



Request for Proposals #310 (“RFP”) Survey Tool

The Office of the Auditor General of Canada (“OAG”) requires a contractor to supply a **Commercial Off-The-Shelf (COTS) Survey Tool** as further described in Section 2 (Statement of Work) of this RFP.

The OAG conducts independent audits and studies that provide objective information, advice and assurance to Parliament, territorial legislatures, boards of Crown corporations, government and Canadians. The OAG’s head office is located in Ottawa and its four regional offices are located in Vancouver, Edmonton, Montréal and Halifax. Please see www.oag-bvg.gc.ca for further information about the OAG.

This RFP describes the process by which a supplier, who is the person or entity submitting a proposal responding to the requirements of the RFP and having legal capacity to contract (a “**Bidder**”), may be selected for recommendation of contract award. The maximum total value of any contract resulting from this RFP **is estimated to be \$60,000.00**, inclusive of any eligible expenses, applicable taxes and option years, with a term of three (3) years expiring in November, 2021, plus an irrevocable option for the OAG to extend the term for up to three (3) additional one (1) year periods.

Summary of Key RFP Dates and Defined Terms

The capitalized words set forth below shall have the following meanings where used in this RFP. Where not defined below, capitalized words shall have the meaning ascribed thereto elsewhere in this RFP.

Date of Issuance:	September 7, 2018
Deadline for Requests for Clarification:	September 20, 2018 at 02:00PM Ottawa local time
Deadline for Proposals:	October 11, 2018 at 02:00PM Ottawa local time
Proposal Validity Period:	90 calendar days from Deadline for Proposals
Proposal Delivery Address:	Office of the Auditor General of Canada Contract and Procurement Services 240 Sparks Street—CD Howe Building Mail Scanning Room S-143, Level S1 Ottawa, Ontario K1A 0G6 Labelled <i>RFP 310 Survey Tool</i> Att.: Joelle Ricciuti
Request for Clarification Address:	suppliers@oag-bvg.gc.ca
Anticipated Contract Award Date:	November 2018
Procurement and Contracting Officer:	Joelle Ricciuti



Incorporated Sections and Forms

This RFP consists of the following sections, appendices and information, which are incorporated by reference in addition to the first page of this RFP:

Instructions to Bidders:	See Section 1 (RFP Terms and Conditions)
Requirement for Services and/or Goods:	See Section 2 (Statement of Work)
Evaluation and Selection Process:	See Section 3 (Basis and Method of Evaluation); and Section 4 (Proposal Requirements)
Form of Contract:	See Section 5 (Contract Terms and Conditions)
Supplemental General Conditions- Licensed Software	See Annex "A-1"
Supplemental General Conditions- Maintenance and Support Services for Licensed Software	See Annex "A-2"
Required Forms:	Appendix "A" (Declarations and Certifications)

SECTION 1 RFP TERMS AND CONDITIONS

1.1 Proposal Delivery. Proposals are due to be received at the Proposal Delivery Address no later than the Deadline for Proposals specified on page 1 of this RFP. If the Proposal Delivery Address specified on page 1 of this RFP is a physical mail address, the time of proposal receipt shall be the time the physical proposal is received by an OAG authorized representative at the Proposal Delivery Address. If the Proposal Delivery Address is an electronic mail address, the time of proposal receipt shall be the time the electronic proposal is received in the inbox of the Proposal Delivery Address. It is the Bidder's responsibility to ensure that the proposal is received at the Proposal Delivery Address no later than the Deadline for Proposals.

1.1.1 Proposals received later than the Deadline for Proposals or at any location other than the Proposal Delivery Address may be deemed non-compliant and rejected, in the OAG's sole and absolute discretion, unless the Bidder provides evidence, to the OAG's satisfaction, substantiating that the proposal was sent to the Proposal Delivery Address before the Deadline for Proposals and the delay in receipt is attributable to circumstances beyond the Bidder's control.

1.1.2 Bidders may, in writing, revoke or modify a proposal received at the Proposal Delivery Address at any time up to the Deadline for Proposals. Bidders may not, without the prior written consent of the OAG, which may be reasonably withheld, assign or transfer their proposal to a third party in whole or in part or submit more than one (1) proposal.

1.2 Proposal Format. Proposals are to be submitted in either English or French, with the Bidder's contact information and the reference to this RFP clearly identified, as follows:

(a) If the Proposal Delivery Address is a physical mail address, in two (2) separately sealed envelopes, with one (1) envelope labelled "**Technical Offer**", containing the Bidder's response to any mandatory and rated requirements set out in Section 4 (Proposal Requirements) of this RFP and the other envelope labelled "**Financial Offer**", containing the Bidder's response to the financial requirements set out in Section 4 (Proposal Requirements) of this RFP, and together these sealed envelopes for the Technical Offer and the Financial Offer are to be sealed in a third (3rd) sealed envelope together with any forms or additional information.

(b) If the Proposal Delivery Address is an electronic mail address, in two (2) separate electronic mail attachments in Adobe Reader format (.pdf), with one (1) attachment labelled "**Technical Offer**", containing the Bidder's response to any mandatory and rated requirements set out in Section 4 (Proposal Requirements) of this RFP and the other attachment labelled "**Financial Offer**", containing the Bidder's response to the financial requirements set out in Section 4 (Proposal Requirements) of this RFP. Any forms or additional information may be included as separate electronic mail attachments in Adobe Reader format (.pdf). Prices are to appear in the Financial Offer only and should not be indicated in any other section of the proposal. To avoid the possibility of the proposal not being received at the Proposal Delivery Address due to file size or other reasons, Bidders may contact the Procurement and Contracting Officer specified on page 1 of this RFP before the Deadline for Proposals to confirm the OAG's receipt.

1.3 Requests for Clarification. Any request for clarification of the contents of, or for interpretation or correction of, or questions or concerns relating to, this RFP are to be: (i) received no later than the Deadline for Requests for Clarification specified on page 1 of this RFP; (ii) addressed to the Procurement and Contracting Officer in English or French; and (iii) made in writing by electronic mail referencing this RFP in the subject line to the Request for Clarification Address specified on page 1 of this RFP.

1.3.1 Answers to such requests will be made available as written addenda to this RFP without identifying the source(s) of the requests, provided they are received no later than the Deadline for

Requests for Clarification. Any request received later than the Deadline for Requests for Clarification may not be answered by the OAG.

1.3.2 Any attempt by a Bidder or any of its employees, agents, contractors or any other representatives to contact any person at the OAG other than the Procurement and Contracting Officer regarding this RFP, may in the OAG's sole and absolute discretion, result in the Bidder's disqualification and the rejection of their proposal. Nothing in this RFP limits the OAG's right, in its sole and absolute discretion, to communicate with any Bidder regarding any matter in the normal course of business arising from any contractual relationship for the provision of any similar or other services or goods independently of this RFP.

- 1.4 Required Forms. Bidders are to include with their proposal any forms listed in Appendix "A" (Declarations and Certifications) to this RFP. Where a Bidder fails to include any such forms with its proposal, the OAG may, in its sole and absolute discretion: (a) require the submission of such forms within a prescribed timeframe satisfactory to the OAG prior to the Anticipated Contract Award Date specified on page 1; or (b) reject or refuse to consider any proposal from a Bidder who fails to comply with any such submission requirement.
- 1.5 Irrevocable Offer. By submitting a proposal, a Bidder: (a) submits an irrevocable offer, which is firm, in effect and open for acceptance for the Proposal Validity Period specified on page 1 of this RFP; (b) agrees unconditionally to all the terms and conditions set out in this RFP, including without limitation the terms and conditions of any resulting contract, if awarded, as set out in Section 5 (Contract Terms and Conditions); and (c) agrees, if the OAG deems it necessary, to extend the Proposal Validity Period, unless the Bidder revokes its proposal in writing within five (5) calendar days of notice of such extension by the OAG.
- 1.6 Evaluation and Selection. Proposals will be evaluated and selected in accordance with the entire requirement of the RFP, including but not limited to the process set out Section 3 (Basis and Method of Evaluation) and the criteria set out in Section 4 (Proposal Requirements).
- 1.7 Reserved Rights. Notwithstanding anything to the contrary in this RFP, the OAG reserves the right, in its sole and absolute discretion, to:
- (a) accept proposal(s): (i) which in the OAG's sole and absolute discretion, fail in any material respect to comply with the requirements of this RFP; and (ii) in whole or in part without negotiations;
 - (b) enter into negotiations with: (i) any and all Bidders on any and all aspects of their proposal, to ensure the OAG's business requirements are satisfied and to promote value for money; (ii) in the event, in the OAG's sole and absolute discretion, no proposals meet the requirements of this RFP, any and all Bidders, or any prospective persons or entities capable of delivering the required services or goods but who have not submitted a proposal in response to this RFP; and (iii) in the event of a tie between two (2) or more Bidders, all such tied Bidders;
 - (c) conduct a best and final offer process with any and all Bidders in which Bidders are invited to revise their financial offers in circumstances where the OAG deems such a process is appropriate, in its sole and absolute discretion;
 - (d) cancel, modify, re-issue and suspend: (i) any aspect of this RFP, in whole or in part, at any time, for any reason; and (ii) the schedule of this RFP, in whole or in part, at any time, for any reason, including but not limited to, the Deadline for Requests for Clarification, the Deadline for Proposals, the Anticipated Contract Award Date and any other activity or date stipulated in this RFP; and (iii) this RFP in its current or modified form and invite new proposals only from the Bidders who submitted proposals in response to this RFP where none of those proposals meet the requirements of the RFP and to do so is deemed, in the OAG's sole and absolute discretion, to be in the OAG's best interests;

(e) award, as a result of this RFP: (i) one (1) contract; (ii) more than one (1) contract; and (iii) no contract;

(f) seek substantiation, clarification, and validation of, and take into account, independently or with the assistance of the Bidder, any and all information provided by the Bidder with respect to this RFP and, for this purpose, disclose any and all information provided to the Bidder to any third party, subject to the OAG obtaining reasonable assurances of confidentiality from such third party;

(g) reject and refuse to consider, any proposal: (i) failing to respond to, or comply with, any of the requirements or terms and conditions of this RFP in any material respect, in the OAG's sole and absolute discretion; (ii) containing false, unethical, misrepresented or discriminatory information or in respect of which the OAG receives evidence to its satisfaction of fraud, bribery, misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination by or on behalf of the Bidder; (iii) in the event any matter causes or is likely to cause, in the OAG's sole and absolute discretion, a real, apparent or perceived conflict of interest in relation to the selection of any such proposal; (iv) from a Bidder who colludes with one (1) or more other Bidders in the preparation of any proposal; (v) from a Bidder who fails to cooperate with the OAG in any attempt to substantiate, clarify, or validate any information provided by the Bidder or who fails to provide accurate and complete documentation as directed by the OAG; (vi) from a Bidder against whom economic sanctions have been imposed by the Government of Canada; (vii) from a Bidder with whom the OAG has previously terminated a contract for any reason or has had a previous, or currently has a commercial or legal dispute that, in the OAG's sole and absolute discretion, would impair the OAG's ability to enter into the productive business arrangement contemplated by this RFP; (viii) from a Bidder failing to have the capacity to contract with Her Majesty or prohibited from receiving any benefits under a contract between Her Majesty and any other person by virtue of Section 750(3) of the *Criminal Code of Canada*; (ix) from a Bidder that is bankrupt or where, for whatever reason, the Bidder's activities are rendered inoperable for an extended period; and (x) from a Bidder publicly listed as ineligible to be awarded a procurement contract pursuant to the Government of Canada's Integrity Regime;

(h) waive irregularities, informalities, omissions and defects in any proposal where, in the OAG's sole and absolute discretion, they do not materially affect the ability of the bidder to provide the services or goods required by this RFP; and

(i) invite only the Bidders who submitted proposals in response to this RFP to resubmit their proposals within a time period specified by the OAG in the event no proposals meet the requirements of this RFP, where to do so is deemed to be in the OAG's best interest, in its sole and absolute discretion, and provided the requirements of the RFP are not substantially modified.

The exercise of any of the foregoing rights, either alone or in combination with each other, shall not be interpreted as waiving or limiting the exercise of any other rights by the OAG hereunder or otherwise at law.

- 1.8 Limitation of Liability. In no event shall the OAG, its employees, contractors, consultants and advisors be liable or responsible for any damages, including but not limited to, any direct, indirect, consequential, incidental, general, special or exemplary damages, any economic losses, any lost profits, opportunities, expenses, costs or any other losses arising out of, in connection with, or in any way related to, any Bidder's participation in this RFP or any acts, omissions or errors, including without limitation negligence of, or breach of contract by, the OAG, its employees, contractors, consultants and advisors. Without limiting the foregoing, expenses or costs incurred by any Bidder in any way related to or associated with this RFP, including but not limited to preparing, submitting or evaluating their proposal, providing information to the OAG or the OAG's authorized representative, and the satisfaction, fulfillment or completion of any conditions precedent to any contract with the OAG to deliver the services and/or goods required by this RFP, are the Bidder's sole responsibility and will not be reimbursed by, chargeable to, or otherwise payable by, the OAG in any way. Without limiting any rights the OAG may reserve elsewhere in this RFP or may have

otherwise at law, the OAG may elect to exercise its sole and absolute discretions pursuant to this RFP without any liability or obligation to any Bidder. If any Bidder is determined by a court or tribunal of competent jurisdiction to be entitled to compensation arising from this RFP, the total maximum of any such compensation shall be limited to one thousand dollars (\$1,000.00).

- 1.9 Amendment. Any amendment to this RFP shall be issued by the OAG in writing and will be made available in the form of an addendum in the same manner as this RFP is issued.
- 1.10 Property. Proposals received in response to this RFP shall become the property of the OAG and will not be returned to any Bidder. All proposals will be treated as confidential, subject to the provisions of the *Access to Information Act*, R.S.C., 1985, c. A-1 (as amended) and the *Privacy Act*, R.S.C., 1985, c. P-21 (as amended).
- 1.11 Governing Law. This RFP shall be governed by and construed in accordance with, and the relations between the parties determined by, the laws in force in the Province of Ontario, Canada.
- 1.12 Resulting Contracts. Bidders who submit a proposal agree to be bound by the instructions, terms and conditions of the RFP and accept the terms and conditions of the resulting contract(s). The contract(s) resulting from this RFP shall be comprised of, in the following order of priority in the event and to the extent of any discrepancies, inconsistencies, ambiguities or conflict of or between the wording of one document and any other document: (a) the form of agreement set out in Section 5 (Contract Terms and Conditions), including but not limited to the terms and conditions therein; (b) the requirement for services and/or goods set out in Section 2 (Statement of Work); (c) any other sections, appendices and information incorporated in this RFP as the OAG may deem appropriate, in its sole and absolute discretion, to include as part of the resulting contract(s); (d) this RFP; and (e) the documents submitted with the selected proposal.
- 1.13 Debriefing. Bidders may submit a request for a debriefing to the Procurement and Contracting Officer in writing within fifteen calendar days of the OAG's notification of the results of this RFP. Any such debriefing may be conducted in writing, in person or by telephone, at the OAG's sole and absolute discretion.
- 1.14 Disclaimer. The OAG makes no representation or warranty as to the accuracy or completeness of any information provided in connection with this RFP and disclaims all express and implied representations, warranties, and conditions in connection with this RFP. Bidders are solely responsible for, if necessary, making their own investigations, projections and conclusions and consulting their own advisors to verify independently the information contained in this RFP, and, if required, obtaining any additional information and clarification of the requirements or other matters in this RFP, prior to submitting a proposal.
- 1.15 General. This RFP constitutes the entire understanding of the services and/or goods required by the OAG and the process by which a Bidder may be selected for recommendation of contract award. In the event and to the extent of any discrepancies, inconsistencies, ambiguities or conflict of or between the wording of this RFP and the wording of documents submitted by the Bidder, the wording of this RFP shall govern. In the event and to the extent of any discrepancies, inconsistencies, ambiguities or conflict of or between the wording of the English and French versions of this RFP, the common interpretation between the two versions shall govern.

