



RETURN BIDS TO:

RETOURNER LES SOUMISSIONS À:

Bid Receiving Public Works and Government
Services Canada/Réception des soumissions
Travaux publics et Services gouvernementaux
Canada

Pacific Region

401 - 1230 Government Street

Victoria, B.C.

V8W 3X4

Bid Fax: (250) 363-3344

INVITATION TO TENDER

APPEL D'OFFRES

**Tender To: Public Works and Government Services
Canada**

We hereby offer to sell to Her Majesty the Queen in right of
Canada, in accordance with the terms and conditions set
out herein, referred to herein or attached hereto, the goods,
services, and construction listed herein and on any attached
sheets at the price(s) set out therefor.

**Soumission aux: Travaux Publics et Services
Gouvernementaux Canada**

Nous offrons par la présente de vendre à Sa Majesté la
Reine du chef du Canada, aux conditions énoncées ou
incluses par référence dans la présente et aux annexes
ci-jointes, les biens, services et construction énumérés
ici et sur toute feuille ci-annexée, au(x) prix indiqué(s).

Comments - Commentaires

Vendor/Firm Name and Address

Raison sociale et adresse du

fournisseur/de l'entrepreneur

Issuing Office - Bureau de distribution

Public Works and Government Services Canada -

Pacific Region

401 - 1230 Government Street

Victoria, B. C.

V8W 3X4

| | |
|---|--|
| Title - Sujet HMCSTV Tuna - Upgrade and repair | |
| Solicitation No. - N° de l'invitation W0103-198129/A | Date 2019-01-11 |
| Client Reference No. - N° de référence du client W0103-198129 | GETS Ref. No. - N° de réf. de SEAG PW-\$XLV-242-7673 |
| File No. - N° de dossier XLV-8-41203 (242) | CCC No./N° CCC - FMS No./N° VME |
| Solicitation Closes - L'invitation prend fin at - à 02:00 PM on - le 2019-01-29 | |
| Time Zone Fuseau horaire Pacific Standard Time PST | |
| F.O.B. - F.A.B. Specified Herein - Précisé dans les présentes Plant-Usine: <input type="checkbox"/> Destination: <input type="checkbox"/> Other-Autre: <input checked="" type="checkbox"/> | |
| Address Enquiries to: - Adresser toutes questions à: Szczesniak, Michal | Buyer Id - Id de l'acheteur xlv242 |
| Telephone No. - N° de téléphone (250) 507-0647 () | FAX No. - N° de FAX () - |
| Destination - of Goods, Services, and Construction: Destination - des biens, services et construction: National Defence Canada See herein | |

Instructions: See Herein

Instructions: Voir aux présentes

| | |
|--|--|
| Delivery Required - Livraison exigée See Herein | 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 |

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PART 1 - GENERAL INFORMATION

1.1 Introduction

The bid solicitation is divided into seven parts plus attachments and annexes, as follows:

- Part 1 General Information: provides a general description of the requirement;
- Part 2 Bidder Instructions: provides the instructions, clauses and conditions applicable to the bid solicitation;
- Part 3 Bid Preparation Instructions: provides Bidders with instructions on how to prepare their bid;
- Part 4 Evaluation Procedures and Basis of Selection: indicates how the evaluation will be conducted, the evaluation criteria that must be addressed in the bid, and the basis of selection;
- Part 5 Certifications and Additional Information: includes the certifications and additional information to be provided;
- Part 6 Security, Financial and Other Requirements: includes specific requirements that must be addressed by Bidders; and
- Part 7 Resulting Contract Clauses: includes the clauses and conditions that will apply to any resulting contract.

The Annexes include the Statement of Work, Basis of Payment, and Insurance Requirements.

1.2 Summary

HMCSTV Tuna – Upgrade and repair the AC/DC electrical installation

The Department of National Defence requires a contractor to carry out the refit of the HMCSTV Tuna.

The Work must be conducted in accordance with the Statement of Work identified in Annex A of the Solicitation.

The objective of the Work is to:

- Upgrade and repair the AC/DC electrical systems;
- Install a new auxiliary diesel engine to a point that is consistent with the configuration of the HMCSTV Tuna's sister ship (HMCSTV Goldcrest), safe to sail and working efficiently; and
- Repair to current ABYC standard and ensure compatibility with World Sailing Special Equipment Rules (SER) Category 2.

The scope of the Work includes:

- Survey HMCSTV Goldcrest;
- AC systems;
- DC systems;
- Inverter / charger;
- Shore power;
- Auxiliary Diesel Engine.

The Contractor will also need to carry out any approved unscheduled work not covered in the Statement of Work.

The period of the resulting contract will be from date of contract to March 29, 2019 (inclusive).

The vessel is located in Tsehum Harbour in North Saanich, BC. The Contractor will be responsible for the care, custody, and transportation of the vessel to and from Tsehum Harbour.

The sourcing strategy related to this procurement will be limited to suppliers in the area of Origin of the vessel, in accordance with the PWGSC Supply Manual, Article 3.170.10(a). This procurement is subject to the Canadian Free Trade Agreement (CFTA) and is exempt from the North American Free Trade Agreement (NAFTA) [see Chapter 10, Annex 1001.2b, paragraph 1 (a)] and from the World Trade Organization Agreement on Government Procurement (WTO-AGP) (see Annex 4).

Bidders intending to submit bids should download solicitation documents from the Solicitation's Tender Notice on <http://BuyAndSell.gc.ca> and as specified in the Solicitation. Solicitation amendments, if and when issued, will be available on <http://BuyAndSell.gc.ca>. It is the responsibility of the Bidder to ensure that all solicitation documents issued during the solicitation period have been obtained and addressed in the submitted bid. Bidders basing their submissions on solicitation documents obtained from other sources do so at their own risk.

Businesses interested in learning more about selling to the Government of Canada are encouraged to review <https://BuyAndSell.gc.ca/for-businesses/selling-to-the-government-of-canada>. The Office of Small and Medium Enterprises (OSME) offers free seminars to businesses interested in learning about the general procurement process and how to sell goods and services to the government. Refer to <http://www.tpsgc-pwgsc.gc.ca/app-acq/pme-sme/index-eng.html> for more information about OSME's seminars and other services.

Enquiries regarding this bid solicitation must be directed only to the Contracting Authority identified in the bid solicitation.

1.3 Debriefings

Bidders may request a debriefing on the results of the bid solicitation process. Bidders should make the request to the Contracting Authority within 15 working days from receipt of the results of the bid solicitation process. The debriefing may be in writing, by telephone or in person.

1.4 ePost Connect Service

This bid solicitation allows bidders to use the epost Connect service provided by Canada Post Corporation to transmit their bid electronically. Bidders must refer to Part 2 entitled Bidder Instructions, and Part 3 entitled Bid Preparation Instructions, of the bid solicitation, for further information.

PART 2 - BIDDER INSTRUCTIONS

2.1 Standard Instructions, Clauses and Conditions

All instructions, clauses and conditions identified in the bid solicitation by number, date and title are set out in the *Standard Acquisition Clauses and Conditions Manual* (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.

Bidders who submit a bid agree to be bound by the instructions, clauses and conditions of the bid solicitation and accept the clauses and conditions of the resulting contract.

The 2003 (2018-05-22) Standard Instructions - Goods or Services - Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.

2.2 Submission of Bids

Bids must be submitted only to the Public Works and Government Services Canada (PWGSC) Bid Receiving Unit specified below by the date and time indicated on page 1 of the bid solicitation:

Bid Receiving Public Works and Government Services Canada
Pacific Region
401 - 1230 Government Street
Victoria, BC V8W 3X4

TPSGC.RPRceptiondessomissions-PRBidReceiving.PWGSC@tpsgc-pwgsc.gc.ca - Bids will not be accepted if emailed directly to this email address. This email is to initiate an ePost Connect conversation, as detailed in the Standard Instructions.

Bid Fax: (250) 363-3344

2.3 Enquiries - Bid Solicitation

All enquiries must be submitted in writing to the Contracting Authority no later than 5 calendar days before the bid closing date. Enquiries received after that time may not be answered.

Bidders should reference as accurately as possible the numbered item of the bid solicitation to which the enquiry relates. Care should be taken by Bidders to explain each question in sufficient detail in order to enable Canada to provide an accurate answer. Technical enquiries that are of a proprietary nature must be clearly marked "proprietary" at each relevant item. Items identified as "proprietary" will be treated as such except where Canada determines that the enquiry is not of a proprietary nature. Canada may edit the question(s) or may request that the Bidder do so, so that the proprietary nature of the question(s) is eliminated and the enquiry can be answered to all Bidders. Enquiries not submitted in a form that can be distributed to all Bidders may not be answered by Canada.

2.4 Applicable Laws

Any resulting contract must be interpreted and governed, and the relations between the parties determined, by the laws in force in British Columbia.

