



REQUEST FOR QUOTATION

FOR

ONESPAN SIGN SOFTWARE INCLUDING MAINTENANCE AND SUPPORT AND IMPLEMENTATION SERVICES

Date issued: October 23, 2018

Solicitation Closes: November 5, 2018

Solicitation File Number:
TASK709153-1

Originating Department: Office of the CIO

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GENERAL INFORMATION

1. CMHC BACKGROUND

CMHC is the Government of Canada's National Housing Agency with a mandate to help Canadians gain access to a wide choice of quality affordable homes. It is a Crown corporation with a Board of Directors reporting to Parliament through the Minister of Employment and Social Development, the Honourable Jean-Yves Duclos

CMHC has approximately 2,000 employees located at its National Office in Ottawa and at five Business Centres throughout Canada; Atlantic, Quebec, Ontario, British Columbia, Prairies and Territories.

2. SCOPE OF WORK

CMHC wishes to enter into an agreement (hereinafter referred to as the "Agreement") with a supplier (hereafter referred to as the "Proponent"), to provide the following:

Onespan Sign software subscription including maintenance and support and implementation services (hereafter referred to as the "Deliverables") and as further described in Section 4 – Deliverables.

CMHC will use the deliverables to provide a digital signature solution to securely send and sign documents. Onespan Sign software will fully integrate e-signatures with CMHC's electronic document and records management system and with CMHC's Microsoft Dynamics' CRM.

The RFQ is intended to result in the award of an Agreement for one a (1) year term with four (4) optional annual renewal terms not to exceed a cumulative total of five (5) years.

By issuing this RFQ and accepting quotations, CMHC assumes the obligation of conducting the process in a fair and transparent manner. CMHC has no obligation to procure any goods and/or services, or to compensate any Proponent for any goods and/or services other than as set out in a written agreement with that Proponent.

3. PRICE QUOTATION

The Proponent must submit a fixed (firm) price relative to all of the goods/services and deliverables outlined in this RFQ.

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

All requirements in this RFQ are mandatory.

4. DELIVERABLES:

Table 1 - Initial Deliverables

Annual software subscription including maintenance and support services and implementation services included as part of software subscription for the following:

Item No.	Product Description	Product Part Number	Quantity	Unit Price	Extended Price
1	Onespan Sign transaction based software		10,000		
	SUB-TOTAL				
	HST				
	TOTAL				

Table 2 - Optional Deliverables:

Item No.	Product Description	Product Part Number	Quantity	Unit Price	Extended Price
1	Software Subscription Year 2				
2	Software Subscription Year 3				

3	Software Subscription Year 4				
4	Software Subscription Year 5				
5	Additional Incremental One Span Sign Transactions				
6	Additional Modules or Services List Here:				

5. SECURITY

The proponent must provide their software as a service (SaaS) to CMHC in Microsoft's Canadian Azure Cloud. The security provisions of set out in the draft Agreement must be accepted and adhered to by the proponent.

6. AGREEMENT PERIOD

The resulting Agreement will be for a period of one (1) year with four (4) subsequent 1-year renewals, not to exceed a cumulative total of five (5) years.

7. SUBMISSION INSTRUCTIONS

Proponents are required to submit their **signed** quote to ebid@cmhc-schl.gc.ca, by 2:00 p.m., November 5, 2018. The subject line of the transmission must state: **RFQ file #TASK709153-1**.

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

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



sent by the Proponent*. Submissions received after 2:00 p.m. on November 5, 2018, will not be accepted.

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

8. FORMAT

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

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

9. PROPONENT SELECTION

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

CMHC utilizes the Supplier Information (SI) database, maintained by **Public Services and Procurement Canada** as the Official CMHC source list. All Proponents **must** be registered with **Public Services and Procurement Canada** prior to submitting a response and the Procurement Business Number (PBN) provided by **Public Services and Procurement Canada** must be included with your response. If you are not registered, and you wish to do so, you may access (<https://buyandsell.gc.ca/>) or you may call their Information Line at: 1-800-811-1148.

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

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



Announcement of the successful Proponent will be made to all Proponents following the signing of an Agreement.

10. DECLARATION RE: BID RIGGING, COLLUSION AND GRATUITIES

In submitting its quotation, the Contractor certifies that:

- (a) prices as submitted have been arrived at independently from those of any other Contractor;
- (b) the prices as submitted have not been knowingly disclosed by the Contractor, and will not knowingly be disclosed by the Contractor prior to award, directly or indirectly, to any other Contractor or competitor; and
- (c) no attempt has been made, nor will be made, to induce any other person to submit, or not to submit, a quotation, for the purpose of restricting competition.
- (d) In submitting its quotation, the Proponent certifies that no representative for the Contractor has offered or given a gratuity (e.g. an entertainment or gift) to any CMHC employee, Board member or Governor-in-Council appointee; and intended, by the

11. DRAFT AGREEMENT

This section contains the draft Agreement containing terms and conditions that will form the basis of the Agreement resulting from this RFQ. CMHC reserves the right to add, delete or revise terms and conditions during negotiations. The Proponent and/or the Software Publisher, as the case may be, may include terms and conditions from their End User License Agreement (EULA) in the Agreement provided that CMHC agrees to the EULA terms and conditions to be included. Where terms and conditions of a Proponent's or Software Publisher's, as the case may be, EULA conflict with the Agreement, the Agreement's terms and conditions will take precedence.