Survey Tool

1. Background

1.1 The OAG conducts independent audits and studies that provide objective information, advice and assurance to Parliament, territorial legislatures, boards of Crown corporations, government and Canadians. The OAG's head office is located in Ottawa and its four regional offices are located in Vancouver, Edmonton, Montréal and Halifax. Please see www.oag-bvg.gc.ca for further information about the OAG.

1.2 The OAG requires an on premise survey tool for various applications including, but not limited to: for the collection of information both domestically and internationally, during the course of audits, to run polls on the intranet, to collect information on internal operations and events, and to conduct post-tabling satisfaction surveys. Functionality will drive both internal surveys, which are fundamental to effective management at the OAG, and external surveys, which provide an important source of data for many direct engagements (audits of Government of Canada departments, territories and Crown corporations).

2.1 Description and Scope of Work

2.1.1 The Contractor will provide a fully functional Commercially Available Off-the-Shelf (COTS) survey tool, arrange for its installation, configuration, and integration; provide training of OAG staff on its use; and provide ongoing maintenance and support for a period of at least three (3) years.

2.1.2 The survey tool must be functional and fully integrated into the OAG's current IT environment and architecture.

2.2. OAG Environment

2.2.1 All user work spaces provided by the software must at least operate on an OAG standard laptop/PC; which currently includes the following minimum configuration:

- Windows 10 (tablets) or Windows 7
- Intel i5
- 8GB RAM
- 250GB Hard Drive (preferably SSD).

2.2.2 For the proposed software and/or middle-tier components to be deployed on a server, they must be able to operate on the OAG standard server platform which currently is the following:

- Windows Server 64 bit platform 2016.

2.2.3 The proposed software must be compatible with the OAG's standard business software suite:

- Windows 10 and Windows 7;
- Microsoft Office Suite 2013;
- Microsoft Outlook 2013;
- Microsoft Internet Explorer 11 or above; and
- Adobe Reader XI or above.

2.2.4 The proposed software must operate against and store assets and data in either an Oracle RDBMS, specifically on the current version Oracle 11g or 12c, 12.2 or later or Microsoft SQL Standard Server 2016 or later.

2.3. Software Specifications

2.3.1 All software must be “Off-the-Shelf”, meaning that each software component is commercially available and requires no further research or development and is part of an existing product line with a field-proven operational history (that is, it has not simply been tested in a laboratory or experimental environment). If any of the software proposed is a fully compatible extension of a field-proven product line, it must have been publicly announced on or before the date that the proposal is submitted.

2.3.2 The software must provide multi-language support. Specifically, all user interfaces (UI) must support both the French and English languages.

2.3.3 The software must provide for Single-Sign-On (SSO) authentication with Microsoft Active Directory, without the use of an intermediary directory for all users at the OAG. At the OAG SSO is defined as follows: a user connects to the OAG network using a supplied username/password. Once logged into the OAG network, a user only needs to supply a username or password to access business applications when accessing the application for a different role or process. Therefore, the users should be logged in automatically on all the interfaces provided by the proposed software and not be asked to enter username and password if they have the same role. This must also include the automatic provisioning of users from Microsoft AD without any manual intervention.

2.3.4 The software must provide the necessary security mechanism to ensure data integrity and to prevent unauthorized access, including:

2.3.4.1 Access Control: The software must enable administrators to control access to data, content, process and applications delivered through the software based on user profiles, roles, and/or groups.

2.3.5 If the software requires plug-ins or add-ons to existing OAG environment or business software to meet OAG requirements, the plug-ins or add-ons will continue to be supported and function for the life of the software. The Contractor will modify plug-ins or add-ons if they conflict with other plug-ins or add-ons provided by the other existing OAG business software. The software must not require plug-ins or add-ons to the Microsoft Office Suite or Microsoft Outlook.

2.3.6 The software must include at least two (2) administrator licenses and at least four (4) survey design licenses. It should have licensing to support 650 internally that can participate in internal surveys (respondents) and review results. The software must also have licensing for an unlimited number of possible external respondents. The software must support five-hundred (500) simultaneous accesses from one or multiple surveys.

2.3.7 The OAG requires strong encryption of data during transmission and storage in compliance with the following standards for Protected ‘B’ data:

- Levels of security and definitions: <http://www.tpsgc-pwgsc.gc.ca/esc-src/protection-safeguarding/niveaux-levels-eng.html>
- Handling and Safeguarding of Classified and Protected Information and Assets: <http://iss-ssi.pwgsc-tpsgc.gc.ca/msi-ism/ch5-eng.html>
- Management of Information Technology Security (MITS) <https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=12328>

2.3.8 The surveys produced by the software must meet Web Content Accessibility Guidelines (WCAG) set out in the Standard on Web Accessibility (<http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=23601>).

2.4 Training and Technical Support

2.4.1 Up to five (5) OAG employees will require training in order to be able to effectively use and maintain the survey tool. Two (2) OAG employees will require knowledge transfer during the installation and configuration and training to administer, integrate with other IT environment components if required and configure the software. This training should not exceed 5 days.

2.4.2 The Contractor must provide technical support, including issue/problem reporting and assistance with response within 24 hours of the issue being reported. The Contractor must provide maintenance releases or patches to ensure the software continues to be supported in the OAG environment that needs to be kept up-to-date for security and support requirements. That includes ensuring the software can keep up-to-date with new versions of Windows 10 that needs to be deployed (Windows as a service program).

2.4.3 The software must include complete developer-based documentation and offer training for developers in order to integrate or use survey functionality through secure application programming interfaces (APIs); preferably REST-based APIs.

2.4.4 The Contractor must provide any documentation or information requested by the OAG in order for the OAG to conduct Threat and Risk Assessments and Privacy Impact Assessment.

2.5 Language

Documentation including user guides should be provided in both official languages (French and English). Installation work may be provided in either official language. Training materials should be provided in English and in French. In the event the materials are not available in both Official Languages, the OAG will translate the materials in accordance with the Contract.

2.6 Location of Work and Travel Requirements

Installation of the survey tool will take place at the OAG headquarters, 240 Sparks Street, Ottawa, Ontario. Support, installation and training may be provided remotely provided tools used for doing work remotely are approved by the OAG.

2.7. Tasks and Deliverables

2.7.1 The proposed solution must be installed, configured and tested within thirty (30) business days after contract award. The IT Applications group will conduct User Acceptance Testing in accordance with the Contract.

2.7.2 The training for up to five (5) OAG employees may be done on OAG premises, remotely or via an eLearning tool and must be provided in both English and French within five (5) days after the software is installed, configured, fully tested and accepted.

2.7.3 The vendor will provide access to support for installation, maintenance and user support from 8:00AM to 5:00PM, Monday to Friday.

2.7.4 The vendor will provide online or electronic documentation for how to use and administer the tool within five (5) days after the software is installed, configured, fully tested and accepted.

Milestone	Deliverables to be completed	Completion Date	Amount (\$)
1	Install and configure software	19-nov-2018	\$15,000
2	Proof of Concept	26-nov-2018	\$1,500
3	Provide training to up to 5 OAG employees	5-dec-2018	\$2,000
4	Provide documentation to OAG	12-dec-2018	\$1,500
	Total:		\$20,000

3. OAG Responsibilities

- I. Provide the necessary hardware and server OS to install the software as well as OAG laptops to test the installation/configuration.
- II. On premise resources to assist with installation, configuration, and testing the software
- III. Conduct Threat and Risk Assessments and Privacy Impact Assessments of the software

SECTION 3 BASIS AND METHOD OF EVALUATION

3.1 Evaluation Process

Proposals responding to, and compliant with, the requirements, terms and conditions of this RFP will be evaluated by a team composed of OAG representatives and selected for recommendation of contract award in accordance with the following process:

Step 1: Compliance with Mandatory Requirements

Proposals will be reviewed for confirmation of compliance with any Mandatory Requirements set out in Section 4.2 (Mandatory Requirements).

This review will take the form of validating that the statements and supporting material referenced by the Bidder substantiate a compliant response.

Proposals failing to meet any one (1) or more of the Mandatory Requirements will be deemed non-compliant and given no further consideration.

Step 2: Scoring of Rated Requirements – 70 points

Proposals deemed compliant in Step 1 will then be evaluated for technical merit with respect to the Rated Requirements set out in Section 4.3 (Rated Requirements) and shall be assigned scores for each item identifying its relative importance. Awarded Points will be weighted on the basis of the importance of the requirement (High, Medium, or Low) as described in section 4.3.

Proposals failing to score at least **65%** of the maximum points available will be deemed non-compliant and given no further consideration.

Step 3: Scoring of Financial Requirements - 30 points

Proposals deemed compliant in Step 2 will then be evaluated for price with respect to the Financial Requirements set out in Section 4.4 (Financial Requirements).

The lowest compliant bid price shall be assigned the maximum points available and any other compliant bid prices shall be assigned scores using the following formula:

$$\frac{\text{Lowest compliant bid price}}{\text{Proposal bid price}} \times \text{maximum points available} = \text{Points assigned to proposal}$$

Step 4: Ranking of Combined Total Score (100 points)

Proposals deemed compliant in Step 3 will then be ranked from highest to lowest based on the combined total score of technical merit and price, calculated by adding the rated and financial points assigned to the proposal in Step 2 and Step 3, respectively.

Please refer to the table below for an illustrative example of this methodology. Any differences between the illustrative example and this RFP in respect of the ratio, available points, or any other matter, are deliberate and are not intended to be relied upon by any Bidder.

		Bidder 1	Bidder 2	Bidder 3
Step 2 Rated Points		61/70	50/70	51/70
Step 3 Proposal Bid Price		\$55,000.00	\$50,000.00	\$45,000.00
Calculations	Technical Merit Score	61	50	51
	Pricing Score	45/55 x 30 = 24.55	45/50 x 30 = 27.00	45/45 x 30 = 30.00
Combined Total Score		85.55	77.00	81.00
Overall Ranking		1st	3rd	2nd

Step 5: Demonstration

Following the scoring of Proposals on the basis of the Rated Requirements and Financial Requirements, the three (3) highest-ranking Proponents will be invited to demonstrate their proposed software.

Demonstrations will be limited to 90 minutes and are to take place on OAG premises. Should this not be possible, special arrangements may be considered, for example the demonstration could be held via web conference.

Demonstrations are expected to take place two weeks following the Proposal Deadline. The OAG will provide Proponents a minimum of 5 days' notice of the date their demonstration will take place.

Proponents must demonstrate that their proposed software meets all of the Mandatory Requirements, and how their proposed software performs the 10 categories of the Rated Requirements. On the basis of the presentation, the scoring of the Rated Requirements may be adjusted, and subsequently, the Combined Total Score. In the event this results in a Proposal no longer scoring among the three highest-ranking Proposals, the OAG will invite the Proponent with the next highest Combined Total Score to participate in the Demonstration phase of the evaluation.

Step 6: Selection of Proposal for Contract Award

The OAG intends to select the proposal receiving the highest Combined Total Score(s) of technical merit and price for recommendation of contract award, which shall be deemed the proposal offering the best value to the OAG, provided that bid price does not exceed the budget available for this RFP and subject to section 1.7 (Reserved Rights) of this RFP.

For greater certainty, neither the compliant proposal obtaining the highest technical merit score nor the one with the lowest compliant bid price will necessarily be selected.

SECTION 4 PROPOSAL REQUIREMENTS

4.1 Organization of Proposal

Technical Offers should be limited to a maximum of **40 pages** using 8.5 x 11 inch paper and size 10 font. Any information contained in pages exceeding the stipulated maximum may not be evaluated, in the OAG's sole and absolute discretion. To ensure completeness and to maximize scoring potential, *Bidders* should prepare their proposal to respond to the mandatory (if any), rated and financial requirements below. The OAG will not evaluate corporate literature or website information referenced within the proposal. Prices should appear in the Financial Offer only and should not be indicated in any other section of the proposal.

In addition to the one (1) paper original, Bidders should provide one electronic copy on CD or USB. In the event and to the extent of any discrepancies, inconsistencies, ambiguities or conflicts of or between the wording of the original and any copy, the original shall prevail. To promote consideration of the environment, Bidders should also use paper containing fibre certified as originating from a sustainably-managed forest and containing minimum 30% recycled content, as well as use an environmentally-preferable format including black and white printing instead of colour printing, printing double-sided, and using staples or clips instead of cerlox, duotangs or binders.

4.2 Mandatory Requirements

No points will be assigned to Technical Offers for compliance with any Mandatory Requirements. Failure to comply with **ANY** one (1) or more of the Mandatory Requirements will result in a proposal being deemed non-compliant and given no further consideration. Where appropriate, Bidders should briefly describe how they meet each of the Mandatory Requirements. Bidders are also encouraged to complete the following table and submit it as part of their proposal. Bidders should indicate beside each of the Mandatory Requirements the relevant page number(s) from their proposal where the statements and supporting material for each Mandatory Requirement is addressed.

MANDATORY REQUIREMENTS		PASS/FAIL	Page Number
Survey Design and Templates			
M01	Ability to produce multi-lingual (English and French) surveys		
M02	OAG control over visual presentation and modifications to logos, banners, and backgrounds of survey templates		
M03	Support anonymous and targeted surveys		

Survey Administration			
M04	Bilingual (English and French) design and administrator user interface		
M05	Ability to support at least 10 concurrent surveys with up to 150 questions and unlimited responses per survey		
M06	Single-Sign-On (SSO) authentication with Microsoft Active Directory		
Security			
M07	Password-protected user administrator accounts with unique passwords and logins. At the minimum 8 characters with at least 3 out of 4 are uppercase, lowercase, number or special character.		
M08	Survey solution must be hosted on premise (not cloud-based)		
M09	Encryption of survey responses in transit and storage		
M10	Survey responses stored uniquely in the application		
M11	Ability to secure survey with TLS (https://) with a minimum version 1.2		
Operating Environment			
M12	<p>Application must run on:</p> <p>Server OS - Windows Server 2016 or later release</p> <p>Database - Microsoft SQL Server 2014 or later release</p> <p>Client for administration and rendering of server– Internet Explorer running on Windows 7 and Windows 10</p>		

4.3 Rated Requirements

Bidders should demonstrate their understanding of the rated requirements in the RFP and explain how they will meet those requirements. Bidders should demonstrate their capability and describe their approach in a concise and clear manner for carrying out the work. Bidders should refrain from simply repeating the requirements of this RFP.

Bidders should address each of the requirements that are subject to point rating criteria and against which the Technical Offer will be evaluated.