Bidders may, at their discretion, substitute the applicable laws of a Canadian province or territory of their choice without affecting the validity of their bid, by deleting the name of the Canadian province or territory specified and inserting the name of the Canadian province or territory of their choice. If no change is made, it acknowledges that the applicable laws specified are acceptable to the Bidders.

2.5 Optional Bidders' Conference

The scope of the requirement outlined in the bid solicitation will be reviewed during the Bidders' Conference and questions will be answered.

It is recommended that Bidders who intend to submit a bid attend or send a representative to the Bidders' Conference.

The Bidders' Conference will be held at Tsehum Harbour in North Saanich, BC at 10:30 am (PST) on January 18, 2019. Registered participants will be provided additional details regarding meeting logistics. If all registered participants arrive before the stated time, then the Bidders' Conference may commence early.

Bidders are requested to register the name(s) of the person(s) who will be attending the Bidders' Conference by e-mailing the Contracting Authority. The Bidders' Conference will be cancelled if no Bidders register by 10:30 am (PST) on January 17, 2019.

Bidders should e-mail the Contracting Authority a list of issues they wish to table by 10:30 am (PST) on January 17, 2019.

Conference participants may be required to present valid government-issued photo identification and sign attendance sheets. Conference participants must comply with all regulations, instructions and directives in force on the site.

Bidders who do not attend or do not send a representative will not be precluded from submitting a bid.

Any clarifications or changes to the bid solicitation resulting from the Bidders' Conference will be included as an amendment to the bid solicitation.

The Bidder is responsible for all of its transportation and expenses associated in participating in the Bidders' Conference.

2.6 Optional Vessel Viewings

Arrangements have been made to provide Bidders the opportunity to view the vessels.

It is recommended that Bidders who intend to submit a bid attend or send a representative to the Vessel Viewings.

The Vessel Viewing of the HMCSTV Tuna will begin immediately after the Bidders' Conference.

Bidders will then be provided the opportunity that same day to view the HMCSTV Goldcrest, which will likely be located near CFB Esquimalt or elsewhere in the Greater Victoria area. The start time of the Vessel Viewing of the HMCSTV Goldcrest will be identified to the participants in attendance upon the conclusion of the Vessel Viewing of the HMCSTV Tuna.

The Vessel Viewings will be of limited durations as determined by the Contracting Authority during the Vessel Viewings. All participants will be required to immediately disembark the vessel upon the termination of each Vessel Viewing.

Bidders are requested to register the name(s) of the person(s) who will be attending the Vessel Viewings by e-mailing the Contracting Authority. The Vessel Viewings will be cancelled if no Bidders register by 10:00 am (PST) on January 17, 2019.

Bidders who do not attend or do not send a representative will not be given an alternative appointment but they will not be precluded from submitting a bid.

Participants will be required to present valid government-issued photo identification and sign attendance sheets. Participants must comply with all regulations, instructions and directives in force on the site and vessel.

Any clarifications or changes to the bid solicitation resulting from the Vessel Viewings will be included as an amendment to the bid solicitation.

The Bidder is responsible for all of its expenses associated in participating in the Vessel Viewings.

PART 3 - BID PREPARATION INSTRUCTIONS

3.1 Bid Preparation Instructions

3.1.1 Bid Structure

If the Bidder chooses to submit its bid electronically, Canada requests that the Bidder submits its bid in accordance with section 08 of the 2003 standard instructions. Bidders must provide their bid in a single transmission. The epost Connect service has the capacity to receive multiple documents, up to 1GB per individual attachment. The bid must be gathered per section and separated as follows:

- Section I: Technical Bid
- Section II: Financial Bid
- Section III: Certifications.

If the Bidder chooses to submit its bid in hard copies, Canada requests that the Bidder submits its bid in separately bound sections as follows:

- Section I: Technical Bid
- Section II: Financial Bid
- Section III: Certifications.

If the Bidder is simultaneously providing copies of its bid using multiple acceptable delivery methods, and if there is a discrepancy between the wording of any of these copies and the electronic copy provided through epost Connect service, the wording of the electronic copy provided through epost Connect service will have priority over the wording of the other copies.

Prices must appear in the financial bid only. No prices must be indicated in any other section of the bid.

3.1.2 Bid Format

Canada requests that Bidders follow the format instructions described below in the preparation of their bid:

- a. use 8.5 x 11 inch (216 mm x 279 mm) paper;
- b. use a numbering system that corresponds to the bid solicitation.

In April 2006, Canada issued a policy directing federal departments and agencies to take the necessary steps to incorporate environmental considerations into the procurement process Policy on Green Procurement (<http://www.tpsgc-pwgsc.gc.ca/ecologisation-greening/achats-procurement/politique-policy-eng.html>).

To assist Canada in reaching its objectives, Bidders should:

1. use paper containing fibre certified as originating from a sustainably-managed forest and containing minimum 30% recycled content; and
2. use an environmentally-preferable format including black and white printing instead of colour printing, printing double sided/duplex, using staples or clips instead of cerlox, duotangs or binders.

3.1.3 No Conditional Bids

The Bidder's bid must not be made conditionally. Any condition imposed by the Bidder will render the bid non-responsive and the bid will be given no further consideration.

3.1.4 Section I: Technical Bid

- (a) The Technical Bid must demonstrate that the Bidder has performed similar electrical and diesel engine work on a minimum of 2 sailboats since January 1, 2014. The demonstration must show electrical panel replacement, switch replacement and cable disconnection/ reconnection, engine and gearbox removal and installation (Engine to shaft alignment included).
- (b) The Technical Bid must identify proposed location(s) where the Bidder will perform the Work on the HMCSTV Tuna.
- (c) Bidders must demonstrate their capability and describe their approach in a thorough, concise and clear manner for carrying out the Work.
- (d) Bidders should demonstrate their understanding of the requirements contained in the bid solicitation and explain how they will meet these requirements.

3.1.5 Section II: Financial Bid

3.1.5.1 Pricing Submission

Bidders must submit their financial bid in accordance with Annex F and address each of the cost elements in the Pricing Data Sheet referenced in Appendix 1 to Annex F.

3.1.5.2 Electronic Payment of Invoices – Bid

If the Bidder is willing to accept payment of invoices by Electronic Payment Instruments, the Bidder should complete Annex 1 to Part 3 of the Bid Solicitation, to identify which ones are accepted.

If Annex 1 to Part 3 of the Bid Solicitation is not completed, it will be considered as if Electronic Payment Instruments are not being accepted for payment of invoices.

Acceptance of Electronic Payment Instruments will not be considered as an evaluation criterion.

3.1.5.3 Exchange Rate Fluctuation

The requirement does not offer exchange rate fluctuation risk mitigation. Requests for exchange rate fluctuation risk mitigation will not be considered. All bids including such provision will render the bid non-responsive.

3.1.6 Section III: Certifications

Bidders must submit the certifications and additional information required under Part 5.

PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

4.1 Evaluation Procedures

- a. Bids will be assessed in accordance with the entire requirement of the bid solicitation.
- b. An evaluation team composed of representatives of Canada will evaluate the bids.

4.1.1 Financial Evaluation

- a. The price of the bid will be evaluated in Canadian Dollars, Applicable Taxes excluded, Canadian customs duties and excise taxes included.
- b. **Unscheduled Work and Evaluation Price:**
In any vessel refit, repair or docking contract, unscheduled work may arise after the vessel and its equipment is opened up and surveyed. The anticipated cost of the Work will be included in the evaluation of bids. The overall total cost will be calculated by including an estimated amount of additional person-hours (and/or material) multiplied by a firm hourly charge-out labour rate and is added to the firm price for the Work.
The overall total referred to as the "Evaluation Price" will be used for evaluating the bids. The estimated work will be based on historical experience and there is no minimum or maximum amount of unscheduled work nor is there a guarantee of such work.

4.2 Basis of Selection

A bid must comply with all requirements of the bid solicitation to be declared responsive. The responsive bid with the lowest evaluation price will be recommended for award of a contract.

PART 5 – CERTIFICATIONS AND ADDITIONAL INFORMATION

Bidders must provide the required certifications and additional information to be awarded a contract.

The certifications provided by Bidders to Canada are subject to verification by Canada at all times. Unless specified otherwise, Canada will declare a bid non-responsive, or will declare a contractor in default if any certification made by the Bidder is found to be untrue, whether made knowingly or unknowingly, during the bid evaluation period or during the contract period.

The Contracting Authority will have the right to ask for additional information to verify the Bidder's certifications. Failure to comply and to cooperate with any request or requirement imposed by the Contracting Authority will render the bid non-responsive or constitute a default under the Contract.

5.1 Certifications Required with the Bid

Bidders must submit the following duly completed certifications as part of their bid.

5.1.1 Integrity Provisions - Declaration of Convicted Offences

In accordance with the Integrity Provisions of the Standard Instructions, all bidders must provide with their bid, **if applicable**, the Integrity declaration form available on the Forms for the Integrity Regime website (<http://www.tpsgc-pwgsc.gc.ca/ci-if/declaration-eng.html>), to be given further consideration in the procurement process.