Submission of a quotation constitutes acknowledgement that the Proponent has read and, unless otherwise stated in the Proponent's quotation, agrees to be bound by the terms and conditions in the draft Agreement in the event that the Proponent is selected by CMHC to enter into an Agreement.

For the purposes of this section the term "Contractor" refers to the successful Proponent with whom CMHC enters into an agreement.

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- (d) providing training and implementation services (hereinafter referred to as the “Services”) included as part of the Software;

Collectively all of the work outlined under this Section 1.1 is defined as the “Deliverables” hereunder.

Any reference to a “**deliverable**” or “**deliverables**” includes the license to use the Software (the Software itself is not a deliverable, because the Software is only being licensed under the Agreement, not sold or transferred).

1.2. Licensed Software

- (a) **License:** The Contractor must provide the Software described in the Agreement, which includes everything described in this article, as well as anything further required to ensure that the CMHC is able to use all the features and functionality of the Software including but not limited to providing any and all agents, host agents, access licenses, drivers, application program interfaces, adapters, connectors, plug-ins, and software development tool kits;
- (b) **Grant of Licenses:** The Contractor grants to CMHC a non-exclusive, freely transferable license to use and reproduce the Software in accordance with the conditions of the Agreement;
- (c) Unless provided otherwise in the Agreement, the license granted under the Agreement is unaffected by changes in the CMHC's environment, such as changes to the operating system, types of devices, or other software products used by the CMHC from time to time in addition to the Software;
- (d) Unless provided otherwise in the Agreement, the license granted under the Agreement is a User License as described in Schedule B – Software Usage and Software Maintenance and Support Terms and Conditions;
- (e) The Contractor must provide the English language version of the Software and, if available, the French version of the Software;
- (f) **On-going Maintenance of Software Code:** The Contractor or Software Publisher, as the case may be, must continue to maintain the version of the Software (i.e., the version or “build” originally licensed under the Agreement) as a commercial product (i.e., the Contractor or the software publisher must be continuing to develop new code in respect of the Software to maintain its functionality, enhance it, and deal with Software Errors) for at least one (1) year from the date the Agreement is awarded. After that time, if the Contractor or the software publisher, as the case may be, decides to discontinue or no longer maintain the then-current version or “build” of the Software and, instead, decides to provide upgrades to the Software as part of the Software Support, the Contractor must provide written notice to Canada at least 12 months in advance of the discontinuation;
- (g) all without affecting the pricing in the Agreement and without requiring CMHC to obtain additional licences or accept amended licence terms for the Software

Only terms which are presented in full and directly described herein will form part of this Agreement. Any terms or conditions that are purported to be incorporated by reference through URLs, read me files or otherwise, shall not form part of this Agreement. CMHC is

not bound by and does not accept any "shrink-wrap" or "click-wrap" conditions or and other conditions, express or implied, that are contained in or on the Software provided under the Software packaging or conditions that may accompany the Software or Support Services in any manner, regardless of any notification to the contrary from the Contractor or any associated third party.

- 1.3. Ownership:** CMHC acknowledges that ownership of the Software belongs to the Contractor or its licensor and is not transferred to CMHC. As a result, any reference in the Agreement to any part of Software as a deliverable must be interpreted as a reference to the license to use that Software, not to own the Software.

CMHC acknowledges that, in performing any warranty, maintenance, support and professional services related to the Software (if required under the Agreement), the Contractor and its employees, agents, and subcontractors may develop and share with CMHC ideas, know-how, teaching techniques and other intellectual property. Unless otherwise provided in the Agreement, ownership to that intellectual property will remain with the Contractor. As long as the Contractor at all times observes the confidentiality provisions of the Agreement, 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 CMHC 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 CMHC will remain the property of CMHC, regardless of whether that data is created, processed, or stored using the Software.

1.4. Software Documentation

- (a) Copyright in the Software Documentation will not be owned by or transferred to CMHC. However, CMHC 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 Software, as long as CMHC includes any copyright and/or proprietary right notice that was part of the original document in any copy. Unless provided otherwise in the Agreement, CMHC must not otherwise reproduce the Software Documentation without first obtaining the written consent of the Contractor.
- (b) 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 Software. If the source code for the Software must be provided to CMHC under the Agreement, 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 Software.
- (c) 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, CMHC then has the right to translate it. CMHC owns any translation and is under no obligation to provide it to the Contractor. CMHC 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 CMHC.