Points will be assigned to Technical Offers for responding to these Rated Requirements. The OAG shall apply the following scoring system when rating the Bidder's response to each requirement:

Based on the information included in the Proposal, points will be attributed as follows:

Point(s)	Description
0	Functionality not provided
4	Functionality included in the proposed COTS tool provided by bidder

Points will then be weighted on the basis of the importance of the requirement, as follows:

High: points are weighted at 100%

Medium: points are weighted at 50%

Low: points are weighted at 10%

RATED REQUIREMENTS		Weighting
Survey Design Requirements		
R01	Ability to restrict access for survey respondents	High
R02	Drag and drop UI for making surveys	High
R03	Create & save bulk lists of choices	High
R04	Ability to create customized URL addresses for surveys, including short URLs	High

R05	Live preview and ability to test surveys prior to deployment	High
R06	Multiple choice	High
R07	Dropdown choice	High
R08	Checkbox response	High
R09	Open text response with single and multiple line options, and the ability to set a word limit	High
R10	Ranking of selection questions (choose top x of N)	High
R11	Percentage allocation	High
R12	Grid versions of all basic question types	High
R13	“Other” text box	High
R14	Date / time	High
R15	Checkbox validation (x of y choices)	High
R16	Advanced logic including branching and skipping based on survey responses (piping) and on survey invite parameters. Must allow multi conditional branching.	High
R17	Randomize question choices	Medium
R18	Validate responses (such as phone numbers and postal codes).	High
R19	Format and style survey text	High
R20	Insert images, graphics, and videos	High

R21	Question identifiers	High
R22	Make responses to questions optional or required	High
R23	Ability to redirect browser to a specific URL upon completion	High
R24	Text / section headings	High
R25	Developer access to CSS styles or other markup code (if not all formatting features are available through UI) to allow OAG to modify	Medium
R26	Show / hide questions and choices depending on user choices	High
R27	Customizable end pages	High
R28	Editable and personalized error messages	High
R29	Move and copy questions within a survey	High
R30	Looping with variable parameters (i.e. changing text parameters, specifying loop in)	High
R31	HTML embedded polls	High
R32	Ability to create polls that are available through REST-based APIs to integrate into OAG Intranet	Medium
R33	Matrix combination of question types	High
R34	Document upload capacity for survey respondents	High
R35	Slider response	Medium
R36	Drill down	Medium

R37	Semantic differential	Medium
R38	Yes/No answers	Low
R39	Randomize variables	Low
R40	Randomize questions and pages	Low
Survey Administration Requirements		
R41	User administration accounts to include use of an administration control panel allowing users to administer the entire system	High
R42	Ability to share survey access across multiple administrators, so that they can each access different surveys	Low
R43	Privilege user survey creator account to grant access to delegated users, for checking on results and responses without having to go through an administrator	Low
R44	Ability to toggle a survey between live and not live or schedule live date and time	High
R45	Edit responses (for recording purposes or data cleanup)	High
Information Management Requirements		
R46	Data export to CSV, Excel	High
R47	Delete individual response records	High
R48	Delete responses in bulk	High
R49	Delete surveys	High
Reporting Requirements		

R50	Basic summary reports with tabulated data and charts. Ability to generate cross-tabs with multiple conditions	Medium
R51	Export reports to one (or more) of Word, Excel, PowerPoint, PDF	High
R52	API to access data from a Business Intelligence Platform	Low
R53	View tabular and graphical results in real time (as responses are collected)	Medium
R54	View summary statistics (including daily tracking and completion time)	Medium
R55	A single dataset for bilingual surveys (same dataset regardless of language survey was completed in)	High
R56	Cross-tabulations in reports	High
R57	Ability to create a reporting link (URL) that allows for results to be shared	High
R58	Basic text analytics	Low
Survey Invitations Requirements		
R59	Add responses to dataset that have been gathered offline	High
R60	Survey invitation utility to manage email invitations	High
R61	Send out survey links through email invites	High
R62	Manual reminder emails	Medium
R63	Automated reminder emails	High
R64	Add contacts individually	High

R65	Import bulk entire contact lists	High
R66	Save contact lists	Medium
R67	View status of emails sent in real time	High
R68	Customize “From / Reply To” email address and “From” name	High
R69	Create personalized fields in email invitations and merging profile information for personalized messages and invites (i.e. custom fields)	High
R70	Have an “opt out” response option for future invitations on emails. Survey tool automatically manages opt out responses to prevent future invites from being sent out	High
R71	Insert images and HTML into emails	Medium
R72	Send out test emails	High
R73	View bounced emails	High
R74	Schedule messages / emails to send at a later date	Medium
User Experience Requirements		
R80	Save / continue later (without cookies)	High
R81	Start surveys in either French or English	High
R82	Allow users to download and/or print responses	High
R83	Mobile and tablet ready through browsers for survey respondent	High

R84	When completing a survey, respondent can switch languages without losing responses	High
R85	Scored survey, where points are assigned to responses	Medium
R86	Completion meter for users to see approximately how much of the survey remains to finish	Low

4.4 Financial Requirements

Points will be assigned to Financial Offers for responding to these Financial Requirements. The Financial Offer is to quote the **total bid price** of the goods and/or services offered, including, but not limited to, all cost and expense elements that may apply, such as, without limitation, option years and maintenance costs, customizations required to provide functionality required by the OAG but **excluding any applicable taxes**, by submitting all information specified in the table below.

Where the price submitted in the Financial Offer is based upon firm hourly or per diem rates, the following financial considerations shall apply: (i) rates shall be quoted as hourly or per diem, expressed in Canadian dollars, for each of the categories of personnel and for each year of any resulting contract; (ii) rates shall be based on a normal work day of seven and a half (7.5) hours.

The price submitted, shall be fixed for the term of any resulting contract, shall be all-inclusive and shall represent the entire consideration for performing all obligations of the Bidder under any resulting contract. Without limitation to the foregoing, this shall include, for greater certainty, salary, fringe benefits, overhead costs, any costs or expenses not expressly provided for as chargeable, payable or reimbursable to the Bidder under any resulting contract, and profit, but exclude the applicable Goods and Services Tax (GST) and/or Harmonized Sales Tax (HST), which should be shown separately in the Financial Offer.

The OAG expects that the solution acquired as a result of this RFP will be in effect for at least three (3) years. The OAG reserves the right to extend the licensing, maintenance and support for the software for up to three (3) additional one (1) year periods, at the OAG’s discretion subject to budgetary limitations.

The OAG wishes to evaluate the full cost of the proposed software. To do so, Bidders must complete the Table below in Section 4.4.1. Detailed descriptions of each of the potential cost elements are included in Section 4.4.2.

4.4.1 Provide a three (3) year cost summary using the following chart. The total cost for the three (3) years will be used to evaluate the financial proposals. The total cost should not exceed the budget indicated on Page 1 of this RFP.

Three Year Total Cost Summary				
Costs	Year 1	Year 2	Year 3	Total
Software Licensing				
Third Party Software				
Installation and configuration				
Integration				
Maintenance				
Documentation				
Training				
Project Management				
Other (specify)				
Grand Total (Total Bid Price)				

4.4.2 The following describe each of the potential cost elements:

- a. **Software Licensing:** List, describe, and record the licensing, implementation, maintenance, support, and training fees associated with your proposed software.
- b. **Third-Party Software (Middleware):** List, describe, and record the cost of each piece of software that is required to optimally run the software.
- c. **Installation:** Describe any labor, equipment, supplies, or other costs associated with installing your proposed software.
- d. **Integration:** Describe any labor, equipment, supplies, or other costs associated with integrating your software into our current architecture and back-end software.
- e. **Maintenance:** Describe and cost out any other ongoing costs associated with the operation and maintenance of your proposed software.
- f. **Documentation:** If there are fees associated with user or technical documentation, list them here.
- g. **Training:** Describe available training and list targeted audience (administrator, end user) and fees. This must include the cost for five days of customized training sessions for the OAG for up to five (5) employees.
- h. **Project Management:** If there are project management fees associated with your proposed software, list and describe them here.
- i. **Other (specify):** List and describe any other costs associated with your proposed software.

As indicated on Page 1 of the document, the OAG reserves the right to purchase maintenance for the software for up to three (3) additional one (1) year periods. Bidders are to provide a cost for each of the option years in the following table.

Option Year Cost Summary				
Costs	Option Year 1	Option Year 2	Option Year 3	Total
Maintenance				
Licences				
Other (specify)				
Grand Total				

4.5 OAG's Rights during Evaluation

Without limitation to section 1.7 (Reserved Rights) of this RFP, the OAG may, in its sole and absolute discretion, during the evaluation and selection process described in this RFP, and prior to any contract award:

- i. seek clarification of and/or verify any information provided with respect to any proposal, including but not limited to interviewing any individuals named in the proposal, which may be conducted in person or by telephone;
- ii. contact any or all references supplied by a Bidder to verify and validate any information or data submitted with the proposal;
- iii. hire any consultant or third party to assist with the evaluation of proposals;
- iv. request information with respect to any Bidder's legal and financial status or, in the event the Bidder's proposal is the only compliant proposal received in response to this RFP, with respect to one or more of the following price justifications:
 - a. current published price list of the discount percentage available to the Government of Canada;
 - b. paid invoices for the like quality and quantity of goods, services, or both sold to other customers;
 - c. price breakdown showing the cost of direct labour, direct materials, purchased items, general and administrative overhead and profit;
 - d. price or rate certifications; or
 - e. any other price justification as requested by the OAG.
- v. correct any mathematical errors in the addition or extension of prices submitted.

Bidders will have at least three (3) calendar days, or such other period as is specified in writing by the Procurement and Contracting Officer, to respond to any request for information or clarification described above. Failure to respond before expiry of the specified deadline may result in the proposal being deemed non-compliant and given no further consideration, in the OAG's sole and absolute discretion.

SECTION 5 CONTRACT TERMS AND CONDITIONS

These terms and conditions apply as of the date of last signature on the form of contract entitled “Contract for Services or Goods” to which they are attached (the “**Contract Form**”) between the Her Majesty the Queen in Right of Canada, as represented by the Auditor General of Canada (the “**OAG**”) and the party named on the Contract Form (the “**Contractor**”):

A1. Contract

1.1 Contract Documents. The following documents, together with any schedules, annexes, appendices and exhibits attached thereto, and together with any documents incorporated by reference therein, all as amended by agreement of the Parties from time to time, collectively form the “**Contract**”) between the OAG and the Contractor:

1.1.1 these terms and conditions;

1.1.2 the document attached hereto as Annex “A” and entitled “General Conditions” (hereinafter the “**General Conditions**”);

1.1.3 the document attached hereto the **Contract Form** and entitled “Statement of Work” (hereinafter the “**Statement of Work**”);

1.1.4 the **Contract Form**;

1.1.5 the **Contractor**’s proposal or quote (if any).

1.2 Priority of Documents. In the event and to the extent of any discrepancies, inconsistencies, ambiguities or conflicts of or between the wording of any documents that appear on the foregoing list, the wording of the document that first appears on the list has priority and shall prevail over the wording of any document that subsequently appears on the list.

1.3 Interpretation. The words in this **Contract** shall be interpreted according to their ordinary and usual meaning, without regard to the party who drafted the Contract. For greater certainty, the words “includes” or “including” shall be interpreted as meaning “includes without limitation” or “including without limitation”, as the case may be. Headings and titles contained in this Contract are inserted only as a matter of convenience or for reference and shall not in any manner be construed so as to define, limit or describe the scope or extent of any provisions of this Contract.

A2. Performance. The Contractor shall perform the Work, with due care and diligence, including the services and/or goods to be supplied, furnished and delivered as described in the Statement of Work, and do everything else that is necessary to discharge its obligations under the Contract.

A3. Payment. The OAG shall pay the Contractor, for Work performed in accordance with the Contract, on the following basis, plus any Applicable Taxes:

3.1 Basis of Payment. The Contractor shall be paid firm all-inclusive rates as specified in the Contract Form, subject to any limitation of expenditure specified in this Contract:

3.1.1 Definition of Day and Proration. A “day” is defined as 7.5 hours exclusive of meal breaks. Payment will be for days actually worked with no provision for annual leave, statutory holidays, sick leave or other absences. Time worked which is more or less than a day will be prorated to reflect actual time worked in accordance the following formula: (Hours worked x applicable rate) / 7.5 hours. All proposed personnel must be available to work outside normal office hours during the Term. No overtime charges will be authorized under the Contract. All time worked will be paid to the Contractor in accordance with this

section. For greater certainty, no payment shall be made for any time travelling to or from any location to perform Work under the Contract.

3.1.2 Travel Expenses. The Contractor shall be reimbursed for pre-authorized travel expenses that may be reasonably and properly incurred in the performance of the Work at cost, without any allowance for profit and administrative overhead, in accordance with *National Joint Council Travel Directive and Guidance for Government Business Travel by a Person(s) on Contract with the OAG* in amounts not to exceed in the aggregate any limitation of expenditure specified in the Contract. Any travel expenses must have the prior written authorization of the OAG, and be submitted in the form of an itemized statement supported by original receipts, to be eligible for reimbursement

3.1.3 Rates All-Inclusive. The rates payable in respect of the Work are fixed for the Term, inclusive of all costs, expenses and profit for which the Contractor may be eligible hereunder, except as may otherwise be expressly provided to the contrary in this Contract, and shall represent the entire consideration for performing all obligations of the Contractor under the Contract.

3.2 Method of Payment. The OAG will pay the Contractor for Work performed during the period covered by the invoice, no more frequently than monthly, subject to the General Conditions, if: (i) an accurate and complete invoice and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract; (ii) all such documents have been verified by the OAG; and (iii) the Work performed has been accepted by the OAG. Payment by the OAG shall be made within thirty (30) calendar days of the date specified in the General Conditions.

3.3. Limitation of Expenditure. The OAG's total liability to the Contractor for payment under the Contract shall not exceed the total value specified on the Contract Form (the "**Contract Price**"), plus any eligible expenses and Applicable Taxes (the "**Total Extended Price**"). No increase in the total liability of the OAG or in the price of the Work resulting from any changes, modifications, or interpretations of the Work, will be authorized by the OAG or paid to the Contractor unless such changes, modifications, or interpretations have been approved, in writing, in advance, by the OAG before their incorporation into the Work. The Contractor shall not perform any Work or otherwise provide any good or service that would result in the foregoing limitation of expenditure being exceeded before obtaining the prior written approval of the OAG. The Contractor must notify the OAG in writing on the adequacy of the foregoing limitation of expenditure: (i) when it is 75 percent committed; or (ii) 4 months before Contract expiry date; or (iii) as soon as the Contractor considers that the foregoing limitation of expenditure is inadequate for completion of the Work, whichever comes first. For administrative purposes, the Contractor shall advise the OAG on a weekly basis of the hours worked under the Contract.

A4. Time Verification and Audit of Accounts. Time charged and the accuracy of the Contractor's time recording system, as well as all payments, reimbursements and any other amounts claimed under the Contract, are subject to verification and audit by the OAG as specified in the General Conditions, at any time, both before and after payment is made.

A5. Invoicing Instructions. The Contractor must submit invoices as specified in the General Conditions. Invoices cannot be submitted until all work identified in the invoice is completed. If applicable to the basis of payment specified in the Contract, each invoice must be supported by a copy of time sheets or other documentation produced by the Contractor's time recording system to support the time claimed, together with a copy of any required monthly progress report. Invoices must be distributed as follows, unless specified otherwise by the OAG in writing: (i) the original must be forwarded to the

following address to the attention of the OAG Finance Department for certification and payment – 240 Sparks Street, Ottawa, ON K1A 0G6 or, alternatively, emailed to finance@oag-bvg.gc.ca.

- A6. Term.** The Contract shall be effective as of the date of signature by both parties and remains in force until expiration on the end date specified on the Contract Form (the “**Term**”), subject to the terms and conditions herein. For greater certainty, the Contractor shall perform the Work up to and including the end of the last day of the Term and any terms or conditions which, by their nature are intended to survive expiration or termination of the Contract, shall survive expiration or termination of the Contract for any reason. The Contractor shall not commence any Work prior to this Contract coming into effect. The Contractor hereby grants to the OAG the irrevocable option to extend the Term by up to three (3) additional one (1) year period(s) under the same terms and conditions. The Contractor agrees that, during any extended Term, it will be paid on the basis of the applicable provisions herein, subject to any increase in price, which shall not exceed the maximum change in the Consumer Price Index All-Items for Canada as published by Statistics Canada for the twelve (12) month period preceding the expiration date of the then applicable year. The OAG may exercise this option, for each additional extension period, in its sole and absolute discretion, at any time, by sending a written notice to the Contractor at least 30 calendar days before the then applicable expiration date of the Contract. Although each additional extension period takes effect on Contractor’s receipt of the OAG’s written notice, the Contract may be administratively amended by the Parties to reflect any option exercised.
- A7. Security Requirement.** Contractor shall ensure all Contractor Personnel requiring access to the OAG’s classified or protected information, networks and/or office space, obtain and maintain a valid Government of Canada Security Clearance at a minimum level of “Reliability Status” prior to accessing such information, networks and/or office space. Contractor shall provide the OAG with the name(s) of all such individuals together with evidence of the required security clearance(s). Such individuals will be expected to understand, sign and adhere to the OAG Security Policy.