5.2 Certifications Precedent to Contract Award and Additional Information

The certifications and additional information listed below should be submitted with the bid but may be submitted afterwards. If any of these required certifications or additional information is not completed and submitted as requested, the Contracting Authority will inform the Bidder of a time frame within which to provide the information. Failure to provide the certifications or the additional information listed below within the time frame specified will render the bid non-responsive.

5.2.1 Integrity Provisions – Required Documentation

In accordance with the section titled Information to be provided when bidding, contracting or entering into a real procurement agreement of the Ineligibility and Suspension Policy (<http://www.tpsgc-pwgsc.gc.ca/ci-if/politique-policy-eng.html>), the Bidder must provide the required documentation, as applicable, to be given further consideration in the procurement process.

5.2.2 Federal Contractors Program for Employment Equity - Bid Certification

By submitting a bid, the Bidder certifies that the Bidder, and any of the Bidder's members if the Bidder is a Joint Venture, is not named on the Federal Contractors Program (FCP) for employment equity "FCP Limited Eligibility to Bid" list available at the bottom of the page of the Employment and Social Development Canada (ESDC) - Labour's website (http://www.esdc.gc.ca/en/jobs/workplace/human_rights/employment_equity/federal_contractor_program.page?&_ga=1.229006812.1158694905.1413548969#afed).

PART 6 - SECURITY, FINANCIAL AND OTHER REQUIREMENTS

6.1 Security Requirements

There is no security requirement applicable to this Contract.

6.2 Insurance – Proof of Availability Prior to Contract Award

The Bidder must provide a letter from an insurance broker or an insurance company licensed to operate in Canada stating that the Bidder, if awarded a contract as a result of the bid solicitation, can be insured in accordance with the Insurance Requirements specified in Annex C.

If the information is not provided in the bid, the Contracting Authority will so inform the Bidder and provide the Bidder with a time frame within which to meet the requirement. Failure to comply with the request of the Contracting Authority and meet the requirement within that time period will render the bid non-responsive.

PART 7 - RESULTING CONTRACT CLAUSES

The following clauses and conditions apply to and form part of any contract resulting from the bid solicitation.

7.1 Requirement

7.1.1 Statement of Work

The Contractor must provide the goods, services or both described in the Contract, including all the Annexes and any other identified documents, to Canada in accordance with, and at the prices and/or rates stated in the Contract.

7.1.2 Procedures for Design Change or Additional Work

SACC Manual Clause B5007C (2010-01-11) Procedures for Design Change or Additional Work.
In addition, refer to Annex E – Procedure for Processing Unscheduled Work.

7.2 Standard Clauses and Conditions

All clauses and conditions identified in the Contract by number, date and title are set out in the *Standard Acquisition Clauses and Conditions Manual* (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual>) issued by Public Works and Government Services Canada.

7.2.1 General Conditions

1031-2 (2012-07-16), General Conditions – Contract Cost principles, apply to and form part of the Contract.

2030 (2018-06-21), General Conditions - Higher Complexity - Goods, apply to and form part of the Contract.

Section 22 entitled “Warranty” of General Conditions 2030 incorporated by reference above is hereby deleted in its entirety and replaced with the following:

1. At the discretion of the Minister, the Contractor will replace or make good at its own expense any finished work, excluding Government Issue incorporated therein, which becomes defective or which fails to conform to contract requirements as a result of faulty or inefficient manufacture, material or workmanship.
2. Notwithstanding prior acceptance of the finished work, and without restricting any other term of the Contract or any condition, warranty or provision implied or imposed by law, the Contractor hereby warrants that the following are free from all defects and conform with the requirements of the contract:
 - a. The painting of the underwater portion of the hull for a period of three hundred sixty five (365) days commencing from the date of undocking, except that the Contractor will only be liable to repair and/or replace to a value to be determined as follows:

Original cost to Canada of the underwater painting Work, divided by three hundred sixty five (365) days and multiplied by the number of days remaining in the warranty period. The resultant would represent the "Dollar Credit" due to Canada from the Contractor.

- All other painting Work for a period of three hundred sixty five (365) days commencing from the date of acceptance of the Work;
- b. All parts and materials supplied for the Work for a period of three hundred and sixty five (365) days commencing from the date of acceptance of the Work;
 - c. All other items of Work for a period of ninety (90) days commencing from the date of acceptance of the Work, except that:
 - i. the warranty on the Work related to any system or equipment not immediately placed in continuous use or service must extend for a period of ninety (90) days from the date of acceptance of the vessel;
 - ii. for all outstanding defects, deviations, and Work items listed on the Acceptance Document at Delivery, the Warranty will be ninety (90) days from the subsequent date of acceptance for each item.
3. The Contractor agrees to pass to Canada, and exercise on behalf of Canada, all warranties on the Materials and/or labour supplied or held by the Contractor which exceed the periods indicated above.

Section 26 entitled "Liability" of General Conditions 2030 incorporated by reference above is hereby deleted in its entirety and replaced with the following:

1. This section applies despite any other provision of the Contract and replaces the section of the general conditions entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees.
2. Whether the claim is based in contract, tort, or another cause of action, the Contractor's liability for all damages suffered by Canada caused by the Contractor's performance of or failure to perform the Contract is limited to \$10 million per incident or occurrence to an annual aggregate of \$20 million for losses or damage caused in any one year of carrying out the Contract, each year starting on the date of coming into force of the Contract or its anniversary. This limitation of the Contractor's liability does not apply to nor include:
 - (a) Any infringement of intellectual property rights;
 - (b) Any breach of warranty obligations;
 - (c) Any liability of Canada to a third party arising from any act or omission of the Contractor in performing the Contract; or
 - (d) Any loss for which the policies of insurance specified in the Contract or any other policies of insurance held by the Contractor would provide insurance coverage.
3. Each Party agrees that it is fully liable for any damages that it causes to any third party in connection with the Contract, regardless of whether the third party makes its claim against Canada or the Contractor. 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 for that amount.
4. The Parties agree that nothing herein is intended to limit any insurable interest of the Contractor nor to limit the amounts otherwise recoverable under any insurance policy. The Parties agree that

to the extent that the insurance coverage required to be maintained by the Contractor under this Contract or any additional insurance coverage maintained by the Contractor, whichever is greater, is more than the limitations of liability described in sub article (2), the limitations provided herein are increased accordingly and the Contractor shall be liable for the higher amount to the full extent of the insurance proceeds recovered.

5. If, at any time, the total cumulative liability of the Contractor for losses or damage suffered by Canada caused by the Contractor's performance of or failure to perform the Contract, excluding liability described under subsection 2(a), (b), (c) and (d) exceeds \$40 million, either Party may terminate the Contract by giving notice in writing to the other Party and neither Party will make any claim against the other for damages, costs, expected profits or any other such loss arising out of the termination. However, no such termination or expiry of the Contract shall reduce or terminate any of the liabilities that have accrued to the effective date of the termination but which liabilities are subject to the limitations as specified in sub-article (1) through (4) above.
6. The date of termination pursuant to this Article, shall be the date specified by Canada in its notice to terminate, or, if the Contractor exercises the right to terminate, in a notice to the Contractor from Canada in response to the Contractor's notice to terminate. The date of termination shall be in Canada's discretion to a maximum of 12 months after service of the original notice to terminate served by either Party pursuant to sub-article 5, above.

7.2.2 Supplemental General Conditions

1029 (2010-08-16), Ship Repairs, apply to and form part of the Contract.

7.2.3 Vessel Unmanned Refits

The vessel will be unmanned during the work period and will be considered to be out of commission. The vessel during that period will be in the care or custody of the Contractor and under its control. Please refer to 1029 - Ship Repairs, Supplemental General Conditions Article 09 and Annex C for the Vessel Custody requirements, and associated Acceptance Certificates.

7.2.4 Public Announcement

The Contractor must not make any public announcement related to the Contract without having previously obtained the written permission of the Contracting Authority.

7.3 Security Requirements

There is no security requirement applicable to this Contract.

7.4 Term of Contract

7.4.1 Period of the Contract

The period of the Contract is from Date of Contract to March 29, 2019 inclusive.

7.5 Authorities

7.5.1 Contracting Authority

The Contracting Authority for the Contract is:

Michal Szczesniak
Public Works and Government Services Canada
Acquisitions Program
Pacific Region – Marine Acquisitions
1230 Government Street, Suite 401, Victoria, BC V8W 3X4
Telephone: 250.507.0647
E-mail: michal.szczesniak@pwgsc-tpsgc.gc.ca

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

7.5.2 Technical Authority

The Technical Authority for the Contract is:

< to be announced upon contract award >

The Technical Authority is the representative of the department or agency for whom the Work is being carried out under the Contract and is responsible for all matters concerning the technical content of the Work under the Contract. Technical matters may be discussed with the Technical Authority; however, the Technical Authority has no authority to authorize changes to the scope of the Work. Changes to the scope of the Work can only be made through a contract amendment issued by the Contracting Authority.

