



RETURN BIDS TO:

RETOURNER LES SOUMISSIONS À:

Bid Receiving - PWGSC / Réception des soumissions -
TPSGC

11 Laurier St. / 11, rue Laurier

Place du Portage, Phase III

Core 0B2 / Noyau 0B2

Gatineau

Quebec

K1A 0S5

Bid Fax: (819) 997-9776

SOLICITATION AMENDMENT MODIFICATION DE L'INVITATION

The referenced document is hereby revised; unless otherwise indicated, all other terms and conditions of the Solicitation remain the same.

Ce document est par la présente révisé; sauf indication contraire, les modalités de l'invitation demeurent les mêmes.

Comments - Commentaires

Vendor/Firm Name and Address

Raison sociale et adresse du
fournisseur/de l'entrepreneur

Issuing Office - Bureau de distribution

Systems Software Procurement Division / Division des
achats des logiciels d'exploitation
Terrasses de la Chaudière
4th Floor, 10 Wellington Street
4th etage, 10, rue Wellington
Gatineau
Quebec
K1A 0S5

Title - Sujet AI-IA - Invitation to Qualify	
Solicitation No. - N° de l'invitation EN578-180001/A	Amendment No. - N° modif. 009
Client Reference No. - N° de référence du client EN578-180001	Date 2018-10-26
GETS Reference No. - N° de référence de SEAG PW-\$SEE-017-33817	
File No. - N° de dossier 017ee.EN578-180001	CCC No./N° CCC - FMS No./N° VME
Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2018-10-31	Time Zone Fuseau horaire Eastern Daylight Saving Time EDT
F.O.B. - F.A.B. Plant-Usine: <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input type="checkbox"/>	
Address Enquiries to: - Adresser toutes questions à: Lessard, Peter	Buyer Id - Id de l'acheteur 017ee
Telephone No. - N° de téléphone (613) 850-7602 ()	FAX No. - N° de FAX () -
Destination - of Goods, Services, and Construction: Destination - des biens, services et construction:	

Instructions: See Herein

Instructions: Voir aux présentes

Delivery Required - Livraison exigée	Delivery Offered - Livraison proposée
Vendor/Firm Name and Address Raison sociale et adresse du fournisseur/de l'entrepreneur	
Telephone No. - N° de téléphone Facsimile No. - N° de télécopieur	
Name and title of person authorized to sign on behalf of Vendor/Firm (type or print) Nom et titre de la personne autorisée à signer au nom du fournisseur/ de l'entrepreneur (taper ou écrire en caractères d'imprimerie)	
Signature	Date

ARTIFICIAL INTELLIGENCE

Invitation to Qualify

This Amendment 009 is issued to respond to questions from industry.

QUESTIONS AND ANSWERS

Question 068:

As per Section 2.1 of the ITQ, the purpose of this procurement vehicle is to establish a pre-qualified list of suppliers. Once pre-qualified, will a Supplier be able to elect to participate or not in subsequent solicitation opportunities?

Answer 068:

Suppliers will have the choice to decide whether or not they wish to participate in subsequent RFP opportunities.

Question 069:

Please confirm that once pre-qualified, a Supplier will not be obligated to enter into a resulting contract?

Answer 069:

Correct.

Question 070:

Section 2.5 says that a response to the ITQ implies the Supplier's agreement with "the terms and conditions included herein which will form the basis of the resulting contract". Does this mean that these "terms and conditions included herein" are automatically incorporated by reference into the resulting contract?

Answer 070:

Please refer to the revised resulting contractual terms and conditions included in this amendment.

ARTIFICIAL INTELLIGENCE

Invitation to Qualify

Question 071:

If Suppliers are being asked to pre-agree to the terms and conditions in Annex 3 during the ITQ, please reconsider. It is difficult for a Supplier to pre-agree to these terms in isolation without the rest of the resulting contract.

Answer 071:

Yes, suppliers are being asked to agree to the resulting contract terms and conditions in Annex 3 of the ITQ. (The terms and conditions have been updated as of October 26, 2018)

Canada may review supplier recommended changes to the terms and conditions during subsequent RFP solicitations.

Question 072:

If pre-qualified, would a Supplier be compelled to enter into a contract?

Answer 072:

Suppliers will have the choice to decide whether or not they wish to participate in subsequent RFP opportunities.

Question 073:

Will a pre-qualified Supplier have the opportunity to not bid or not accept a resulting contract without penalty?

Answer 073:

A supplier has the option to decline to submit a proposal for any subsequent RFP opportunity without penalty.

ARTIFICIAL INTELLIGENCE

Invitation to Qualify

Question 074:

Can a Supplier take exception to certain terms and conditions in the ITQ?

Answer 074:

Each subsequent RFP will include the terms and conditions at the solicitation stage. It is at the supplier's discretion to accept the terms and provide a bid response.

Question 075:

Step 1 in Annex 4 says "In some cases, suppliers should be prepared to offer a sandbox environment. Can you clarify what the duration of the availability of the sandbox would, what the specific purpose would be, and what level of support services would be required to support the Crown during the use of the sandbox?"

Answer 075:

Sandbox requirements will be clarified during the RFP stage for each individual requirement.

Question 076:

Can the crown please extend the deadline for submissions by 2 weeks?

Answer 076:

No. Due to the greatly reduced requirements on suppliers to submit detailed documentation, the closing date will remain October 31. The tool will be refreshed on a periodic basis and suppliers will get a future opportunity to compete.

Question 077:

I see a requirement for submission is to have delivered AI as a prime or sub-prime contractor. To meet the requirements, do we need to have delivered an AI project as a prime or sub-prime contractor to the Canadian Government?

Answer 077:

See response to question 009 of amendment 002.

ARTIFICIAL INTELLIGENCE

Invitation to Qualify

Question 78:

- a) Where, as a result of internal research and advancements in the company's Machine Learning efforts and capabilities, the company was able to introduce a significant new AI feature into an existing product for the benefit of all of its customers, would that project qualify in the same manner as if it were created and delivered as a brand new project to a single client?
- b) In the preceding example, assuming it would qualify, what is the preferred approach with respect to identifying a reference client?
- c) Similarly, where the AI project was created as a commercial venture intended to and currently serving multiple clients, what is the preferred approach with respect to identifying a reference client?
- d) Where an AI project created for one jurisdiction served by the company required substantial modification in order to be suitable to the requirements of another jurisdiction served by the company, can these initiatives be submitted as separate AI projects?
- e) Where, in the context of government-supported commercialization initiative to establish an AI platform service, the company has:
 - i) completed the work;
 - ii) implemented the project as designed into its internal work flow; and
 - iii) begun actively promoting the market-ready platform to third-parties but not yet moved beyond trials with those third-parties, can the company submit the project as a completed with a trial client as reference?

Answer 078:

- a) *The referenced project must fall within the three determined AI areas of work, clearly describe the project plan and identify the client or customer.*
- b) *The reference would include a description of the work and contact information.*
- c) *The reference would include a description of the work and contact information.*
- d) *Suppliers should ensure the referenced projects meet the mandatory requirements defined in Annex 2 of the ITQ.*
- e) *Referenced projects must have been delivered to a client or customer.*

INVITATION TO QUALIFY (ITQ)

on a source list of suppliers to provide Canada with responsible and effective Artificial Intelligence (AI) services, solutions and products

Public Services and Procurement Canada



Public Services and
Procurement Canada

Services publics et
Approvisionnement Canada

Contents

1. Introduction 3

2. Procurement Framework..... 5

Annex 1: Instructions 7

Annex 2 – Evaluation Criteria..... 10

Annex 3: Terms and Conditions 13

Annex 4: Competing for Subsequent Opportunities 44

Annex 5 – Important additional information, including Terms and Conditions 46

1. Introduction

- 1.1. Artificial Intelligence (AI) applications and their potential impact on the public sector are wide ranging. Canada is seeking to integrate AI into services while ensuring it is governed with clear values, ethics, and law, and in accordance with human rights obligations.
- 1.2. After research and consultation with industry, academia, and civil society, Canada has identified the following AI categories and business outcomes to inform this solicitation process:

1.2.1. Insights and Predictive Modelling.

Canada is looking to maximize the value of the data and information within the organizations. There is a need to better understand how to leverage such techniques as machine learning and natural language processes to predict outcomes and gain deeper insights into behavioural patterns and trends. This includes, but is not limited to, preparing data, building and training models, putting models into production, and monitoring them as they are used. Some potential applications:

- Using AI to analyze and predict outcomes and effectiveness, undertake comparative analysis and inform policy decisions;
- Talent Analytics: to match individuals to suitable jobs, gauge and optimize productivity or for performance assessment and management; and
- Financial Management: to analyze patterns in accounting, cost forecasting and resource mix allocations.

1.2.2. Machine Interactions.

Canada is increasingly seeking to implement digital channels to facilitate interactions between citizens and government and make them more accessible. There is interest in exploring such techniques as semantic analysis, natural language processing, speech recognition and rule based-pattern matching to see how they may improve interactions with users and government operations. Some potential applications:

- Chatbots and virtual agents to help answer questions, provide step-by-step instructions and improve the way information is communications;
- Smart routing to determine best communication channel and right resources required; and
- Search optimization and targeted content distribution

1.2.3. Cognitive Automation.

Canada wants to start automating low-value tasks to maximize the value of their employees and to support more efficient business processes. Consequently, there is an interest to bring AI to further automate repetitive tasks or information-intensive processes. This could include, for example, applications to assist in or perform automated decision-making and robotic process automations.

- Automated Decision Systems to process and review application information, classify cases in terms of risk and priority, make recommendations and/or render decisions;
- Automated content generation to summarize and compare notes, write backgrounders or meeting scenario notes; and
- Speech, audio and visual recognition capabilities.

1.3. This Invitation to Qualify is subject to the provisions of the World Trade Organization Agreement on Government Procurement (WTO-AGP), the North American Free Trade Agreement (NAFTA), the Canada-European Union Comprehensive Economic and Trade Agreement (CETA), and the Canadian Free Trade Agreement (CFTA). For subsequent solicitations, the decisions on applicability of Trade Agreements will be made on case-by-case basis based on appropriate criteria.

2. Procurement Framework

- 2.1 The purpose of this procurement vehicle is to establish a pre-qualified list of suppliers (hereinafter referred Source List) who meet all of the mandatory criteria (see section 2.3) to provide Canada with responsible and effective AI services, solutions and products. Subsequently, solicitation opportunities will be competed amongst the pre-qualified suppliers on the Source List for AI covering a variety of desired outcomes and needs.
- 2.2 The resulting Source List will be available for use by all Government of Canada departments across Canada, and will be considered the primary method of supply for any requirements within the scope and value of this Source List.
- 2.3 For the purposes of this ITQ, suppliers are asked to provide their responses considering the broad and inclusive approach to AI as described in the introduction.