Annex "A"
General Conditions

1. **Interpretation.** In the Contract, the capitalized words set forth below shall have the following meanings. Where not defined below, capitalized words shall have the meaning ascribed thereto elsewhere in this Contract, unless the context otherwise requires:

"Administrative Agreement" means a negotiated agreement with the OAG in relation to the Integrity Provisions set out herein;

"Affiliate" means a person, including, organizations, bodies corporate, societies, companies, firms, partnerships, associations of persons, parent companies or subsidiaries, whether partly or wholly-owned, as well as individuals, directors, officers and key employees if: (i) one controls or has the power to control the other, or (ii) a third party has the power to control both;

"Applicable Taxes" means the Goods and Services Tax (GST), the Harmonized Sales Tax (HST), and any provincial tax, by law, payable by the OAG;

"Contract" means, collectively, the documents specified in the Contract Form, together with these General Conditions, any schedules, annexes, appendices and exhibits attached thereto, and together with any documents incorporated by reference therein, all as amended by agreement of the Parties from time to time;

"Contracting Representative" means the person designated in the Contract, or by written notice to the Contractor, to act as the OAG's representative to administer the Contract;

"Contractor" means the person or entity named in the Contract to supply goods, services or both to the OAG";

"Contractor Personnel" means any director, officer, employee, consultant, subcontractor or other person or entity engaged by the Contractor to perform any work in respect of this Contract;

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

"Excusable Delay" means delay in the performance by the Contractor of any obligation under the Contract that is caused by an event that meets the conditions specified herein;

"Ineligibility" means a person not eligible to contract with Her Majesty;

"Office of the Auditor General", "OAG", "Auditor General of Canada", "Crown", or "Her Majesty" means Her Majesty the Queen in Right of Canada as represented by the Auditor General of Canada through the Office of the Auditor General and any other person with delegated authority to act on behalf of the Auditor General of Canada;

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

"Party" means the OAG, the Contractor, or any other party that is signatory to the Contract and "Parties" means all of them;

"Suspension" means a determination of temporary Ineligibility in relation to the Integrity Provisions set out herein;

"Total Extended Price", "Revised Extended Price", "Price Increase (Decrease)" in the Articles of Agreement of the Contract or in any Contract Amendment means an amount used by the OAG for internal administrative purposes only that comprises the Contract Price, or the revised Contract Price, or the amount that would increase or decrease the Contract Price and the Applicable Taxes as evaluated by the Contracting Representative, and does not constitute tax advice on the part of the OAG;

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

2. **Deemed Terms and Conditions.** Pursuant to the *Financial Administration Act*, R.S.C., 1985, c. F-11 (as amended) (the "FAA"), as well as the *Government Contract Regulations*, SOR/87-402 (as amended), the clauses, terms and conditions identified therein are hereby incorporated by reference and form part of the Contract as though expressly set out in the Contract. Without limitation to the foregoing, any payment under the Contract is subject to there being an appropriation for the particular service for the fiscal year in which any commitment hereunder would come in course of payment.
3. **Powers of the Auditor General.** All rights, remedies, powers and discretions granted or acquired by the OAG under the Contract or by law, including the *Auditor General Act*, R.S.C., 1985, c. A-17 (as amended), are cumulative, not exclusive.
4. **Status of the Contractor.** The Contractor is an independent contractor engaged by the OAG to perform the Work. Nothing in the Contract is intended to create an employment relationship, a partnership, a joint venture or an agency with the OAG. The Contractor must not represent itself as an agent or representative of the OAG to anyone. Neither the Contractor nor any Contractor Personnel is engaged as an employee, servant or agent of the OAG. The Contractor is responsible for all deductions, remittances and any applications, reports, payments or contributions required by law in relation to its employees, including federal, provincial and foreign tax, pension, employment insurance, workers' compensation, employment standards, wage rates, and any other similar matter, and the Contractor is entitled to no benefits or payments other than those specified in the Contract.

5. Conduct of the Work.

- a. The Contractor represents and warrants that the Contractor and all Contractor Personnel:
 - i. are competent to perform the Work;
 - ii. have everything necessary to perform the Work, including the resources, facilities, labour, technology, equipment, and materials; and
 - iii. have the necessary qualifications, including knowledge, skill, know-how, experience and third party authorizations, and the ability to use them diligently and effectively, to perform the Work.
- b. The Contractor and all Contractor Personnel must:
 - i. perform the Work diligently, effectively and efficiently;
 - ii. except for OAG Property, supply everything necessary to perform the Work;
 - iii. use, as a minimum, quality assurance procedures, inspections and controls generally used and recognized by the Contractor's industry to ensure the degree of quality required by the Contract;
 - iv. select and employ a sufficient number of qualified people as Contractor Personnel;
 - v. perform the Work in accordance with standards of quality acceptable to the OAG and in full conformity with all applicable laws and regulations, the OAG's specifications and all the requirements of the Contract; and
 - vi. provide diligent, effective and efficient supervision to ensure that the quality of workmanship meets the requirements of the Contract.
- c. The Work must not be performed by any person who, in the opinion of the OAG, in its sole and absolute discretion, is incompetent, unsuitable or has conducted himself/herself improperly.
- d. In the event of breach of warranty, in addition to other rights and remedies available at law and in this Contract, the Contractor shall, at the OAG's election and the Contractor's expense:
 - i. reperform the Work to the OAG's satisfaction (using alternate Contractor Personnel if the OAG so requests); or
 - ii. issue a credit in the amount of any Work that is or was deficient as a result of the breach.

6. Subcontracts. The Contractor may subcontract the supply of goods or services that are customarily subcontracted by the Contractor. In any other instance, the Contractor must obtain the prior consent in writing of the Contracting Representative. The Contracting Representative may require the Contractor to provide such particulars of the proposed subcontract as the OAG considers necessary, in its sole and absolute discretion. Subcontracting does not relieve the Contractor from any of its obligations under the Contract or impose any liability upon the OAG to a subcontractor. In any subcontract, the Contractor agrees to bind the subcontractor by the same conditions by which the Contractor is bound under the Contract, unless the Contracting Representative requires or agrees otherwise, with the exception of any employment equity or other requirements which may only apply to the Contractor.

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

8. Excusable Delay.

- a. A delay in the performance of the Work or any obligation by the Contractor under the Contract that is caused by an event that:
 - i. is beyond the reasonable control of the Contractor;
 - ii. could not reasonably have been foreseen;
 - iii. could not reasonably have been prevented by means reasonably available to the Contractor; and
 - iv. occurred without the fault or neglect of the Contractor,will be considered an "Excusable Delay" if the Contractor:

1. notifies the Contracting Representative, in writing, of the occurrence of the delay or of the likelihood of the delay as soon as the Contractor becomes aware of it; and
 2. within 15 calendar days of the foregoing notification, also notifies the Contracting Representative, in writing, of all the circumstances relating to the delay and includes, for approval by the OAG, a clear work around plan explaining in detail the steps that the Contractor proposes to take in order to minimize the impact of the event causing the delay.
 - b. Any delivery date or other date that is directly affected by an Excusable Delay will be postponed for a reasonable time that will not exceed the duration of the Excusable Delay. However, if an Excusable Delay has continued for 30 calendar days or more, the Contracting Representative may, by giving notice in writing to the Contractor, terminate the Contract. In such a case, the Parties agree that neither will make any claim against the other for damages, costs, expected profits or any other loss arising out of the termination or the event that contributed to the Excusable Delay. The Contractor agrees to repay immediately to the OAG the portion of any advance payment that is unliquidated at the date of the termination. Unless the OAG has caused the Excusable Delay by failing to meet an obligation under the Contract, the OAG will not be responsible for any costs incurred by the Contractor or any of its subcontractors or agents as a result of an Excusable Delay.
9. **Inspection and Acceptance of the Work.** All Work is subject to inspection and acceptance by the OAG. Inspection and acceptance of the Work by the OAG does not relieve the Contractor of its responsibility for defects or other failures to meet the requirements or obligations under the Contract. The OAG will have the right to reject any work that is not in accordance with the requirements of the Contract and require its correction, replacement, reperformance or refund at the Contractor's cost and expense.
10. **Invoice Submission.** Invoices must be submitted in the Contractor's legal name. The Contractor must submit invoices for each delivery or shipment and invoices must only apply to the Contract. Each invoice must indicate whether it covers partial or final delivery.
 - a. Invoices must show:
 - i. the date, the name and address of the OAG, item or reference numbers, deliverable/description of the Work, contract/purchase order number, Client Reference Number (CRN), Procurement Business Number (PBN);
 - ii. details of expenditures (such as, but not limited to, showing separately, hours worked in Canada or abroad, periods and cost of any authorized travel expenses, item, quantity, unit price, fixed time labour rates and level of effort, fixed firm price and payment milestone, as applicable) in accordance with the basis of payment specified in the Contract, exclusive of Applicable Taxes;
 - iii. deduction for set-off, holdback or deduction, if applicable;
 - iv. the extension of the totals, if applicable; and
 - v. if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges. Applicable Taxes must be specified on all invoices as a separate item along with corresponding registration numbers from the tax authorities. All items that are zero-rated, exempt or to which Applicable Taxes do not apply, must be identified as such on all invoices.
 - b. By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

- 11. Taxes.** The OAG is required to pay Applicable Taxes. Applicable Taxes will be paid by the OAG as provided in the Invoice Submission section. It is the sole responsibility of the Contractor to charge Applicable Taxes at the correct rate in accordance with applicable legislation. The Contractor agrees to remit to appropriate tax authorities any amounts of Applicable Taxes paid or due. The Contractor is not entitled to use exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The Contractor must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable legislation), including for material incorporated into real property. In those cases where Applicable Taxes, customs duties, and excise taxes are included in the Contract Price, the Contract Price will be adjusted to reflect any increase, or decrease, of Applicable Taxes, customs duties, and excise taxes that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Contract Price if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change. Pursuant to the *Income Tax Act*, R.S.C., 1985, c.1 (5th Supp.) (as amended) and the *Income Tax Regulations*, C.R.C., c. 945 (as amended) the OAG must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is not a resident of Canada, unless the Contractor obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed.
- 12. Payment Period and Interest on Overdue Accounts.** The OAG's standard payment period is 30 calendar days. The payment period is measured from the date an invoice in a form and content acceptable to the OAG is received in accordance with the Contract or the date the Work is delivered in a condition acceptable to the OAG as required in the Contract, whichever is later. A payment is considered overdue on the 31st calendar day following that date and interest will be paid automatically in accordance with this section.
- a. If the invoice and its substantiating documentation are not received in a form and content acceptable to the OAG in accordance with the Contract or the Work is not delivered in a condition acceptable to the OAG as required by the Contract, the OAG will notify the Contractor within 15 calendar days of receipt. The 30-day payment period begins upon receipt of the revised invoice or the replacement or corrected Work. Failure by the OAG to notify the Contractor within 15 calendar days will only result in the payment being considered overdue on the 31st calendar day following receipt of the invoice or work for the sole purpose of calculating interest on overdue accounts, but shall not relieve the Contractor from any of its obligations under the Contract, impose any liability upon the OAG or otherwise obligate the OAG to make payment until the invoice and its substantiating documentation are received in a form and content acceptable to the OAG in accordance with the Contract or the Work is delivered in a condition acceptable to the OAG as required in the Contract, whichever is later.
 - b. For the purpose of this section:
 - i. "Average Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Time each calendar day during the calendar month immediately before the calendar month in which payment is made;
 - ii. "Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association;
 - iii. "date of payment" means the date of the negotiable instrument drawn by the OAG to pay any amount under the Contract;
 - iv. an amount becomes "overdue" when it is unpaid on the first calendar day following the calendar day on which it is due and payable as specified above and according to the Contract.

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

13. Audit. The amount claimed under the Contract is subject to audit by the OAG, at any time, both before and after payment is made. The Contractor must keep proper accounts and records of performing the Work, the cost of performing the Work, the actual time spent each calendar day by all Contractor Personnel performing the Work (if the Contract specifies payment on the basis of time spent by the Contractor or Contractor's Personnel performing the Work) and all expenditures or commitments made by the Contractor, including any invoices, receipts, timesheets and third party contracts, which shall at all reasonable times be available to audit and inspection by the OAG, who may make copies and take extracts therefrom. The Contractor shall afford facilities for audit and inspection and shall furnish the OAG with such assistance and information as the OAG may require from time to time with respect to such accounts and records. The Contractor shall keep all such accounts and records, and preserve them in a secure location that is available for audit and inspection, for no less than six years after it receives the final payment under the Contract or until the settlement of any outstanding or unresolved claims or disputes, whichever is later, unless the OAG consents in writing in advance to earlier disposal.

- a. The OAG shall have the right, upon providing at least five (5) calendar days prior written notice, to enter upon the Contractor's facilities and locations, with any third party representatives the OAG may require, to review, inspect, test or to conduct audits, and take extracts or make copies of any document, with respect to the Contractor's operations and business to ensure compliance with the Contract, including the retention of accounts and records, performance of the Work, privacy, confidentiality and security. Where problems or deficiencies are identified during or following any review, inspection, test or audit, the OAG may, in its sole and absolute discretion, issue by notice to the Contractor, a corrective action request. Upon receipt of such notice, the Contractor shall:
 - i. promptly reply in writing to the corrective action request;
 - ii. take immediate corrective action acceptable to the OAG to prevent the recurrence of all deficiencies or problems identified in the corrective action request; and
 - iii. rectify all deficiencies and problems identified in the corrective action request within the time period specified in the notice, or when not specified, within thirty (30) calendar days from the date of the Contractor's receipt of the notice.
- b. The issuance or non-issuance of a corrective action request shall not prejudice any of the OAG's rights to termination under the Contract.
- c. Where an audit or inspection by the OAG, or where the OAG's own accounts or records disclose an overpayment, the OAG shall have the right to set-off, hold-back or deduct the amount of such overpayment against any Contractor invoices issued pursuant to this Contract or any other agreement, and the Contractor shall be liable to repay such overpayment immediately on demand to the extent the OAG does not recover the overpayment by right of set-off, hold-back or deduct.

14. Compliance with Applicable Laws. The Contractor must inform itself and Contractor Personnel of, and comply and ensure compliance with, all laws applicable to the performance of the Contract, including Canadian federal, provincial and municipal law. The Contractor must provide evidence, at its own cost, of compliance with such laws to the OAG at such times as the Contracting Representative may reasonably request. The Contractor must obtain and maintain, without charge, reimbursement or payment by the OAG in any way, all permits, licenses, regulatory approvals and certificates required to perform the Work. If requested by the Contracting Representative, the Contractor must provide a copy of any required permit, license, regulatory approvals or certificate to the OAG. Without limiting the foregoing, the Contractor must not transfer or copy by any electronic or other means any software owned by or licensed to the OAG and such software is only to be used for the purposes of work carried out on behalf of the OAG and for no other purpose.