7.5.3 Contractor's Representative

Name: _____

Title: _____

Organization: _____

Address: _____

Telephone: _____

E-mail: _____

7.6 Payment

7.6.1 Bases of Payment

7.6.1.1 Basis of Payment - Firm Price

In consideration of the Contractor satisfactorily completing its obligations under the Contract, the Contractor will be paid firm prices as specified in Annex B. Customs duties are included and Applicable Taxes are extra.

7.6.2 Limitation of Price

Canada will not pay the Contractor for any design changes, modifications or interpretations of the Work unless they have been approved, in writing, by the Contracting Authority before their incorporation into the Work.

7.6.3 Progress Payments

1. Canada will make progress payments in accordance with the payment provisions of the Contract, for cost incurred in the performance of the Work up to 80 percent of the amount claimed and approved by Canada if:
 - a. an accurate and complete claim for payment using form PWGSC-TPSGC 1111 and any other document required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
 - b. the amount claimed is in accordance with the basis of payment;
 - c. the total amount for all progress payments paid by Canada does not exceed 80 percent of the total amount to be paid under the Contract;
 - d. all certificates appearing on form PWGSC-TPSGC 1111 have been signed by the respective authorized representatives.
2. The balance of the amount payable will be paid in accordance with the payment provisions of the Contract upon completion and delivery of all work required under the Contract if the Work has been accepted by Canada and a final claim for the payment is submitted.
3. Progress payments are interim payments only. Canada may conduct a government audit and interim time and cost verifications and reserves the rights to make adjustments to the Contract from time to time during the performance of the Work. Any overpayment resulting from progress payments or otherwise must be refunded promptly to Canada.

7.6.4 Warranty Payment Holdback

- (a) A Warranty Payment Holdback of 5% of the Total Revised Estimated Cost of the Contract will be applied to the final claim for payment. Applicable Taxes on the Warranty Payment Holdback will be paid when the Warranty Payment Holdback is paid.
- (b) If there are no unresolved warranty claims in the 90 calendar days after the Acceptance Date, the Contractor can then submit a claim for the payment of the Warranty Payment Holdback.
- (c) If there are any unresolved warranty claims in the 90 calendar days after the Acceptance Date, then it is at the sole direction of the Contracting Authority to determine what, if any, portion, of the Warranty

Payment Holdback, can be claimed for payment before the completion of all the work associated with the unresolved warranty claims.

- (d) If any of the work associated with the unresolved warranty claims cannot be completed by the Contractor within a reasonable amount of time, Canada retains its right to terminate the Contract in part for default.

7.6.5 Electronic Payment of Invoices – Contract *(as applicable)*

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).

7.6.6 Time Verification

Time charged and the accuracy of the Contractor's time recording system are subject to verification by Canada, before or after payment is made to the Contractor. If verification is done after payment, the Contractor must repay any overpayment, at Canada's request.

7.6.7 Discretionary Audit *(if applicable)*

The Contractor must provide, on the Contracting Authority's request, one or more of the following price support, if applicable:

- a. a current published price list indicating the percentage discount available to Canada; or
- b. copies of paid invoices for the like quality and quantity of the goods, services or both sold to other customers; or
- c. a price breakdown showing the cost of direct labour, direct materials, purchased items, engineering and plant overheads, general and administrative overhead, transportation, etc., and profit; or
- d. price or rate certifications; or
- e. any other supporting documentation as requested by Canada.

The Contractor's certification that the price or rate is not in excess of the lowest price or rate charged anyone else, including the Contractor's most favoured customer, for the like quality and quantity of the goods, services or both, is subject to verification by government audit, at the discretion of Canada, before or after payment is made to the Contractor.

If the audit demonstrates that the certification is in error after payment is made to the Contractor, the Contractor must, at the discretion of Canada, make repayment to Canada in the amount found to be in excess of the lowest price or rate or authorize the retention by Canada of that amount by way of deduction from any sum of money that may be due or payable to the Contractor pursuant to the Contract.

If the audit demonstrates that the certification is in error before payment is made, the Contractor agrees that any pending invoice will be adjusted by Canada in accordance with the results of the audit. It is further agreed that if the Contract is still in effect at the time of the verification, the price or rate will be lowered in accordance with the results of the audit.

7.7 Invoicing Instructions

1. The Contractor must submit invoices in accordance with the section entitled "Invoice Submission" of the general conditions. Invoices cannot be submitted until all work identified in the invoice is completed.
2. Invoices must be distributed as follows:
 - a. The original invoice must be forwarded to the following address for certification and payment: TBD;
 - b. One (1) copy must be forwarded to: TBD.

7.8 Certifications and Additional Information

7.8.1 Compliance

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.

7.9 Applicable Laws

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

7.10 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. the Supplemental General Conditions 1029 (2010-08-16), Ship Repairs;
- c. the General Conditions 2030 (2018-06-21), General Conditions - Higher Complexity - Goods;
- d. Annex A, Statement of Work;
- e. Annex B, Basis of Payment;
- f. Annex C, Insurance Requirements;
- g. Annex D, Warranty Procedures and Claim Form;
- h. Annex E, Procedure for Processing Unscheduled Work, and
- i. the Contractor's bid dated _____.

7.11 Foreign Nationals *(as applicable)*

Foreign Nationals (Canadian Contractor):

The Contractor must comply with Canadian immigration requirements applicable to foreign nationals entering Canada to work temporarily in fulfillment of the Contract. If the Contractor wishes to hire a foreign national to work in Canada to fulfill the Contract, the Contractor should immediately contact the nearest Service Canada regional office to enquire about Citizenship and Immigration Canada's requirements to issue a temporary work

permit to a foreign national. The Contractor is responsible for all costs incurred as a result of non-compliance with immigration requirements.

- OR -

Foreign Nationals (Foreign Contractor):

The Contractor must comply with Canadian immigration legislation applicable to foreign nationals entering Canada to work temporarily in fulfillment of the Contract. If the Contractor wishes to hire a foreign national to work in Canada to fulfill the Contract, the Contractor should immediately contact the nearest Canadian Embassy, Consulate or High Commission in the Contractor's country to obtain instructions, information on Citizenship and Immigration Canada's requirements and any required documents. The Contractor is responsible to ensure that foreign nationals have the required information, documents and authorizations before performing any work under the Contract in Canada. The Contractor is responsible for all costs incurred as a result of non-compliance with immigration requirements.

7.12 Insurance Requirements

The Contractor must comply with the insurance requirements specified in Annex C. The Contractor must maintain the required insurance coverage for the duration of the Contract. Compliance with the insurance requirements does not release the Contractor from or reduce its liability under the Contract.

The Contractor is responsible for deciding if additional insurance coverage is necessary to fulfill its obligation under the 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.

The Contractor must forward to the Contracting Authority within ten (10) days after the date of award of the 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-". The Contractor must, if requested by the Contracting Authority, forward to Canada a certified true copy of all applicable insurance policies.

7.13 Access

7.13.1 Canadian Forces Site Regulations

The Contractor must comply with all standing orders or other regulations, instructions and directives in force on the site where the Work is performed.

7.13.2 Identification Badge

Any person assigned to the performance of any part of the Work that is performed on government premises must wear in a conspicuous place the identification badge issued to that person by Canada.

When a person is required to wear a safety helmet, the Contractor, if requested to do so by the Contracting Authority, must paint the number appearing on the badge on the front of the safety helmet.

7.13.3 Work Site Access

Authorized representatives of Canada must have access to any site where any part of the Work is being carried out at any time during working hours to make examinations and such tests of the Work as they may think fit.

7.14 Defence Contract

The Contract is a defence contract within the meaning of the Defence Production Act, R.S.C. 1985, c. D-1, and must be governed accordingly.

Title to the Work or to any materials, parts, work-in-process or finished work must belong to Canada free and clear of all claims, liens, attachments, charges or encumbrances. Canada is entitled, at any time, to remove, sell or dispose of the Work or any part of the Work in accordance with section 20 of the Defence Production Act.

7.15 Meetings

7.15.1 Pre-Refit Meeting

A Pre-Refit meeting may be convened and chaired by the Contracting Authority at the Repair facility up to two (2) weeks before the commencement of the work period.

7.15.2 Progress Meetings

Progress meetings, chaired by the Contracting Authority, will take place at the Contractor's facility as and when required, generally once a month. Interim meetings may also be scheduled. Contractor's attendees at these meetings will, as a minimum, be its Contract (Project) Manager, Production Manager (Superintendent) and Quality Assurance Manager. Progress meetings will generally incorporate technical meetings to be chaired by the Technical Authority.

