Contractor, within thirty (30) calendar days after receipt of written notice of such breach from CMHC, in a manner satisfactory to CMHC in its sole, absolute and non-reviewable discretion, (a) cures such breach and (b) indemnifies for any resulting damage or loss;

2. The Contractor commits numerous breaches of its duties under this contract that collectively constitutes a material breach;

3. A change in control of the Contractor where such control is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of the assets of the Contractor are acquired, by any entity, or the Contractor is merged with or into another entity to form a new entity, unless the Contractor demonstrates to the satisfaction of CMHC that such event will not adversely affect its ability to perform the services under this contract;

4. The Contractor commits fraud or gross misconduct; or

5. The Contractor becomes bankrupt or insolvent, or a receiving order is made against the Contractor, or any assignment is made for the benefit of the creditors, or if an order is made or a resolution passed for the winding up of the Contractor, or if the Contractor takes the benefit of any Statute for the time in force relating to bankrupt or insolvent debtors.

In the event of a termination notice being given under the provisions of this section, and subject to the deduction of any claim which CMHC may have against the Contractor arising out of the contract or out of termination, payment will be made within thirty (30) days of the date of the invoice from CMHC to the Contractor for the value of all finished work delivered and accepted by CMHC, such value to be determined in accordance with the rate (s) specified in the contract.

#### **4.8 Procedures on Termination**

Commencing six (6) months prior to expiration of this contract or on such earlier date as CMHC may request, or commencing upon any notice of termination or non-renewal of this contract, the Contractor shall provide to CMHC, the reasonable termination /expiration assistance requested by CMHC to allow the services to continue without interruption or adverse effect and to facilitate the orderly transfer of the services to CMHC or its designee.

#### **4.9 Non-Compliance or Default by Contractor**

If the Contractor fails to comply with a direction or decision of CMHC properly given under the terms of the agreement, or is in default in any other manner under the Contract, CMHC may do such things and incur such costs as it deems necessary to correct the Contractor's default, including without limitation the withholding of payment due or accrued due to the Contractor for services rendered pursuant to this Contract, which moneys may be set off by the Corporation against any expenses that it may incur in remedying a default or failures as described above.

#### **4.10 Force Majeure**

In the event that the Contractor is prevented from fulfilling its obligations under the terms of this agreement by a force majeure or act of God (an event or effect that cannot be reasonably anticipated or controlled), the Contractor shall notify CMHC in writing, within the shortest period of time. The said written notice shall be sent by registered mail and shall state the factors that constitute a force majeure or an act of God. Without limiting the application of the above, the following shall constitute cases of force majeure: war, serious public disturbances, all impediments arising from orders or prohibitions of public authority, acts of God, actions of public enemies, strikes, lockout and other labour disputes, riots, flooding, hurricane, fire, explosion or any other natural disasters over which the Contractor has no reasonable control.

The Contractor shall take all reasonable means to resume fulfillment of its obligations. If this is not possible, CMHC may to the extent it deems necessary secure the services of other qualified Contractors without compensation or obligation to the Contractor.

#### **4.11 Compliance with Laws**

The Contractor shall give all the notices and obtain all the licenses and permits required to perform the work. The Contractor shall comply with all the laws applicable to the work or the performance of the contract.

#### **4.12 Provincial Laws Governing Agreement**

This contract shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. Failure by either party to assert any of its rights under the agreement shall not be construed as a waiver thereof.

#### **4.13 Independent Contractor**

The Contractor shall act as an independent contractor for the purposes of this contract. It and its employees, officers and agents are not engaged as employees of CMHC. The Contractor agrees to so advise its employees, officers, and agents. Without limiting the generality of the foregoing, the Contractor shall retain complete control of and accountability for its employees and agents. The Contractor shall prepare and process the payroll for its employees directly, and shall withhold and/or pay all applicable employment taxes and payroll deductions required in respect of its employees. All personnel shall, at all times, and for all purposes, be solely in the employment of the Contractor.

#### **4.14 Contractor's Authority**

The Contractor agrees that it has no authority to give any guarantee or warranty whatsoever expressed or implied on behalf of CMHC and that it is in no way the legal representative or agent of CMHC and that it has no right or authority to create any obligation on behalf of CMHC or to bind CMHC in anyway.