- 15. Workplace Health and Safety.** The Contractor acknowledges the responsibility of the OAG to ensure, for its employees, a safe and healthy work environment, free of harassment. Copies of the *OAG Policy on the Prevention of Workplace Violence*, the *OAG Respectful Workplace Policy*, and the *OAG Policy on Workplace Investigations*, which are also applicable to the Contractor, are available from the Contracting Representative upon the Contractor's prior written request. The Contractor must not, either as an individual, or as a corporate or unincorporated entity, or through Contractor Personnel, harass, abuse, threaten, abuse its authority towards, discriminate against or intimidate, or endanger the health and safety of, any employee, contractor or other individual employed by, or under contract with, the OAG. The Contractor will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the Contractor's response, the OAG will, at its sole and absolute discretion, determine if the complaint is founded and decide on any action to be taken, including terminating the Contract for default.
- 16. Confidentiality.** The Contractor must keep confidential and not disclose or release for any purpose to any third party all information provided to the Contractor by or on behalf of the OAG in connection with the Work and all information conceived, developed or produced by the Contractor as part of the Work including all documents, reports, papers or other records and any information, advice, assistance, guidance, recommendations and matters. As such, information must be treated as confidential, used solely for the purpose of the Contract and remains the sole and exclusive property of the OAG. Subject to the *Access to Information Act*, R.S.C., 1985, c. A-1 (as amended) (the "**Access to Information Act**"), and to any right of the OAG under the Contract to release or disclose, OAG agrees not to release or disclose any information delivered to the OAG under the Contract that is proprietary to the Contractor or a subcontractor, except to other departments within the federal public administration as defined by the FAA and to the extent that the Contract expressly provides for release or disclosure to third parties.
- a. The obligations of the Parties set out in this section do not apply to any information where the same information:
 - i. is publicly available from a source other than the other Party;
 - ii. is or becomes lawfully known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information;
 - iii. is developed by a Party independently and without use of the information of the other Party;
 - iv. is authorized in writing in advance by the other Party to be released or disclosed by a Party to a third party solely for the purpose of the contract; or
 - v. is required to be disclosed.
 - b. In the event the Contractor is required to disclose confidential or proprietary information by law, the Contractor shall promptly notify the OAG so that the OAG has a reasonable opportunity to prevent disclosure.
- 17. Privacy.** Any personal information within the meaning of the *Privacy Act*, R.S.C., 1985, c. P-21 (as amended) (the "**Privacy Act**"), which is disclosed by the OAG, or is managed, accessed, collected, used, retained, created or disposed of in order to fulfill the requirements of this Contract, shall be deemed to be under the OAG's control, shall be made available to the OAG upon request and shall otherwise be treated in accordance with the *Privacy Act*. All such personal information is OAG property, and Contractor shall have no right in or to such personal information. Contractor shall segregate all such personal information (whether in electronic format or in hard copy) from its other records. Contractor agrees that all such personal information shall at all times be stored on segregated, stand-alone information systems in Canada that are not connected to networks or other technology systems that would permit access to such information from a jurisdiction other than Canada, except to the extent expressly permitted by this Contract. Contractor agrees to maintain reasonably detailed access logs that would indicate each occurrence of access to any such personal information, other than by the OAG. The Contractor agrees to comply with the *Privacy Act* and any other Canadian privacy laws, to the extent that they are applicable to the Contractor.

- 18. Access to Information.** Records created by the Contractor, and under the control of the OAG, are subject to the *Access to Information Act*. The Contractor acknowledges the responsibilities of the OAG under the *Access to Information Act* and must, to the extent possible, assist the OAG in discharging these responsibilities. Furthermore, the Contractor acknowledges that section 67.1 of the *Access to Information Act* provides that any person, who destroys, alters, falsifies or conceals a record, or directs anyone to do so, with the intent of obstructing the right of access that is provided by the *Access to Information Act* is guilty of an offence and is liable to imprisonment or a fine, or both. The Contractor consents, in the case of a contract and any amendment with a value in excess of \$10,000 (including taxes), to the public disclosure of basic information, other than information described in any of paragraphs 20(1) (a) to (d) of the *Access to Information Act*, relating to the contract and, where the contract and any amendment with a value in excess of \$10,000 (including taxes) involves a former public servant in receipt of a pension under the *Public Service Superannuation Act*, , R.S.C., 1985, c. P-36 (as amended), the Contractor consents, and acknowledges that the Contractor's Personnel consents, to the public disclosure of basic information in accordance with the *Guidelines on the Proactive Disclosure of Contracts*.
- 19. Copyright.** Anything that is created or developed by the Contractor as part of the Work under the Contract in which copyright subsists belongs to the OAG. The Contractor must incorporate the copyright symbol and either of the following notices, as appropriate, in any such Work: ©Her Majesty the Queen in Right of Canada, as represented by the Auditor General of Canada, [year] or © Sa Majesté la Reine du chef du Canada, représentée par le vérificateur général du Canada, [year].
- a. At the request of the Contracting Representative, the Contractor must provide to the OAG, at the completion of the Work or at such other time as the Contracting Representative may require, a written permanent waiver of moral rights as defined in the *Copyright Act*, R.S.C., 1985, c. C-42 (as amended), in a form and content acceptable to the Contracting Representative, from every author that contributed to the Work. If the Contractor is an author, the Contractor permanently waives the Contractor's moral rights.
 - b. The Contractor agrees that the OAG may translate into the other official language of Canada any documentation delivered to the OAG by the Contractor that does not belong to the OAG. The Contractor acknowledges that the OAG owns the translation and that it is under no obligation to provide any translation to the Contractor. The OAG agrees that any translation must include any copyright notice and any proprietary right notice that was part of the original. The OAG acknowledges that the Contractor is not responsible for any technical errors or other problems that may arise as a result of the translation.
- 20. OAG Property.** The Contractor must take reasonable and proper care of all OAG Property while it is in its possession or subject to its control. The Contractor is responsible for any loss or damage resulting from its failure to do so other than loss or damage caused by ordinary wear and tear.
- 21. Amendment.** To be effective and valid, any amendment to the Contract must be prepared in writing by the Contracting Representative and signed by the authorized representative(s) of the OAG and Contractor. No increase in the total liability of the OAG or in the price of the Work resulting from any change, modification or interpretation of the Contract will be authorized by the OAG, or paid to the Contractor, unless such change, modification or interpretation of the Contract is approved, in writing, in advance, by the OAG and before incorporation into the Work.
- 22. Assignment.** The Contractor must not assign the Contract, or any benefit or burden hereunder, in whole or in part, without obtaining the prior written consent of the OAG, which may be withheld in the OAG's sole and absolute discretion. Any assignment made without that consent is void and will have no effect. The assignment will be effective upon execution of an assignment agreement signed by the Parties and the assignee. No assignment of the Contract shall relieve the Contractor from any obligation under the Contract or impose any liability upon the OAG. Notwithstanding the foregoing, this Contract shall enure to the benefit of, and be binding upon, the parties hereto and their lawful heirs, executors, administrators, and successors.

- 23. Change of Control.** The Contractor shall notify the OAG prior to any merger, amalgamation, transfer of a controlling interest in the Contractor or a sale of all or substantially all of the Contractor's assets and prior to entering into any subcontract with equivalent effect to, or in connection with, any such transaction. Contractor shall obtain the OAG's prior written consent to any such transaction or subcontract, which may be withheld in the OAG's sole and absolute discretion. In the event the Contractor fails to comply with this notice and consent requirement, the OAG shall be entitled to terminate the Contract for default. Contractor's notice and request for consent shall include full particulars regarding the intended transaction or subcontract, including:
- a. an updated organizational chart, or similar description of the Contractor, both before and after the completion of any such transaction or subcontract;
 - b. a description of the nature of any such transaction or subcontract, including any amalgamations, wind-ups, asset transfers or other elements;
 - c. a list of the directors of the Contractor;
 - d. a list of the shareholders of the Contractor; and
 - e. **any other information relevant, in the OAG's sole and absolute discretion, to any such transactions or subcontracts, including any information about the Contractor, successor entity, entity acquiring a controlling interest in the Contractor, entity purchasing all or substantially all of Contractor's assets, or subcontractor.**
- 24. Suspension of the Work.** The Contracting Representative may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract. The Contractor must immediately comply with any such order in a way that minimizes the cost of doing so.
- 25. Default by the Contractor.**
- a. If any of the licensed Programs do not meet the OAG's requirements following a Privacy Impact Assessment and a Threat and Risk Assessment, if the Contractor fails to perform any of its obligations under the Contract, or fails to make progress so as to endanger the performance of the Contract, the Contracting Representative may, by giving written notice to the Contractor, terminate for default the Contract or part of the Contract. The termination will take effect immediately or at the expiration of any cure period specified in the notice, if the Contractor has not cured the default to the satisfaction of the Contracting Representative within that cure period.
 - b. If the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or if a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or if an order is made or a resolution passed for the winding-up of the Contractor, or if the Contractor makes a false, untrue or misleading certification, declaration or representation under the Contract, whether made knowingly or unknowingly, or provides false, untrue or misleading information under or in relation to the Contract, whether made knowingly or unknowingly, the Contracting Representative may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract.
 - c. If the OAG gives notice of termination under this section, the Contractor will have no claim for payment. The Contractor will be liable to the OAG for all losses and damages suffered by the OAG because of the default or occurrence upon which the notice was based, including any procurement costs and any increase in the cost incurred by the OAG in procuring the Work from another source. The Contractor agrees to repay immediately to the OAG the portion of any advance payment that is unliquidated at the date of the termination. Nothing in this section shall limit any other remedies that may be available to the OAG against the Contractor.

26. Termination for Convenience. At any time before the completion of the Work, the Contracting Representative may, by giving notice in writing to the Contractor, terminate for convenience the Contract or part of the Contract. Once such a notice of termination for convenience is given, the Contractor must comply with the requirements of the termination notice. If the Contract is terminated in part only, the Contractor must proceed to complete any part of the Work that is not affected by the termination notice. The termination will take effect immediately or, as the case may be, at the time specified in the termination notice.

- a. If a termination notice is given pursuant to this section, the Contractor will be entitled to be paid for Work that has been completed and reimbursed for costs that have been reasonably and demonstrably incurred to perform the Contract, to the extent that the Contractor has not already been paid or reimbursed by the OAG, including:
 - i. on the basis of payment specified in the Contract, payment for all completed Work that is inspected and accepted in accordance with the Contract, whether completed before, or after the termination in accordance with the instructions contained in the termination notice;
 - ii. reimbursement of any direct costs incurred by the Contractor for work terminated by the termination notice before completion, excluding the cost of severance payments or damages to employees whose services are no longer required, except wages that the Contractor is obligated by statute to pay.
- b. The OAG may reduce the payment in respect of any part of the Work, if upon inspection, it does not meet the requirements of the Contract. The total of the amounts, to which the Contractor is entitled to be paid and/or reimbursed under this section, together with any amounts paid, due or becoming due to the Contractor, must not exceed the Contract Price. The OAG may withhold payment and/or reimbursement of any amounts under this section until such time as the Contractor has substantiated its entitlement to such amounts to the OAG's satisfaction. Upon payment of such amounts, the Contractor shall be deemed to have fully and finally released the OAG from any and all liability in connection with the Contract. The Contractor will have no claim for damages, compensation, loss of profit, or economic loss arising out of any termination notice given by the OAG under this section except to the extent that this section expressly provides. The Contractor agrees to repay immediately to the OAG the portion of any advance payment that is unliquidated at the date of the termination.

27. Replacement of Personnel.

- a. Replacement by OAG. The OAG may, at any time, order the removal and replacement of any Contractor Personnel (whether or not specifically identified in the Contract) on reasonable grounds, or in the event that any of the Contractor's Personnel are unable to perform and complete the Work to the satisfaction of the OAG, and the Contractor shall immediately remove the individual from performance of the Work and provide, payable at the same or lesser rate or price, subject to the prior written approval by the OAG, any replacement Contractor Personnel with the requisite ability, expertise and attainment to complete the Work.
- b. Replacement by Contractor. If specific individuals are identified in the Contract to perform the Work, the Contractor must provide the services of those individuals unless the Contractor is unable to do so for reasons beyond its control. If the Contractor is unable to provide the services of any specific individual identified in the Contract, at any time, it must provide a replacement with similar qualifications and experience payable at the same or lesser rate or price. The replacement must meet the criteria used in the selection of the Contractor and be of equal or greater ability, expertise and attainment, subject to prior written acceptance by the OAG. The Contractor must, as soon as possible, give written notice to the Contracting Representative of the reason for replacing the individual and provide: (a) the name, qualifications and experience of the proposed replacement; and (b) proof that the proposed replacement has the required security clearance, if applicable.
 - i. Rejection by OAG. Any such replacement may be rejected if, in the OAG's sole absolute discretion, the replacement fails to meet the criteria used in the selection of

the Contractor or is not of equal or greater ability, expertise and attainment and the Contractor must not, in any event, allow performance of the Work by unapproved or unauthorized replacement persons prior to receipt of written acceptance of the OAG. The Contracting Representative may order that any replacement stop performing the Work. In such a case, the Contractor must immediately comply with the order and secure a further replacement in accordance with this section. The fact that the Contracting Representative does not order that a replacement stop performing the Work does not relieve the Contractor from its responsibility to meet the requirements of the Contract.

28. Liability and Infringement.

- a. The Contractor is liable for any damage caused by the Contractor, Contractor's Personnel or Contractor's agents to the OAG or to any third party. The OAG is liable for any damage caused by the OAG, its employees or agents to the Contractor or to any third party. The Parties agree that no limitation of liability or indemnity provision applies to the Contract unless it is specifically incorporated in full text in the Articles of Agreement. Damage includes injury to persons (including injury resulting in death) or loss of or damage to property (including real property) caused as a result of or during the performance of the Contract.
- b. The Contractor represents and warrants that, to the best of its knowledge, neither it nor the OAG will infringe any third party's intellectual property rights in performing or using the Work, and that the OAG will have no obligation to pay royalties of any kind to anyone in connection with the Work.
- c. If anyone makes a claim against the OAG or the Contractor concerning intellectual property infringement or royalties related to the Work, that Party agrees to notify the other Party in writing immediately. If anyone brings a claim against the OAG, the OAG must have the regulation and conduct of all litigation for or against the OAG, but the OAG may request that the Contractor defend the OAG against the claim. In either case, the Contractor agrees to participate fully in the defence and any settlement negotiations and to pay all costs, damages and legal costs incurred or payable as a result of the claim, including the amount of any settlement. Both Parties agree not to settle any claim unless the other Party first approves the settlement in writing.
- d. The Contractor has no obligation regarding claims that were only made because:
 - i. the OAG modified the Work or part of the Work without the Contractor's consent or used the Work or part of the Work without following a requirement of the Contract;
 - ii. the OAG used the Work or part of the Work with a product that the Contractor did not supply under the Contract (unless that use is described in the Contract or the manufacturer's specifications);
 - iii. the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by the OAG (or by someone authorized by the OAG); or
 - iv. the Contractor used a specific item of equipment or software that it obtained because of specific instructions from the Contracting Representative; however, this exception only applies if the Contractor has included the following language in its own contract with the supplier of that equipment or software: "[Supplier name] acknowledges that the purchased items will be used by the OAG. If a third party claims that equipment or software supplied under this contract infringes any intellectual property right, [supplier name], if requested to do so by either [Contractor name] or the OAG, will defend both [Contractor name] and the OAG against that claim at its own expense and will pay all costs, damages and legal fees payable as a result of that infringement." Obtaining this protection from the supplier is the Contractor's responsibility and, if the Contractor does not do so, it will be responsible to the OAG for the claim.

- e. If anyone claims that, as a result of the Work, the Contractor or the OAG is infringing its intellectual property rights, the Contractor must immediately do one of the following:
 - i. take whatever steps are necessary to allow the OAG to continue to use the allegedly infringing part of the Work;
 - ii. modify or replace the Work to avoid intellectual property infringement, while ensuring that the Work continues to meet all the requirements of the Contract; or
 - iii. take back the Work and refund any part of the Contract Price that the OAG has already paid, and if the Contractor determines that none of these alternatives can reasonably be achieved, or if the Contractor fails to take any of these steps within a reasonable amount of time, the OAG may choose either to require the Contractor to do (iii), or to take whatever steps are necessary to acquire the rights to use the allegedly infringing part(s) of the Work itself, in which case the Contractor must reimburse the OAG for all the costs it incurs to do so.