7.15.3 Outstanding Work and Acceptance

The acceptance of vessels must be in accordance with form PWGSC-TPSGC 1205, Acceptance (Refits and Repairs). The Inspection Authority or designate, in conjunction with the Contractor, will prepare a list of outstanding work items at the end of the work period. This list will form the annexes to the formal acceptance document for the vessel. A contract completion meeting will be convened by the Inspection Authority on the work completion date to review and sign off the Acceptance Document.

In addition to any amount held under the Warranty Payment Holdback Clause, a holdback of twice the estimated value of outstanding work will be held until completion of the Work. Applicable Taxes will be calculated on this outstanding work holdback amount and paid at the time that the outstanding work holdback is released.

7.16 Insulation Materials - Asbestos Free

All materials used to insulate or re-insulate any surfaces on board the vessel must meet Transport Canada Marine standards, for commercial marine work, and, for all work, be free from asbestos in any form. The Contractor must ensure that all machinery and equipment located below or adjacent to surfaces to be re-insulated are adequately covered and protected before removing existing insulation.

7.17 SACC Manual Clauses

| | | |
|--------|--------------|--|
| A0285C | (2007-05-25) | Workers Compensation |
| A0290C | (2008-05-12) | Hazardous Waste – Vessels |
| A2000C | (2006-06-16) | Foreign Nationals (Canadian Contractor) |
| A9047C | (2008-05-12) | Title to Property - Vessel |
| A9055C | (2010-08-16) | Scrap and Waste Material |
| A9056C | (2008-05-12) | Supervision of Fueling and Disembarking Fuel |
| A9066C | (2008-05-12) | Vessel - Access by Canada |
| A9068C | (2010-01-11) | Government Site Regulations |
| B6100C | (2008-05-12) | Stability |

ANNEX A
STATEMENT OF WORK (SOW)

A-1 Interpretation

The words "shall" or "must" or "is required" or "mandatory" or "will", where they appear in the Statement of Work and/or referenced specifications, are to be read as obligations of the Contractor in the performance of the Work within the Contract Price.

The word "should" is to be read as a preference or recommendation that is not obligatory.

**A-2 The Statement of Work [SOW] is provided in a separate electronic document entitled:
SOW-W0103-198129A_rev00.pdf.**

To obtain the SOW, the Bidder must make a request in writing to the Contracting Authority identified in Article 7-5.1.

A-3 Supporting Technical Documents

The supporting technical documents are contained within the electronic files named:

TDP-W0103-198129A_01.zip;
TDP-W0103-198129A_02.zip;

To obtain the supporting technical documents, the Bidder must make a request in writing to the Contracting Authority identified in Article 7-5.1.

**ANNEX B
BASIS OF PAYMENT**

B-1 Contract Price

| | | |
|-----------|---|--|
| a. | <p>Known Work For work as stated in Part 7 Article 1, as specified in Annex A and as detailed on the Pricing Data Sheet,</p> | |
| | For a FIRM PRICE of: | |

Notes: Customs duties are included and Applicable Taxes are extra.
The "Total Estimated Cost" or "Revised Estimated Cost" given on Page 1 of the Contract or Contract Amendment includes an estimate of the Applicable Taxes [refer to the General Conditions].

B-2 Unscheduled Work

A. Price Breakdown:

The Contractor must, upon request, provide a price breakdown for all unscheduled work, by specific activities with trades, person-hours, material, subcontracts and services.

B. Pro-rated Prices:

Hours and prices for unscheduled work will be based on comparable historical data applicable to similar work at the same facility, or will be determined by pro-rating the quoted work costs in the Contract when in similar areas of the vessel.

C. Payment for Unscheduled Work:

The Contractor will be paid for unscheduled work arising, as authorized by Canada. The authorized unscheduled work will be calculated as follows:

Number of hours (to be negotiated) X \$_____, being the Contractor's firm hourly charge-out labour rate which includes overhead and profit, plus net laid-down cost of materials to which will be added a mark-up of 10 percent plus Applicable Taxes.

The firm hourly charge-out labour rate and the material mark-up will remain firm for the term of the Contract and any subsequent amendments.

B-2.1 Notwithstanding definitions or usage elsewhere in this document, or in the Contractor's Cost Management System, when negotiating *Hours* for unscheduled work, PWGSC will consider only those hours of labour directly involved in the production of the subject work package. Elements of *Related Labour Costs* identified in B2.2, will not be negotiated, but will be compensated for in accordance with B2.2.

B-2.2 Allowance for *Related Labour Costs* such as: Management, Direct Supervision, Purchasing and Material Handling, Quality Assurance and Reporting, First Aid, Gas Free Inspecting and Reporting, and Estimating will be included as *Overhead* for the purposes of determining the *Charge-out Labour Rate* set out in clause B2.

B-2.3 The 10% mark-up rate for materials will also apply to subcontracted costs. The mark-up rate includes any allowance for material and subcontract management not allowed for in the Chargeout Labour Rate.

The Contractor will not be entitled to a separate labour component for the purchase and handling of materials or subcontract administration.

B-3 Overtime

1. The Contractor must not perform any overtime under the Contract unless authorized in advance and in writing by the Contracting Authority. Any request for payment must be accompanied by a copy of the overtime authorization and a report containing the details of the overtime performed pursuant to the written authorization.

Payment for authorized overtime will be calculated as follows:

- a. For the Known Work, the Contractor will be paid the Contract Price plus authorized overtime hours paid at the following premium rates:

For time and one half: \$_____ per hour, or

For double time: \$_____ per hour.

- b. For unscheduled work, the Contractor will be paid the authorized overtime hours at the quoted charge-out labour rate, plus the following premium rates:

For time and one half: \$_____ per hour, or

For double time: \$_____ per hour.

2. The above premiums will be calculated by taking the average hourly direct labour rate premiums, plus certified fringe benefit, plus profit of 7.5 percent on labour premium and fringe benefits. These rates will remain firm for the duration of the Contract, including all amendments and are subject to audit if considered necessary by Canada.

B-4 Lay Day/Berthage Day Fees

The following fees are to be provided by the Bidder. In the event of a delay in the performance of the Work, and if such delay is recognized and agreed upon by the Contracting Authority as being attributable to Canada, these fees will be used to establish the liability of Canada to the Contractor for the delay.

- a. Lay day fee for a working day: \$_____
- b. Lay day fee for a non-working day: \$_____
- c. Berthage Fee per day: \$_____

A lay day is defined as “a day of delay in port” with the vessel docked (i.e. removed from the water) at the contractor’s facility. A lay day fee should include those costs associated with maintaining the vessel at the Contractor’s facility but will not include costs of consumption of such services including but not limited to electrical power, potable water, steam, compressed air, etc. The lay day and berthage fees are firm and not subject to any additional charges for mark-up or profit.

ANNEX C
INSURANCE REQUIREMENTS

C-1 Ship Repairers' Liability Insurance

1. The Contractor must obtain Ship Repairer's Liability Insurance and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$10,000,000 per accident or occurrence. **(For annual and maximum liabilities see article 7-2.1 of the Contract.)**
2. The Ship Repairer's Liability insurance must include the following:
 - a. Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's performance of the Contract. The interest of Canada as additional insured should read as follows: Canada, represented by Department of National Defence and Public Works and Government Services Canada.
 - b. Waiver of Subrogation Rights: Contractor's Insurer to waive all rights of subrogation against Canada as represented by Department of National Defence and Public Works and Government Services Canada for any and all loss of or damage to the vessel, however caused.
 - c. Notice of Cancellation: The Insurer will endeavor to provide the Contracting Authority thirty (30) days written notice of cancellation.
 - d. Contractual Liability: The policy must, on a blanket basis or by specific reference to the contract, extend to assumed liabilities with respect to contractual provisions.
 - e. Cross Liability/Separation of Insureds: Without increasing the limit of liability, the policy must protect all insured parties to the full extent of coverage provided. Further, the policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.
 - f. Litigation Rights: Pursuant to subsection 5(d) of the [Department of Justice Act](#) , S.C. 1993, c. J-2, s.1, if a suit is instituted for or against Canada which the Insurer would, but for this clause, have the right to pursue or defend on behalf of Canada as an Additional Named Insured under the insurance policy, the Insurer must promptly contact the Attorney General of Canada to agree on the legal strategies by sending a letter, by registered mail or by courier, with an acknowledgement of receipt.

For the province of Quebec, send to:

Director Business Law Directorate,
Quebec Regional Office (Ottawa),
Department of Justice,
284 Wellington Street, Room SAT-6042,
Ottawa, Ontario, K1A 0H8

For other provinces and territories, send to:

Senior General Counsel,
Civil Litigation Section,
Department of Justice
234 Wellington Street, East Tower
Ottawa, Ontario K1A 0H8

A copy of the letter must be sent to the Contracting Authority. Canada reserves the right to co-defend any action brought against Canada. All expenses incurred by Canada to co-defend such actions will be at Canada's expense. If Canada decides to co-defend any action brought against it, and Canada does not agree to a proposed settlement agreed to by the Contractor's insurer and the plaintiff(s) that would result in the settlement or dismissal of the action against Canada, then Canada will be responsible to the Contractor's insurer for any difference between the proposed settlement amount and the amount finally awarded or paid to the plaintiffs (inclusive of costs and interest) on behalf of Canada.

