

**TACTICAL ASSET CONFIGURATION INFORMATION SYSTEM MOBILE
COMPUTERS (TACIS MCs)
FOR
SHARED SERVICES CANADA**

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List of Annexes

- Annex A – Statement of Requirements
- Annex B – Pricing
- Annex C - Canadian Forces Packaging Specification D-LM-008-036/SF-000,
DND Minimum Requirements for Manufacturer's Standard Pack.

1. Requirement

- a. _____ (the "Contractor") agrees to supply to the Client the goods and services described in the Contract, including the Statement of Requirements, in accordance with, and at the prices set out in, the Contract to one or more locations to be designated by Canada, excluding any locations in areas subject to any of the Comprehensive Land Claims Agreements (<https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/9/35>).

- i. **supplying the purchased Hardware and providing the Hardware Documentation;**
- ii. **providing maintenance and support services for the Hardware during the Hardware Maintenance Period;**
- iii. **granting the license to use the Licensed Software described in the Contract and providing the Software Documentation;**
- iv. **providing maintenance and support for the Licensed Software during the Software Support Period.**

to location described in Annex B.

- b. **Client:** Under the Contract, the "Client" is Shared Services Canada ("SSC"), an organization with a mandate to provide shared services. This Contract will be used by SSC to provide shared services to the Department of National Defense.
- c. **Reorganization of Client:** The Contractor's obligation to perform the Work will not be affected by (and no additional fees will be payable as a result of) the renaming, reorganization, reconfiguration, or restructuring of any Client. The reorganization, reconfiguration and restructuring of the Client includes the privatization of the Client, its merger with another entity, or its dissolution, where that dissolution is followed by the creation of another entity or entities with mandates similar to the original Client. In connection with any form of reorganization, Canada may designate another department or government body as the Contracting Authority or Technical Authority, as required to reflect the new roles and responsibilities associated with the reorganization.
- d. **Defined Terms:** Words and expressions defined in the General Conditions or Supplemental General Conditions or Annex A Statement of Requirement and used in the Contract have the meanings given to them in the General Conditions or Supplemental General Conditions or Annex A Statement of Requirement. Also, the following words and expressions have the following meanings:
- any reference to a "**deliverable**" or "**deliverables**" includes the Hardware, the license to use the Licensed Software (the Licensed Software itself is not a deliverable, because the Licensed Software is only being licensed under the Contract, not sold or transferred).
- "Work"** means all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the resulting contract.

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 (<http://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada. All references contained within the General Conditions or Supplementary General Conditions to the Minister of Public Works and Government Services will be interpreted as a reference to the minister presiding over Shared Services Canada and all references to the Department of Public Works and Government Services will be interpreted as Shared Services Canada.

For purposes of this contract the PWGSC policies referenced within the Standard Acquisitions Clauses and Conditions Manual are adopted as SSC policies.

a. **General Conditions:**

- i. **2030 (2016-04-04), General Conditions - Higher Complexity - Goods**, apply to and form part of the Contract. These General Conditions are amended as follows:

Section 2 of the General Conditions is amended as follows: delete "Pursuant to the *Department of Public Works and Government Services Act, S.C. 1996, c.16*"

b. **Supplemental General Conditions:**

The following Supplemental General Conditions:

- i. **4001 (2015-04-01), Supplemental General Conditions - Hardware Purchase, Lease and Maintenance.**
- ii. **4003 (2010-08-16), Supplemental General Conditions - Licensed Software;**
- iii. **4004 (2013-04-25), Supplemental General Conditions - Maintenance and Support Services for Licensed Software;**

apply to and form part of the Contract.

3. Contract Period

- a. Contract Period: The "Contract Period" is the entire period of time during which the Contractor is obliged to perform the Work, which includes:
- i. The "**Initial Contract Period**", which begins on the date the Contract is awarded and ends one year later; where
- a) Delivery of 100 mobile computers must be completed prior to 29 March 2018; and
- b) The Contract shall remain in place for the duration of the 12 months warranty period starting on the contract award date.