Mandatory Criteria

- 2.4 Canada intends to pre-qualify suppliers based on the following mandatory criteria:
 - 2.4.1 AI Ethics: Supplier must describe how they address ethical considerations when delivering AI. This could include experience in applying frameworks, methods, guidelines or assessment tools to test datasets and outcomes.
 - 2.4.2 AI Implementation: Supplier must provide examples of successfully delivered AI services, solutions and/or products aligned to the categories provided in the introduction section. This includes describing the scope and complexity of the project and the specific results and outcomes achieved. Successful examples may be from any sector, in any country or jurisdiction. Suppliers seeking to qualify under:
 - Band 1** provide at least (1) one project example
 - Band 2** provide at least (3) three project examples
 - Band 3** provide at least (5) five project examples

For a definition of Bands, see Annex 4.

Supplier must clearly indicate at the time of their submission what bands they are interested in being evaluated against.
 - 2.4.3 AI Talent: Supplier must describe how they are qualified to deliver AI. This includes describing expertise and experience, and any other skill sets or qualifications.

- 2.5 Suppliers meeting all the mandatory requirements will be eligible for inclusion on the Source List.
- 2.6 This Invitation to Qualify includes a set of predetermined conditions that will apply to subsequent bid solicitations and contracts. Submitting an offer, in response to this Invitation to Qualify, implies the Supplier's agreement with the terms and conditions included herein which will form the basis of resulting contract.

Deadline, Bid Submission Information and Enquiries

- 2.7 For the purposes of this Invitation to Qualify, suppliers must submit a complete response to the ITQ by 2:00 PM EST, October 31 2018. Suppliers are encouraged to submit their responses using the [epost Connect service \(https://www.canadapost.ca/web/en/products/details.page?article=epost_connect_send_a\)](https://www.canadapost.ca/web/en/products/details.page?article=epost_connect_send_a) provided by Canada Post Corporation or submit their responses directly to the bid receiving unit identified on the front page of this solicitation. For more information, please refer to section 8 of Annex 5
- 2.8 All enquiries must be submitted to Peter Lessard peter.lessard@tpsgc-pwgsc.gc.ca no later than 5 calendar days before the bid closing date. Enquiries received after that time may not be answered.
- 2.9 The ITQ has 5 key annexes that suppliers are responsible to review:
- Annex 1: Instructions
 - Annex 2: Evaluation criteria
 - Annex 3: Terms and Conditions
 - Annex 4: Competing for subsequent opportunities
 - Annex 5: Important additional information, including Terms and Conditions

Additional Notes

- To receive an email notification for new amendments, select the email notification service icon and fill out the subscription form on the Page of Notice
- Suppliers will be advised of their status by Canada. Suppliers may request a debriefing on the results of the ITQ. Suppliers should make the request to Canada's representative within 15 working days of receipt of the results of the ITQ.
- The Source List will be reviewed and updated on a periodic basis.

- Suppliers are invited to provide feedback and comments on an ongoing basis.
- The resulting Source List is not intended to provide staff augmentations. For such requirements, existing vehicles will continue to be used.

Annex 1: Instructions

1.1 Procurement Business Number

Suppliers are required to have a Procurement Business Number (PBN) before being considered for the Source List. Suppliers may register for a PBN on line at [Supplier Registration Information \(https://srisupplier.contractsCanada.gc.ca/index-eng.cfm?af=ZnVzZWFiZGlvdj1yZWdpc3Rlci5pbnRybyZpZD0y&lang=eng\)](https://srisupplier.contractsCanada.gc.ca/index-eng.cfm?af=ZnVzZWFiZGlvdj1yZWdpc3Rlci5pbnRybyZpZD0y&lang=eng). For non-Internet registration, suppliers may contact the InfoLine at 1-800-811-1148 to obtain the telephone number of the nearest Supplier Registration Agent.

1.2 Definition of Supplier

"Supplier" means the person or entity (or, in the case of a joint venture, the persons or entities) submitting a response. It does not include the parent, subsidiaries or other affiliates of the Supplier, or its subcontractors.

1.3 Submission of responses

1.3.1 Canada requires that each response, at the Invitation to Qualify closing date and time or upon request from Canada, be signed by the Supplier or by an authorized representative of the Supplier. If a response is submitted by a joint venture, it must be in accordance with section 13 of Annex 5.

1.3.2 It is the Supplier's responsibility to:

- Obtain clarification of the requirements contained in the Invitation to Qualify, if necessary, before submitting a response;
- Prepare the response in accordance with the instructions contained in the ITQ;
- Submit by the ITQ closing date and time a complete response;
- Ensure that the Supplier's name, return address, ITQ number, and ITQ closing date and time are clearly visible on the response; and,
- Unless specified otherwise in the ITQ, Canada will evaluate only the documentation provided with the response. Canada will not evaluate information such as references to Web site addresses where additional information can be found, or technical manuals or brochures not submitted with the response;

- f. Provide a comprehensible and sufficiently detailed response that will permit a complete evaluation in accordance with the criteria set out in the ITQ.

1.4 Canada will make available Notices of Proposed Procurement (NPP), ITQ's and related documents for download through the Government Electronic Tendering Service (GETS). Canada is not responsible and will not assume any liabilities whatsoever for the information found on websites of third parties. In the event an NPP, ITQ or related documentation would be amended, Canada will not be sending notifications. Canada will post all amendments, including significant enquiries received and their replies, using GETS. It is the sole responsibility of the Supplier to regularly consult GETS for the most up-to-date information. Canada will not be liable for any oversight on the Supplier's part nor for notification services offered by a third party.

1.5 Legal capacity

The Supplier must have the legal capacity to contract. If the Supplier is a sole proprietorship, a partnership or a corporate body, the Supplier must provide, if requested by Canada, a statement and any requested supporting documentation indicating the laws under which it is registered or incorporated together with the registered or corporate name and place of business. This also applies to suppliers submitting a response as a joint venture.

1.6 Rights of Canada

1.6.1 Canada reserves the right to:

- a. reject any or all responses received in response to the ITQ;
- b. cancel the ITQ at any time;
- c. reissue the ITQ;
- d. if no responsive responses are received and the requirement is not substantially modified, reissue the ITQ by inviting only the suppliers who submitted a response to resubmit responses within a period designated by Canada

1.7 Communications – solicitation period

1.7.1 To ensure the integrity of the competitive ITQ process, enquiries and other communications regarding the ITQ must be directed only to Canada's Representative identified in the ITQ. Failure to comply with this requirement may result in the response being declared non-responsive.

1.7.2 To ensure consistency and quality of information provided to suppliers, significant enquiries received and their replies will be posted on the Government Electronic Tendering Service (GETS). For further information, refer to section 1.4 of this Annex.

1.8 Entire requirement

The ITQ all the requirements relating to the pre-qualified list. Any other information or documentation provided to or obtained by a supplier from any source are not relevant. Suppliers should not assume that practices used under previous contracts will continue, unless they are described in the ITQ. Suppliers should also not assume that their existing capabilities meet the requirements of the ITQ simply because they have met previous requirements.

1.9 Code of Conduct for Procurement – response

The *Code of Conduct for Procurement* (<http://www.tpsgc-pwgsc.gc.ca/app-acq/cndt-cndct/contexte-context-eng.html>) provides that Suppliers must respond to the Invitation to Qualify (ITQ) in an honest, fair and comprehensive manner, accurately reflect their capacity to satisfy the requirements set out in the ITQ and resulting pre-qualified list, submit bids and enter into contracts only if they will fulfill all obligations of the Contract. By submitting a response, the Supplier is certifying that it is complying with the *Code of Conduct for Procurement*. Failure to comply with the *Code of Conduct for Procurement*, may render the response non-responsive.

1.10 Canada reserves the right to re-evaluate the qualification of any Qualified Respondent at any time during the solicitation process.

1.11 Did you know that the Office of Small and Medium Enterprises can help you do business with the federal government? To learn more about the services available, visit [Support for Smaller Businesses](https://buyandsell.gc.ca/node/215284) (<https://buyandsell.gc.ca/node/215284>).

Annex 2 – Evaluation Criteria

Mandatory Requirements					
Item Number	Requirement	Section/Page in Supplier's Response	Met	Not Met	Comments
M1	<p>The supplier must demonstrate, as a prime contractor or subcontractor, to have successfully delivered AI products, solutions, or services within at least one the three determined AI areas of work* within the last three years. This includes having clearly describing the scope, complexity, results and outcomes. At least one reference** must be provided per project.</p> <p>The onus is on the supplier to clearly indicate at the time of their ITQ submission what bands they are interested in being evaluated against.</p> <p>* AI areas of work include:</p> <p><u>Insights and Predictive Modelling</u>: Maximizing the value of data and information by leveraging such techniques as machine learning and natural language processes to predict outcomes and gain deeper insights into behavioural patterns and trends. This could include preparing data, building and training models, putting models into production, and monitoring.</p> <p><u>Machine Interactions</u>: Facilitating information sharing and citizen-government interactions by using chatbots and other techniques such as semantic analysis, natural</p>				

Mandatory Requirements					
Item Number	Requirement	Section/Page in Supplier's Response	Met	Not Met	Comments
	<p>language processing, speech recognition and rule based-pattern matching.</p> <p><u>Cognitive Automation</u>: Automating information-intensive tasks and supporting more efficient business processes. This could include AI applications to assist in or perform automated decision-making and robotic process automations.</p> <p>**Reference would include written description of the work completed and contact information.</p>				
	To qualify for Band 1 suppliers must demonstrate that they have delivered at least 1 successful Artificial Intelligence project as a prime contractor or subcontractor.				
	To qualify for Band 2 suppliers must demonstrate that they have delivered at least 3 successful Artificial Intelligence projects as a prime contractor or subcontractor.				
	To qualify for Band 3 suppliers must demonstrate that they have delivered at least 5 successful Artificial Intelligence projects as a prime contractor or subcontractor.				

Mandatory Requirements					
Item Number	Requirement	Section/Page in Supplier's Response	Met	Not Met	Comments
M2	<p>The supplier must demonstrate that their team is qualified to deliver AI. Suppliers must clearly describe expertise and experience, and any other skill sets or qualifications*.</p> <p>*As AI is an emerging field qualifications could include a combination of education and or experience in the AI field. This could include at least one year of education and/or relevant experience in the domain of computing science, data analytics, machine learning, natural language processing, or predictive modelling.</p>				
M3	<p>The supplier must provide examples of how it addresses ethical* practices when delivering AI. This includes demonstrating experience in applying frameworks, methods, guidelines or assessment tools to test datasets and outcomes.</p> <p>*For purposes of AI, ethical practices which are transparent, respect procedural fairness, and demonstrate high-quality data practices. This includes, but is not limited to, testing for outcomes and biases and fair, comprehensive and inclusive data collection practices.</p>				

Annex 3: Terms and Conditions

The following clauses and conditions will apply to and form part of any contract resulting from subsequent opportunities.



