

## Attachment 2 – Draft Resulting Contract Clauses

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***The following are draft clauses and conditions that may form part of any contract resulting from the Call for Proposals solicitation. Canada reserves the right to negotiate, modify and/or add any contract terms and conditions.***

## **1. Statement of Work**

The Contractor must perform the Work in accordance with the Statement of Work at Annex \_\_\_\_ and the Contractor's technical proposal entitled \_\_\_\_\_, dated \_\_\_\_\_.

### **1.1 Work Authorization (if applicable (Phase or Task))**

Despite any other condition of the Contract, the Contractor is only authorized to perform the Work required to complete (Phase or Task) of the Contract at a cost not to exceed \$\_\_\_\_. Upon completion of (Phase or Task) the Work will be reviewed before the Contractor is authorized to commence any Work for (Phase or Task). Depending on the results of the review and evaluation of the Work, Canada will decide at its discretion whether to continue with the Work.

If Canada decides to continue with (Phase or Task), the Contracting Authority will advise the Contractor in writing to commence work on (Phase or Task). The Contractor must immediately comply with the notice.

If Canada decides not to proceed with (Phase or Task), the Contracting Authority will advise the Contractor in writing of the decision and the Contract will be considered completed at no further costs to Canada. In no event will the Contractor be paid for any cost incurred for unauthorized work.

## **2. Standard Clauses and Conditions**

All clauses and conditions identified in the Contract by number, date and title are set out in the *Standard Acquisition Clauses and Conditions* Manual (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.

### **2.1 General Conditions**

2040 (2016-04-04), General Conditions - Research & Development, apply to and form part of the Contract.

### **2.2 Supplemental General Conditions**

One or more of the following supplemental general conditions **may** apply to and form part of the Contract:

- 4001 (2015-04-01), Hardware Purchase, Lease and Maintenance
- 4002 (2010-08-16), Software Development or Modification Services
- 4003 (2010-08-16), Licensed Software
- 4004 (2013-04-25), Maintenance and Support Services for Licensed Software

4005 (2012-07-16), Telecommunications Services and Products  
4008 (2008-12-12), Personal Information

### 2.3 SACC Manual Clauses

The following SACC Clauses **may** apply to and form part of the Contract:

A9041C (2008-05-12), Salvage  
A9113C (2014-11-27), Handling of Personal Information  
D3010C (2016-01-28), Delivery of Dangerous Goods / Hazardous Products  
A9016C (2014-06-26), Hazardous Waste Disposal - Specific Requirements  
A9019C (2011-05-16), Hazardous Waste Disposal  
A9015C (2011-05-16), Experimental Animals

### 2.4 Protection and Security of Data Stored in Databases (if applicable)

1. The Contractor must ensure that all the databases containing any information related to the Work are located in Canada or, if the Contracting Authority has first consented in writing, in another country where:
  - (a) equivalent protections are given to personal information as in Canada under legislation such as the Privacy Act, R.S. 1985, c. P-21, and the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, and under any applicable policies of the Government of Canada; and
  - (b) the laws do not allow the government of that country or any other entity or person to seek or obtain the right to view or copy any information relating to the Contract without first obtaining the Contracting Authority's written consent.

In connection with giving its consent to locating a database in another country, the Contracting Authority may, at its option, require the Contractor to provide a legal opinion (from a lawyer qualified in the foreign country) that the laws in that country meet the above requirements, or may require the Contractor to pay for Canada to obtain such a legal opinion. Canada has the right to reject any request to store Canada's data in a country other than Canada if there is any reason to be concerned about the security, privacy, or integrity of Canada's data. Canada may also require that any data sent or processed outside of Canada be encrypted with Canada-approved cryptography and that the private key required to decrypt the data be kept in Canada in accordance with key management and storage processes approved by Canada.

2. The Contractor must control access to all databases on which any data relating to the Contract is stored so that only individuals with the appropriate security clearance are able to access the database, either by using a password or other form of access control such as biometric controls).
3. The Contractor must ensure that all databases on which any data relating to the Contract is stored are physically and logically independent (meaning there is no direct or indirect connection of any kind) from all other databases, unless those databases are located in Canada

(or in an another country approved by the Contracting authority under subsection 1) and otherwise meet the requirements of this article.