4. Optional Goods

- a. The Contractor grants to Canada the irrevocable option to acquire up to 100 Mobile Computers described at Annex B Pricing of the Contract under the same terms and conditions and at the prices and/or rates stated in the Contract. The option may only be exercised by the Contracting Authority by notice in writing and will be evidenced, for administrative purposes only, through a contract amendment.
- b. The Contracting Authority may exercise the option at any time before the expiry of the Contract by sending a written notice to the Contractor.

5. Authorities

- a. Contracting Authority

The Contracting Authority for the Contract is:

Name: **Irena Stevic**

Title: Senior Procurement Officer

Shared Services Canada

Procurement and Vendor Relationships

Networks, Email and Internal Services Procurement

Address: 180 Kent, Ottawa, ON, K1G4A8

Telephone: (613) 793-1826

E-mail address: irena.stevic@canada.ca

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.

b. Technical Authority

The Technical Authority for the Contract is:

Name: *to be provided after the contract award.*

Title:

Shared Services Canada

Telephone:

E-mail address:

The Technical Authority 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.

c. Contractor's Representative:

Name: *to be provided after the contract award.*

Title:

Address:

Telephone:

Facsimile:

E-mail address:

6. Payment

a. Basis of Payment

- i. **Purchased Hardware:** for the provision of 100 Mobile Computers, in accordance with the Contract, Canada will pay the Contractor the firm price(s) set out in Annex B, DDP Destination, including all customs duties, Applicable Taxes extra:

Estimated Cost: _____ CAD

- ii. **Optional Purchased Hardware:** for the provision of additional 100 Mobile Computers, in accordance with the Contract, if Canada exercises its option purchase additional 100 Mobile Computers, Canada will pay the Contractor the firm price(s) set out in Annex B, DDP Destination, including all customs duties, Applicable Taxes extra:

Estimated Cost: _____ CAD

- iii. **Competitive Award:** The Contractor acknowledges that the Contract has been awarded as a result of a competitive process. No additional charges will be allowed to compensate for errors, oversights, misconceptions or underestimates made by the Contractor when bidding for the Contract.
- iv. **Purpose of Estimates:** All estimated costs contained in the Contract are included solely for the administrative purposes of Canada and do not represent a commitment on the part of Canada to purchase goods or services in these amounts. Any commitment to purchase specific amounts or values of goods or services is described elsewhere in the Contract.

b. Limitation of Expenditure

- i. Canada's total liability to the Contractor under the Contract must not exceed the amount set out on page 1 of the Contract, less any Applicable Taxes. With respect to the amount

set out on page 1 of the Contract, Customs duties are excluded and Applicable Taxes are included, if applicable. Any commitments to purchase specific amounts or values of goods or services are described elsewhere in the Contract.

- ii. No increase in the total liability of Canada or in the price of the Work resulting from any design changes, modifications or interpretations of the Work, will be authorized or paid to the Contractor unless these design changes, modifications or interpretations have been approved, in writing, by the Contracting Authority before their incorporation into the Work. The Contractor must not perform any work or provide any service that would result in Canada's total liability being exceeded before obtaining the written approval of the Contracting Authority. The Contractor must notify the Contracting Authority in writing as to the adequacy of this sum when:
 - A. it is 75 percent committed, or
 - B. 4 months before the Contract expiry date, or
 - C. as soon as the Contractor considers that the contract funds provided are inadequate for the completion of the Work,

whichever comes first.
- iii. If the notification is for inadequate contract funds, the Contractor must provide to the Contracting Authority a written estimate for the additional funds required. Providing this information does not increase Canada's liability.
- iv. 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.
- c. **Method of Payment – Single Payment**
 - i. H1000C (2008-05-12), Single Payment

7. Invoicing Instructions

- a. The Contractor must submit invoices in accordance with the information required in the General Conditions.
- b. The Contractor's invoice must include a separate line item for each subparagraph in the Basis of Payment provision.
- c. By submitting invoices, the Contractor is certifying that the goods and services have been delivered and that all charges are in accordance with the Basis of Payment provision of the Contract, Annex B Pricing and the Invoicing section of the Annex A Statement of Requirement, including any charges for work performed by subcontractors.
- d. The Contractor must provide the original of each invoice to:

25 DAFC/Magasin
C.P 4000 Succ K
Montreal QC H1N 3R9
Canada
W1941

And a copy of each invoice to Nessrin.Houmani@forces.gc.ca
- e. On request, the Contractor must provide a copy of any invoices requested by the Contracting Authority.