Artificial Intelligence Service Contracts

October 25, 2018

Annex 3: Terms and Conditions	13
1. License Grant	15
2. Specifications	16
3. Work	16
4. Software Support Services	17
5. Task Authorization (TA) <i>Optional clause</i>	19
6. Inspection and Acceptance of the Work	20
7. Contract Period	21
8. Fees	21
9. Payments	21
10. Warranty	23
11. Restricted Uses	25
12. Confidentiality	26
13. Data Protection	27
14. Personal Information	28
15. Data Use	30
16. Data Access	30
17. Data Security Audit	30
18. Insurance	30
19. Intellectual Property Ownership	31
20. Certifications and Additional Information	31
21. Suspension and Termination	32
22. Effect of Termination	33
23. Indemnification	34
24. Limitation on Liability	34
25. General Provisions	36

Artificial intelligence

This Contract is made on [CONTRACT DATE] (the "Effective Date") between [CONTRACTOR NAME], a [CORPORATE JURISDICTION] corporation with its principal place of business at [CONTRACTOR ADDRESS] (the "Contractor") and [GOVERNMENT OF CANADA ENTITY], with its principal address at [CONTRACTING AUTHORITY ADDRESS] ("Canada").

1. License Grant

1.1. License. The Contractor hereby grants to Canada a non-exclusive license to use and reproduce the software in perpetuity without restrictions as to territory the [DESCRIPTION OF SOFTWARE LICENSE] (the "Software"). If applicable, the License also provides the User the right to modify, alter, reverse engineer, decompile, decode, decrypt, disassemble, or derive any source code from the Software.

1.2. Right to Transfer. Canada may transfer license rights, within the license limits of the Software to any Canadian government department, corporation, or agency as defined in the Financial Administration Act, R.S.C. 1985, c. F-11, as amended from time to time, or to any other party for which the Department of Public Works and Government Services Canada has been authorized to act under section 16 of the Department of Public Works and Government Services Act, S.C. 1996, c. 16, provided the Contracting Authority informs the Contractor in writing of the transfer within 30 calendar days of the transfer.

1.3. Right to License. The Contractor guarantees (a) it has the right to grant the rights in this Contract, (b) it has all necessary consents, and (c) this Contract contains the only terms between the parties with respect to the Software.

1.4. Software Documentation

(a) 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.

(b) If the Software Documentation is available in both of the two official languages of Canada, the Contractor must deliver it in both French and English. If the Software Documentation is only available in either English or French, it may be delivered in that language; however, Canada then has the right to translate it. Canada owns any translation and is under no obligation to provide it to the Contractor. Canada will include any copyright and/or proprietary right notice that was part of the original document in any translation. The Contractor is not responsible for technical errors that arise as a result of any translation made by Canada.

(c) The Contractor must update the Software Documentation throughout the period of the Contract to the most current release level consistent with the Licensed Software delivered under the Contract. The Contractor must provide these updates to Canada

within ten (10) days of the update being available. These updates must include supporting documentation for all modifications to the Licensed Software, including new versions and new releases that Canada is entitled to receive under the Contract and must identify any problems resolved, enhancements made, or features added to the Licensed Software, together with installation instructions.

2. Specifications

2.1. **Definition and Delivery.** Promptly after the Effective Date, Canada will:

(a) define the specifications of the Software and the schedule for its development and delivery (the "Specifications"), and

(b) deliver to the Contractor a written copy of the Specifications.

2.2. **Development.** The Contractor must design, develop, and implement the Software according to the Specifications.

2.3. **Delivery of Code.** The Contractor must deliver the Software in source code and executable object code in accordance with this contract.

2.4. **Software Language.** The Contractor must provide the English language version of the Licensed Software and, if available, the French version of the Licensed Software.

3. Work

3.1. **Professional Services.** The Contractor must perform and deliver to Canada such professional services as detailed in an attached Statement of Work (the Software and services are collectively the "Work").

3.2. **Conduct of the Work.** The Contractor represents and warrants that (a) it is competent to perform the Work, (b) it has everything necessary to perform the Work, including the resources, facilities, labour, technology, equipment, and materials; and (c) it has the necessary qualifications, including knowledge, skill, know-how and experience, to effectively perform the Work.

3.3. Subcontracts

(a) **Conditions to Subcontracting.** The Contractor may subcontract the performance of the Work, provided (a) the Contractor obtains the Contracting Authority's prior written consent, (b) the subcontractor is bound by the terms of this Contract, and (c) the Contractor remains liable to Canada for all the Work performed by the subcontractor.

(b) **Exceptions to Subcontracting Consent.** The Contractor is not required to obtain consent for subcontracts specifically authorized in the Contract. The Contractor may also without the consent of the Contracting Authority: (i) purchase "off-the-shelf" items and any standard articles and materials that are ordinarily produced by manufacturers in the normal course of business (ii) subcontract any incidental services that would

ordinarily be subcontracted in performing the Work; (iii) in addition to purchases and services referred to in paragraphs (i) and (ii), subcontract any part or parts of the Work to one or more subcontractors up to a total value of 40 percent of the Contract Price; and (iv) permit its subcontractors at any tier to make purchases or subcontract as permitted in paragraphs (i), (ii) and (iii).

3.4. Personnel

(a) **Authorized Personnel.** All the Work must be performed solely by Contractor's authorized personnel.

(b) **Key Personnel.** If specific individuals are identified in the Contract to perform the Work, the Contractor must provide the services of those individuals. If the Contractor is unable to provide the services of any specific individual identified in the Contract, it must provide a replacement with equivalent qualifications and experience and provide written notice to Canada giving (i) the reason for the replacement, (ii) the name and qualifications of the replacement individual, and (iii) proof that the proposed replacement has the required security clearance from Canada.

(c) **Request to Replace Key Personnel.** The Contracting Authority may order that a 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 terms of replacement of key personnel. The fact that the Contracting Authority 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.

4. Software Support Services

4.1 **Support Services.** The Contractor must provide the following support services (collectively the "Support Services").

(a) **User Documentation.** The Contractor must provide all documentation to give appropriately trained users the ability to use all features of the licensed software.

(b) **Technical Support.** The Contractor must provide (i) telephone support in English and French available during business hours and (ii) web support available 24 hours a day, 365 days a year excepting maintenance downtime not to exceed 1% of the time.

(c) **Maintenance.** The Contractor must provide (i) all upgrades, updates, new releases, and other enhancements; (ii) all extensions and other modifications; (iii) all bug fixes and software patches; and (iv) all application programming interfaces (APIs), plug-ins, applets, and adapters.

4.2. Error Resolution

(a) **Error Response.** Upon receipt of a report of a failure from Canada, unless provided otherwise in the Contract, the Contractor must use all reasonable efforts to provide

Canada within the time frames established in this section, with a correction of the Software Error which caused the failure. All Software Error corrections will become part of the Software and will be subject to the conditions of Canada's license with respect to the Licensed Software.

(b) Error Resolution

(i) **Severity 1:** In the event of total inability to use the Software, resulting in a critical impact on user objectives, then on notification by Canada to the Contractor, the Contractor will begin continuous work on the issue and provide reasonable effort for workaround or solution within 24 hours.

(ii) **Severity 2:** In the event that user operation of the Software is seriously restricted, the Contractor will work during normal business hours to provide reasonable effort for workaround or solution within 72 hours.

(iii) **Severity 3:** In the event that user operation of the Software is limited, but not critical to overall to overall user operations, the Contractor will work during normal business hours to provide reasonable effort for workaround or solution within 14 days.

(iv) **Severity 4:** In the event of all other issues affecting user operation of the software, the Contractor will work during normal business hours to provide reasonable effort for workaround or solution within 90 days.

(c) **Access to System and Resources.** If Canada reports a Software Error to the Contractor, Canada must give the Contractor reasonable access to the computer system on which the Software 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.

(d) **Exceptions to Error Correction 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: (i) use of the Licensed Software by Canada that is not in accordance with Canada's license; (ii) 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 (iii) modifications to the Licensed Software that are not approved by the Contractor or a subcontractor.

(e) Canada's Responsibilities *Optional clause*

(i) **Telephone and Internet Access.** Canada will maintain, during the term of Software support, a telephone line and Internet access for use in connection with the software support services. Canada will be responsible for the installation, maintenance and use of such equipment and associated telephone charges. The Contractor may use the telephone line and electronic mail in connection with the provision of the software support services.

(ii) **Installation of Updates.** Canada will be responsible for the installation of all Software Error corrections and Maintenance Releases and upgrades.

(iii) **Data Back-ups.** Canada will protect data from loss by implementing back-up procedures.

4.3. Term of Support

(a) **Initial Support.** For the [NUMBER]-month period beginning on the Effective Date, the Contractor must provide to Canada the Support Services at the Contractor's own expense.

(b) **Renewed Support.** After the initial [NUMBER]-month support period, Canada may elect to renew the Contractor's support services under this *Support Services* section for additional [NUMBER]-month periods at the Contractor's then-current service rates.

5. Task Authorization (TA) *Optional clause*

The Contractor's services performed under this Contract will be on an "as and when requested basis" using a Task Authorization.

5.1. **Form and Content of TA.** A TA will contain (a) Contract and TA number, (b) the details of the required activities and resources, (c) a description of the deliverables, (d) a schedule indicating completion dates for the major activities or submission dates for the deliverables, (e) security requirements, and (f) costs.

5.2. **Contractor's Response to TA.** The Contractor must provide to Canada, within the period specified in the TA, the proposed total price for performing the task and a breakdown of that cost, established in accordance with the fees. The Contractor will not be paid for preparing or providing its response or for providing other information required to prepare and validly issue the TA.

5.3. **TA Limit and Authorities for Validly Issuing TAs.** A validly issued TA must be signed by the appropriate Canadian Authority as set forth in this Contract. Any work performed by the Contractor without receiving a validly issued TA is done at the Contractor's own risk.

5.4. **Periodic Usage Reports.** The Contractor must compile and maintain records on its provision of services to the federal government under the valid TAs issued under this Contract.

