

Annex J Supplemental General Conditions

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1. Supplemental General Conditions

1.1 4002 (2010-08-16) 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 **twelve (12) months** 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.
6. The Contractor must remedy all data and reports pertaining to any correction or replacement under this section, including revisions and updating of all affected data, manuals, publications, software and drawings called for under the Contract, at no cost to Canada.

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.

1.2 4003 (2010-08-16) 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 **an Entity** License as described in **section 06** 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 **twelve (12) months** 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.
8. The Contractor must remedy all data and reports pertaining to any correction or replacement under this section, including revisions and updating of all affected data, manuals, publications, software and drawings called for under the Contract, at no cost to Canada.

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.

1.3 4004 (2013-04-25) Maintenance and Support Services for Licenced 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.

1.4 4007 (2010-08-16) Canada to OWN Intellectual Property Rights in Foreground Information

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 (2008-05-12) Record and Disclosure of Foreground Information

1. During and after the performance of the Contract, the Contractor must keep detailed records of the Foreground Information, including details of its creation. The Contractor must report and fully disclose to Canada all Foreground Information as required by the Contract. If the Contract does not specifically state when and how the Contractor must do so, the Contractor must provide this information if requested by the Contracting Authority, whether before or after the completion of the Contract.
2. Before and after final payment to the Contractor, the Contractor must provide Canada with access to all records and supporting data that Canada considers pertinent to the identification of Foreground Information.
3. 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 (2008-05-12) 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.

4007 04 (2008-05-12) License to Intellectual Property Rights in Background Information

1. The Contractor grants to Canada a license to use 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. This license is non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free. 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 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 bidding on or negotiating contracts with 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. Canada will require these third parties and contractors 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 to other governments for information purposes;
 - c. the right 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 reproduction, 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 in relation to any custom-designed or custom-manufactured part of the Work, the right to use and disclose to a contractor engaged by Canada the Background Information 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 on reasonable commercial terms to enable timely maintenance, repair or overhaul.
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 Licence

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.

1.5 4012 (2012-07-16) Goods – Higher Complexity

4012 01 (2012-07-16) Condition of Material

Unless provided otherwise in the Contract, material supplied must be new and conform to the latest issue of the applicable drawing, specifications and part number that is in effect on the bid closing date or, if there was no bid solicitation, the date of the Contract.

4012 02 (2012-07-16) Shipment Documentation

For the shipment of goods, the transportation bill of lading must accompany the original invoice, except for "collect" shipments (if and when stipulated), in which event it must accompany the shipment. In addition, a packing slip must accompany each shipment, showing item, quantity, part or reference numbers, description of the goods and contract number, including the CRN and PBN. If the goods have been inspected at the Contractor's plant, the signed inspection voucher must be attached to the packing slip normally enclosed in the packing note envelope.

4012 03 (2012-07-16) Warranty

For all work except Software Development or Maintenance Services, and Licensed Software:

1. Despite inspection and acceptance of the Work by or on behalf of Canada and without restricting any other provision of the Contract or any condition, warranty or provision imposed by law, the Contractor warrants that, for twelve (12) months (or any other period stated in the Contract), the Work will be free from all defects in design, material or workmanship, and will conform to the requirements of the Contract. The warranty period begins on the date of delivery, or if acceptance takes place at a later date, the date of acceptance. With respect to Government Property not supplied by the Contractor, the Contractor's warranty will extend only to its proper incorporation into the Work.
2. In the event of a defect or non-conformance in any part of the Work during the warranty period, the Contractor, at the request of Canada to do so, must as soon as possible repair, replace or otherwise make good at its own option and expense the part of the Work found to be defective or not in conformance with the requirements of the Contract.
3. The Work or any part of the Work found to be defective or non-conforming will be returned to the Contractor's plant for replacement, repair or making good. However, when in the opinion of Canada it is not expedient to remove the Work from its location, the Contractor must carry out any necessary repair or making good of the Work at that location. In such cases, the Contractor will be paid the fair and reasonable Cost (including reasonable travel and living expenses) incurred in so doing, with no allowance for profit, less an amount equal to the Cost of rectifying the defect or non-conformance at the Contractor's plant.

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4. Canada must pay the transportation cost associated with returning the Work or any part of the Work to the Contractor's plant pursuant to subsection 3. The Contractor must pay the transportation cost associated with forwarding the replacement or returning the Work or part of the Work when rectified to the delivery point specified in the Contract or to another location directed by Canada.
 5. The Contractor must remedy all data and reports pertaining to any correction or replacement under this section, including revisions and updating of all affected data, manuals, publications, software and drawings called for under the Contract, at no cost to Canada.
 6. If the Contractor fails to fulfill any obligation described in this section within a reasonable time of receiving a notice, Canada will have the right to remedy or to have remedied the defective or non-conforming work at the Contractor's expense. If Canada does not wish to correct or replace the defective or non-conforming work, an equitable reduction will be made in the Contract Price.
 7. The warranty period is automatically extended by the duration of any period or periods where the Work is unavailable for use or cannot be used because of a defect or non-conformance during the original warranty period. The warranty applies to any part of the Work repaired, replaced or otherwise made good pursuant to subsection 2, for the greater of:
 - a. the warranty period remaining, including the extension, or
 - b. ninety (90) days or such other period as may be specified for that purpose by agreement between the Parties.