8. SACC Manual Clauses

The following SACC Manual clauses apply to and form part of the Contract:

SACC Manual clause B3000T (2006-06-16) Equivalent Products;

SACC Manual clause B7500C (2006-06-16) Excess Goods;

SACC Manual clause C3015C (2017-08-17) Exchange rate fluctuation adjustment;

SACC Manual clause D3018C (2014-09-25) Packaging Requirement using Specification D-LM-008-036/SF-000;

SACC Manual clause D5545C (2010-08-16) ISO 9001:2008 - Quality Management Systems - Requirements (Quality Assurance Code C);

SACC Manual clause D6009C (2013-04-25) Shipping Instructions - Delivery and Destination Schedules Unknown;

SACC Manual clause H5001C (2008-12-12) Invoicing Instructions;

SACC Manual clause M1004T (2016-01-28) Condition of Material – Offer.

9. Applicable Laws

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

10. Priority of Documents

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

- a. these Articles of Agreement, including any individual SACC clauses incorporated by reference in these Articles of Agreement;
- b. supplemental general conditions, in the following order:
- c. 4001(2015-04-01); Supplemental General Conditions - Hardware Purchase, Lease and Maintenance;
- d. 4003(2010-08-16); Supplemental General Conditions - Licensed Software;
- e. 4004(2013-04-25); Supplemental General Conditions - Maintenance and Support Services for Licensed Software;
- f. General Conditions 2030 (2016-04-04), General Conditions - Higher Complexity – Goods;
- g. Annex A, Statement of Requirement;
- h. Annex B, Pricing;
- i. Annex C, Canadian Forces Packaging Specification D-LM-008-036/SF-000;
- j. the Contractor's bids dated (*to be included at contract award*), as amended, not including any software publisher license terms and conditions that may be included in the bid, not including any provisions in the bid with respect to limitations on liability, and not including any terms and conditions incorporated by reference (including by way of a web link) in the bid.

11. Insurance Requirements

- a. SACC Manual clause G1005C (2008-05-12) Insurance Requirements applies: The Contractor is responsible for deciding if insurance coverage is necessary to fulfill its obligation under the Contract and to ensure compliance with any applicable law. Any insurance acquired or maintained by the Contractor is at its own expense and for its own benefit and protection. It does not release the Contractor from or reduce its liability under the Contract.

12. Limitation of Liability – Information Management/Information Technology

a. This section applies despite any other provision of the Contract and replaced the section of the general condition entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent describes in this Articles, even if it has been made aware of the potential for this damages.

b. First Party Liability:

- i. The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:
 - A. any infringement of intellectual property rights to the extent the Contractor breaches the section of the General Conditions entitled "Intellectual Property Infringement and Royalties";
 - B. physical injury, including death.
- ii. The Contractor is liable for all direct damages affecting real or tangible personal property owned, possessed, or occupied by Canada.
- iii. Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.
- iv. The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed under subparagraph (a) above.
- v. The Contractor is also liable for any other direct damages to Canada caused by the Contractor in any way relating to the Contract including:
 - A. any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including any applicable taxes) for the goods and services affected by the breach of warranty; and
 - B. any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated by Canada either in whole or in part for default, up to an aggregate maximum for this subparagraph B. of the greater of 0.25 times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the cell titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$ 2 Million.
- vi. In any case, the total liability of the Contractor under subparagraph (v) will not exceed the total estimated cost (as defined above) for the Contract or \$ 2 Million, whichever is more.
- vii. If Canada's records or data are harmed as a result of the Contractor's negligence or willful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.

c. Third Party Claims:

- i. Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.
- ii. If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, despite Sub-article Third Party Claims (i). with respect to special, indirect, and consequential damages of third parties covered by this Section, the Contractor is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party, including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.
- iii. The Parties are only liable to one another for damages to third parties to the extent described in this Sub-article Third Party Claims.