5.5. **Refusal of TAs.** The Contractor is not required to submit a response to every draft TA sent by Canada. However, in addition to Canada's other rights to terminate the Contract, Canada may immediately, and without further notice, terminate the Contract for default in accordance with the General Conditions if the Contractor in at least three instances has either not responded or has not submitted a valid response when sent a draft TA.

5.6. Consolidation of TAs for Administrative Purposes. This Contract may be amended from time to time to reflect all validly issued TAs to date, to document the Work performed under those TAs for administrative purposes.

6. Inspection and Acceptance of the Work

6.1. Inspection by Canada. All the Work is subject to inspection and acceptance by Canada. Canada's inspection and acceptance of the Work does not relieve the Contractor of its 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. Canada may reject any work that is not in accordance with the requirements of the Contract and require its correction or replacement at the Contractor's expense.

6.2. Inspection Procedures. Unless provided otherwise in the Contract, the acceptance procedures are as follows:

(a) when the Work is complete, the Contractor must notify the Technical or Project Authority in writing, with a copy to the Contracting Authority, by referring to this provision of the Contract and requesting acceptance of the Work;

(b) Canada will have 30 days from receipt of the notice to perform its inspection (the "Acceptance Period").

6.3. Deficiencies. If Canada provides notice of a deficiency during the Acceptance Period, the Contractor must address the deficiency as soon as possible and notify Canada in writing once the Work is complete, at which time Canada will be entitled to re-inspect the Work before acceptance and the Acceptance Period will begin again.

6.4. Access to Locations. The Contractor must provide representatives of Canada access to all locations where any part of the Work is being performed at any time during working hours. Representatives of Canada may make examinations and such tests of the Work as they may think fit. The Contractor must provide all assistance and facilities, test pieces, samples and documentation that the representatives of Canada may reasonably require for the carrying out of the inspection. The Contractor must forward such test pieces and samples to such person or location as Canada specifies.

6.5. Contractor Inspection. The Contractor must inspect and approve any part of the Work before submitting it for acceptance or delivering it to Canada.

6.6. Inspection Records. The Contractor must keep accurate and complete inspection records that must be made available to Canada on request. Representatives of Canada may make copies and take extracts of the records during the performance of the Contract and for up to three years after the end of the Contract.

7. Contract Period

7.1. **Initial Term.** This Contract begins on [EFFECTIVE DATE] and ends on [TERMINATION DATE].

7.2. **Extended Term.** Canada may extend the term of this Contract up to [NUMBER OF EXTENSIONS] times for [EXTENSION YEARS] years upon notice to the Contractor at least [RENEWAL NOTICE DAYS] [calendar / business] days before this Contract ends.

8. Fees

8.1. **Subscription / Licence Fee.** Canada must pay the Contractor the subscription / licence fee [of \$[SUBSCRIPTION / LICENCE FEE] / listed in [ATTACHMENT]] (the "Subscription / Licence Fee") in accordance with Annex X, Basis and Method of Payment.

8.2. **Development.** Canada will pay the Contractor, in accordance with Annex X, Basis and Method of Payment, the hourly or daily labour rates specified in the Contract, to a ceiling price of \$ [VALUE].

8.3 **Software Maintenance and Support.** Canada will pay the Contractor, in accordance with Annex X, Basis and Method of Payment, the firm annual price specified in the Contract.

8.4. **On-Site Support Charges.** If approved by in advance by Canada, the Contractor shall be paid the hourly or daily labour rates specified in the Contract, together with reasonable travel and living costs incurred by the Contractor in connection with on-site services. All such pre-approved costs must be invoiced to Canada as a separate charge.

9. Payments

9.1. Invoices

(a) **Invoice Submission.** The Contractor must submit invoices for each delivery in accordance with this contract. Each invoice must indicate whether it covers partial or final delivery.

(b) **Invoice Requirements.** Invoices must be submitted in the Contractor's name and contain:

(i) the date, the name and address of the client department, item or reference numbers, deliverable/description of the Work, contract number, Client Reference Number (CRN), Procurement Business Number (PBN), and financial code(s);

(ii) details of expenditures (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable) in accordance with the Basis of Payment, exclusive of Applicable Taxes;

(iii) Applicable Taxes must be shown as a separate line item along with corresponding registration numbers from the tax authorities and all items that are zero-rated, exempt or to which Applicable Taxes do not apply, must be identified as such on all invoices

(iii) deduction for holdback, if applicable;

(iv) the extension of the totals, if applicable; and

(iv) if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.

(c) Taxes

(i) **Payment of Taxes.** Applicable Taxes will be paid by Canada 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 must remit to appropriate tax authorities any amounts of Applicable Taxes paid or due.

(ii) **Withholding for Non-Residents.** Canada 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 to Canada.

(d) **Certification of Invoices.** By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

9.2. Payment Period. Canada will pay the Contractor's undisputed invoice amount within 30 [CALENDAR / BUSINESS] days after receipt of invoice in acceptable form and content. In the event, an invoice is not in acceptable form and content, Canada will notify the Contractor within 15 days of receipt and the 30 day payment period will begin on receipt of a conforming invoice.

9.3. Interest on Late Payments. Canada 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 day before the date of payment, inclusive, provided Canada is responsible for the delay in paying the Contractor.

9.4. Right of Set-Off. When making a payment to the Contractor, Canada may deduct any amount payable to Canada by the Contractor under this or any other current contract.

9.4. Electronic Payment of Invoices. The Contractor accepts to be paid using any of the following Electronic Payment Instrument(s):

(a) Visa Acquisition Card:

- (b) MasterCard Acquisition Card;
- (c) Direct Deposit (Domestic and International);
- (d) Electronic Data Interchange (EDI);
- (e) Wire Transfer (International Only);
- (f) Large Value Transfer System (LVTS) (Over \$25M)

9.6. Financial Accounts and Audit

(a) **Accounts and Records.** The Contractor must keep proper accounts and records of the cost of performing the Work and of all expenditures or commitments made by the Contractor in connection with the Work, including all invoices, receipts and vouchers. The Contractor must retain records, including bills of lading and other evidence of transportation or delivery, for all deliveries made under the Contract.

(b) **Time Records.** If the Contract includes payment for time spent by the Contractor, its employees, representatives, agents or subcontractors performing the Work, the Contractor must keep a record of the actual time spent each day by each individual performing any part of the Work.

(c) **Retention of Records.** Unless Canada has consented in writing to its disposal, the Contractor must retain all the information described in this section for six years after it receives the final payment under the Contract, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of Canada, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information as the representatives of Canada may from time to time require to perform a complete audit of the Contract.

(d) **Government Audit.** The amount claimed under the contract is subject to government audit both before and after payment is made. If an audit is performed after payment, the Contractor agrees to repay any overpayment immediately on demand by Canada. Canada may hold back, deduct and set off any credits owing and unpaid under this section from any money that Canada owes to the Contractor at any time (including under other contracts). If Canada does not choose to exercise this right at any given time, Canada does not lose this right.

10. Warranty

10.1. **Services Warranty.** The Contractor represents and warrants that (a) it is competent to perform the Work, (b) it has everything necessary to perform the Work, including the resources, facilities, labour, technology, equipment, and materials; and (c)

it has the necessary qualifications, including knowledge, skill, know-how and experience, to effectively perform the Work.

10.2. Performance Warranty. The Contractor warrants that a period of [NUMBER] days from Canada's acceptance of the Software (the "Warranty Period"),

(a) the Software will operate on the computer system or systems on which the Software is installed in accordance with the documentation and the specifications,

(b) the Work will be performed in a professional manner in accordance with industry standards,

(c) the documentation will be free from all defects in materials and will conform with the requirements of this Contract, and

(d) the Media used to deliver the Software will be free from all defects in materials or workmanship and will conform with the requirements of this Contract.

10.3. Service Levels

(a). **Applicable Levels.** The Contractor will provide the Service to Canada with a System Availability (defined as the percentage of minutes in a month that the key components of the Service are operational) of at least [98]% during each calendar month.

(b) **Exceptions to "System Availability".** "System Availability" will not include any minutes of downtime resulting from (i) scheduled Maintenance, (ii) events beyond the Contractor's control, (iii) issues associated with Canada's computing devices or internet service provider connections, or (iv) Canada's acts or omissions.

(c) **Credits.** If the Service fails to meet the System Availability, the term of this Contract will be extended at no additional cost to Canada by [NUMBER] times the percentage number of minutes (rounded to the nearest day) that the Service do not meet the System Availability.

10.4. Media Warranty. The Contractor must deliver the Licensed Programs to Canada on the medium of Canada's choice from among those the Contractor makes available to its other customers (for example, CD-ROM or Internet download). The Contractor agrees that Canada may distribute the Licensed Software to Users on Canada's choice of Media.

(a) 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.

(b) Canada will own the Media once it has been delivered to and accepted by or on behalf of Canada.

10.5. No Infringement. The Contractor warrants that nothing in the Software, or in Canada's use of the Software, will infringe or constitute a misappropriation of the intellectual property or other rights of a third party.

10.5. Open Source Software. [Intentionally left blank].

10.6. Remedies

(a) **Software.** If at any time during the Warranty Period the Software fails to meet its warranty obligations, the Contractor must as soon as possible correct at its own expense any errors or defects and make any necessary changes to the Software.

(b) **Documentation.** If at any time during the Warranty Period Canada discovers a defect or non-conformance in any part of the documentation, the Contractor must as soon as possible correct at its own expense the defect or non-conformance.

(c) **Services.** If at any time during the Warranty Period Canada discovers a defect or non-conformance in any service, the Contractor must as soon as possible correct or re-perform the nonconforming service.

(d) **Media.** Canada may return non-conforming or defective media to the Contractor within the Warranty Period with written notice of the non-conformance or the defect, and the Contractor must promptly replace that media with corrected media at no additional cost to Canada.

10.7. Canada's Right to Remedy. If the Contractor fails to fulfill any obligation described herein within a reasonable time of receiving a notice, Canada will have the right to remedy or to have remedied the defective or non-conforming work at the Contractor's expense. If Canada does not wish to correct or replace the defective or non-conforming work, an equitable reduction will be made in the Contract Price.

10.8. Extension of Warranty. The warranty period is automatically extended by the duration of any period or periods where the Work is unavailable for use or cannot be used because of a defect or non-conformance during the original warranty period. The warranty applies to any part of the Work repaired, replaced or otherwise made good, for the greater of: (a) the warranty period remaining, including the extension, or (b) 90 days or such other period as may be specified for that purpose by agreement between the Parties.

11. Restricted Uses

Canada will not knowingly

(a) distribute, license, loan, or sell the Software,

- (b) impair or circumvent the Software's security mechanisms, or
- (c) remove, alter, or obscure any copyright, trademark, or other proprietary rights notice on or in the Software.