29. Transportation Costs and Carriers' Liability. If transportation costs are payable by the OAG under the Contract and the Contractor makes the transportation arrangements, shipments must be made by the most direct and economical means consistent with normal shipping practice. The costs must be shown as a separate item on the invoice. The OAG shall make no payment for insurance or valuation charges for transportation beyond the point at which ownership of goods passes to the OAG (determined by the FOB point or Incoterms). Where increased carrier liability is available without charge, the Contractor must obtain the increased liability for shipment.

30. Right of Set-off. Without restricting any right of set-off given by law, the OAG may withhold or deduct from, or reduce or set-off against, any amount payable to the Contractor under the Contract, or under any other current contract, any amount as the OAG reasonably determines to be necessary to cover any non-performance, indemnity or liability of the Contractor in relation to this Contract.

31. Conflict of Interest and Values and Ethics Codes. Contractor acknowledges having read the *Code of Values, Ethics & Professional Conduct for the Office of the Auditor General of Canada*, (the "OAG Code") which the Contractor agrees shall govern the conduct of the Contractor and the Contractor's Personnel in respect of the Contract. The Contractor agrees all Contractor Personnel shall conduct themselves in compliance with the principles of the *OAG Code*. The Contractor acknowledges that third parties who are subject to the provisions of the *Conflict of Interest Act*, S.C. 2006, c.9, s.2 (as amended), the *Conflict of Interest Code for Members of the House of Commons*, the *Values and Ethics Code for the Public Sector* or all other equivalent codes of values and ethics applicable within specific government organizations cannot derive any direct benefit resulting from the Contract, including any member of the House of Commons or Senate.

32. No Bribe, Benefit or Conflict.

- a. The Contractor declares that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of the OAG or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.
- b. For the purpose of this section, conflict of interest means any matter, circumstance, interest, or activity affecting the Contractor or Contractor Personnel, which impairs, may impair or may appear to impair the ability of the Contractor or Contractor Personnel to perform the Work and any obligations under the Contract diligently, independently and otherwise in compliance with the principles of the *OAG Code*. The Contractor and Contractor Personnel must not influence, seek to influence or otherwise take part in a decision of the OAG knowing that the decision might further its private interest. The Contractor warrants that, to the best of its knowledge after making diligent inquiry, no real, perceived or potential conflict of interest exists or is likely to arise in the performance of the Contract. In the event the Contractor becomes aware of any matter that causes or is likely to cause a real, perceived or potential conflict of interest in relation to the Contractor's performance under the Contract, the Contractor must immediately disclose such matter to the Contracting Representative in writing without delay. If the OAG is of the opinion that a real, perceived or potential conflict of interest exists as a result of the Contractor's disclosure or as a result of any other information brought to the Contracting Representative's attention, the Contracting Representative may require the Contractor to take steps to resolve or otherwise deal with such conflict of interest or, at the OAG's sole and absolute discretion, the Contract may be terminated for default.

33. International Sanctions. The Contractor must not supply to the OAG any goods or services that originate, either directly or indirectly, from persons or countries which are subject to economic sanctions imposed by Canada. The Contractor must comply with changes to any legislation or regulations applicable to economic sanctions imposed during the period of the Contract. The Contractor must immediately advise the OAG if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on a work around plan, the Contract will be terminated for the convenience of the OAG in accordance with the provisions of the Contract.

34. Integrity Provisions – Contract. The Contractor shall comply with the Integrity Provisions set out in this section.

- a. Statement
 - i. The Contractor represents and warrants that it responded to the OAG's solicitation in an honest, fair and comprehensive manner, accurately reflecting the Contractor's capacity to satisfy the requirements of this Contract, and undertakes to fulfill all obligations of the Contract, including the terms set out in these Integrity Provisions.
 - ii. The Contractor confirms that it understands that convictions of certain offences, a false declaration in its bid, a false declaration under the Contract or failing to maintain up-to-date information requested may lead to a termination for default. If the Contractor or any of its Affiliates fail to remain free and clear of any convictions and any conditional or absolute discharges specified in these Integrity Provisions during the contract period, the OAG may, following a notice period, terminate for default. The Contractor understands that a termination for default will not restrict the OAG's right to exercise any other remedies that may be available against the Contractor and agrees to immediately return any advance payments.
- b. List of Names
 - i. The Contractor must immediately inform the OAG in writing of any changes affecting the list of names of directors and owners during the contract period.
- c. Information Verification

- i. The Contractor certifies that it is aware, and its Affiliates are aware, that the OAG may verify at any time during the contract period, the information provided by the Contractor, including the information relating to the acts or convictions and any conditional or absolute discharges specified in these Integrity Provisions. The OAG may request additional information, validations from a qualified third party, consent forms and other evidentiary elements proving identity and eligibility to contract with the OAG.
- d. *Lobbying Act*
- i. The Contractor certifies that neither it nor its Affiliates have directly or indirectly, paid or agreed to pay, and will not, directly or indirectly, pay a contingency fee to any individual for the solicitation, negotiation or obtaining of the Contract if the payment of the fee would require the individual to file a return under section 5 of the *Lobbying Act*, R.S.C., 1985, c. 44 (4th Supp.) (as amended) (the “**Lobbying Act**”).
- e. Canadian Offences Resulting in Legal Incapacity
- i. The Contractor certifies that:
 1. neither it nor any of its Affiliates have been convicted of or have pleaded guilty to an offence under any of the following provisions, which result in legal incapacity under section 750(3) of the *Criminal Code*, R.S.C., 1985, c. C-46 (as amended) (the “**Criminal Code**”), and for which they have not been pardoned or received a record of discharge under the Canadian Pardons subsection:
 - a. paragraph 80(1)(d) (*False entry, certificate or return*), subsection 80(2) (*Fraud against Her Majesty*) or section 154.01 (*Fraud against Her Majesty*) of the *FAA*, or section 121 (*Frauds on the government and Contractor subscribing to election fund*), section 124 (*Selling or Purchasing Office*), section 380 (*Fraud*) for fraud committed against Her Majesty or section 418 (*Selling defective stores to Her Majesty*) of the *Criminal Code*, and
 2. it has not been convicted of or pleaded guilty to the offences resulting in legal incapacity and it has not directed, influenced, authorized, assented to, acquiesced in or participated in the commission or omission of the acts or offences that would render any Affiliate ineligible to be awarded a contract due to legal incapacity.
- f. Canadian Offences
- i. The Contractor certifies that:
 1. it and its Affiliates have not, in the last three years, from the date of contract award, been convicted of or pleaded guilty to an offence under any of the following provisions for which it would be ineligible for contract award under these Integrity Provisions and for which they have not been pardoned or received a record of discharge under the Canadian Pardons subsection:
 - a. section 119 (*Bribery of judicial officers, etc*), section 120 (*Bribery of officers*), section 346 (*Extortion*), sections 366 to 368 (*Forgery and other offences resembling forgery*), section 382 (*Fraudulent manipulation of stock exchange transactions*), section 382.1 (*Prohibited insider trading*), section 397 (*Falsification of books and documents*), section 422 (*Criminal breach of contract*), section 426 (*Secret commissions*), section 462.31 (*Laundering proceeds of crime*) or sections 467.11 to 467.13 (*Participation in activities of criminal organization*) of the *Criminal Code*, or
 - b. section 45 (*Conspiracies, agreements or arrangements between competitors*), section 46 (*Foreign directives*), section 47 (*Bid rigging*), section 49 (*Agreements or arrangements of federal financial institutions*), section 52 (*False or misleading representation*), section 53 (*Deceptive notice of winning a prize*) of the *Competition Act*, R.S.C., 1985, c. C-34 (as amended), or

- c. section 239 (*False or deceptive statements*) of the *Income Tax Act*, R.S.C., 1985, c.1 (5th Supp.) (as amended), or
 - d. section 327 (*False or deceptive statements*) of the *Excise Tax Act*, R.S.C., 1985, c. E-15 (as amended), or
 - e. section 3 (*Bribing a foreign public official*), section 4 (*Accounting*), or section 5 (*Offence committed outside Canada*) of the *Corruption of Foreign Public Officials Act*, S.C. 1998, c. 34 (as amended), or
 - f. section 5 (*Trafficking in substance*), section 6 (*Importing and exporting*), or section 7 (*Production of substance*) of the *Controlled Drugs and Substance Act*, S.C. 1996, c. 19 (as amended), or
 - 2. the Contractor has not been convicted of or pleaded guilty to the offences resulting in ineligibility for contract award and certifies that it has not directed, influenced, authorized, assented to, acquiesced in or participated in the commission or omission of the acts or offences that would make any Affiliate ineligible for contract award.
- g. Foreign Offences
 - i. The Contractor certifies that:
 - 1. it and its Affiliates have not, in the last three years, from the date of contract award, been convicted of or pleaded guilty to an offence in a jurisdiction other than Canada of having committed an act or omission that would, in OAG's opinion, be similar to an offence referenced in the Canadian Offences Resulting in Legal Incapacity and the Canadian Offences subsections and for which it would be ineligible for contract award under these Integrity Provisions and for which they have not been pardoned or received a record of discharge under the Foreign Pardons subsection, provided:
 - a. the court before which the Contractor or the Affiliate of the Contractor appeared acted within the court's jurisdiction;
 - b. the Contractor or the Affiliate of the Contractor appeared during the court's proceedings or submitted to the court's jurisdiction;
 - c. the court's decision was not obtained by fraud; and
 - d. the Contractor or the Affiliate of the Contractor was entitled to present to the court every defence that the Contractor or the Affiliate of the Contractor would have been entitled to present had the proceeding been tried in Canada; or
 - 2. the Contractor has not been convicted of or pleaded guilty to the offences similar to those resulting in legal incapacity and has certified that it has not directed, influenced, authorized, assented to, acquiesced in or participated in the commission or omission of the acts or offences similar to those that would render any Affiliate ineligible to be awarded a contract.
- h. Ineligibility to Contract with OAG
 - i. The Contractor confirms that it understands that if after contract award they have been convicted of certain offences, as described in the Canadian Offences Resulting in Legal Incapacity, the Canadian Offences and the Foreign Offences subsections, they will be ineligible to contract with the OAG. If, after contract award, a Contractor becomes ineligible for contract award, the OAG may, following a notice period, declare the Contractor to be ineligible and, to the extent that a contract has been awarded:
 - 1. terminate the contract for default; or
 - 2. require the Contractor to enter into an Administrative Agreement with the OAG on such terms and conditions as are necessary to safeguard the integrity of the procurement process.

3. subject to an Administrative Agreement, for all breaches under the *Lobbying Act* subsection for which a Contractor or its Affiliate has been found responsible, in the last three years, the period of Ineligibility to contract with the OAG is ten years from the date of determination by the OAG.
- k. Canadian Pardons
 - i. A determination of Ineligibility to contract with the OAG will not be made or maintained by the OAG under these Integrity Provisions, in respect of an offence or act that gave rise or that could give rise to a determination of Ineligibility, if the Contractor or its Affiliate has:
 1. been granted an absolute discharge in respect of the offence, or has been granted a conditional discharge in respect of the offence and those conditions have been satisfied;
 2. been granted a pardon under Her Majesty's royal prerogative of mercy;
 3. been granted a pardon under section 748 of the *Criminal Code*;
 4. received a record of suspension ordered under the *Criminal Records Act*, R.S.C., 1985, c. C-47 (as amended) ; or
 5. been granted a pardon under the *Criminal Records Act*, as that Act read immediately before the day section 165 of the *Safe Streets and Communities Act*, S.C. 2012, c.1 (as amended) comes into force.
 - l. Foreign Pardons
 - i. A determination of Ineligibility to contract with the OAG will not be made or maintained, as the case may be, the OAG in respect of matters referenced in the Foreign Offences subsection and with respect to an offence or act that gave rise or will give rise to a determination of Ineligibility, if the Contractor or its Affiliate, has at any time, benefited from foreign measures that are similar to Canadian pardons at the sole and absolute discretion of the OAG, including conditional discharges, absolute discharges, records of suspension, or restoration of legal capacities by the Governor in Council.
 - m. Period of Ineligibility for Breaching Administrative Agreements
 - i. The Contractor confirms that it understands that where it has concluded an Administrative Agreement and that it has breached any of its terms and conditions, the OAG will lengthen the period of Ineligibility for a period to be determined by the OAG.
 - n. Obligations on Subcontractors
 - i. The Contractor confirms that it understands that to the extent that it relies on a subcontractor(s) to perform the Contract, the Contractor will not enter into a subcontract with a company that has been convicted of or pleaded guilty or an Affiliate of the company has been convicted of or pleaded guilty, as the case may be, to any of the offences referenced in the Canadian Offences Resulting in Legal Incapacity, the Canadian Offences and the Foreign Offences subsections for which no pardon or equivalent has been received under the Canadian Pardons and Foreign Pardons subsections, without the prior written approval of the Contracting Representative. Where the Contractor has entered into a contract with an ineligible subcontractor and for which no prior written approval has been granted by the Contracting Representative, the OAG will declare the Contractor to be ineligible to contract with the OAG for a period of five years.
- 35. No Exclusivity.** The OAG is procuring the Work on a non-exclusive basis and nothing herein shall prevent the OAG from contracting with any third party as an alternate or supplemental supplier for the performance of the same or similar work at any time during the Term, in which event the Contractor shall fully cooperate with, and not interfere with, such third party. For greater certainty, nothing herein grants the Contractor an exclusive right to perform the Work contemplated under the Contract.

- 36. No Publicity.** The Contractor shall have no right to publish, in whole or in part, any Work performed for the OAG pursuant to or in connection with this Contract without the OAG's prior written consent. The Contractor and Contractor Personnel are not authorized under any circumstance, to speak to or address the media or otherwise publicize the Work for any reason in connection with the performance of their contractual duties, except to disclose the fact it is doing business with the OAG or to confirm any information that (a) is publicly available from a source other than the Contractor; (b) is authorized in writing in advance by the OAG to be publically released or disclosed; or (c) is required to by law to be disclosed.
- 37. Notices and Approvals.** Any notice, request, direction, approval, authorization or other communication required to be given or made by either Party under the Contract shall be in writing and is effective if delivered in person, sent by registered mail, or sent by electronic mail to the Party for whom it is intended at the respective address set out in the Contract (as may be revised from time to time by written notice). Any such notice, request, direction, approval, authorization or other communication shall be deemed to have been given or made: (i) if delivered in person, on the day of delivery; (ii) if sent by registered mail, when postal receipt is acknowledged by the other Party; and (iii) if sent by email, the first business day following transmission unless the sending party receives acknowledgement of delivery failure.
- 38. Severability.** Any provision of this Contract that is declared invalid, illegal or unenforceable by a court of competent jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability and shall be severed and removed from the balance of this Contract, all without affecting the remaining provisions of this Contract or affecting the validity, legality or enforceability of such provision in any other jurisdiction.
- 39. Waiver.** The failure of any Party to enforce at any time any of the provisions conditions or requirements of this Contract, or to require at any time performance by the other Party of any of the provisions, conditions or requirements hereof, shall not be construed to be a present or future waiver of such provisions, conditions or requirements, nor in any way affect the validity of this Contract or any part thereof, or the right of the other Party thereafter to enforce each and every such provision, condition or requirement, as applicable. Any waiver by a Party hereto shall apply only as to its rights hereunder and not to the rights of the other Party unless that Party consents in writing thereto. The waiver by any Party of any provision, condition or requirement of this Contract shall not constitute a waiver of any future obligation to comply with such provision, condition or requirement and shall not be valid, binding or effective unless made in writing and signed by a duly authorized representative of such Party. Any waiver by the OAG of a breach of any provision, condition or requirement of this Contract shall not be treated or interpreted as a waiver of any subsequent breach and shall not prevent the OAG from enforcing that provision, condition or requirement in the event of any such breach.
- 40. Further Assurances.** Contractor shall, whenever requested by the OAG, at Contractor's sole cost and expense, execute and deliver any and all applications, assignments and other instruments necessary to confirm or register the OAG's rights hereunder
- 41. Counterparts and Email Copies.** This Contract may be executed in one (1) or more counterparts, all of which taken together shall constitute the same instrument of agreement and any counterparts may be delivered by electronic mail transmission, and such method of execution and delivery shall constitute good and valid execution and delivery of an original, legal, valid, binding and enforceable agreement. Notwithstanding the foregoing, each party shall endeavor to deliver to the other party with an original signed version of this Contract as soon as possible following execution.