- (d) Unless provided otherwise in the Agreement, at no additional cost to CMHC, the Contractor must update the Software Documentation throughout the period of the Agreement to the most current release level consistent with the Software delivered under the Agreement. The Contractor must provide these updates to CMHC within ten (10) days of the update being available. These updates must include supporting documentation for all modifications to the Software, including new versions and new releases that Canada is entitled to receive under the Agreement and must identify any problems resolved, enhancements made, or features added to the Software, together with installation instructions.

1.5. Acceptance

- (a) **Deliverables Subject to Acceptance:** All Software delivered under the Agreement is subject to inspection by CMHC. If any of the Software does not meet all the requirements of the Agreement, CMHC may reject it or require that it be corrected, at the sole expense of the Contractor, before recommending payment.
- (b) **Effect of Acceptance:** Acceptance by CMHC does not relieve the Contractor of any responsibility for defects or other failures to meet the requirements of the Agreement or the Contractor's responsibilities with respect to warranty, maintenance or support under the Agreement.
- (c) **Period of Acceptance:** Unless provided otherwise in the Agreement, the acceptance procedures are as follows
- (d) CMHC will have thirty (30) days from date of receipt of the Deliverables to perform its inspection (the "Acceptance Period").
- (e) If CMHC provides notice of a deficiency during the Acceptance Period, the Contractor must address the deficiency as soon as possible and notify CMHC in writing once the deficiency is rectified, at which time CMHC will be entitled to re-inspect the Deliverables before acceptance and the Acceptance Period will begin again.

1.6. Software Warranty

- (a) In this section, unless provided otherwise in the Agreement, "**Software Warranty Period**" means the entire Term of the Agreement and commences from the date on which the Software is accepted in accordance with the conditions of the Agreement, except for warranty work and any other work that is scheduled under the Agreement to be performed after the start of the Software Warranty Period.
- (b) The Contractor warrants that, during the Software Warranty Period, the Software will operate on the computer system or systems on which the Software are installed in accordance with the Software Documentation that is associated with the Software, as well as the Specifications set out in the Agreement, if any. If the Software fails to meet this warranty at any time during the Software Warranty Period, the Contractor, if requested by CMHC, 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 Software that are necessary to keep the Software in operating order, in accordance with the Software Documentation that is associated with the Software and the Specifications.

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- (c) Although the Contractor must use all reasonable efforts to provide permanent corrections for all software errors, CMHC 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 Software to meet the functional and performance criteria set out in the Software Documentation associated with the Software and the Specifications.
 - (d) The Contractor warrants that, throughout the Software Warranty Period, the Software Documentation will be free from all defects in materials and will conform to the requirements of the Agreement. If CMHC discovers a defect or non-conformance in any part of the Software Documentation during the Software Warranty Period, the Contractor must, if requested by CMHC, 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 Agreement.
 - (e) The Contractor warrants that, throughout the Software Warranty Period, the Media will be free from all defects in materials or workmanship, and will conform to the requirements of the Agreement. CMHC 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 CMHC.
 - (f) If the Contractor must perform support services with respect to the 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.
 - (g) The warranties set out in this section will survive inspection and acceptance of the Work by or on behalf of CMHC, and do not restrict any other provision of the Agreement or any condition, warranty or provision imposed by law.

1.7. Option to Purchase Additional Products and Services: The Contractor grants to CMHC the irrevocable option to purchase additional quantities of the Software and any other related products and services offered by the Contractor on the same terms and conditions granted under the Agreement and at the prices set out in Schedule “A” or at any other pricing mutually agreed to by both Parties in writing, not to exceed the prices shown in Table 1 of Schedule “A”. Pricing for optional products and services not shown on Tables 1 of Schedule “A” will be provided by the Contractor at the same discounted rates provided under the Agreement.

This option may be exercised at any time during the Agreement term, as many times as CMHC chooses. This option may only be exercised by the CMHC by notice in writing to the Contractor and will be evidenced, for administrative purposes only, by amending agreement.

Section 2.0 - Term of the Agreement

2.1. The Agreement Term: The Agreement Term is the entire period of time during which the Contractor is obliged to provide the Deliverables, which includes:

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- (a) The "Initial Agreement Term", which begins on the date this Agreement is duly executed and ends on the (rd) year anniversary of such date; and
 - (b) if applicable, the period during which the Agreement is extended in writing by the Parties, the "Renewal Term", provided that CMHC elects to exercise any options set out in the Agreement under Section 2.2.

Collectively, the initial term and renewal term(s) are the "Term".

2.2. Option to Extend the Agreement Term:

- (a) The Contractor grants to CMHC the irrevocable option to extend the Term of the Agreement by up to ____ () additional one-year period(s) under the same terms and conditions as this Agreement and will be evidenced by amending agreement. The Contractor agrees that during the extended period of this Agreement it will be paid in accordance with the applicable provisions set out in Schedule "A" of the Agreement.
- (b) CMHC may exercise this option at any time by sending a written notice to the Contractor at any time before the end of the Term of this Agreement. The option may only be exercised at CMHC's sole discretion, and will be evidenced through an amending Agreement.