12. Confidentiality

12.1. Definition of Confidential Information. "Confidential Information" means all material, non-public information, written or oral, whether or not it is marked, that Canada discloses or makes available to the Contractor, directly or indirectly, through any means of communication or observation, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor as part of the Work when copyright or any other intellectual property rights in such information belongs to Canada under this Contract.

12.2. Contractor's Obligations

(a) **Confidentiality Obligation.** The Contractor will hold the Confidential Information in confidence.

(b) **Marking.** Wherever possible, the Contractor must mark or identify any Confidential Information delivered to Canada under this Contract as "Property of [CONTRACTOR'S NAME], permitted government uses defined under Public Works and Government Services (PWGSC) Contract No. [CONTRACT NUMBER]". Canada is not liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.

(c) **Use of Information.** The Contractor may only use the Confidential Information in accordance with the terms of this Contract and solely for providing the Software and Services.

(d) **Standard of Care.** The Contractor will exercise reasonable care to protect the Confidential Information from any loss or unauthorized disclosure.

(e) **Top-Secret Material (Optional subclause).** If this Contract, the Software, or any Confidential Information is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada:

(i) the Contractor must always take all measures reasonably necessary to safeguard the material so identified (including those set out in the PWGSC Industrial Security Manual and its supplements and any other instructions issued by Canada), and

(ii) representatives of Canada are entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the Contract. The Contractor must comply with, and ensure that any subcontractor complies with, all written instructions issued by Canada dealing with the material so identified (including any requirement that employees of the Contractor or of any

subcontractor execute and deliver declarations relating to reliability screenings, security clearances, and other procedures).

(g) **Notification of Disclosure.** The Contractor must immediately notify Canada if it discovers any loss or unauthorized disclosure of Confidential Information.

(h) **Permitted Disclosure.** The Contractor may disclose Confidential Information (i) if and to the extent that Canada consents in writing to such disclosure, or (ii) to the Contractor's officers, directors, employees, affiliates, or representatives who (1) need-to-know that Confidential Information in furtherance of the Contractor providing the Software, (2) have been informed of the confidentiality obligations of this Contract, and (3) agree to abide and be bound by the provisions this Contract.

(i) **Return or Destruction of Confidential Information.** On the expiration or termination of this Contract, or on Canada's request, the Contractor must promptly (i) return to Canada all Confidential Information provided by Canada, (ii) destroy all copies made of Confidential Information, and (iii) if requested by Canada, deliver to Canada a certificate executed by the Contractor confirming compliance with the return or destruction obligation under this *Contractor's Obligations* section.

12.3. Canada's Obligations. Subject to the Access to Information Act, R.S.C., 1985, c. A-1, and to any right of Canada under this Contract to release or disclose, Canada must not release or disclose outside the Government of Canada any information delivered to Canada under this Contract that is proprietary to the Contractor or its subcontractor.

12.4. Non-Confidential Information. The restrictions of this Contract on use and disclosure of Confidential Information will not apply to information that, without the breach of this Contract,

(a) is already known to the receiving party,

(b) is or becomes publicly known,

(c) is or subsequently comes into the possession of the receiving party from a third party, or

(d) is independently developed by the receiving party without the use of Confidential Information.

13. Data Protection

The Contractor must safeguard Canada Data at all times by taking all measures reasonably necessary to secure it and protect its integrity and confidentiality. To do so, at a minimum, the Contractor must

(a) store the Canada Data electronically so that a password (or a similar access control mechanism, such as biometric access) is required to access the system or database in which the Canada Data is stored,

- (b) ensure that passwords or other access controls are provided only to individuals who require access to the Canada Data to perform the Service,
- (c) not outsource the electronic storage of Canada Data to a third party (including an affiliate) unless Canada has first consented in writing,
- (d) safeguard any database or computer system on which the Canada Data is stored from external access using methods that are generally used, from time to time, by prudent public and private sector organizations in Canada in order to protect highly secure or sensitive information,
- (e) maintain a secure backup copy of all Records, updated at least weekly,
- (f) implement any reasonable security or protection measures requested by Canada from time to time and,
- (g) notify Canada immediately of any security breaches (such as any time an unauthorized individual accesses any Canada Data).

14. Personal Information

14.1. **Interpretation.** In this Contract, unless the context otherwise requires,

- (a) "Personal Information" means information about an individual, including the types of information specifically described in the Privacy Act, R.S.C. 1985, c. P-21, and
- (b) "Record" means any hardcopy document or any data in a machine-readable format containing Personal Information.

14.2. Collection of Personal Information

- (a) **Notification.** If the Contractor must collect Personal Information from a third party to perform the Service, the Contractor must only collect Personal Information that is required to do so. The Contractor must collect the Personal Information from the individual to whom it relates and must inform that individual (at or before the time when it collects the Personal Information) of the following:
 - (i) that the Personal Information is being collected on behalf of, and will be provided to, Canada,
 - (ii) the ways the Personal Information will be used,
 - (iii) that the disclosure of the Personal Information is voluntary or, if there is a legal requirement to disclose the Personal Information, the basis of that legal requirement,
 - (iv) the consequences, if any, of refusing to provide the information,
 - (v) that the individual has a right to access and correct his or her own Personal Information, and

(vi) that the Personal Information will form part of a specific personal information bank (within the meaning of the Privacy Act), and also provide the individual with information about which government institution controls that personal information bank, if Canada has provided this information to the Contractor.

(b) **Identification.** The Contractor, its subcontractors, and their respective employees must (i) identify themselves to the individuals from whom they are collecting Personal Information, and (ii) provide those individuals with a way to verify that they are authorized to collect the Personal Information under a contract with Canada.

(c) **Consent.** If requested by Canada, the Contractor must develop a request-for-consent form to be used when collecting Personal Information, or a script for collecting the Personal Information by telephone. The Contractor must obtain Canada's approval before first either using such a form or script or making any changes. If, when requesting Personal Information from any individual, the Contractor doubts that the individual has the capacity to provide appropriate consent, the Contractor must ask Canada for instructions.

14.3. Maintaining the Accuracy, Privacy, and Integrity of Personal Information.

The Contractor must ensure that the Personal Information is as accurate, complete, and up-to-date as possible. The Contractor must protect the privacy of the Personal Information. To do so, at a minimum, the Contractor must

(a) not use any personal identifiers (for example, social insurance number) to link multiple databases containing Personal Information,

(b) segregate all Records from its own information and records,

(c) restrict access to the Personal Information and the Records to people who require access to perform the Service,

(d) provide training to anyone to whom the Contractor will provide access to the Personal Information regarding the obligation to keep it confidential and use it only to perform the Service. The Contractor must provide this training before giving an individual access to any Personal Information and the Contractor must keep a record of the training and make it available to Canada if requested,

(e) if requested by Canada, before providing anyone with access to the Personal Information, require anyone to whom the Contractor provides access to the Personal Information to acknowledge in writing (in a form approved by Canada) their responsibilities to maintain the privacy of the Personal Information,

(f) keep a record of all requests made by an individual to review his or her Personal Information, and any requests to correct errors or omissions in the Personal Information (whether those requests are made directly by an individual or by Canada on behalf of an individual),

(g) include a notation on any Record(s) that an individual has requested be corrected if the Contractor has decided not to make the correction for any reason. Whenever this occurs, the Contractor must immediately advise Canada of the details of the requested correction and the reasons for its decision not to make it. If directed by Canada to make the correction, the Contractor must do so,

(h) keep a record of the date and source of the last update to each Record,

(i) maintain an audit log that electronically records all instances of and attempts to access Records stored electronically. The audit log must be in a format that can be reviewed by the Contractor and Canada at any time, and

(j) secure and control access to any hard-copy Records.

14.4. Appointment of Privacy Officer. The Contractor must appoint an individual to be its privacy officer and to act as its representative for all matters related to the Personal Information and the Records. The Contractor must provide that person's name to Canada within 10 days of the award of this Contract.

15. Data Use

The Contractor may not collect, analyze, or use Canada Data for any purpose other than to deliver the Service.

16. Data Access

On Canada's request and payment of \$[AMOUNT] per copy, the Contractor shall deliver to Canada a full backup copy of the Canada Data, in a format the parties agree on in writing.

17. Data Security Audit

17.1. Security Audit. The Contractor shall perform, at its own expense, a security audit no less frequently than annually. This audit shall test the compliance with the security standards and procedures required by this Contract. If Canada chooses to conduct its own security audit, such audit shall be at its own expense.

17.2. Audit Reports. If the audit shows any matter that may adversely affect Canada, the Contractor shall disclose such matter to Canada and provide a detailed plan to remedy such matter. If the audit does not show any matter that may adversely affect Canada, the Contractor shall provide the audit report or a summary to Canada.

17.3. Corrections. The Contractor shall promptly correct any deficiency found in a security audit.

18. Insurance

18.1. Insurance Requirements. The Contractor must (a) comply with the insurance requirements specified in Annex [ANNEX NUMBER/LETTER], and (b) maintain the required insurance coverage for the term of this Contract. Compliance with the

insurance requirements does not release the Contractor from or reduce its liability under this Contract.

18.2. Additional Insurance. The Contractor is responsible for deciding if additional insurance coverage is necessary to fulfil its obligation under this Contract and to ensure compliance with any applicable law. Any additional insurance coverage is at the Contractor's expense and for its own benefit and protection.

18.3. Certificate of Insurance. The Contractor must forward to Canada within [NUMBER] days after the date of award of this Contract, a Certificate of Insurance evidencing the insurance coverage and confirming that the insurance policy complying with the requirements is in force. For Canadian-based Contractors, coverage must be placed with an Insurer licensed to carry out business in Canada; however, for Foreign-based Contractors, coverage must be placed with an Insurer with an A.M. Best Rating no less than "A-". If requested by Canada, the Contractor must forward to Canada a certified true copy of all applicable insurance policies.

19. Intellectual Property Ownership

19.1. Contractor Software. Contractor retains all right in and to the Software.

19.2. Source Code Escrow (Optional subclause). If requested by Canada, the Contractor must (a) execute an escrow agreement which sets out the conditions under which the escrow agent is authorized to release the source code to Canada, and (b) within [NUMBER] days from delivery of the Software deposit one copy, on Canada's behalf, of the Software in source code with the escrow agent. If the Contractor makes any updates, enhancements, or modifications to the Software, the Contractor must promptly deposit one copy, on Canada's behalf, of that update, enhancement, or modification, and any documentation related to the update, enhancement, or modification, to the escrow agent. [Canada / The Contractor] shall pay all fees necessary to establish and maintain the escrow.