C-2 Commercial General Liability

1. The Contractor must obtain Commercial General Liability Insurance, and maintain it in force throughout the duration of the Contract, in an amount usual for a contract of this nature, but for not less than \$10,000,000 per accident or occurrence.
2. The Commercial General Liability Insurance policy must include the following:
 - a. Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's performance of the Contract. The interest of Canada should read as follows: Canada, as represented by the Department of National Defence and Public Works and Government Services Canada.
 - b. Bodily Injury and Property Damage to third parties arising out of the operations of the Contractor.
 - c. Personal Injury: While not limited to, the coverage must include Violation of Privacy, Libel and Slander, False Arrest, Detention or Imprisonment and Defamation of Character.
 - d. Cross Liability/Separation of Insureds: Without increasing the limit of liability, the policy must protect all insured parties to the full extent of coverage provided. Further, the policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.
 - e. Blanket Contractual Liability: The policy must, on a blanket basis or by specific reference to the Contract, extend to assumed liabilities with respect to contractual provisions.
 - f. Employees and, if applicable, Volunteers must be included as Additional Insured.
 - g. Employers' Liability (or confirmation that all employees are covered by Worker's compensation (WSIB) or similar program)
 - h. Notice of Cancellation: The Insurer will endeavor to provide the Contracting Authority thirty (30) days written notice of policy cancellation.

- i. If the policy is written on a claims-made basis, coverage must be in place for a period of at least 12 months after the completion or termination of the Contract.
- j. Owners' or Contractors' Protective Liability: Covers the damages that the Contractor becomes legally obligated to pay arising out of the operations of a subcontractor.
- k. Sudden and Accidental Pollution Liability (minimum 120 hours): To protect the Contractor for liabilities arising from damages caused by accidental pollution.
- l. Litigation Rights: Pursuant to subsection 5(d) of the [Department of Justice Act](#), S.C. 1993, c. J-2, s.1, if a suit is instituted for or against Canada which the Insurer would, but for this clause, have the right to pursue or defend on behalf of Canada as an Additional Named Insured under the insurance policy, the Insurer must promptly contact the Attorney General of Canada to agree on the legal strategies by sending a letter, by registered mail or by courier, with an acknowledgement of receipt.

For the province of Quebec, send to:

Director Business Law Directorate,
Quebec Regional Office (Ottawa),
Department of Justice,
284 Wellington Street, Room SAT-6042,
Ottawa, Ontario, K1A 0H8

For other provinces and territories, send to:

Senior General Counsel,
Civil Litigation Section,
Department of Justice
234 Wellington Street, East Tower
Ottawa, Ontario K1A 0H8

A copy of the letter must be sent to the Contracting Authority. Canada reserves the right to co-defend any action brought against Canada. All expenses incurred by Canada to co-defend such actions will be at Canada's expense. If Canada decides to co-defend any action brought against it, and Canada does not agree to a proposed settlement agreed to by the Contractor's insurer and the plaintiff(s) that would result in the settlement or dismissal of the action against Canada, then Canada will be responsible to the Contractor's insurer for any difference between the proposed settlement amount and the amount finally awarded or paid to the plaintiffs (inclusive of costs and interest) on behalf of Canada.

C-3 Marine Liability Insurance

1. The Contractor must obtain Protection & Indemnity (P&I) insurance that must include excess collision liability and pollution liability. The insurance must be placed with a member of the International Group of Protection and Indemnity Associations or with a fixed market in an amount of not less than the limits determined by the [Marine Liability Act](#), S.C. 2001, c. 6. Coverage must include crew liability, if it is not covered by Worker's Compensation as detailed in paragraph (2.) below.
2. The Contractor must obtain Worker's Compensation insurance covering all employees engaged in the Work in accordance with the statutory requirements of the Territory or Province or state of nationality, domicile, employment, having jurisdiction over such employees. If the Contractor is assessed any

additional levy, extra assessment or super-assessment by a Worker's Compensation Board, as a result of an accident causing injury or death to an employee of the Contractor or subcontractor, or due to unsafe working conditions, then such levy or assessment must be paid by the Contractor at its sole cost.

3. The Protection and Indemnity insurance policy must include the following:
- a. Additional Insured: Canada is added as an additional insured, but only with respect to liability arising out of the Contractor's performance of the Contract. The interest of Canada as additional insured should read as follows: Canada, represented by Public Works and Government Services Canada.
 - b. Waiver of Subrogation Rights: Contractor's Insurer to waive all rights of subrogation against Canada as represented by Department of National Defence and Public Works and Government Services Canada for any and all loss of or damage to the watercraft however caused.
 - c. Notice of Cancellation: The Insurer will endeavour to provide the Contracting Authority thirty (30) days written notice of cancellation.
 - d. Cross Liability/Separation of Insureds: Without increasing the limit of liability, the policy must protect all insured parties to the full extent of coverage provided. Further, the policy must apply to each Insured in the same manner and to the same extent as if a separate policy had been issued to each.
 - e. Litigation Rights: Pursuant to subsection 5(d) of the [Department of Justice Act](#), S.C. 1993, c. J-2, s.1, if a suit is instituted for or against Canada which the Insurer would, but for this clause, have the right to pursue or defend on behalf of Canada as an Additional Named Insured under the insurance policy, the Insurer must promptly contact the Attorney General of Canada to agree on the legal strategies by sending a letter, by registered mail or by courier, with an acknowledgement of receipt.

For the province of Quebec, send to:
Director Business Law Directorate,
Quebec Regional Office (Ottawa),
Department of Justice,
284 Wellington Street, Room SAT-6042,
Ottawa, Ontario, K1A 0H8

For other provinces and territories, send to:

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Department of Justice
234 Wellington Street, East Tower
Ottawa, Ontario K1A 0H8

A copy of the letter must be sent to the Contracting Authority. Canada reserves the right to co-defend any action brought against Canada. All expenses incurred by Canada to co-defend such actions will be at Canada's expense. If Canada decides to co-defend any action brought against it, and Canada does not agree to a proposed settlement agreed to by the Contractor's insurer and the plaintiff(s) that would result in the settlement or dismissal of the action against Canada, then Canada will be responsible to the Contractor's insurer for any difference between the proposed settlement amount and the amount finally awarded or paid to the plaintiffs (inclusive of costs and interest) on behalf of Canada.

C-4 Vessel Custody

1. This work is going to take place with the vessel "out of commission" and therefore in the "care, control and custody" of the Contractor.
2. The "CERTIFICATE of CUSTODY - ASSUMPTION OF CUSTODY OF FEDERAL GOVERNMENT SHIPS BY CONTRACTOR" (Appendix 1 to Annex C) must be completed as required and a copy passed to the Inspection Authority.
3. To facilitate this turnover, representatives of the Contractor and Canada must confirm the condition of the vessel.
4. A vessel condition report must be appended to the above noted certificate and must be accompanied by colour photographs or videos in either conventional or digital format.
5. When the vessel is to be returned to the "care, control and custody" of Canada, the "CERTIFICATE of CUSTODY - RESUMPTION OF CUSTODY OF FEDERAL GOVERNMENT SHIPS BY THE CLIENT DEPARTMENT" (Appendix 2 to Annex C) must be completed and a signed copy passed to Canada for distribution.

APPENDIX 1 TO ANNEX C

CERTIFICATE OF CUSTODY

ASSUMPTION OF CUSTODY OF CANADIAN GOVERNMENT SHIPS BY CONTRACTOR

ACCEPTANCE OF: HMCSTV _____

1. The undersigned, on behalf of the Department of National Defence and of _____ acknowledge to have handed over and received respectively HMCSTV _____ for the purpose of refit, all in accordance with the terms and conditions of PWGSC Contract Serial Number W0103-198129/001/XLV and such documents which form part of the said contract.
2. It is mutually agreed by all parties that the condition report by compartment or area must be considered as an addendum to this Contract; and must be a valid document in the taking over of the vessel by the Contractor, even if the inspection and signing occur after the signing of the Contract but within the agreed ten (10) day period.
3. It is further agreed by all parties that the liabilities and responsibilities of _____ as defined in Article 9 of PWGSC 1029 Supplemental General Conditions for Ship Repairs, for a vessel out of commission, will commence as at _____ hours on _____ (date).

SIGNED AT.....
ON THE DAY OF..... 20.....

AT HOURS.