2.3. Termination

- (a) Termination for Convenience - CMHC may terminate this Agreement for any reason with no penalty or liability to the Contractor of any kind by giving the Contractor at least thirty (30) days written notice at any time during the Term.
- (b) Notwithstanding anything to the contrary in this Agreement, CMHC may, by giving ten (10) days prior written notice to the Contractor, terminate this Agreement without charge or liability of any kind with respect to all or any part of the Agreement for any of the following reasons:
 - (i) the Contractor, commits a material breach of its duties under this Agreement, unless, in the case of such breach, the Contractor, within thirty (30) calendar days after receipt of written notice of such breach from CMHC, cures such breach in accordance with applicable requirements of this Agreement and to the sole satisfaction of CMHC;
 - (ii) the Contractor commits numerous breaches of its duties under this Agreement that collectively constitutes a material breach;
 - (iii) a change in control of the Contractor where such control is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of the assets of the Contractor are acquired, by any entity, or the Contractor is merged with or into another entity to form a new entity, unless the Contractor demonstrates to the

satisfaction of CMHC that such event will not adversely affect its ability to provide the Deliverables under this Agreement;

(iv) the Contractor commits fraud;

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

(vi) the Contractor is in breach of any of the confidentiality and proprietary provisions set out in this Agreement.

- (c) The Parties agree that in the event of termination of this Agreement for the convenience of CMHC for which an advance payment has been made, charges up to the date of termination will be calculated on a prorata basis of a twelve (12) month year and a thirty (30) day month. The Contractor shall immediately refund to CMHC the unliquidated portion of the advance payment and pay to CMHC interest thereon, from the date of the advance payment to the date of the refund, at the discount rate of interest per annum set by the Bank of Canada and prevailing on the date of the advance payment, plus 1 ¼ percent per annum.

Section 3.0 - Financial

Maximum Financial Liability

In consideration of the providing the Deliverables, CMHC agrees to pay the Contractor an amount based on the Contractor's rates attached as Schedule "A". Notwithstanding this however, CMHC's total financial liability under the terms and conditions of this Agreement shall not exceed \$CDN.

3.2 Amount is Inclusive

The amount payable to the Contractor by CMHC pursuant to Section 3.1 is inclusive of all taxes, assessments, duties or other levies that may be payable under this Agreement to the Contractor, including any goods and services tax/harmonized sales tax (GST/HST) or retail sales tax (RST). Any such taxes, assessments, duties or other levies shall be listed as separate line items on each invoice.

3.3 Collection and Remittance of Taxes

GST/HST, RST and Quebec Sales Tax (QST), to the extent applicable and required to be collected by the Contractor, shall be collected and shown as a separate item on an invoice which includes the Contractor's GST/HST or QST number. The Contractor shall duly remit to the Canada Revenue Agency or the appropriate provincial taxing authorities any amounts of GST/HST, RST or QST collected on the consideration payable pursuant to this Agreement.

3.4 Invoicing

The Contractor must allow thirty (30) days from delivery of a complete invoice to CMHC for payment without interest charges. The Contractor shall only invoice for portions of the Deliverables that have been delivered.

All invoices must make reference to this Agreement by quoting CMHC file number . Before advancing any amount to the Contractor, CMHC reserves the right to determine, in its sole and absolute discretion, whether the Deliverables were in accordance with the terms and conditions of this Agreement. In the event that the Deliverables do not meet the standards set out in this Agreement, CMHC may take such action as reasonably necessary to correct the Contractor's default, including, without limitation, the following: (i) directing the Contractor to redo the work that was not completed in accordance with this Agreement; or (ii) withholding payment; or (iii) setting off any expenses incurred by CMHC in remedying the default of Contractor against payment for payment due to the Contractor; or (iv) terminating this Agreement for default.

3.5 Audit

The Contractor shall keep proper and detailed records and statements relating to the Agreement during the Term and for a period of three (3) years following the end of the Term and any renewals thereof. The Contractor shall at all reasonable times permit inspection and audit of such records and statements by CMHC's internal or external auditors with reasonable prior written notice of at least ten (10) working days. The Contractor shall provide CMHC's auditors with sufficient original documents in order to conduct the audit. An audit may be conducted without prior notice, however CMHC agrees to cooperate with the Contractor in the course of conducting any audit in order to avoid disruption in day-to-day operations.

3.6 Income Tax Reporting

As a federal Crown Corporation, CMHC is obliged under the *Income Tax Act* and *Regulations* to report payments made by CMHC to suppliers of goods and/or services by using a T1204 supplementary slip. The Contractor will be required to complete and sign a *Supplier - Direct Deposit and Tax Information Form* (CMHC/SCHL 3085) to allow CMHC to complete the T1204 slip.