19.3. Work Delivered to Canada. All Work delivered by the Contractor to Canada including all derivatives and cognitive insights shall be the property of Canada.

19.4 Canada Data. Canada retains all rights to any Canada Data. Canada grants the Contractor a limited, revocable, non-exclusive, non-sublicensable, non-transferable license to host Canada Data solely in accordance with the terms of this contract.

19.5 Contractor Service. The Contractor retains all right in and to the Contractor Service. The Contractor grants Canada a limited, revocable, non-exclusive, non-sublicensable, non-transferable license to access and use the Service solely in accordance with the terms of this Contract.

20. Certifications and Additional Information

20.1. Compliance with Certifications. Unless specified otherwise, the continuous compliance with the certifications provided by the Contractor in its bid or precedent to

contract award, and the ongoing cooperation in providing additional information are conditions of the Contract and failure to comply will constitute the Contractor in default. Certifications are subject to verification by Canada during the entire period of the Contract.

20.2. Compliance with Laws. The Contractor must comply with all laws applicable to the performance of the Contract. The Contractor must provide evidence of compliance with such laws to Canada at such times as Canada may reasonably request.

20.3. Permits and Licenses. The Contractor must obtain and maintain at its own cost all permits, licenses, regulatory approvals and certificates required to perform the Work. If requested by the Contracting Authority, the Contractor must provide a copy of any required permit, license, regulatory approvals or certificate to Canada.

20.4. Federal Contractors Program for Employment Equity - Default by the Contractor (Optional subclause). The Contractor understands and agrees that, when an Agreement to Implement Employment Equity (AIEE) exists between the Contractor and Employment and Social Development Canada (ESDC)-Labour, the AIEE must remain valid during the entire period of the Contract. If the AIEE becomes invalid, the name of the Contractor will be added to the "FCP Limited Eligibility to Bid" list. The imposition of such a sanction by ESDC will constitute the Contractor in default as per the terms of the Contract.

21. Suspension and Termination

21.1. Suspension of the Work

(a) **Right to Suspend Work.** The Contracting Authority may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract for a period of up to 180 days. The Contractor must immediately comply with any such order in a way that minimizes the cost of doing so. While such an order is in effect, the Contractor must not limit access to any part of the Work or Software without first obtaining the written consent of the Contracting Authority. Within these 180 days, the Contracting Authority must either cancel the order or terminate the Contract in accordance with the Termination terms of this Contract.

(b) **Effect of Suspension.** When an order is made to suspend the Work, the Contractor will be entitled to be paid its additional costs incurred as a result of the suspension plus a fair and reasonable profit, unless the Contracting Authority terminates the Contract by reason of default by the Contractor or the Contractor abandons the Contract.

(c) **Resumption of Work.** When a suspension is canceled, the Contractor must resume work in accordance with the Contract as soon as practicable. If the suspension has affected the Contractor's ability to meet any delivery date under the Contract, the date for performing the part of the Work affected by the suspension will be extended for a period equal to the period of suspension plus a period, if any, that in the opinion of the

Contracting Authority, following consultation with the Contractor, is necessary for the Contractor to resume the Work. Any equitable adjustments will be made as necessary to any affected conditions of the Contract.

21.2 Termination for Convenience. Canada may terminate this Contract in whole or in part for any reason on [TERMINATION NOTICE BUSINESS DAYS] business days' notice to the other party. 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.

21.3. Canada's Right to Termination on Default or upon Insolvency. The Contracting Authority may terminate this agreement with immediate effect by delivering notice of the termination to the other party, if (a) the Contractor fails to perform, has made or makes any inaccuracy in, or otherwise materially breaches, any of its obligations, covenants, or representations, and the failure, inaccuracy, or breach continues for a period of [BREACH CONTINUATION DAYS] Business Days' after the injured party delivers notice to the breaching party reasonably detailing the breach, or (b) the Contractor party becomes insolvent, bankrupt, or enters receivership, dissolution, or liquidation, the other party may terminate this agreement with immediate effect.

21.4. Contractor Right to Terminate. The Contractor may terminate Canada's license with respect to the Licensed Software by giving the Contracting Authority written notice to that effect if Canada is in breach of its license with respect to the Licensed Software, or fails to pay for the license in accordance with the Contract, and if that breach continues for a period of thirty (30) days after the Contracting Authority receives written notice from the Contractor giving particulars of the breach.

22. Effect of Termination

22.1. No Further Payment. If Canada terminates the Contract for default or insolvency, the Contractor will have no claim for further payment except as provided in this section.

22.2. Pay Outstanding Amounts.

(a) **Eligible Costs.** If Canada terminates the Contract for convenience, Canada shall pay to the Contractor costs that have been reasonably and properly incurred by the Contractor to perform the Contract plus a fair and reasonable profit as determined by PWGSC Supply Manual section 10.65 (<https://buyandsell.gc.ca/policy-and-guidelines/supply-manual/section/10/65>) Calculation of profit on negotiated contracts for any part of the Work commenced, but not completed, prior to the date of the termination notice;.

(b) **Ineligible Costs.** The Contractor agrees that it is not entitled to: (i) any anticipated profit on any part of the Contract terminated; (ii) 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; and (iii) damages, compensation and allowance resulting from the termination except to the extent that this section expressly provides.

22.3. Refund Amounts. The Contractor must promptly refund to Canada any amounts paid in advance covering the remainder of the term of this Contract after the effective date of termination.

22.4. Maximum Payment. The total amount paid by Canada under the Contract to the date of the termination and any amount payable under this subsection must not exceed the Contract Price.

22.5. Delivery of Work. Upon termination of the Contract under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work, not delivered and accepted before the termination and anything the Contractor has acquired or produced specifically to perform the Contract. In such a case, subject to the deduction of any claim that Canada may have against the Contractor arising under the Contract or out of the termination, Canada will pay or credit to the Contractor:

(a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price; and

(b) the cost to the Contractor that Canada considers fair and reasonable in, in accordance with subsection *Pay Outstanding Amounts herein*, in respect of anything else delivered to and accepted by Canada.

22.6. Title to Property. Title to everything for which payment is made to the Contractor will, once payment is made, pass to Canada unless it already belongs to Canada under any other provision of the Contract.

22.7 Termination in Error. If the Contract is terminated for default or insolvency, but it is later determined that grounds did not exist for a termination for default, the notice will be considered a notice of termination for convenience.

23. Indemnification

The Contractor must indemnify Canada against all losses and expenses (including reasonable attorneys' fees) arising out of any proceeding (i) brought by a third party, and (ii) arising out of a claim that the Software infringes the third party's Intellectual Property rights.

24. Limitation on Liability

24.1. Exclusion of Liability. This section applies despite any other provision of the Contract. Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its sub-contractors agents and

representatives and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent described in this section, even if it has been made aware of the potential for those damages.

24.2. First Party Liability. The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:

- (a) any infringement of intellectual property rights;
- (b) physical injury, including death.

24.3. The Contractor is liable for all direct damages caused by the Contractor's performance or failure to perform the Contract affecting real or tangible personal property owned, possessed, or occupied by Canada.

24.4. Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.

24.5. The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed herein.

24.6 The Contractor is also liable for any other direct damages to Canada caused by the Contractor's performance or failure to perform the Contract that relate to:

- (a) any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including Applicable Taxes) for the goods and services affected by the breach of warranty; and
- (b) any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated either in whole or in part for default, up to an aggregate maximum for this subparagraph of the greater of 0.25 times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the block titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$1M.

24.7 In any case, the total liability of the Contractor under this section will not exceed the total estimated cost (as defined above) for the Contract or \$1M, whichever is more.

24.8 If Canada's records or data are harmed as a result of the Contractor's negligence or wilful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.

24.9. **Third Party Claims.** Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.

24.10 If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, with respect to special, indirect, and consequential damages of third parties covered by this section, the Contractor is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party, including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.

24.11 The Parties are only liable to one another for damages to third parties to the extent described herein.

25. General Provisions

25.1. **Entire Agreement.** This Contract is the entire agreement between the parties and supersedes all previous communications and agreements.

25.2. **Amendment.** Amendments to this Contract must be in writing and signed by the Contracting Authority and the authorized representative of the Contractor.

25.3. **Assignment.** The Contractor may only assign this Contract if (a) the Contracting Authority agrees to the assignment in a signed writing and (b) the Contractor remains responsible for the assignee's performance.

25.4. **Notice.** Any notice under this Contract must be in writing and may be delivered by hand, courier, mail, facsimile or another electronic method that provides a paper record

of the text of the notice. It must be sent to the Party for whom it is intended at the address stated in this Contract. Any notice will be effective on the day it is received at that address. Any notice to Canada must be delivered to Canada.

25.5. Applicable Laws. This Contract will be interpreted and governed by the laws of [PROVINCE].

25.6. Survival. All the parties' obligations of confidentiality, representations and warranties set out in the Contract as well as the provisions, which by the nature of the rights or obligations might reasonably be expected to survive, will survive the expiry or termination of the Contract.

25.7. Excusable Delay

(a) **No Liability.** The Contractor will not be liable for performance delays nor for non-performance due to causes beyond its reasonable control that could not reasonably have been foreseen or prevented by means reasonably available to the Contractor, provided the Contractor advises the Contracting Authority of the occurrence of the delay or of the likelihood of the delay as soon as the Contractor becomes aware of it.

(b) **Notification of Circumstances.** The Contractor must also advise the Contracting Authority, within 15 working days, of all the circumstances relating to the delay and provide to the Contracting Authority for approval 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.

(c) **Delivery and Due Dates.** 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.

(d) **Right to Terminate.** In the event such an event prevents performance thereunder for a period in excess of 30 calendar days, then the Contracting Authority may elect to terminate this Contract with the effect of a termination for default.

25.8. Severability. If any provision of this Contract is declared unenforceable by an authoritative court, the remainder of this Contract will remain in force.

25.9. Waiver. The failure or neglect by a party to enforce any of rights under this Contract will not be deemed to be a waiver of that party's rights.

25.10. Authorities

Contracting Authority

The Contracting Authority for the Contract is:

Name:

Title: Contracting Officer

Public Works and Government Services Canada

Acquisitions Branch (STAMS)

Les Terrasses de la Chaudière

10 Wellington Street

Gatineau, Quebec

K1A 0S5

Telephone:

E-mail address: @tpsgc-pwgsc.gc.ca

The PWGSC Contracting Authority must receive a copy of the Invoice for Canada's record and to ensure the Invoice is in accordance with the Contract prior to payment by the Client.

The Contracting Authority is responsible for the management of the Contract and any changes to the Contract must be authorized in writing by the Contracting Authority. The Contractor must not perform work in excess of or outside the scope of the Contract based on verbal or written requests or instructions from anybody other than the Contracting Authority.