#### **4.15 Corporation Identification**

It is agreed that the Contractor will make no use whatsoever of CMHC's name, logo or initials without the express written consent of CMHC

#### **4.16 Intellectual Property Rights**

All material, reports and other work product produced under this (RFQ and the resulting) Agreement will be the sole property of CMHC. The Contractor warrants that the Contractor is the only person who has or will have moral rights in the material created by the Contractor and supplied under this Agreement and the Contractor hereby waives in favour of CMHC all of the Contractor's moral rights in the material, as provided for in the law of copyright. Upon the material coming into existence, the Contractor agrees to execute any document requested by CMHC acknowledging CMHC's ownership of the material and work product and the waiver of the Contractor's moral rights therein.

#### **4.17 Non-Disclosure of CMHC Information**

Under this section, "CMHC Information" refers to any and all information which is managed, accessed, collected, used, disclosed, retained, received, created or disposed of in order to fulfil the requirements of the Contract, however obtained. Without limiting the generality of the foregoing, CMHC Information includes data held in any type of electronic format and information provided directly, indirectly or through third parties to the Contractor, subcontractor, reseller, agent or any other person engaged to perform the Work under the contract.

The Contractor acknowledges and understands that all CMHC Information is subject to Canadian laws on privacy and access to information under which CMHC is bound and that CMHC considers CMHC information to be under its custody and control of all times.

The Contractor further understands and agrees to treat all CMHC Information as proprietary, confidential and sensitive unless otherwise specifically agreed to in writing by CMHC. The Contractor shall restrict access to CMHC Information to those person who have a need to know this information in order to perform the Work under the Contract.

The Contractor shall ensure that CMHC Information shall remain in Canada and expressly agrees to segregate CMHC Information (whether in electronic format or in hard copy) from any other information in a database or repository physically independent from all other databases or repositories. Without limiting the generality of the foregoing, the Contractor shall not and shall ensure that any subcontractor, reseller, agent or any other person engaged to perform any part of the Work does not release, share or otherwise divulge CMHC Information to any other person including subsidiaries, branch offices, partners of the Contractor or subcontractors without the prior written consent of CMHC.

#### **4.18 Confidentiality**

#### **Mandatory**

**Quotations:** Quotations will be held in strict confidence. Notwithstanding the foregoing, proponents are advised that as a Crown Corporation, CMHC is subject to the provisions of the Access to Information Act ("the Act"). Information submitted by proponents or third parties will only be exempted from disclosure if the records or part of them qualify for an exemption under the Act.

**Contracts:** The Contractor agrees that all records and information obtained by the Contractor on behalf of CMHC will be kept confidential to the extent required by federal Access to Information and Privacy Legislation or provincial law.

1. The Contractor or its servants or agents will treat as confidential during, as well as after completion of, the contract, all information relating to the affairs of CMHC of which it acquires knowledge as a result of its engagement hereunder.

2. The Contractor shall, at the request of CMHC, provide an Oath of Secrecy for each of its employees or persons engaged in carrying out the work, in a form prescribed by CMHC.

3. Any documents provided to the Contractor in the performance of the work described herein shall be returned, uncopied to CMHC or destroyed by the Contractor within 6 months of the termination of this contract. For documents not returned to CMHC, the Contractor shall provide specific proof under oath of their destruction.

#### **4.19 House of Commons**

No member of the House of Commons shall be admitted to any share or part of this agreement or to any benefit arising there from.

#### **4.20 Binding**

This contract shall be binding upon the parties hereto, their heirs, executors, administrators, successors and assigns.

#### **4.21 Scope of Agreement**

This contract contains all of the agreements of the parties hereto and no other representations or warranties, verbal or otherwise, exist between the parties except those set out herein or attached as Specifications, Conditions and Addendum. In case of conflicts between the Contractor's documents and CMHC's documents, the latter shall govern.

#### **4.22 Income Tax Reporting Requirement**

As a federal Crown Corporation, CMHC is obliged under the Income Tax Act and Regulations to report payments made by the Corporation to suppliers of goods and/or services by using a T1204 supplementary slip. CMHC must therefore obtain the necessary information from suppliers (including the Contractor's social insurance number and/or corporate identification number) in order to allow it to complete the T1204 supplementary slip. The Lead Proponent(s)



will be required to complete and sign a Supplier - Direct Deposit and Tax Information Form (CMHC/SCHL 3085) prior to execution of this Agreement.