4. The Contractor must ensure that all data relating to the Contract is processed only in Canada or in another country approved by the Contracting Authority under subsection 1.
5. The Contractor must ensure that all domestic network traffic (meaning traffic or transmissions initiated in one part of Canada to a destination or individual located in another part of Canada) is routed exclusively through Canada, unless the Contracting Authority has first consented in writing to an alternate route. The Contracting Authority will only consider requests to route domestic traffic through another country that meets the requirements of subsection 1.
6. Despite any section of the General Conditions relating to subcontracting, the Contractor must not subcontract (including to an affiliate) any function that involves providing a subcontractor with access to any data relating to the Contract unless the Contracting Authority first consents in writing.

## **2.5 Non-disclosure Agreement (if applicable)**

The Contractor must obtain from its employee(s) or subcontractor(s) the completed and signed Non-Disclosure Agreement, attached at Annex \_\_\_\_\_, and provide it to the Contracting Authority before they are given access to information by or on behalf of Canada in connection with the Work.

## **3. Security Requirement (if applicable)**

To be determined based on the Statement of Work, commodity and Testing Department requirements.

### **3.1 Contractor's Site(s) or Premises Requiring Safeguarding Measures**

- 3.1.1** The Contractor must diligently maintain up-to-date, the information related to the Contractor's and individual(s) site(s) or premises, where safeguarding measures are required in the performance of the Work, for the following addresses:

Street Number / Street Name, Unit / Suite / Apartment Number  
City, Province, Territory / State  
Postal Code / Zip Code  
Country

## **4. Term of Contract**

### **4.1 Period of Contract**

The period of the Contract is from \_\_\_\_\_ to \_\_\_\_\_ inclusive. OR

### **4.1 Delivery Date**

All the deliverables must be received on or before \_\_\_\_\_.

## 5. Authorities

### 5.1 Contracting Authority

The Contracting Authority for the Contract is: **to be determined.**

Address:

Public Works and Government Services Canada  
Procurement Branch  
Space, Innovation, and Informatics Projects Directorate  
Place du Portage, Phase III, 11C1  
11 Laurier Street  
Gatineau, Québec K1A 0S5

Telephone: \_\_\_\_\_

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.

### 5.2 Technical Authority (Testing Department)

The Technical Authority for the Contract is: **to be determined.**

The Technical Authority 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.

### 5.3 Client Authority (Build in Canada Innovation Program (BCIP))

The Client Authority for the Contract is: **to be determined.**

The Client Authority is responsible for the development of the Statement of Work and for providing the funding. The Client Authority has no authority to authorize changes to the scope of work. Changes to the scope of the Work can only be made through a contract amendment issued by the Contracting Authority.

### 5.4 Contractor's Representative

The Contractor's Representative for the Contract is: **to be determined**.

**6. Proactive Disclosure of Contracts with Former Public Servants** (if applicable)

A3025C (2013-03-21), Proactive Disclosure of Contracts with Former Public Servants

**7. Payment**

**7.1 Basis of Payment**

The Contractor will be paid in accordance with the Basis of Payment in Annex \_\_\_\_.

**7.2 Limitation of Price**

For \_\_\_\_ of the Basis of Payment:

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

**7.3 Method of Payment**

For \_\_\_\_\_ of the Basis of Payment:

**7.3.1 Progress Payments**

1. 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 \_\_\_\_ percent of the amount claimed and approved by Canada if:
  - (a) an accurate and complete claim for payment using form PWGSC-TPSGC 1111 (<http://www.tpsgc-pwgsc.gc.ca/app-acg/forms/documents/1111.pdf>), 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;
  - (b) the amount claimed is in accordance with the Basis of payment;
  - (c) the total amount for all progress payments paid by Canada does not exceed \_\_\_\_ percent of the total amount to be paid under the Contract;
  - (d) all certificates appearing on form PWGSC-TPSGC 1111 have been signed by the respective authorized representatives.

2. The balance of the amount payable will be paid in accordance with the payment provisions of the Contract upon completion and delivery of all work required under the Contract if the Work has been accepted by Canada and a final claim for the payment is submitted.
3. Progress payments are interim payments only. Canada may conduct a government audit and interim time and cost verifications and reserves the right to make adjustments to the Contract from time to time during the performance of the Work. Any overpayment resulting from progress payments or otherwise must be refunded promptly to Canada.