Section 4.0 - General Terms and Conditions

4.1 Assignment of the Agreement

The Agreement shall not be assigned in whole or in part by the Contractor without the prior written consent of CMHC, which consent may be withheld by CMHC for any reason or no reason. It is understood and agreed that the Contractor may engage other entities to assist the Contractor in providing any of the provision of any of the Deliverables, provided that the Contractor shall at all

times remain responsible for the provision and quality of the Deliverables in a manner which fully recognizes and respects the confidential nature of the Deliverables, as applicable. The Contractor undertakes to advise such entities in writing that they are independent contractors, and are not employees or agents of CMHC. No assignment of the Agreement shall relieve the Contractor from any obligation under the Agreement or impose any liability upon CMHC.

4.2 Contractor's Indemnification

The Contractor agrees to indemnify, defend and hold harmless CMHC, its officers, employees and agents, for all loss, damages, costs, expenses, claims, demands, actions, suits or other proceedings of every nature and kind, including legal fees, arising from or in consequence of an act or omission of the Contractor related to the Deliverables provided under the Agreement. To the extent that CMHC's actions contribute to the loss or damages, CMHC shall be responsible for its proportionate share of the liability. The indemnification applies whether the actions, suits or proceedings are brought in the name of CMHC or in the name of the Contractor. The Contractor shall be fully responsible to CMHC for the acts and omissions (including negligence) of its subcontractors and of persons directly or indirectly engaged by such subcontractors as if such acts and omissions were those of the Contractor. CMHC shall have the right to assume control of its own defence at any time, provided that it assumes the costs of its defence.

4.3 No Limitation

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

4.4 Non-Waiver

Failure by either party to assert any of its rights under the Agreement shall not be construed as a waiver thereof.

4.5 CMHC's Rights in Case of Non-Compliance or Default by Contractor

If the Contractor fails to comply with a direction or decision of CMHC properly given under the terms of the Agreement, or is in default in any other manner under the Agreement, CMHC may do such things and incur such costs as it deems necessary, acting reasonably, to correct the Contractor's default, including without limitation the withholding of payment due to the Contractor for the Deliverables pursuant to this Agreement.

4.6 Force Majeure

- (a) In the event that the Contractor is prevented from fulfilling its obligations under the terms of the Agreement by a force majeure (an event or effect that cannot be reasonably anticipated or controlled), the Contractor, shall provide immediate written notice by registered mail describing the event(s) that constitute(s) a force majeure. Without limiting the above, the following shall constitute cases of force majeure: war, serious public

disturbances, all impediments arising from orders or prohibitions of public authority, acts of God, actions of public enemies, strikes, lockout and other labour disputes, riots, flooding, hurricane, fire, explosion or any other natural disasters over which the Contractor has no reasonable control.

In the event CMHC receives notice from the Contractor, of a force majeure CMHC may, to the extent it deems necessary, secure the services of other qualified contractors without compensation or obligation to the Contractor.

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

Notwithstanding the provisions contained in this Section, if closure is continued beyond one (1) calendar week, payment under this Agreement may be suspended in full immediately, on further written notice to the Contractor, until reopening permits the Contractor to continue to provide the Deliverables.

4.7 No Joint Venture

It is hereby expressly acknowledged and agreed that the Agreement in no way constitutes the creation of a partnership or joint venture between CMHC and the Contractor.

4.8 Contractor's Authority

The Contractor, shall have no authority to give any guarantee or warranty whatsoever, expressed or implied, on behalf of CMHC and the Contractor, is in no way the legal representative or agent of CMHC. The Contractor, may not create any obligation on behalf of CMHC or bind CMHC in any way.

4.9 Confidentiality and Non-Disclosure of CMHC Information

- (a) Under this Section, “**CMHC Information**” refers to any and all information, which is managed, accessed, collected, used, disclosed, retained, received, created or disposed of in order to fulfil the requirements of the Agreement, however obtained. Without limiting the generality of the foregoing, CMHC Information includes data held in any type of

electronic format and information provided directly, indirectly or through third parties to the Contractor, Software Publisher, subcontractor, reseller, agent or any other person engaged to provide any of the Deliverables under this Agreement.