#### **4.23 Conflict of Interest**

#### **Mandatory**

- (a) The Contractor and its principals, employees and agents shall avoid any conflict of interest during the term of this Agreement and shall immediately declare any existing, potential or apparent conflict and shall, upon direction of CMHC, take steps to eliminate any conflict or perception that a conflict of interest exists.
- (b) The Contractor must not provide any services to any third party in circumstances that might reasonably give rise to a conflict of interest, including a conflict between the Contractor's duties to that third party and the Contractor's duties to CMHC.
- (c) In the event that a conflict of interest, real or perceived, cannot be resolved to the satisfaction of CMHC, CMHC shall have the right to immediately terminate the Agreement. All portions of the Work which have been completed at the date of termination shall be forwarded to CMHC and CMHC shall be liable for payment to the Contractor of an amount which, in the sole opinion of CMHC, constitutes reasonable payment for the partial performance of the Contractor's obligations under the Agreement. Upon such payment, CMHC shall have no further obligation of any nature or kind to the Contractor.
- (d) Any former public office holder must be in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders (2012) in order to derive a direct benefit from any contract which may arise from this request for quotation.

#### **4.26 Approval of Work**

Before advancing any amount to the Contractor, CMHC reserves the right to determine, in its sole and absolute discretion, whether the work was performed to the satisfaction of CMHC. The method of approving the work done will be in writing through electronic courier, fax or traditional mail as described in Schedule A attached herein.

In the event the work is not acceptable to CMHC, CMHC may take such action as it deems necessary to correct the Contractor's default, including, without limitation, the following:

- a) direct Contractor to redo the work or part of the section which was not completed to CMHC's satisfaction;
- b) withhold payment due or accrued due to the Contractor for services rendered pursuant to this Contract;
- c) set off any expenses incurred by CMHC in remedying the default or failures of Contractor against payment for payment due or accrued due to the Contractor;

- d) terminate this Contract for default and /or seek indemnification from the Contractor for losses suffered by CMHC as a result of such default.

#### **4.27 Ownership**

(a) The quarterly reports and any other reports prepared exclusively for the Corporation shall remain the property of the Corporation and all copyrights thereto are the property of the Corporation and neither the Contractor nor its servants or agents shall divulge, release or publish any such documentation.

(b) Any and all other information relating to the Corporation and obtained by the Contractor during the course of execution of its duties under this Agreement shall remain the property of the Corporation and shall not be used in any way or disclosed to anyone without the prior written consent of the Corporation.

#### **4.28 Insurance**

##### **A) Commercial General Liability Insurance**

The Contractor will provide and maintain Commercial General Liability insurance with an insurer licensed to do business in Canada with a limit of not less than \$5,000,000.00 per occurrence for bodily injury or damage to property including loss of use of such property. This policy shall include the following extensions:

- cross liability including severability of interest
- personal injury
- property damage including completed operations
- blanket contractual liability
- employers liability (or confirmation that all employees including sub-contractors and independent contractors are covered by Workers Compensation)
- non- owned automobile liability
- Canada Mortgage and Housing Corporation to be added as additional insured.
- 30 days prior written notice of cancellation to CMHC's Senior Advisor, Corporate Insurance, 700 Montréal Road, Ottawa, Ontario K1A 0P7
- Contractors liability to include operations of independent contractors (if not provided then each subcontractor must provide a certificate of insurance confirming that they have liability insurance as detailed in the Agreement).

##### **B) Technology (Errors & Omissions ) Liability**

The Contractor will provide and maintain Technology Errors & Omissions Liability insurance with an insurer licensed to do business in Canada with a limit of not less than \$1,000,000. The policy will provide 30 days prior written notice of cancellation to CMHC's Senior Advisor, Corporate Insurance, 700 Montréal Road, Ottawa, Ontario K1A 0P7. Coverage is to include Proponents and Service Providers employees and contract employees (if applicable) as named insured.

**Other conditions:**

If there are material changes in the scope of Services provided under this Agreement, CMHC may, request changes to the minimum insurance coverages set out above.

All insurance policies required to be maintained by the Contractor pursuant to this Section 4.21 Insurance shall be primary with respect to this Agreement and any valid and collectible insurance of CMHC shall be excess of Contractor's insurance and shall not contribute to it.

All Certificate of Insurance shall mention that insurers will provide CMHC with at least thirty (30) days' written notice prior to cancellation of any insurance referred to under this Section 4.21 Insurance. In addition the Contractor shall provide written notice to CMHC forthwith upon learning that an insurer described in this Section 4.21 Insurance intends to cancel, or intends to make or has made a material change to, any insurance referred to in this Section 4.21 Insurance.