- 42. Dispute Resolution.** The Parties understand that the Office of the Procurement Ombudsman will, in accordance with the *Department of Public Works and Government Services Act*, (a) participate in an alternative dispute resolution process respecting the interpretation or application of the terms and conditions of the Contract upon request and consent of the Parties; and (b) review certain complaints subject to applicable statutory and regulatory requirements. The Office of the Procurement Ombudsman may be contacted by telephone at 1-866-734-5169 or by e-mail at opo-boa@opo-boa.gc.ca.
- 43. Entire Agreement and Governing Law.** The Contract constitutes the entire and only agreement between the Parties with respect to the subject matter herein and supersedes all previous negotiations, communications and other agreements, whether written or oral, unless they are incorporated by reference in the Contract. There are no terms, covenants, representations, statements or conditions binding on the Parties other than those contained in the Contract. In the event and to the extent of any discrepancies or conflicts between these General Conditions and anything in the other documents making up this Contract, the General Conditions shall prevail unless expressly superseded. This Contract shall be governed by and construed in accordance with, and the relations between the parties determined by, the applicable provincial and federal laws in force in Ontario, Canada.

Annex "A-1"

Supplemental General Conditions – Licensed Software

1. Interpretation

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

"Client"

means the OAG, or, in the event of a transfer under section 8 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 document entitled Annex "A" (General Conditions) that forms part of the Contract;

"Licensed Programs"

means all of the computer programs, in object-code form, which must be provided by the Contractor to OAG under the Contract, and include all patches, fixes and other code that may be delivered to OAG 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 OAG, 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 OAG 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. The following sections in the General Conditions do not apply to the Licensed Software and the Media: 5 (Conduct of the Work), 19 (Copyright) and 20 (OAG Property). 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 with respect to the Licensed Software and the Media, the applicable provisions of these supplemental general conditions will prevail.

2. License Grant

1. The Contractor grants to OAG 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 8, the Client is the only entity authorized to use and reproduce the Licensed Software.
3. Unless provided otherwise in the Contract, the license granted under the Contract is unaffected by changes in the Client's environment, such as changes to the operating system, types of Devices, or other software products used by the Client from time to time in addition to the Licensed Software.
4. Unless provided otherwise in the Contract, the license granted under the Contract is a User License as described in section 4 below.
5. The Contractor must provide the English language version of the Licensed Software and, if available, the French version of the Licensed Software.

3. Ownership

1. OAG acknowledges that ownership of the Licensed Software belongs to the Contractor or its licensor and is not transferred to OAG. 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. OAG 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 OAG 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 OAG 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 OAG will remain the property of OAG, regardless of whether that data is created, processed, or stored using the Licensed Software.

4. 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.

5. 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 OAG 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.

6. 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.

7. 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 OAG without passwords, authorization codes or similar information, the Contractor must provide to OAG, in advance and on an ongoing basis, provided OAG is not in default of its obligations regarding the use of the Licensed Software, all the information required by OAG 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 OAG 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 OAG is able to continue using the Licensed Software.

8. Licensed Software - Transfer

The license to use the Licensed Software under the Contract is transferable by OAG 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 any Canadian government department, corporation or agency has been authorized to act, as long as OAG 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.

9. Software Documentation

1. Copyright in the Software Documentation will not be owned by or transferred to OAG. However, OAG 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 OAG includes any copyright and/or proprietary right notice that was part of the original document in any copy. Unless provided otherwise in the Contract, OAG 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 OAG 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, OAG then has the right to translate it. OAG owns any translation and is under no obligation to provide it to the Contractor. OAG 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 OAG.
4. Unless provided otherwise in the Contract, at no additional cost to OAG, 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 OAG 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 OAG 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.

10. Media

1. The Contractor must deliver the Licensed Programs to OAG on the medium of OAG's choice from among those the Contractor makes available to its other customers (for example, CD-ROM or Internet download). The Contractor agrees that OAG may distribute the Licensed Software to Users on OAG'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. OAG will own the Media once it has been delivered to and accepted by or on behalf of OAG.

11. Term of License

1. Unless provided otherwise in the Contract, OAG's license to use the Licensed Software is perpetual, regardless of any termination of the Contract by mutual consent, for the convenience of OAG or for default of the Contractor, as long as OAG 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 OAG's license with respect to the Licensed Software by giving the Contracting Authority written notice to that effect if OAG 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.

12. Acceptance

1. **Work Subject to Acceptance:** All Licensed Programs delivered and all services provided under the Contract are subject to inspection by OAG. A Threat and Risk Assessment and a Privacy Impact Assessment will be conducted on the Licensed Programs. If any of the Licensed Programs does not meet all the requirements of the Contract; or if any of the Licensed Programs does not meet the OAG's requirements following a Privacy Impact Assessment and a Threat and Risk Assessment, OAG may reject it or require that it be corrected, before recommending payment, at the sole expense of the Contractor.
2. **Effect of Acceptance:** Acceptance by OAG 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. **Pre-Installation Tests.** The Contractor must conduct pre-installation testing to ensure that the Licensed Programs will operate 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. Upon request from OAG, the Contractor must give OAG an opportunity to witness such testing and provide OAG with a copy of all test records and results.
4. **Acceptance Procedures.**

4.1 The acceptance procedures set out in subsections 4.2 to 4.5 inclusive only apply in the absence of any other detailed acceptance procedures for the Licensed Programs in the Contract.

4.2 OAG 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 Licensed Programs. OAG 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. OAG and the Contractor will use such data to determine whether the Licensed Programs, when executed on the hardware and its operating system, performs 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. 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 Specifications set out in the Contract, if any.

4.3 Following receipt of the acceptance test data referred to in subsection 4.2, and before the date specified in the Contract for the start of acceptance testing of the Licensed Programs (the "Test Start Date"), the Contractor must provide an "Acceptance Test Plan" for OAG's review and approval, in the OAG's sole and absolute discretion. 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 OAG and the Contractor to determine whether the Licensed Programs performs 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.

4.4 On the Test Start Date, OAG must commence the acceptance tests in relation to the Licensed Programs using the pre-approved Acceptance Test Plan referred to in subsection 4.3. 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 Licensed Programs pass the acceptance tests and if the Contractor has completed all other related work under the Contract in accordance with the conditions of the Contract, OAG will promptly give notice to the Contractor that the Licensed Programs are accepted.

4.5 If the Licensed Programs fail to pass the acceptance tests referred to in subsection 4.4, OAG 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 OAG's description of the deficiencies, the Contractor must modify the Licensed Programs to correct the deficiencies within ten (10) days of receipt of such description. All acceptance tests in relation to the Licensed Programs must then be repeated, at no additional cost to OAG, and the Contractor must ensure that the Licensed Programs pass the second set of acceptance tests within the acceptance testing period specified in subsection 4.4, failing which the Contractor shall be deemed to have failed to perform its obligations under the Contract and the OAG may, in its sole and absolute discretion, give notice to the Contractor that the Licensed Programs are rejected together with notice of termination effective immediately under section 25 (Default by the Contractor) of the General Conditions.

4.6 Despite anything else contained in this section 4, if OAG is unable to commence or continue the acceptance tests in relation to the Licensed Programs 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.

13. 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 OAG all the rights granted under the Contract. The Contractor also guarantees that all necessary consents to that grant have been obtained. OAG 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 "Liability and Infringement" 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 OAG's license and do not affect the rights of the Parties in any way. The Contractor agrees that in no event will OAG 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. OAG 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.

14. Enhancements and Improvements

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

15. Warranty

1. In this section, unless provided otherwise in the Contract, “Software Warranty Period” means a period of one hundred and eight (180) days from the date on which the Licensed Software is accepted in accordance with the conditions of the Contract, except for warranty work and any other work that is scheduled under the Contract to be performed after the start of the Software Warranty Period.
2. The Contractor warrants that, during the Software Warranty Period, the Licensed Programs will operate on the computer system or systems on which the Licensed Programs are installed in accordance with the Software Documentation that is associated with the Licensed Programs, as well as the Specifications set out in the Contract, if any. If the Licensed Programs fail to meet this warranty at any time during the Software Warranty Period, the Contractor, if requested by OAG, 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. 2.3.5
3. Although the Contractor must use all reasonable efforts to provide permanent corrections for all software errors, OAG 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 OAG discovers a defect or non-conformance in any part of the Software Documentation during the Software Warranty Period, the Contractor must, if requested by OAG, 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. OAG 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 OAG.
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 OAG, and do not restrict any other provision of the Contract or any condition, warranty or provision imposed by law.

16. Source Code Escrow

If requested by OAG, the Contractor must put in place for OAG, at no additional charge, whatever escrow arrangements, if any, it usually puts in place for its customers, and must give OAG, 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 OAG.

17. Right to Modify and no Reverse Engineer

1. If the source code for the Licensed Programs is provided to OAG under the Contract, that code forms part of the "Licensed Software" for the purposes of the Contract. OAG will have the right, at OAG's sole and absolute discretion, to copy and modify the Licensed Software for OAG's own purposes and use, through the services of OAG'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. OAG 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 OAG's license. The Contractor must not incorporate any such modifications into its software for distribution to third parties unless OAG 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, OAG agrees not to reverse engineer the Licensed Software.

18. 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 OAG upon delivery of the Licensed Software or the Media, or that part, to OAG.
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.

19. Destruction on Termination or Expiration

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

Annex “A-2”

Supplemental General Conditions – Maintenance and Support Services for Licensed Software

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 twelve (12) month maintenance 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 or the document entitled Annex “A-1” (Supplemental General Conditions – Licensed Software) and used in these supplemental general conditions have the meanings given to them in the General Conditions and the document entitled Annex “A-1” (Supplemental General Conditions – Licensed Software), respectively.
3. In the event of any inconsistency between the General Conditions or the document entitled Annex “A-1” (Supplemental General Conditions – Licensed Software) and these supplemental general conditions with respect to the Licensed Software and the Media, the applicable provisions of these supplemental general conditions will prevail.
4. The following sections of the General Conditions do not apply to the Licensed Software and the Media: 5 (Conduct of the Work), 19 (Copyright) and 20 (OAG Property). The ownership, warranty and support provisions contained in these supplemental general conditions and in the document entitled Annex “A-1” (Supplemental General Conditions – Licensed Software), apply in place of those sections.

Software Error Correction Services

1. OAG 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. OAG may report failures either in writing or by telephone or other remote communication. Upon receipt of a report of a failure from OAG, unless provided otherwise in the Contract, the Contractor must use all reasonable efforts to provide OAG 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 OAG’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 OAG, 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 OAG;

“Severity 2”:

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

“Severity 3”:

within fourteen (14) days of notification by OAG;

“Severity 4”:

within ninety (90) days of notification by OAG.

4. If OAG reports a Software Error to the Contractor, OAG 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.

Maintenance Releases

During the Software Support Period, the Contractor must provide to OAG 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 OAG’s license with respect to the Licensed Software. Unless provided otherwise in the Contract, OAG will receive at least one Maintenance Release during any twelve (12) month maintenance period.

Media

1. The Contractor must provide to OAG 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. OAG will own the Media provided to OAG in the performance of the software support services upon delivery to and acceptance of the Media by or on behalf of OAG. For the purposes of this subsection, “Media” does not include the Licensed Software stored on the Media.

Support Services

If the Contract provides for support services, the Contractor must provide to OAG access to the Contractor's personnel, to help OAG 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 OAG at such site. OAG'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, OAG 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 OAG. OAG may change any such appointment by subsequent notice to the Contractor.

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 OAG, 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 OAG, 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 OAG as a separate charge.

OAG's Responsibilities

1. Unless provided otherwise in the Contract, OAG will maintain, for the Software Support Period, a telephone line and Internet access for use in connection with the software support services. OAG 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, OAG will be responsible for the installation of all Software Error corrections and Maintenance Releases and upgrades.
3. OAG will protect data from loss by implementing back-up procedures.

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 OAG that is not in accordance with OAG'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.

**

A3. **Payment.** The OAG shall pay the Contractor, for the Work performed in accordance with the Contract on the following basis, plus any Applicable Taxes:

<<Note to Bidders: pricing table and schedule of milestones to be inserted by OAG >>

3.1 Basis of Payment. The Contractor shall be paid firm, all-inclusive fees as specified in the table above, subject to the schedule of milestones above and any limitation of expenditure specified in this Contract.

3.1.1 Fees All-inclusive. The fees payable in respect of the Work are fixed for the term, inclusive of all costs, expenses and profit for which the Contractor may be eligible hereunder, except as may be expressly provided to the contrary in this Contract, and shall represent the entire consideration for performing all obligations of the Contractor under this Contract.

3.1.2 Definition of Day and Proration. A “day” is defined as 7.5 hours exclusive of meal breaks. Payment will be for days actually worked with no provision for annual leave, statutory holidays, sick leave or other absences. Time worked which is more or less than a day will be prorated to reflect actual time worked in accordance the following formula: (Hours worked x applicable rate) / 7.5 hours. All proposed personnel must be available to work outside normal office hours during the Term. No overtime charges will be authorized under the Contract. All time worked will be paid to the Contractor in accordance with this section. For greater certainty, no payment shall be made for any time travelling to or from any location to perform Work under the Contract.

3.1.3 Travel Expenses. The OAG will not pay any travel expenses associated with performing the Work.

3.2 Method of Payment. The OAG will make milestone payments in accordance with the schedule of milestones detailed in the Contract and the payment provisions of the Contract, in the amounts and frequencies stated therein, up to seventy-five (75) percent of the amount invoiced and approved by the OAG if:

- (a) an accurate and complete invoice for 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 OAG does not exceed seventy-five (75) percent of the total amount to be paid under the Contract;
- (c) all the invoices have been verified by the OAG; and
- (d) all work associated with the milestone and as applicable any deliverable required have been completed and accepted by OAG.

3.2.1 The balance of any 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 during the preceding twelve (12) month period if the work has been accepted by the OAG and a final invoice for the payment is submitted in respect of such work.

3.2.2 For greater certainty, in the event the OAG gives written notice that the Licensed Programs are rejected as specified in subsection 4.5 of section 12 of the document entitled Annex “A-1” (Supplemental General Conditions – Licensed Software), the Contractor shall not be entitled to any further payment in accordance with the schedule of milestones or any balance of the amount otherwise payable under the Contract. Without limitation to section 25 (Default by Contractor), the total of the amounts to which the Contractor is entitled to be paid in such event, together with any amounts paid, due or becoming due to the Contractor shall not exceed twenty-five (25) percent of the total amount to be paid under the Contract. The Contractor will have no claim for damages, compensation, loss of profit, or allowance arising out of any such notice except to the extent that this section 3.2 (Method of Payment) expressly provides.