**OR**

For \_\_\_\_\_ of the Basis of Payment:

**7.3.1 Milestone Payments**

1. Canada will make milestone payments in accordance with the Schedule of Milestones detailed in the Contract and the payment provisions of the Contract, up to \_\_\_\_\_ percent of the amount claimed and approved by Canada if:
  - (a) an accurate and complete claim for payment using form PWGSC-TPSGC 1111 (<http://www.tpsgc-pwgsc.gc.ca/app-acq/forms/documents/1111.pdf>), 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;
  - (b) the total amount for all milestone payments paid by Canada does not exceed \_\_\_\_\_ (insert) percent of the total amount to be paid under the Contract;
  - (c) all the certificates appearing on form PWGSC-TPSGC 1111 have been signed by the respective authorized representatives;
  - (d) all work associated with the milestone and as applicable any deliverable required have been completed and accepted by Canada.
2. The balance of the amount payable will be paid in accordance with the payment provisions of the Contract upon completion and delivery of all Work required under the Contract if the Work has been accepted by Canada and a final claim for the payment is submitted.

**7.3.2 Schedule of Milestones**

The schedule of milestones for which payments will be made in accordance with the Contract is as follows:

| Milestone No. | Description<br><i>OR</i><br>Deliverable | Firm Amount | Due Date<br><i>OR</i><br>Delivery Date |
|---------------|---|-------------|--|
|               |   |             |  |

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|  |  |  |  |

**OR**

For item \_\_\_\_\_ of the Basis of Payment:

**7.3.1** SACC Manual Clause H1000C (2008-05-12), Single Payment

**7.3.1** SACC Manual Clause H1001C (2008-05-12), Multiple Payments

**7.3.1** SACC Manual Clause H1008C (2008-05-12), Monthly Payment

**7.4 SACC Manual Clauses**

A9117C (2007-11-30), T1204 - Direct Request by Customer Department  
C0305C (2014-06-26), Cost Submission  
H4500C (2010-01-11), Lien - Section 427 of the *Bank Act*

**7.5 Discretionary Audit**

SACC Manual Clause C0101C (2010-01-11), Discretionary Audit - Non-commercial Goods and/or Services

**OR**

SACC Manual Clause C0705C (2010-01-11), Discretionary Audit

**7.6 Time Verification**

SACC Manual Clause C0711C (2008-05-12), Time Verification

**8. Invoicing Instructions - Progress Claim**

1. The Contractor must submit a claim for payment using form PWGSC-TPSGC 1111 (<http://www.tpsgc-pwgsc.gc.ca/app-acq/forms/documents/1111.pdf>), 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) the description and value of the milestone claimed as detailed in the Contract.

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.
2. Applicable Taxes must be calculated on the total amount of the claim before the holdback is applied. At the time the holdback is claimed, there will be no Applicable Taxes payable as it was claimed and payable under the previous claims for progress payments.
  3. The Contractor must prepare and certify an original claim on Form PWGSC-TPSGC 1111, and forward it to the Contracting Authority for certification in an electronic format to the electronic mail address identified under section entitled "Authorities" of the Contract. Portable Document Format (.pdf) format is acceptable. The Contracting Authority will then forward the certified claim, in an electronic format, to the Technical Authority for appropriate certification after inspection and acceptance of the Work takes place, and onward submission to the Payment Office for the remaining certification and payment.
  4. The Contractor must not submit claims until all work identified in this claim is completed.

## **9. Certifications**

### **9.1 Compliance**

The continuous compliance with the certifications provided by the Contractor in its proposal and the ongoing cooperation in providing additional 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 additional 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.

### **9.2 Federal Contractors Program for Employment Equity - Default by the Contractor (if applicable)**

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.

### **9.3 SACC Manual Clauses**

A3000C (2014-11-27), Aboriginal Business Certification (if applicable)  
A3060C (2008-05-12), Canadian Content Certification

## 10. Applicable Laws

The Contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in \_\_\_\_\_ (to be inserted at contract award).

## 11. 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) the supplemental general conditions \_\_\_\_\_ (if applicable);
- (c) the general conditions 2040 (2016-04-04), General Conditions - Research & Development;
- (d) Annex \_\_, Statement of Work;
- (e) Annex \_\_, Basis of Payment;
- (f) Annex \_\_, Security Requirements Check List (if applicable);
- (g) Annex \_\_, Non-disclosure Agreement (if applicable);
- (h) Annex \_\_, Sample Accommodations and Car Rental Government Rates Letter (if applicable)
- (h) the Contractor's proposal dated \_\_\_\_\_ as clarified on \_\_\_\_\_ **OR**, as amended on \_\_\_\_\_.