FOR:
DEPARTMENT OF NATIONAL DEFENCE

FOR:
CONTRACTOR

WITNESSED BY:
PUBLIC WORKS AND GOVERNMENT SERVICES CANADA

APPENDIX 2 TO ANNEX C

CERTIFICATE OF CUSTODY

RESUMPTION OF CUSTODY OF CANADIAN GOVERNMENT SHIPS BY THE CLIENT DEPARTMENT

ACCEPTANCE OF: HMCSTV _____

1. The undersigned, on behalf of _____ and of the Department of National Defence, acknowledge to have handed over and to have received respectively HMCSTV _____ having been received _____ on _____, for the purpose of refit in accordance with the terms and conditions of PWGSC Contract Serial Number W0103-198129/001/XLV.
2. It is mutually agreed by all parties that the liabilities and responsibilities of _____, as defined in Article 9 of PWGSC 1029 Supplemental General Conditions for Ship Repairs, for a vessel out of commission, will automatically cease as at _____ hours on _____ (date).
3. That effective from _____ hours on the _____ (date), Article 8 of PWGSC 1029 for a vessel "in commission" shall apply, and that responsibility for the care and protection of the said vessel will revert to Canada.

SIGNED AT.....

ON THE DAY OF..... 20.....

AT HOURS.

FOR:
CONTRACTOR

FOR:
DEPARTMENT OF NATIONAL DEFENCE

WITNESSED BY:
PUBLIC WORKS AND GOVERNMENT SERVICES CANADA

ANNEX D
WARRANTY PROCEDURES AND CLAIM FORM

D-1 Warranty Procedures

1. Scope

- a. The following are the procedures which suit the particular requirements for warranty considerations for a vessel on completion of a refit.

2. Definition

- a. There are a number of definitions of “warranty” most of which are intended to describe its force and effect in law. One such definition is offered as follows:
“A warranty is an agreement whereby the vendor’s or manufacturer’s responsibility for performance of its product is extended for a specific period of time beyond the date at which the title to the product passes to the buyer.”

3. Warranty Conditions

- a. General Conditions 2030 (2018-06-21), General Conditions - Higher Complexity - Goods are augmented by clauses incorporated into the subject Contract.
- b. The warranty periods may be stated in more than one part:
 - i. 90 days commencing from the day the PWGSC 1205 Acceptance Document is signed for workmanship provided by the contractor for the refit work specified;
 - ii. 365 days from the date of acceptance for the specified areas of painting;
 - iii. 365 days commencing from the day the PWGSC 1205 Acceptance Document is signed for parts and material provided by the contractor for the refit work specified;
 - iv. Any other specific warranty periods that may be required in the contract or offered by the Contractor.
- c. The foregoing does not cover the disposition of other deficiencies that will be directly related to Technical Authority problem areas of the following nature:
 - i. items becoming unserviceable that were not included in the refit specification;
 - ii. refit specifications or other related documentation requiring amendments or corrections to increase viability; and
 - iii. work performed that is directly related to the Technical Authority.

4. Reporting Failures With Warranty Potential

- a. The initial purpose of a report of a failure is to facilitate the decision as to whether or not to involve warranty and to generate action to effect repairs. Therefore in addition to identification, location data, etc. the report must contain details of the defect. Warranty decisions as a general rule are to be made locally and the administrative process is to be in accordance with procedures as indicated.
- b. These procedures are necessary as invoking a warranty does not simply mean that the warrantor will automatically proceed with repairs at his expense. A review of the defect may well result in a disclaimer of responsibility, therefore, it is imperative that during such a review the Department is directly represented by competent technical authority qualified to agree or disagree with the warrantor’s assertions.

5. Procedures

- a. Immediately it becomes known to the Ship's Staff that an equipment/system is performing below accepted standards or has become defective, the procedures for the investigation and reporting are as follows:
 - i. The vessel advises the Technical Authority when a defect, which is considered to be directly associated with the refit work, has occurred.
 - ii. On review of the Specification and the Acceptance Document, the Technical Authority in consort with Ship's Staff is to complete the Tombstone Data and section 1 of the Warranty Claim Form Appendix 1 to Annex D and forward the original to the Contractor for review with a copy to the PWGSC Contracting Authority. If the PWGSC Contracting or Inspection Authority is unable to support warranty action, the Defect Claim Form will be returned to the originator with a brief justification. (It is to be noted that in the latter instance PWGSC will inform the Contractor of its decision and no further action will be required of the Contractor.
Warranty defect claims may be forwarded in hard copy, by fax or by e-mail whichever format is the most convenient.
 - iii. Assuming the Contractor accepts full responsibility for repair, the Contractor completes Section 2 and 3 of the Warranty Claim Form, returns it to the Inspection Authority who confirms corrective action has been completed, and who then distributes the form to the Technical Authority and the PWGSC Contracting Authority.
- b. In the event that the Contractor disputes the claim as a warranty defect, or agrees to share, the contractor is to complete Part 2 of the Warranty Claim Form with the appropriate information and forward it to the Contracting Authority who will distribute copies as necessary.
- c. When a warranty defect claim is disputed by the Contractor, the Technical Authority may arrange to correct the defect by in-house resources or by contracting the work out. All associated costs must be tracked and recorded as a possible charge against the contractor by PWGSC action. Material costs and manhours expended in correcting the defect are to be recorded and entered in Section 5 of the warranty defect claim by the Technical Authority who will forward the warranty defect claim to the PWGSC Contracting Authority for action. Defective parts of equipment are to be retained pending settlement of claim.
- d. Defective equipment associated with potential warranty should not normally be dismantled until the contractor's representative has had the opportunity to observe the defect. The necessary work is to be undertaken through normal repair methods and costs must be segregated as a possible charge against a contractor by PWGSC action.

6. Liability

- a. Agreement between the Contracting Authority, Inspection Authority, Technical Authority and the Contractor will result in one of the following conditions:
 - i. The contractor accepts full responsibility for costs to repair or overhaul under the warranty provisions of the contract;
 - ii. The Technical Authority accepts full responsibility for repair and overhaul of item concerned; or
 - iii. The Contractor and the Technical Authority agree to share responsibility for the costs to repair or overhaul the unserviceable item, in such cases the PWGSC Contracting Authority will negotiate the best possible sharing arrangement.
- b. In the event of a disagreement as in paragraph 5c, PWGSC will take necessary action with the contractor while the Technical Authority informs its Senior Management including pertinent data and recommendations.
- c. The total cost of processing warranty claims must include accommodation and travel costs of the contractor's employees as well as equipment/system down time and operational constraints. Accordingly, the cost to remediate the defect, in manhours and material, will be discussed between the Contracting/Inspection Authorities and the Technical Authority to determine the best course of action.

7. Alongside Period For Warranty Repairs and Checks

- a. If at all possible, an alongside period for the vessel is to be arranged just before the expiration of the 90 day warranty period. This alongside period is to provide time for warranty repair and check by the contractor.
- b. In respect to the underwater paint, should it become defective during the associated warranty period the contractor is only liable to repair to a value determined as follows:
“Original cost to Canada for painting and preservation of the underwater section of the hull, divided by three hundred sixty five (365) days and multiplied by the number of days remaining in the period. The resultant would represent the ‘Dollar Credit’ due to Canada from the Contractor.”
- c. The Underwater paint system, before expiration of the warranty, should be checked by divers. The Technical Authority, is to arrange the inspection and inform the Contracting Authority of any adverse results.

2. Contractor's Investigative Report – Le rapport investigateur de l'entrepreneur

3. Contractor's Corrective Action – La modalité de reprise de l'entrepreneur

Contractor's Name and Signature – Nom et signature de l'entrepreneur

Date of Corrective Action - Date de modalité de reprise

Client Name and Signature - Nom et signature de client

Date

4. PWGSC Review of Warranty Claim Action – Examen d'action de réclamation de garantie par TPSGC

Signature – Signature

Date

5. Additional Information – Renseignements supplémentaires

ANNEX E
PROCEDURE FOR UNSCHEDULED WORK

E1. Purpose

The unscheduled work procedure has been instituted for the following purposes:

- a. To establish a uniform method of dealing with requests for unscheduled work;
- b. To obtain the necessary Technical Authority approval and Contracting Authority authorization before unscheduled work commences;
- c. To provide a means of maintaining a record of unscheduled work requirements including serial numbers, dates and accumulated cost. The Contractor must have a cost accounting system that is capable of assigning job numbers for each unscheduled work requirement so that each requirement can be audited individually.

E2. Definitions

- a. An unscheduled work procedure is a contractual procedure whereby changes to the scope of work under the Contract may be defined, priced and contractually agreed to. Such changes may arise from:
 - i. "Work Arising" from opening up of machinery and/or surveys of equipment and material,OR
 - ii. "New Work" not initially specified but required on the Vessel.
- b. The procedure does not allow for the correction of deficiencies in the Contractor's Bid.
- c. No unscheduled work may be undertaken by the Contractor without written authorization by the Contracting Authority, except under emergency circumstances as described in sub paragraph 3(b) unscheduled work.
- d. Work undertaken without written Contracting Authority authorization will be considered the Contractor's responsibility and cost.
- e. The appropriate PWGSC form is the final summary of the definition of the unscheduled work requirement, and the costs negotiated and agreed to.