- (b) Both Parties acknowledge and understand that all Information is subject to Canadian laws on privacy and access to information under which CMHC is bound and that CMHC considers CMHC Information to be under its custody and control of all times.
- (c) Both Parties further understand and agree to treat all Information as proprietary, confidential and sensitive unless otherwise specifically agreed to in writing by both parties. Both Parties shall restrict access to Information to those persons who have a need to know this information in order to provide any of the Deliverables under the Agreement.
- (d) Both Parties shall ensure that Information shall remain in Canada and expressly agrees to segregate Information (whether in electronic format or in hard copy) from any other information in a database or repository physically independent from all other databases or repositories. Without limiting the generality of the foregoing, both parties shall not and shall ensure that any subcontractor, reseller, agent or any other person engaged to provide any part of the Deliverables does not release, share or otherwise divulge Information to any other person including subsidiaries, branch offices, partners or subcontractors without the prior written consent of the other party.
- (e) Where disclosure of Information is required pursuant to a lawful requirement or for the purposes of complying with a subpoena or warrant lawfully issued or lawfully made by a court, person or body, one party shall notify the other party promptly after discovering the potential of disclosure of Information so that the party has the opportunity to seek a protective order or other appropriate remedy.
- (f) Both Parties also agree that in the event that disclosure of Information is required by a valid and applicable law, it shall, in co-operation with the other party, do all things reasonably possible to prevent access to Information including but not limited to taking appropriate legal action against disclosure, providing information and other assistance in order for the party to take appropriate legal action against disclosure and ensuring that disclosure is strictly limited to the information lawfully requested.
- (g) Subject to the Contractor's obligations under Section 3.5, any documents provided to the Contractor, in the provision of the Deliverables described herein shall be returned, uncopied or destroyed by such party within six (6) months of the termination of this Agreement. For documents not returned to, the Contractor, shall provide to CMHC specific proof under oath of their destruction.

4.10 Conflict of Interest

The Contractor, and its principals, employees and agents shall avoid any conflict of interest during the Term or any renewal term of this Agreement and shall immediately declare any existing,

potential or apparent conflict and shall, upon direction of CMHC, take steps to eliminate any conflict or perception that a conflict of interest exists. The Contractor, must not provide any services to any third party in circumstances that might reasonably give rise to a conflict of interest, including a conflict between the Contractor's , as the case may be, duties to that third party and the Contractor's , as the case may be, duties to CMHC. In the event that a conflict of interest, real or perceived, cannot be resolved to the satisfaction of CMHC, CMHC shall have the right to immediately terminate the Agreement. All portions of the Deliverables which have been completed at the date of termination shall be forwarded to CMHC and CMHC shall be liable for payment to the Contractor of an amount which, in the sole opinion of CMHC, constitutes reasonable payment for the partial performance of the Contractor's obligations under the Agreement. Upon such payment, CMHC shall have no further obligation of any nature or kind to the Contractor. Any former public office holder must be in compliance with the post-employment provisions of the *Conflict of Interest and Post-Employment Code for Public Office Holders* (2006) in order to derive any benefit from this Agreement.

4.11 House of Commons

No member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

4.12 Intellectual Property Rights

(a) Representations and Warranties

Contractor has all necessary power, authority and capacity, and holds all licenses required under applicable law to enter into this Agreement to perform its obligations hereunder. Contractor, guarantees that it has the right to license any applicable software pursuant to this Agreement and has full power and authority to grant to CMHC all the rights granted under the Agreement. The Contractor, also guarantees that all necessary consents have been obtained. All materials and documents which are the property of CMHC at the commencement of the Term, or any Renewal Term, shall remain the property of CMHC. All rights in any pre-existing intellectual property of the Contractor, or any third parties incorporated into any deliverables and any changes thereto would continue to be owned by the Contractor, or such third parties. The Contractor , represents and warrants that, to the best of its knowledge, neither it nor CMHC will infringe any third party's intellectual property rights in providing the Deliverables, and that CMHC will have no obligation to pay royalties of any kind to anyone in connection with the Deliverables. If anyone makes a claim against CMHC or the Contractor concerning intellectual property infringement or royalties related to the Deliverables, that Party agrees to notify the other Party in writing immediately.

The Contractor , has no obligation regarding claims that were only made because:

- (i) CMHC modified the Deliverables without the Contractor's consent or used the Deliverables or part of the Deliverables without following a requirement of the Agreement; or

-
- (ii) CMHC used the Deliverables or part of the Deliverables with a product that the Contractor did not supply under the Agreement (unless that use is described in the Agreement or the manufacturer's specifications); or
 - (iii) the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by CMHC (or by someone authorized by CMHC).

(b) Intellectual Property Infringement

If a third party claims that Deliverables supplied under this Agreement infringes any intellectual property right, the Contractor, if requested to do so by CMHC, will defend both the Contractor, and CMHC 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 CMHC for the claim. If anyone claims that, as a result of using the Deliverables, the Contractor or CMHC is infringing its intellectual property rights, the Contractor must immediately do one of the following:

- (i) take whatever steps are necessary to allow CMHC to continue to use the allegedly infringing part of the Deliverables; or
- (ii) modify or replace the Deliverables to avoid intellectual property infringement, while ensuring that the Deliverables continues to meet all the requirements of the Agreement; or
- (iii) take back the Deliverables and refund any part of the Agreement price that CMHC has already paid.

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 ten (10) business days, CMHC may choose to take whatever steps are necessary to acquire the rights to use the allegedly infringing part(s) of the Deliverables itself, in which case the Contractor, must reimburse CMHC for all the costs it incurs to do so.