A Certificate of Insurance meeting the above requirements shall be delivered to CMHC upon execution of this Agreement and for each renewal thereafter.

Without in any way restricting CMHC's direction to grant or withhold its consent to a request to subcontract pursuant to Section 4.21 Insurance, the Contractor agrees that it shall contractually obligate any subcontractor or independent contractor retained in connection with this Agreement to maintain insurance against such risks and in such amounts that having regard to such subcontractor's or independent contractor's involvement in the provision of the Services could reasonably be expected to be carried by Persons acting prudently and in a similar business to that of such subcontractor or independent contractor.

It shall be the sole responsibility of the Contractor to decide whether or not any other insurance coverage, in addition to the insurance requirements stipulated herein, is necessary for its own protection or to fulfill its obligation under the contract. All insurance policies shall be provided and maintained by the Contractors at its own expense.

**4.29 Access to CMHC Property including Third Party Outsourced Data Centre Facilities**

CMHC agrees to permit access by the Contractor's employees or subcontractors onto CMHC premises and/or any other facility utilized by CMHC for data centre services. CMHC, for the purpose of fulfilling its obligations as per the terms of this Agreement. However, CMHC reserves the right to refuse entry of the Contractor's personnel in cases of emergencies. CMHC also will have the right at any time to remove from and/or refuse entry to the work site any incompetent or intemperate employee who violates CMHC Safety and/or Security regulations or interferes with CMHC operations at the site. The Contractor shall be fully responsible to CMHC for the acts and omissions (including negligence) of its employees or subcontractors and of any persons directly or indirectly engaged by such Contractor, as if such acts and omissions were those of the Contractor. The Contractor shall be responsible for all loss and/or damage, which is deemed by CMHC to be beyond reasonable wear and tear, to CMHC property delivered to or in

custody of the Contractor in connection with this Agreement from the time of such delivery or custody until returned to CMHC. The Contractor's liability for deliveries will be consistent with amounts based on industry standards. In the event of Agreement termination, the Contractor will surrender the space occupied on the CMHC premises and, except for reasonable wear and tear, pay for damages that occurred during their tenancy or departure from the space.

#### **4.22 Security Clearance**

The Contractor agrees that it, or any other persons for which it is responsible, who are to perform the Contractor's obligations hereunder, shall not be acceptable to CMHC unless, at the request of CMHC, those persons have received a security clearance from CMHC's Security Office in order to permit them access to CMHC information and premises. It is further agreed that the Contractor shall provide and cause any such other person who is to perform Services under this Agreement and for whom the Contractor is responsible to provide any and all information requested by CMHC's Security Office to CMHC immediately upon request. It is agreed that should the Contractor or any other person who is to perform the Services under the Agreement and for whom the Contractor is responsible, fail to receive such a security clearance, that CMHC shall have the sole discretion to exclude such person from performing any Services under this Agreement.

#### **4.23 Third Party Rights**

The Contractor warrants and guarantees that Services delivered under the Agreement do not infringe any valid patent, copyright, trademark or industrial design, foreign or domestic, owned or controlled by any other corporation, firm or person. The Contractor certifies that it has no outstanding contract or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude the Contractor from complying with the provisions hereof, and that it will not enter into any such conflicting contract during the term of this Agreement. The Contractor further certifies that it will not disclose to CMHC any confidential, secret, and/or proprietary information, which is the property of others and which the Contractor is not authorized to disclose. The Contractor shall be responsible for obtaining, at its expense, all rights to third party intellectual property, necessary to comply with its obligations under this Agreement. The Contractor warrants that it has all the necessary rights to use third party intellectual property included in the material, reports and other Work produced under this Agreement.

CMHC agrees to permit access by the Contractor's employees onto CMHC premises for the purpose of fulfilling its obligations as per the terms of this agreement. However, CMHC reserves the right to refuse entry of Contractor's personnel in cases of emergencies. CMHC also will have the right at any time to remove from and/or refuse entry to the work site any incompetent or intemperate employee who violates CMHC Safety and/or Security regulations or interferes with CMHC operations at the site.

The Contractor shall be fully responsible to CMHC for the acts and omissions (including negligence) of its subcontractors and of persons directly or indirectly engaged by such subcontractors as if such acts and omissions were those of the Contractor.