E3. Procedures

- a. The procedure involves the electronic form PWGSC 1379 for refit and repair and will be the only form for authorizing all unscheduled work.
- b. Emergency measures required to prevent loss or damage to the Vessel which would occur if this procedure were followed, shall be taken by the Contractor on its own authority. The responsibility for the cost of such measures shall be determined in accordance with the terms and conditions of the Contract.
- c. The Technical Authority will initiate a work estimate request by defining the unscheduled work requirement. It will attach drawings, sketches, additional specifications, other clarifying details as appropriate, and allocate their serial number for the request.

- d. Notwithstanding the foregoing, the Contractor may propose to the Technical Authority in writing either by letter or some type of Defect Advice Form (A Contractor owned form) that certain unscheduled work should be carried out.
- e. The Technical Authority will either reject or accept such proposal and advise the Contractor and Contracting Authority. Acceptance of the proposal is not to be construed as authorization for the work to proceed. If required, the Technical Authority will then define the unscheduled work requirement in accordance with sub paragraph 3(c).
- f. The Contractor will electronically submit its proposal to the Contracting Authority together with all price support and any qualifications, remarks or other information as requested.
- g. The price support shall demonstrate the relationship between the scope of work, the Contractor's estimated costs and its selling price. It is a breakdown of the Contractor's unit rates, estimates of person hours by trade, estimate of material cost per item for both the Contractor and all of its subcontractors including quotations, estimates and any related schedule impact and an evaluation of the Contractor's time required to perform the unscheduled work.
- h. The Contractor shall provide copies of purchase orders and paid invoices for subcontracts and/or material, including stocked items. The Contractor shall provide a minimum of two quotations for subcontracts or material. If other than the lowest or sole source is being recommended for quality and/or delivery considerations, this shall be noted. Upon request by the Contractor, the Contracting Authority shall be permitted to meet with any proposed subcontractor or material supplier for discussion of the price, and always with the Contractor's representative present.
- i. After discussion between the Contracting Authority and the Contractor and if no negotiation is required, the Contracting Authority will seek confirmation from the Technical Authority to proceed with the work by signing the form noted above in sub paragraph 3(d). The Contracting Authority will then sign and authorize the unscheduled work to proceed.
- j. In the event that the Technical Authority does not wish to proceed with the work, the Contracting Authority will cancel the proposed unscheduled work in writing.
- k. In the event the negotiation involves a credit, the appropriate PWGSC form will be noted accordingly.
- l. In the event that the Technical Authority requires unscheduled work of an urgent nature or an impasse has occurred in negotiations the commencement of unscheduled work should not be unduly delayed and should be processed as follows:
 - The Contractor will complete PWGSC 1379 form indicating the estimated cost and provide it to the Contracting Authority.
 - If the Technical Authority wishes to proceed, both the Technical Authority and the Contracting Authority will sign the completed PWGSC form. It will be understood and accepted that this cost will be a ceiling price cost and therefore only subject to downward adjustment.
 - A serial number will be allocated and will include Suffix A.

The work will proceed with the understanding that following an audit of the Contractor's actual costs for completing the described work, the cost will be finalized no higher than the ceiling price and less as applicable and justified. A new PWGSC form will be completed with the finalized cost and duly signed and issued with the same serial number but without suffix A. This form is replacing the original and will be the final approved form.

NOTE: PWGSC forms bearing serial numbers with a suffix A shall not be included in any contract amendments and therefore no payment shall be made until final resolution of the prices and subsequent incorporation into the contract have been completed.

E4. Amendment to Contract or Formal Agreement

The contract will be amended from time to time in accordance with the contract terms in order to incorporate costs that have been authorized on the proper PWGSC form(s).

**ANNEX F
FINANCIAL BID PRESENTATION SHEET**

F-0 Proposed Work Period Location: _____

F-1 Evaluation of Price

The price of the bid will be evaluated in Canadian dollars, Applicable Taxes excluded, Canadian customs duties and excise taxes included.

| | | |
|-----------|--|----------|
| a. | Known Work For work as stated in Part 1 article 1.2, specified in Annex A and detailed in the attached Pricing Data Sheet Annex F, Appendix 1 (Known Work) for a FIRM PRICE of: | \$ _____ |
| b. | Unscheduled Work <i>Labour Cost:</i> Estimated labour hours at a firm <i>Charge-out Labour Rate</i> , including overhead and profit: 40 person hours X \$ _____ per hour for a PRICE of: See articles F2.1 and F2.2 below. | \$ _____ |
| c. | Lay Day / Berthage Fees As per article F-4 i. Five (5) working lay days X \$ _____ = \$ _____ ii. Two (2) non-working lay days X \$ _____ = \$ _____ iii. Three (3) berthing days X \$ _____ = \$ _____ | \$ _____ |
| d. | EVALUATION PRICE Applicable Taxes Excluded, [a + b + c]: For an EVALUATION PRICE of : | \$ _____ |

F-2 Unscheduled Work

Unscheduled work arising, as authorized by the Minister, will be calculated in the following manner:

“Number of hours (to be negotiated) X _____ your firm hourly *Charge-out Labour Rate* which includes *Overhead* and profit, plus net laid-down cost of materials to which will be added a 10% mark-up, plus Applicable Taxes. The firm hourly *Charge-out Labour Rate* and the material mark-up will remain firm for the duration of the Contract and any subsequent amendments.”

F-2.1 Notwithstanding definitions or usage elsewhere in this document, or in the Bidder’s Cost Management System, when negotiating *Hours* for unscheduled work, PWGSC will consider only those hours of labour directly involved in the production of the subject work package.

Elements of *Related Labour Costs* identified in F2.2 will not be negotiated, but will be compensated for in accordance with F2.2. It is therefore incumbent upon the Bidder to enter values in the above table which will result in fair compensation, regardless of the structure of their Cost Management System.

F-2.2 Allowance for *Related Labour Costs* such as: Management, Direct Supervision, Purchasing and Material Handling, Quality Assurance and Reporting, First Aid, Gas Free Inspecting and Reporting, and Estimating will be included as *Overhead* for the purposes of determining the *Charge-out Labour Rate* entered in Table F1 line F1b. above. The evaluation in Table F1 line H1b above is for evaluation purposes only and does not guarantee any unscheduled work.

F-2.3 The 10% mark-up rate for materials will also apply to subcontracted costs. The mark-up rate includes any allowance for material and subcontract management not allowed for in the Chargeout Labour Rate. A separate labour component for the purchase and handling of materials or subcontract administration is not allowable.

F-3 Overtime

1. The Contractor must not perform any overtime under the Contract unless authorized in advance and in writing by the Contracting Authority. Any request for payment must be accompanied by a copy of the overtime authorization and a report containing the details of the overtime performed pursuant to the written authorization.

Payment for authorized overtime will be calculated as follows:

a. For known work, the Contractor will be paid the Contract Price plus authorized overtime hours paid at the following premium rates:

For time and one half: \$_____ per hour, or

For double time: \$_____ per hour.

b. For unscheduled work, the Contractor will be paid the authorized overtime hours at the quoted charge-out labour rate, plus the following premium rates:

For time and one half: \$_____ per hour, or

For double time: \$_____ per hour.

2. The above premiums will be calculated by taking the average hourly direct labour rate premiums, plus certified fringe benefit, plus profit of 7.5 percent on labour premium and fringe benefits. These rates will remain firm for the duration of the Contract, including all amendments and are subject to audit if considered necessary by Canada.

F-4 Lay Day/Berthage Day Fees

The following fees are to be provided by the Bidder. In the event of a delay in the performance of the Work, and if such delay is recognized and agreed upon by the Contracting Authority as being attributable to Canada, these fees will be used to establish the liability of Canada to the Contractor for the delay.

- a. Lay day fee for a working day: \$ _____
- b. Lay day fee for a non-working day: \$ _____
- c. Berthage Fee per day: \$ _____

A lay day is defined as “a day of delay in port” with the vessel docked (i.e. removed from the water) at the contractor’s facility. A lay day fee should include those costs associated with maintaining the vessel at the Contractor’s facility but will not include costs of consumption of such services including but not limited to electrical power, potable water, steam, compressed air, etc. The lay day and berthage fees are firm and not subject to any additional charges for mark-up or profit.

APPENDIX 1 TO ANNEX F - PRICING DATA SHEET

The Pricing Data Sheet [PDS] is provided in a separate electronic document entitled:
PDS-W0103-198129.xlsx.

To obtain the PDS, the Bidder must make a request in writing to the Contracting Authority identified in Article 7-5.1.

**ANNEX 1 to PART 3 OF THE BID SOLICITATION
ELECTRONIC PAYMENT INSTRUMENTS**

The Bidder accepts to be paid by any of the following Electronic Payment Instrument(s):

- VISA Acquisition Card;
- MasterCard Acquisition Card;
- Direct Deposit (Domestic and International).