The Contractor, certifies that it has no outstanding contract or obligation that is in conflict with any of the provisions of this Agreement, or that would preclude the Contractor, from complying with the provisions hereof, and that it will not enter into any such conflicting contract during the Term or any renewal term of this Agreement. The Contractor, further certifies that it will not disclose to CMHC any confidential, secret, and/or proprietary information, which is the property of others and which the Contractor, is not authorized to disclose. The Contractor shall be responsible for obtaining, at its expense, all rights to third party intellectual property, necessary to comply with its obligations under this Agreement.

4.13 Insurance

- (a) Commercial General Liability Insurance

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

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

(b) Technology (Errors & Omissions) Liability

Technology Errors and Omissions Liability insurance, with an insurer licensed to do business in Canada with a limit of not less than \$2,000,000 per claim, providing coverage for, but not limited to, economic loss arising from or related to errors or omissions, any breach of network security, any privacy breach or transmission of malicious code. The policy will provide 30 days prior written notice of cancellation to CMHC's Senior Advisor, Corporate Insurance, 700 Montréal Road, Ottawa, Ontario K1A 0P7. Coverage is to include Contractor's employees and Contractors contract employees (if applicable) as named insured. The Contractor shall ensure that the policy is renewed continuously for a minimum period of one (3) year following the expiration or early termination of this Agreement.

(d) Worker's Compensation

Worker's compensation coverage for all employees engaged in the Services in accordance with the statutory requirement of the province, territory or state in which the Services are being performed.

(e) Automobile Insurance

The Contractor will provide and maintain Automobile Insurance with an insurer licensed to do business in Canada with limits of not less than \$2,000,000 Third Party Liability for all motor vehicles used by the Proponent in the performance of this Contract.

Other conditions:

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

All insurance policies required to be maintained by Contractor pursuant to this Section 4.13 (Insurance) shall be primary with respect to this Agreement and any valid and collectible insurance of CMHC shall be excess of Contractor's insurance and shall not contribute to it.

All Certificates of Insurance shall mention that insurers will provide CMHC with at least thirty (30) days' written notice prior to cancellation of any insurance referred to under this Section 4.13 (Insurance). In addition Contractor shall provide written notice to CMHC forthwith upon learning that an insurer described in this Section 4.13 (Insurance) intends to cancel, or intends to make or has made a material change to, any insurance referred to in this Section 4.13 (Insurance).

A Certificate of Insurance meeting the above requirements shall be delivered to CMHC upon execution of this Agreement and for each renewal thereafter. Without in any way restricting CMHC's direction to grant or withhold its consent to a request to subcontract pursuant to Section 4.13 (Insurance), the Contractor agrees that it shall contractually obligate any subcontractor or independent contractor retained in connection with this Agreement to maintain insurance against such risks and in such amounts that having regard to such subcontractor's or independent contractor's involvement in the provision of the Services could reasonably be expected to be carried by Persons acting prudently and in a similar business to that of such subcontractor or independent contractor.

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

4.14 Corporation Identification

It is agreed that the Contractor, will make no use whatsoever of CMHC's name, logo, official marks or trademarks without first obtaining the express written consent of CMHC.

4.15 Extras

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

4.16 Binding Agreement

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

4.17 Scope of Agreement

This Agreement together with any attached schedules and the documents specified in Section 6.1 contains all of the agreements of the parties hereto and no other representations or warranties or conditions, verbal, implied or otherwise, exist between the parties. In case of conflicts between the Contractor's documents and CMHC's documents, the latter shall govern.

4.18 Compliance with Laws

The Contractor and CMHC shall give all the notices and obtain all the licenses and permits required in providing the Deliverables. The Contractor and CMHC shall comply with all the laws applicable to the Deliverables in the performance of the Agreement.

4.19 Laws Governing Agreement

This Agreement shall be governed by and construed in accordance with the laws of the province of Ontario and any federal laws applicable therein. The parties agree that any proceedings initiated with respect to the Agreement will be commenced in the province of Ontario.

4.20 Severability

If any provision of the Agreement is held by competent authority to be invalid, illegal or unenforceable, for any reason, the remaining provisions of the Agreement and its attachments will continue in full force so long as they express the intent of the parties. If the intent of either party cannot be preserved, the Agreement shall be either renegotiated or terminated by the parties.

Section 5.0 – Administration of Agreement

Each Party shall assign administrators who will be responsible for overseeing this Agreement. The individuals named in the Sections below are the initial agreement administrators.

The Parties shall notify the other in writing in the event that any of the administrators are changed.