#### **4.30 Suspension of Work and Changes in Specifications**

CMHC may, at any time and from time to time, order a suspension of the work in whole or in part, and make modifications of, changes in or additions to the specifications of the type of services offered and methods of delivery. All directions given by CMHC in writing with respect to the foregoing shall be complied with by the Contractor. If any such suspension, modification, change or addition shall result in an increase or decrease in the cost of the work, the contract price shall be adjusted accordingly provided that the Contractor shall in no event be entitled to compensation for any loss of anticipated profits and provided further that minor increases or decreases in cost shall be disregarded.

#### **4.31 Extras**

Except as otherwise provided in the contract, no payment for extras shall be made unless such extras and the price thereof have been authorized in writing by CMHC

#### **4.32 Closure of CMHC Offices**

(a) Where services are being provided by the Contractor pursuant to this Agreement on CMHC premises and the premises become inaccessible due to evacuation or closure because of events or circumstances beyond the control of CMHC, and where the health or safety of persons on the premises may be reasonably determined by CMHC, in its sole judgment, to be at risk, payment to the contractor hereunder may be suspended or modified. Payment will be suspended in full after 48 hours written notice unless the Contractor provides satisfactory evidence to CMHC that the Contractor will continue to incur monetary obligations to others directly as a result of its undertakings under this Agreement and is unable to mitigate its losses due to such obligations. Based on such evidence and the extent to which the Contractor is able to mitigate, CMHC may continue payment in full (subject to clause (b) below), or at a reduced amount, or suspend payment completely.

(b) Notwithstanding clause (a) above, if closure is continued beyond one calendar week, payment under this Agreement may be suspended in full immediately, on further written notice to the Contractor, until reopening permits the services to continue.

### **Article 5.0 - Contract Administration**

**5.1** The Contractor shall be notified in writing by CMHC's contract administrator, of the names of CMHC representatives authorized, from time to time, to assign jobs and approve payments with respect to the work carried out under this contract.

**5.2** Changes and/or additions to the terms and conditions of this contract shall be transmitted either by fax, e-mail or postal service to the party's authorized representative as follows:

**for CMHC;**

**Canada Mortgage and Housing Corporation**

**700 Montreal Road  
Ottawa, Ontario K1A 0P7**

**Phone:** ( ) \_\_\_\_\_ **Fax:** ( ) \_\_\_\_\_  
**e-mail:** \_\_\_\_\_

**for Contractor;** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Phone:** ( ) \_\_\_\_\_ **Fax:** ( ) \_\_\_\_\_  
**E-mail:** \_\_\_\_\_

**5.3 - Representative – Managed Contract**

CMHC, by written notice or directly in the Order (as applicable), will appoint one or more CMHC employees or other personnel employed by a Service Provider as its technical representatives for the purposes of the Services that are being undertaken (“Representative”). The Contractor will be entitled to rely on all oral and written orders and instructions issued by any Representative including, without limitation, instructions to initiate work and incur expenses for CMHC’s account. CMHC reserves the right to select and reassign any Representative, provided, that CMHC provides the Contractor with advance written notice of any change in Representatives. Furthermore, CMHC will remain responsible for its Representatives’ performance of such services to the same extent as though such Representatives were employees of CMHC.

**Article 6.0 - Contract Documents**

**6.1** The Contract documents consist of the following:

- (a) This form of Agreement as executed \_\_\_\_\_;
- (b) CMHC's Request for Quotation dated \_\_\_\_\_;
- (c) The Contractor's submitted Quotation dated \_\_\_\_\_; and

together with all written change notices issued by CMHC hereunder and such further specifications and documents as the parties may agree in writing.

**6.2** The contract documents are complementary and what is called for in any one shall be binding as if called for by all. The contract documents shall be interpreted as a whole and the intent of the whole rather than the interpretation of any particular part shall govern. In the event of a conflict between them, the contract documents shall have precedence among themselves in the order as listed above.

***IN WITNESS WHEREOF*** this agreement has been signed by the Parties hereto by their duly authorized signing officers.

**THE CONTRACTOR**

**CANADA MORTGAGE AND  
HOUSING CORPORATION**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

## **SCHEDULE "A"**

### **TERMS OF REFERENCE**

#### **1. Statement of Work**



**SCHEDULE "B"**

**MANNER OF PAYMENT**

If the Contractor is not in breach of any of its (his, her) obligations under this contract, the Contractor will be paid in accordance with the following schedule:

1. Upon the contractor having completed as set out in Schedule "A" and upon submission and acceptance to the full satisfaction of CMHC of (deliverable) by (date) .....  
\$