Client Technical Authority

The Client Technical Authority for the Contract is:

Name:

Title:

Organization:

Address:

Telephone:

Facsimile:

E-mail address:

The Client Technical Authority is the representative of the department or agency for whom the Work is being carried out under the Contract. The Technical Authority has no authority to authorize changes to the scope of the Work. Changes to the scope of the Work can only be made through a contract amendment issued by the Contracting Authority.

Client Administrative Contact

The Client Administrative Contact is:

Name:

Title:

Organization:

Address:

Telephone:

Facsimile:

E-mail address:

The Client Administrative Contact must receive the original Invoice. All inquiries for request for payment must be made to the Client Administrative Contact.

Contractor's Representative

The Contractor's Representative is:

Name:

Title:

Telephone:

Facsimile:

E-mail address:

25.10. Priority of documents. If there is a discrepancy between the wording of any documents that appear on the list, the wording of the document that first appears on the list has priority over the wording of any document that subsequently appears on the list.

- (a) the Articles of Agreement;
- (b) Annex X, Statement of Work **OR** Requirement;
- (e) Annex X, Basis and Method of Payment;
- (f) Annex X, Security Requirements Check List (*if applicable*);
- (g) Annex X, Insurance Requirements (*if applicable*);
- (h) the signed Task Authorizations (including all of its annexes, if any) (*if applicable*);
- (i) the Contractor's bid dated _____, (*insert date of bid*) (*If the bid was clarified or amended, insert at the time of contract award:*" as clarified on _____" **or** ", as amended on _____" *and insert date(s) of clarification(s) or amendment(s)*).

This Contract has been executed by the parties.

[CONTRACTOR NAME]

[CONTRACTING AUTHORITY]]

By:

By:

Name:

Name:

Title:

Title:

ANNEX A - DEFINITIONS AND INTERPRETATIONS

In this Contract, unless the context otherwise requires, the following terms shall have the following meanings:

"Applicable Taxes" means the Goods and Services Tax (GST), the Harmonized Sales Tax (HST), and any provincial tax, by law, payable by Canada such as, the Quebec Sales Tax (QST) as of April 1, 2013;

"Average Rate" means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Time each day during the calendar month immediately before the calendar month in which payment is made.

"Canada" or "the Government" means Her Majesty the Queen in right of Canada as represented by the Minister of Public Works and Government Services and any other person duly authorized to act on behalf of that minister or, if applicable, an appropriate minister to whom the Minister of Public Works and Government Services has delegated his or her powers, duties or functions and any other person duly authorized to act on behalf of that minister;

"Canada Data" means (i) any data provided to the Contractor by Canada or at its direction in connection with the Service, (ii) all content that the Contractor develops and delivers to Canada, and that Canada accepts, in accordance with this Contract, and (iii) all derivatives and cognitive insights that may be discovered from the use of artificial intelligence technology.

"Client" means the department or agency for which the Work is performed.

"Contract" means the Articles of Agreement, these general conditions, any supplemental general conditions, annexes and any other document specified or referred to as forming part of the Contract, all as amended by agreement of the Parties from time to time;

"Contracting Authority" means the person designated by that title in the Contract, or by notice to the Contractor, to act as Canada's representative to manage the Contract;

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

"Contractor Services" means the online utilities, content, and all associated intellectual property rights offered by the Contractor

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

"Cost" means cost determined according to Contract Cost Principles 1031-2 as revised to the date of the bid solicitation or, if there was no bid solicitation, the date of the Contract;

"Date of payment" means the date of the negotiable instrument drawn by the Receiver General for Canada to pay any amount under the Contract.

"Device" means equipment having a physical central processor unit (CPU), mass storage and input output devices such as keyboard and monitor and includes servers, desktops, workstations, notebooks, laptops, personal digital assistants and mobile computing equipment.

"General Conditions" means the general conditions that form part of the Contract;

"Licensed Programs" means all of the computer programs, in object-code form, which must be provided by the Contractor to Canada under the Contract, and include all patches, fixes and other code that may be delivered to Canada under the Contract, including any code provided as part of the warranty, maintenance, or support;

"Licensed Software" means the Licensed Programs and the Software Documentation collectively;

"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;

"Media" means the material or medium on which the Licensed Programs are stored for delivery to Canada, including electronic media such as magnetic disks or electronic downloads. Media does not include the Licensed Software stored on the Media;

"Party" means Canada, the Contractor, or any other signatory to the Contract and "Parties" means all of them;

An amount becomes "overdue" when it is unpaid on the first day following the day on which it is due and payable according to the Contract.

"Software Documentation" means all of the manuals, handbooks, user guides and other human-readable material to be provided by the Contractor to Canada under the Contract for use with the Licensed Programs, whether that material is to be provided in printed form or on Media;

"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.

"Specifications" means the description of the essential, functional or technical requirements of the Work in the Contract, including the procedures for determining whether the requirements have been met;

"User" means an individual authorized by the Client to use the Licensed Software under the Contract and for the purposes of this contract, includes any employee, agent or contractor authorized to use the Licensed Software.

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

Annex 4: Competing for Subsequent Opportunities

Once the Source List is established, Canada will compete opportunities amongst the qualified suppliers. Below is a high level description of how the steps will work for this subsequent process:

Step 1: Solicitation

Pre-qualified suppliers will receive notifications of opportunity (further called “Solicitation”) which will be posted on Buy and Sell. Solicitation documents will also be sent directly to pre-qualified suppliers from the Contracting Authority by email.

Solicitations will stipulate the maximum amount to be awarded and will be categorized based on the following dollar values:

- a) Band 1 Work up to \$500K before taxes
 - b) Band 2 Work up to \$4M before taxes
 - c) Band 3 Work up to \$9M before taxes
- Supplier must clearly indicate at the time of their submission what bands they are interested in being evaluated against.
- Multiple contracts may be awarded amongst successful bids for each solicitation. For instance, a requirement under Band 2 could result in three contracts: \$2M + \$500K + \$1.5M.
- For solicitations under Bands 2 and 3, suppliers may be required to demonstrate the proposed functionality in a proof of concept as part of the step 2.
- In some cases, suppliers should be prepared to offer a sandbox environment.
- Canada reserves the right to request bidders consider working together where it views there is an added benefit.

Step 2: Engagement

Canada will host one engagement session (in person or virtual) where the lead government organization will be responsible for describing the desired outcome, the context, and the operating assumptions and constraints. For planning purposes, the government will aim to host this session between 5-10 calendar days from the date the solicitation is posted.

Following the engagement session, pre-qualified suppliers must self-identify interest to compete for the specific opportunity within 5 calendar days. This will be accomplished through a notification to the Contracting Authority by email.

A maximum of ten suppliers will be selected by the Canada, and invited to bid. Up to three suppliers will be selected by Canada and the remainder will be randomly selected.

Step 3: Bid Submissions

The selected suppliers will submit their bids in accordance with the instructions identified in the solicitation document.

Step 4: Bid Evaluations

- Bids will be evaluated in accordance with the solicitation document.
- Technical proposal will be evaluated by representatives of Canada and possibly independent third parties, including contractors.
- The basis of selection will be stipulated in the solicitation document.
- Canada may request oral presentations by the supplier to be given either in person or remotely as part of the technical evaluations.
- Canada reserves the right to request suppliers consider working together where it views there is an added benefit.

Opportunities procured under the Source List may be subject to security requirements. Each solicitation and/or contract will identify the security requirements that will apply.

Annex 5 – Important additional information, including Terms and Conditions

1. Integrity provisions

- 1.1 The *Ineligibility and Suspension Policy* (the “Policy”) in effect on the date the procurement vehicle is established, and all related Directives in effect on that date, are incorporated by reference into, and form a binding part of the procurement vehicle. The Supplier must comply with the Policy and Directives, which can be found at [Ineligibility and Suspension Policy \(http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html\)](http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html).
- 1.2 Under the Policy, charges and convictions of certain offences against a Supplier, its affiliates or first tier subcontractors, and other circumstances, will or may result in a determination by Public Works and Government Services Canada (PWGSC) that the Supplier is ineligible to participate in any procurement activities conducted thereafter using this vehicle. The list of ineligible and suspended Suppliers is contained in PWGSC’s Integrity Database. The Policy describes how enquiries can be made regarding the ineligibility or suspension of Suppliers.
- 1.3 In addition to all other information required in the Invitation to Qualify, the Supplier must provide the following:
 - a. by the time stated in the Policy, all information required by the Policy described under the heading “Information to be Provided when Bidding, Contracting or Entering into a Real Property Agreement”; and
 - b. with its response, a complete list of all foreign criminal charges and convictions pertaining to itself, its affiliates and its proposed first tier subcontractors that, to the best of its knowledge and belief, may be similar to one of the listed offences in the Policy. The list of foreign criminal charges and convictions must be submitted using an Integrity Declaration Form, which can be found at [Declaration form for procurement](#).
- 1.4 Subject to subsection 1.5 of this Annex, by submitting a response to this Invitation to Qualify, the Supplier certifies that:
 - a. it has read and understands the [Ineligibility and Suspension Policy](http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html), (<http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html>).
 - b. it understands that certain domestic and foreign criminal charges and convictions, and other circumstances, as described in the

- Policy, will or may result in a determination of ineligibility or suspension under the Policy;
- c. it is aware that Canada may request additional information, certifications, and validations from the Supplier or a third party for purposes of making a determination of ineligibility or suspension;
 - d. it has provided with its response a complete list of all foreign criminal charges and convictions pertaining to itself, its affiliates and its proposed first tier subcontractors that, to the best of its knowledge and belief, may be similar to one of the listed offences in the Policy;
 - e. none of the domestic criminal offences, and other circumstances, described in the Policy that will or may result in a determination of ineligibility or suspension, apply to it, its affiliates and its proposed first tier subcontractors; and
 - f. it is not aware of a determination of ineligibility or suspension issued by PWGSC that applies to it.

1.5 Where a Supplier is unable to provide any of the certifications required by subsection 1.4 of this Annex, it must submit with its response a completed Integrity Declaration Form, which can be found at [Declaration form for procurement](http://www.tpsgc-pwgsc.gc.ca/ci-if/declaration-eng.html) (<http://www.tpsgc-pwgsc.gc.ca/ci-if/declaration-eng.html>).

1.6 Canada will declare non-responsive any response in respect of which the information requested is incomplete or inaccurate, or in respect of which the information contained in a certification or declaration is found by Canada to be false or misleading in any respect. If Canada establishes after issuance of the pre-qualified list that the Supplier provided a false or misleading certification or declaration, Canada may remove the Supplier from the pre-qualified list terminate for default any resulting contracts.