5.1 CMHC Contract Administrator:

IT Contracts/Procurement Services
700 Montreal Road
Ottawa, Ontario
K1A 0P7
Attn: Christine Brown – ccbrown@cmhc-schl.gc.ca
itcontracts@cmhc-schl.gc.ca
(613) 748-2534

5.2 Contractor's Representative:

5.3 CMHC Technical Representative - Managed Contract:

CMHC may appoint one or more CMHC employees or other personnel employed by CMHC as its Technical Representatives. The Contractor will be entitled to rely on all oral and written orders and instructions issued by any Representative including, without limitation, instructions to initiate work, incur expenses and in management functions related to the Agreement on CMHC's behalf. CMHC reserves the right to select and reassign any Representative. Furthermore, CMHC will remain responsible for its Representatives' performance of such services to the same extent as though such Representatives were employees of CMHC.

5.4 CMHC Invoicing:

All invoices must include the CMHC file number **PA0001501** and sent by e-mail or regular mail to:

IT_Order_Desk@cmhc-schl.gc.ca

700 Montreal Road
3rd Floor
Ottawa, Ontario
K1A 0P7

Section 6.0 - Agreement Documents

6.1 The documents consist of the following and collectively form the Agreement:

- i) This form of Agreement as executed as of the date of the last signature on the signature page;
- ii) Schedule "A" - The Deliverables and Pricing Table;
- iii) Schedule "B" - Software Usage and Software Maintenance and Support Terms and Conditions;
- iv) Schedule "C" - Software Publisher Authorization Form
- i) Schedule "D" - Contractor's Quote dated _____, 2018.

together with all written change notices and amendment issued by CMHC from time to time and such further specifications and documents as the Parties may agree to in writing. In the event of a conflict between the above listed Agreement documents, the Agreement documents shall have precedence in the order as listed above.

6.2 The Agreement documents are complementary and what is called for in any one shall be binding as if called for by all. The Agreement documents shall be interpreted as a whole and the intent of the whole rather than the interpretation of any particular part shall govern. In the event



of a conflict between them, the Agreement documents shall have precedence among themselves in the order as listed above.

Section 7.0 - Miscellaneous

7.1. The Contractor's obligations under Sections 3.6, 4.2, 4.09, 4.12, 4.16, 4.18 and 7.1 shall survive the expiry or termination of the Agreement regardless of the method or manner in which it is terminated.

7.2 No amendment, supplement or restatement of any provision of the Agreement is binding unless it is in writing and signed by each of the parties to the Agreement.

7.3 The Agreement and any amendment, supplement or restatement of any provision of the Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument.

Signature page follows.



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

THE CONTRACTOR

**CANADA MORTGAGE AND
HOUSING CORPORATION**

Signature

Signature

Print Name and Title

Print Name and Title

Date

Date

**SCHEDULE A
DELIVERABLES AND PRICING**

TABLE 1 - INITIAL DELIVERABLES: Includes all of the software, activities and level of effort incurred by the Contractor to deliver the requirement described the Contractor's quote dated _____, 2018.

Item No.	Product No.	Product Description	Quantity	Unit Price	Extended Price USD
1					
2					
3					
4					
5					
6					
7					
8					



SCHEDULE B

SOFTWARE USAGE AND SOFTWARE MAINTNENACE AND SUPPORT

TERMS AND CONDITIONS

Only terms, which are presented in full and directly included in this Schedule B - Software Usage and Software Maintenance and Support - Terms and Conditions form part of the Agreement. Any terms or conditions that are purported to be incorporated by reference through URLs, read me files or otherwise form no part of the Agreement unless such terms are presented in full and included under the Agreement.

No terms purporting to abridge or extend the time to commence an action for breach, tort, or other action are of any effect.

If there are any discrepancies between the Terms and Conditions described in Schedule B and those in the body of the Agreement, the terms and conditions of the Agreement shall prevail.

Software Usage and Maintenance and Support - Terms and Conditions:



SCHEDULE C
SOFTWARE PUBLISHER AUTHORIZATION FORM

This confirms that the software publisher identified below has authorized the Contractor named below to license its proprietary software products under any agreement identified below. The software publisher acknowledges that no shrink-wrap or click-wrap or other terms and conditions will apply, and that the agreement (as amended from time to time by its parties) will represent the entire agreement, including with respect to the license of the software products of the software publisher listed below. The software publisher further acknowledges that, if the method of delivery (such as download) requires a user to "click through" or otherwise acknowledge the application of terms and conditions not included in the agreement, those terms and conditions do not apply to CMHC's use of the software products of the software publisher listed below, despite the user clicking "I accept" or signaling in any other way agreement with the additional terms and conditions.

This authorization applies to the following software products:

Listed is Schedule A.

Name of Software Publisher (SP)

Signature of authorized signatory of SP _____

Print Name of authorized signatory of SP _____

Print Title of authorized signatory of SP _____

Address for authorized signatory of SP _____

Telephone no. for authorized signatory of SP _____

Date signed _____

Agreement Number _____

Name of Contractor

SCHEDULE D
CONTRACTOR'S QUOTE



DATED _____, **2018**