13. Hardware

- a. With respect to the provisions of Supplemental General Conditions 4001:

Part III of 4001 applies to the Contract (Additional Conditions: Purchase)	Yes
Part IV of 4001 applies to the Contract (Additional Conditions: Lease)	No
Part V of 4001 applies to the Contract (Additional Conditions: Maintenance)	Yes
Delivery Location	See Annex B
Delivery Date	Prior to 31 March 2018
Contractor must deliver Hardware Documentation	Yes
Contractor must update Hardware Documentation throughout Contract Period	Yes
Hardware Documentation must include maintenance documentation	Yes
Language of Hardware Documentation	The Hardware Documentation must be delivered in one of English or French. If the documentation is available in the other of the two official languages of Canada, the Contractor must deliver the documentation in both English and French.

Contract No. Contrat No. TBD	Amd. No. - N° de la modif.	Buyer ID - Id de l'acheteur CAV
Client Ref. No. - N° de réf. du client 17-61088	File No. - N° du dossier 17-61088	CCC No./N° CCC - FMS No./N° VME

Special Delivery Requirements	Yes Canadian Forces Packaging Specification D-LM-008-036/SF-000, DND Minimum Requirements for Manufacturer's Standard Pack. See Annex C.
Hardware is part of a System	No
Toll-free Telephone Number for Maintenance Service	[Note to Bidders: to be completed with information from the Contractor at the time of award. Bidders are requested to provide this information in their bids].
Website for Maintenance Service	[Note to Bidders: to be completed with information from the Contractor at the time of award. Bidders are requested to provide this information in their bids].

14. Extension of Existing Product Line

- a. During the Contract Period, if technological improvements have been made to the products available for purchase under the Contract, the Contractor may propose new products that are an extension of an existing product line or the "next generation" of an existing product line that meet or exceed the specification(s) of existing products under the Contract, if the price for the new product does not exceed:
 - A. the firm price (or ceiling price, if applicable) for the product originally offered in the Contractor's bid that resulted in the award of the Contract plus 5%;
 - B. the current published list price of the substitute product, minus any applicable Government discount; or
 - C. the price at which the substitute product is generally available for purchase,
- b. Whichever is the lowest.
- c. The proposed new product may be subject to benchmark evaluation and the Contractor must pay for all costs associated with the benchmark evaluation (e.g., transportation, benchmark fee, etc.).
- d. Whether or not to accept or reject a proposed new product is entirely within the discretion of Canada. If Canada does not accept a proposed new product that is proposed to replace an existing product, the Contractor must continue to deliver the original product. If accepted, the addition of the new product will be documented for the administrative purposes of Canada by a contract amendment, by adding the new product to the Contract.
- e. No new products will be included in the Contract until one month after the Contract is awarded.
- f. The proposed new product is also to the requirements of the clause entitled "Assessment of New Products".

15. Safeguarding Electronic Media

- a. Before using them on Canada's equipment or sending them to Canada, the Contractor must use a regularly updated product to scan electronically all electronic media used to perform the Work for computer viruses and other coding intended to cause malfunctions. The Contractor must notify Canada if any electronic media used for the Work are found to contain computer viruses or other coding intended to cause malfunctions.
- b. If magnetically recorded information or documentation is damaged or lost while in the Contractor's care or at any time before it is delivered to Canada in accordance with the Contract, including accidental erasure, the Contractor must immediately replace it at its own expense.

16. Representations and Warranties

- a. The Contractor made statements regarding its experience and expertise in its bid that resulted in the award of the Contract. The Contractor represents and warrants that all those statements are true and acknowledges that Canada relied on those statements in awarding the Contract. The Contractor also represents and warrants that it has, and all its resources and subcontractors that perform the Work have, and at all times during the Contract Period they will have, the skills, qualifications, expertise and experience necessary to perform and manage the Work in accordance with the Contract, and that the Contractor (and any resources or subcontractors it uses) has previously performed similar services for other customers.