- 2 Responses will remain open for acceptance for a period of not less than 60 days from the closing date of the ITQ, unless specified otherwise in the ITQ. Canada reserves the right to seek an extension of the response validity period from all responsive suppliers in writing, within a minimum of 3 days before the end of the response validity period. If the extension is accepted by all responsive suppliers, Canada will continue with the evaluation of the responses. If the extension is not accepted by all responsive suppliers, Canada will, at its sole discretion, either continue with the evaluation of the responses of those who have accepted the extension or cancel the ITQ.
- 3 Responses and supporting information may be submitted in either English or French.

- 4 Responses received on or before the stipulated ITQ closing date and time will become the property of Canada and will not be returned. All responses will be treated as confidential, subject to the provisions of the [Access to Information Act](http://laws-lois.justice.gc.ca/eng/acts/A-1/index.html) (<http://laws-lois.justice.gc.ca/eng/acts/A-1/index.html>) (R.S., 1985, c. A-1), and the [Privacy Act](http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html) (<http://laws-lois.justice.gc.ca/eng/acts/P-21/index.html>) (R.S., 1985, c. P-21).
- 5 Unless specified otherwise in the ITQ, Canada will evaluate only the documentation provided with the response. Canada will not evaluate information such as references to Web site addresses where additional information can be found, or technical manuals or brochures not submitted with the response.
- 6 A response cannot be assigned or transferred in whole or in part.
- 7 Late responses
 - 7.1 PWGSC will return or delete responses delivered after the stipulated ITQ closing date and time, unless they qualify as a delayed response as described in section 9.1 of this Annex.
 - 7.2 For late responses submitted using means other than the Canada Post Corporation's epost Connect service, the physical response will be returned.
 - 7.3 For responses submitted electronically, the late responses will be deleted. As an example, responses submitted using Canada Post Corporation's epost Connect service, conversations initiated by the Bid Receiving Unit via the epost Connect service pertaining to a late response will be deleted. Records will be kept documenting the transaction history of all late responses submitted using epost Connect.
- 8 Transmission by epost Connect
 - 8.1 epost Connect
 - a. Unless specified otherwise in the ITQ, responses must be submitted by using the [epost Connect service](https://www.canadapost.ca/web/en/products/details.page?article=epost_connect_send_a) (https://www.canadapost.ca/web/en/products/details.page?article=epost_connect_send_a) provided by Canada Post Corporation.

PWGSC, National Capital Region: The only acceptable email address to use with epost Connect for responses to ITQ s issued by PWGSC headquarters is: tpsgc.dgareceptiondessaoumissions-abbidreceiving.pwgsc@tpsgc-pwgsc.gc.ca, or if applicable, the email address identified in the ITQ.

- b. To submit a response using epost Connect service, the Supplier must either:
 - i. send directly its response only to specified PWGSC Bid Receiving Unit using its own licensing agreement for epost Connect provided by Canada Post Corporation; or
 - ii. send as early as possible, and in any case, at least six business days prior to the ITQ closing date and time, (in order to ensure a response), an email that includes the ITQ number to the specified PWGSC Bid Receiving Unit requesting to open an epost Connect conversation. Requests to open an epost Connect conversation received after that time may not be answered.
- c. If the Supplier sends an email requesting epost Connect service to the specified Bid Receiving Unit in the ITQ, an officer of the Bid Receiving Unit will then initiate an epost Connect conversation. The epost Connect conversation will create an email notification from Canada Post Corporation prompting the Supplier to access and action the message within the conversation. The Supplier will then be able to transmit its response afterward at any time prior to the ITQ closing date and time.
- d. If the Supplier is using its own licensing agreement to send its response, the Supplier must keep the epost Connect conversation open until at least 30 business days after the ITQ closing date and time
- e. The ITQ number should be identified in the epost Connect message field of all electronic transfers.
- f. It should be noted that the use of epost Connect service requires a Canadian mailing address. Should a supplier not have a Canadian mailing address, they may use the Bid Receiving Unit address specified in the ITQ in order to register for the epost Connect service.
- g. For responses transmitted by epost Connect service, Canada will not be responsible for any failure attributable to the transmission or receipt of the response including, but not limited to, the following:
 - i. receipt of garbled, corrupted or incomplete response;
 - ii. availability or condition of the epost Connect service;
 - iii. incompatibility between the sending and receiving equipment;
 - iv. delay in transmission or receipt of the response;
 - v. failure of the Supplier to properly identify the response;

- vi. illegibility of the response;
 - vii. security of response data; or
 - viii. inability to create an electronic conversation through the epost Connect service.
- h. A response transmitted by epost Connect service constitutes the formal response of the Supplier and must be submitted in accordance with section 1.3.2 of Annex 1.

9 Delayed responses

- 9.1 A response delivered to the specified Bid Receiving Unit after the ITQ closing date and time but before the Source List is established may be considered, provided the supplier can prove the delay is due solely to a delay in the epost Connect service provided by CPC system that is acceptable to PWGSC is a CPC epost Connect service date and time record indicated in the epost Connect conversation history that clearly indicates that the response was sent before the ITQ closing date and time.

10 Rejection of a response

- 10.1.1 Canada may reject a response where any of the following circumstances is present:

- a. the Supplier is subject to a Vendor Performance Corrective Measure, under the Vendor Performance Corrective Measure Policy, which renders the Supplier ineligible to submit a response for the requirement;
- b. an employee, or subcontractor included as part of the response, is subject to a Vendor Performance Corrective Measure, under the Vendor Performance Corrective Measure Policy, which would render that employee or subcontractor ineligible to submit a response for the requirement, or the portion of the requirement the employee or subcontractor is to perform;
- c. the Supplier is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period;
- d. evidence, satisfactory to Canada, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination, has been received with respect to the Supplier, any of its employees or any subcontractor included as part of the response;

- e. evidence satisfactory to Canada that based on past conduct or behavior, the Supplier, a subcontractor or a person who is to perform the Work is unsuitable or has conducted himself/herself improperly;
- f. with respect to current or previous transactions with the Government of Canada:
 - i. Canada has exercised its contractual remedies of suspension or termination for default with respect to a contract with the Supplier, any of its employees or any subcontractor included as part of the response;
 - ii. Canada determines that the Supplier's performance on other contracts, including the efficiency and workmanship as well as the extent to which the Supplier performed the Work in accordance with contractual clauses and conditions, is sufficiently poor to jeopardize the successful completion of any requirement to be bid on.
- g. Where Canada intends to reject a response pursuant to a provision of section of this Annex, Canada will so inform the Supplier and provide the Supplier 10 days within which to make representations, before making a final decision on the response rejection.
- h. Canada reserves the right to apply additional scrutiny, in particular, when multiple responses are received in response to an invitation to qualify from a single supplier or a joint venture. Canada reserves the right to:
 - i. reject any or all of the responses submitted by a single supplier or joint venture if their inclusion in the evaluation has the effect of prejudicing the integrity and fairness of the process, or;
 - ii. reject any or all of the responses submitted by a single supplier or joint venture if their inclusion in the procurement process would distort the solicitation evaluation, and would cause a result that would not reasonably have been expected under prevailing market conditions and/or would not provide good value to Canada.

11 Response costs

No payment will be made for costs incurred in the preparation and submission of a response in response to the ITQ. Costs associated with preparing and

submitting a response as well as any costs incurred by the Supplier associated with the evaluation of the response, are the sole responsibility of the Supplier.

12 Conduct of evaluation

12.1 In conducting its evaluation of the responses, Canada may, but will have no obligation to, do the following:

- a. seek clarification or verification from suppliers regarding any or all information provided by them with respect to the ITQ;
- b. contact any or all references supplied by suppliers to verify and validate any information submitted by them;
- c. request, before issuance of any pre-qualified list, specific information with respect to suppliers' legal status;
- d. conduct a survey of suppliers' facilities and/or examine their technical, managerial, and financial capabilities to determine if they are adequate to meet the requirements of the ITQ;
- e. verify any information provided by suppliers through independent research, use of any government resources or by contacting third parties;
- f. interview, at the sole costs of suppliers, any supplier and/or any or all of the resources proposed by suppliers to fulfill the requirement of the ITQ.

12.2 Suppliers will have the number of days specified in the request by Canada's Representative to comply with any request related to any of the above items. Failure to comply with the request may result in the response being declared non-responsive.

13 Joint venture

13.1 A joint venture is an association of two or more parties who combine their money, property, knowledge, expertise or other resources in a single joint business enterprise, sometimes referred as a consortium, to submit a response together on a requirement. Suppliers who submit a response as a joint venture must indicate clearly that it is a joint venture and provide the following information:

- a. the name of each member of the joint venture;
- b. the Procurement Business Number of each member of the joint venture;
- c. the name of the representative of the joint venture, i.e. the member chosen by the other members to act on their behalf, if applicable;
- d. the name of the joint venture, if applicable.

- 13.2 If the information is not clearly provided in the response, the Supplier must provide the information on request from Canada.
- 13.3 The response must be signed by all the members of the joint venture unless one member has been appointed to act on behalf of all members of the joint venture. Canada may, at any time, require each member of the joint venture to confirm that the representative has been appointed with full authority to act as its representative for the purposes of the ITQ and any resulting pre-qualified list.

14 Conflict of interest – unfair advantage

- 14.1 In order to protect the integrity of the procurement process, suppliers are advised that Canada may reject a response in the following circumstances:
- a. if the Supplier, any of its subcontractors, any of their respective employees or former employees was involved in any manner in the preparation of the ITQ or in any situation of conflict of interest or appearance of conflict of interest;
 - b. if the Supplier, any of its subcontractors, any of their respective employees or former employees had access to information related to the ITQ that was not available to other suppliers and that would, in Canada's opinion, give or appear to give the Supplier an unfair advantage.
- 14.2 The experience acquired by a supplier who is providing or has provided the goods and services described in the ITQ (or similar goods or services) will not, in itself, be considered by Canada as conferring an unfair advantage or creating a conflict of interest. This supplier remains however subject to the criteria established above.
- 14.3 Where Canada intends to reject a response under this section, Canada will inform the Supplier and provide the Supplier an opportunity to make representations before making a final decision. Suppliers who are in doubt about a particular situation should contact Canada's representative before the ITQ closing date. By submitting a response, the Supplier represents that it does not consider itself to be in conflict of interest nor to have an unfair advantage. The Supplier acknowledges that it is within Canada's sole discretion to determine whether a conflict of interest, unfair advantage or an appearance of conflict of interest or unfair advantage exists.