## 12. Defence Contract (is applicable)

SACC Manual clause A9006C (2012-07-16), Defence Contract

## 13. Foreign Nationals (Canadian Contractor) (if applicable)

SACC Manual clause A2000C (2006-06-16), Foreign Nationals (Canadian Contractor)

## 14. Insurance

SACC Manual clause G1005C (2008-05-12), Insurance

## 15. Controlled Goods Program (if applicable)

15.1 SACC Manual clause A9131C (2014-11-27), Controlled Goods Program

15.2 SACC Manual clause B4060C (2011-05-16), Controlled Goods

**16. Progress Reports** (if applicable)

1. The Contractor must submit monthly reports, in electronic format, on the progress of the Work, to both the Technical Authority and the Contracting Authority.

2. The progress report must contain three parts:

(a) PART 1: The Contractor must answer the following three questions:

(i) Is the project on schedule?

(ii) Is the project within budget?

(iii) Is the project free of any areas of concern in which the assistance or guidance of Canada may be required?

Each negative response must be supported with an explanation.

(b) PART 2: A narrative report, brief, yet sufficiently detailed to enable the Technical Authority to evaluate the progress of the Work, containing as a minimum:

(i) A description of the progress of each task and of the Work as a whole during the period of the report. Sufficient sketches, diagrams, photographs, etc., must be included, if necessary, to describe the progress accomplished.

(ii) An explanation of any variation from the work plan.

(iii) A description of trips or conferences connected with the Contract during the period of the report.

(iv) A description of any major equipment purchased or constructed during the period of the report.

(c) PART 3: The "Contract Plan and Report Form", PWGSC-TPSGC 9143 (<http://publiservice-app.tpsgc-pwgsc.gc.ca/forms/pdf/9143.pdf>), (or an equivalent form acceptable to the Contracting Authority) showing the following:

(i) Actual and forecast expenditure on a monthly basis for the period being covered. (Expenditures are to be outlined by month and by task.)

(ii) Progress of the Work against the Contractor's original Contract Plan (instructions for showing the above on the Contract Plan are detailed in Annex "\_\_\_\_\_" attached). The form will provide the basis for planning and estimating the cost of work, and reporting actual progress and cost against the plan during contract performance.

**17. Canadian Forces Site Regulations** (if applicable)

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

**OR**

**17. Government Site Regulations** (if applicable)

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

**18. Draft and Final Reports** (if applicable)

In addition to the monthly reports on the progress of the Work, the Contractor must deliver a draft final report, in electronic format, no later than 30 working days prior to the expiry date of the contract, and a final report no later than 15 working days from date of contract expiry, to the Client Authority and Contracting Authority.

**19. Communications Notification**

As a courtesy, the Government of Canada requests that the Contractor notify the Contracting Authority five business days in advance of their intention to make public an announcement related to this contract award.

**20. Access to Facilities and Equipment** (if applicable)

Canada's facilities, equipment, documentation and personnel are not automatically at the disposal of the Contractor. If access to government premises, computer systems (micro computer network), working space, telephones, terminals, documentation and personnel for consultation is required by the Contractor to perform the Work, the Contractor must advise the Contracting Authority 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.

## **Applicable Annexes**

### **Annex “A” – Statement of Work**

The Statement of Work will be generated based on the proposed Test Plan and in collaboration between the Bidder and the Testing Department. The Statement of Work must be approved by the Technical Authority and the Contracting Authority.

### **Annex “B” – Basis of Payment**

The Basis of Payment will be negotiated in accordance with the Bidder’s financial proposal and the Statement of Work.

### **Annex “C” – Security Requirements Check List (if applicable)**

For information, see: <https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/2/50/5>.

### **Annex “D” – Non-Disclosure Agreement (if applicable)**

The Bidder and all proposed resources who will perform Work under the resulting Contract may be required to sign a Non-Disclosure Agreement prior to having access to information or assets.

### **Annex “E” – Sample Accommodations and Car Rental Government Rates Letter (if applicable)**

If required, the Client Authority can provide a letter confirming that the contractor will be traveling on official government business in the performance of the contract.