3.3 Limitation of Expenditure. The OAG’s total liability to the Contractor for payment under the Contract shall not exceed \$, <<Note to Bidders: total dollar value to be inserted by OAG >> (the “**Contract Price**”), plus any eligible expenses and Applicable Taxes (the “**Total Extended Price**”). No increase in the total liability of the OAG or in the price of the Work resulting from any changes, modifications, or interpretations of the Work, will be authorized by the OAG or paid to the Contractor unless such changes, modifications, or interpretations have been approved, in writing, in advance, by the OAG before their incorporation into the Work. The Contractor shall not perform any Work or otherwise provide any good or service that would result in the foregoing limitation of expenditure being exceeded before obtaining the prior written approval

of the OAG. The Contractor must notify the OAG in writing on the adequacy of the foregoing limitation of expenditure: (i) when it is 75 percent committed; or (ii) 4 months before Contract expiry date; or (iii) as soon as the Contractor considers that the foregoing limitation of expenditure is inadequate for completion of the Work, whichever comes first. For administrative purposes, the Contractor shall advise the OAG on a weekly basis of the hours worked under the Contract, if applicable.

Schedule "B"
Statement of Work

<<Note to Bidders: Statement of Work from
Section 2 of the RFP to be inserted by the OAG>>

APPENDIX A DECLARATIONS AND CERTIFICATIONS

Without limitation to section 1.4 (Required Forms) of this RFP, Bidders are to include **ALL** of the following declarations and certifications with their proposal as a condition precedent to any contract award resulting from this RFP.

Any certification and declaration provided by Bidders is subject to verification by the OAG at all times and the Contracting Representative may request any additional information in this regard.

In the event any certification or declaration made by the Bidder is found to be untrue, whether made knowingly or unknowingly, or in the event any Bidder fails to comply or cooperate with any request for additional information, the OAG may, in its sole and absolute discretion, deem the Bidder's proposal to be non-compliant and give it no further consideration during the evaluation period of this RFP or terminate any resulting contract for default.

1. Bidder's Legal and Business Information

For information purposes only, Bidders are to complete the table below.

Legal Name of Bidder	
Business Association (for example, corporation, joint venture, partnership, sole proprietorship)	
Business Address (including street address, city, country and postal code or their equivalents)	
Telephone and Facsimile Numbers	
Point of Contact for Bidder and any resulting contract (name, title, telephone and email address)	
Bidder's Procurement Business Number (PBN) and/or GST/HST/QST registration number. Bidders are solely responsible for obtaining their own advice regarding tax laws in various Canadian jurisdictions.	
Place of Residence for Canadian Tax Purposes (If not specified, the Bidder is deemed to represent and warrant it is a resident of Canada)	
Aboriginal Supplier Self-Identifier and/or Comprehensive Land Claims Agreement (CLCA) Unique Identifier, if applicable	

2. Security Clearance

Before the award of a contract, all Bidder personnel requiring access to OAG's classified or protected information, networks and/or office space **MUST** possess a valid Government of Canada Security Clearance at a minimum level of "Reliability Status". Bidders are to provide the name(s) of all such individuals together with evidence of the required security clearance(s). Such personnel will be expected to understand, sign and adhere to the OAG Security Policy.

Bidders are reminded to obtain the required security clearance promptly. Any delay in the award of a contract to permit time for receipt of the required security clearance will be at the sole and absolute discretion of the Contract Authority.

3. Employment Equity

The Federal Contractors Program for Employment Equity (FCP-EE) requires that certain organizations bidding for federal government contracts make a formal commitment to implement employment equity, as a pre-condition to the validation of their bids. All Bidders **MUST** check the appropriate box(es) below.

FCP-EE requirements do not apply for the following reason(s):

- Bidder will not be awarded a contract of \$1,000,000 or more (including all applicable taxes) based on the proposal submitted;
- Bidder has fewer than 100 permanent part-time and/or full-time employees; and/or
- Bidder is a federally regulated employer;

or, FCP-EE requirements do apply, and the Bidder encloses the necessary evidence of compliance with the FCP-EE:

- Bidder's valid and current Agreement to Implement Employment Equity duly signed by an authorized representative is attached; or
- Bidder's valid and current Agreement to Implement Employment Equity number issued by ESDC-Labour (Certificate number) is: _____

and, by submitting a proposal, the Bidder certifies that it, and any of the Bidder's subcontractors or members, are not named on the FCP-EE limited eligibility to bid list maintained by ESDC-Labour. In the event the Bidder, or any of the Bidder's subcontractors or members, are named on the FCP-EE limited eligibility to bid list maintained by ESDC-Labour, the OAG may, in its sole and absolute discretion, reject the Bidder's proposal and give it no further consideration.

Note: The FCP-EE applies to Canadian-based Bidders only.

4. Certification of Education and Experience

By submitting a proposal, the Bidder certifies that all statements made with regard to the education and the experience of individuals proposed for completing the subject work are accurate and factual, and the Bidder is aware that the OAG reserves the right to verify any information provided in this regard and that untrue statements may result in the proposal being declared non-compliant and given no further consideration.

5. Certification of Availability and Status of Personnel

5.1 Availability and Status of Personnel

By submitting a proposal, the Bidder certifies that, should it be awarded a contract as a result of this RFP, every individual proposed in its proposal will be available to perform the work as required by the OAG and at the time specified in the RFP or otherwise agreed with the Contracting Representative. If, for reasons beyond its control, the Bidder is unable to provide the services of an individual named in its proposal, the Bidder may propose a substitute with similar qualifications and experience. The Bidder must advise the Contracting Representative in writing of the reason for the substitution and provide the name, qualifications and experience of the proposed replacement, as well as proof that the replacement has the required security clearance, if applicable. For the purpose of this certification, reasons beyond the control

of the Bidder may include, without limitation, death, sickness, maternity and parental leave, retirement, resignation, dismissal, or termination of an agreement.

If the Bidder has proposed any individual who is not an employee of the Bidder to perform the work, in whole or in part, the Bidder hereby certifies that it has written permission from such individual (or the employer of such individual) to propose such individual in relation to the work to be performed and to submit such individual's résumé to the OAG. The Bidder must, upon the request of the OAG, provide a copy of such written permission, in relation to any or all non-employees proposed. Failure to comply with such a request may, in the OAG's sole and absolute discretion, result in the Bidder's proposal being rejected and given no further consideration.

6. Certification of Former Public Servant in Receipt of a Pension

Bidders are to check the appropriate box(es) below.

Is the Bidder, or any of the Bidder's directors or officers, or any employees or subcontractors who may perform work under any contract resulting from this RFP, a former public servant ("FPS") in receipt of a pension under the *Public Service Superannuation Act* (PSSA)? **Yes ()** **No ()**

If yes, the Bidder must provide the following information in respect of any and all individuals:

- a) Name of public servant;
- b) Date of termination of employment or retirement from the Public Service

By providing this information, the Bidder acknowledges and agrees that the individual's status as a FPS in receipt of a pension will be reported on the OAG website as part of the published proactive disclosure reports in accordance with the following policy instruments issued by Treasury Board Secretariat: *Contracting Policy Notice: 2012-2* and the *Guidelines on the Proactive Disclosure of Contracts* in the event the Bidder is awarded any contract resulting from this RFP and such contract or any amendment is valued in excess of \$10,000.00 (including taxes).

A FPS is any former member of a department as defined in the *Financial Administration Act*, R.S.C., 1985, c. F-11 (as amended), a former member of the Canadian Armed forces or a former member of the Royal Canadian Mounted Police PSSA (*) and may be:

- a) An individual,
- b) An individual that has incorporated,
- c) A partnership made of former public servants in receipt of PSSA pensions;
- d) A sole proprietorship or entity where the affected individual has a controlling (**) or major (50% + 1) interest in the entity.

(*) It does not include pensions payable pursuant to Canadian Forces Superannuation, Defence Services Pension Continuation, Royal Mounted Police Superannuation, Members of Parliament Retiring Allowances and Canada Pension Plan

(**) For this purpose, "controlling" includes everyone, but not limited to organizations, bodies corporate, societies, companies, firms, partnerships, associations of persons, where individuals or directors, directly or indirectly either controls or has the power to control the other(s).

Work Force Reduction Program

Is the Bidder, or any of the Bidder's directors or officers, or any employees or subcontractors who may perform work under any contract resulting from this RFP, a FPS who received a lump sum payment pursuant to the terms of a work force reduction program? **Yes ()** **No ()**

If so, the Bidder must provide the following information:

- a) Name of public servant;
- b) Conditions of the lump sum payment incentive;
- c) Date of termination of employment;

- d) Amount of lump sum payment;
- e) Rate of pay on which lump sum payment is based;
- f) Period of lump sum payment including start date, end date and number of weeks;
- g) Number and amount (professional fees) of other contracts subject to the restrictions of a work force reduction program.

A *lump sum payment* period means the period measured in weeks of salary, for which payment has been made to facilitate the transition to retirement or to other employment as a result of the implementation of various programs to reduce the size of the Public Service. The lump sum payment period does not include the period of severance pay, which is measured in a like manner.

For all contracts awarded during the lump sum payment period, the total amount of fees that may be paid to a FPS who received a lump sum payment is \$5,000, including the Goods and Services Tax or Harmonized Sales Tax.

7. Integrity Provisions

By submitting a proposal, the Bidder certifies that the Bidder and its Affiliates are compliant with the Integrity Provisions set out in the terms and conditions of Section 5 (Contract Terms and Conditions) of this RFP (the "Integrity Provisions").

1. Statement

- a. By submitting a proposal, the Bidder agrees to comply with the terms and conditions set out in the Integrity Provisions that apply to and form part of any contract resulting from this RFP. In addition, the Bidder agrees to respond to the RFP in an honest, fair and comprehensive manner, and to accurately reflect their capacity to satisfy the requirements stipulated in the RFP and resulting contract(s), and to submit proposals as well as enter into contracts only if they will fulfill all resulting obligations.
- b. By submitting a proposal, the Bidder confirms that they understand that being convicted of certain offences will render them ineligible to be awarded a contract. The OAG will declare non-responsive any bid in respect of which the information requested is incomplete or inaccurate, or in respect of which the information contained in the certifications is found by OAG to be untrue in any respect, at the time of contract award. If it is determined by the OAG, after contract award, that the Bidder made a false declaration, OAG will, following a notice period, have the right to terminate the Contract for default.

2. List of Names

- a. Bidders who are incorporated **MUST** provide a complete list of names of all individuals who are currently directors of the Bidder. Bidders bidding as sole proprietorship, must provide the name of the owner(s). Bidders bidding as societies, firms, or partnerships do not need to provide lists of names.
- b. If the required list of names has not been received by the time the evaluation of bids is completed, OAG will inform the Bidder of a time frame within which to provide the information. Failure to provide the names within the time frame specified will render the bid non-responsive. Providing the required names is a mandatory requirement for contract award.
- c. The Bidder must immediately inform OAG in writing of any changes affecting the list of names of directors and owners during this procurement process.

3. Request for Additional Information

By submitting a bid, the Bidder certifies that it is aware, and that its Affiliates are aware, that OAG may request additional information, certifications, validations from a third party qualified by the OAG, and other evidentiary elements proving identity or eligibility to contract with OAG. OAG may also verify the information provided by the Bidder, including the information relating to convictions for certain offences and any conditional or absolute discharges specified in the Integrity Provisions.

4. **Suspension of Period of Ineligibility**

The Bidder confirms that it understands that a determination of Ineligibility for entering into government contracts made under the Integrity Provisions may be suspended by the OAG through an Administrative Agreement, to the extent that it is permissible in law. The period of Ineligibility applicable to that Bidder or its Affiliate and the right to participate in a given procurement process are guided by the terms and conditions of the Administrative Agreement. Subject to the Public Interest Exception, an Administrative Agreement may only suspend a period of Ineligibility on solicitations issued after it has been concluded.
5. **Period of Ineligibility for Providing False or Misleading Information**

The Bidder confirms that it understands that where it has made a false declaration or provided false or misleading information under the Integrity Provisions, the OAG will declare a Bidder to be ineligible to be awarded contracts for a period of ten years. The period of Ineligibility is effective from the date of determination by the OAG.
6. **Period of Ineligibility for Breaching Administrative Agreements**

The Bidder confirms that it understands that where it has concluded an Administrative Agreement and that it has breached any of its terms and conditions, the OAG will lengthen the period of Ineligibility for a period to be determined by the OAG.
7. **Suspension of a Bidder**

The Bidder confirms that it understands that the OAG may suspend a Bidder from being awarded a contract for a period of up to 18 months, subject to renewal, pending completion of the criminal proceeding, if the Bidder has been charged with any of the offences listed in the Canadian Offences Resulting in Legal Incapacity, the Canadian Offences and the Foreign Offences subsections or if the Bidder has admitted to being guilty of any of these offences. The period of Suspension is effective from the date of determination by the OAG. A period of Suspension does not abridge or suspend all other periods of Ineligibility that may be imposed on a Bidder by the OAG.
8. **Third Party Validation**

The Bidder confirms that it understands that where it or any of the Bidder's Affiliates has been subject to a period of Ineligibility to be awarded contracts, for which the Canadian Pardons and the Foreign Pardons subsections do not apply, the Bidder must provide by bid closing date, a confirmation from an independent third party, recognized in advance by the OAG, confirming that measures have been put in place in order to avoid the re-occurrence of such wrongdoings that led to the convictions. Failure to provide the said confirmation from an independent third party renders this bid non-responsive.
9. **Subcontractors**

The Bidder must ensure that contracts with first tier subcontractors include Integrity Provisions similar to those imposed in the resulting contract.
10. **Public Interest Exception**

The Bidder confirms that it understands:

 - a. that, with the exception of a legal incapacity to contract resulting from section 750(3) of the Criminal Code, OAG may enter in a contract with a Bidder, or any of its Affiliates, which have been convicted of or have pleaded guilty to any of the offences referenced in the Canadian Offences and Foreign Offences subsections, where OAG considers it necessary to the public interest for reasons which include, but are not limited to:
 - i. the need is one of pressing emergency in which delay would be injurious to the public interest;
 - ii. the Bidder is the only person capable of performing the contract;
 - iii. the contract is essential to maintain sufficient emergency stocks in order to safeguard against possible shortages; and;
 - iv. not entering into the contract with the Bidder would have a significant adverse impact on the statutory mandate of the OAG, or otherwise adversely affect health, national security, safety, security or economic or financial well-being of the people of Canada or the functioning of any portion of the federal public administration;

- b. OAG may only enter into a contract with an ineligible Bidder under this subsection where the ineligible Bidder has concluded an Administrative Agreement with the OAG, on such terms and conditions that are necessary to safeguard the integrity of the procurement process and can apply to any procurement. The Administrative Agreement need not be concluded in advance of the solicitation.

8. Conflict of Interest

By submitting a proposal, the Bidder:

- a. acknowledges having read the *Code of Values, Ethics & Professional Conduct for the Office of the Auditor General of Canada*, which the Bidder agrees shall govern the conduct of the Bidder and the Bidder's personnel in respect of this RFP and any resulting contract;
- b. agrees that all actual, potential and perceived conflicts of interest that may affect work with the OAG, or may affect submission of a proposal in response to this RFP, or may affect any Contract resulting from this RFP, shall be disclosed in writing to the Contracting Representative without delay; and
- c. undertakes to ensure that all Bidder personnel conduct themselves in compliance with the principles of the *Code of Values, Ethics & Professional Conduct for the Office of the Auditor General of Canada* in respect of this RFP and any resulting contract.

9. Bidder's Authorized Signatory

The undersigned, on behalf of the Bidder, hereby offers to the OAG, all necessary services, goods, labour, superintendence, equipment, supplies and other accessories necessary to perform the work as further described in Section 2 (Statement of Work) of this RFP. If awarded a contract by the OAG, the Bidder hereby irrevocably undertakes to perform and complete the work at the place and in the manner set out in accordance with the documents specified in the RFP. By submitting a proposal and signing below, the Bidder declares and certifies that the information submitted with the proposal in response to this RFP is accurate and complete and agrees with the terms and conditions of the RFP, including the terms and conditions of any resulting contract.

AUTHORIZED SIGNATORY OF BIDDER			
SIGNATURE:		DATE	
NAME AND TITLE OF SIGNATORY (please print):			