



**Government Contact Centre  
Services (GCCS) Stream 2:  
Contact Centre as a Service  
(CCaaS)**

**Resulting Contract Clauses  
Template**



**Purchasing Office / Bureau des achats:**

Shared Services Canada /Services partagés Canada  
Procurement and Vendor Relations /  
Fournisseur des achats  
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13ième étage  
P.O. Box 9808 , STN T CSC /  
CP 9808, succursale T CSC  
Ottawa, Ontario K1G 4A8

**CONTRACT – CONTRAT**

**Your proposal is accepted** 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 supplies/services listed herein and on any attached sheets at the price or prices set out therefor.

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

**COMMENTS / COMMENTAIRES:**

The Vendor/Firm hereby accepts/acknowledges this supply arrangement.

Le fournisseur/entrepreneur accepte le présent arrangement en matière d’approvisionnement/en accuse réception

**Vendor / Firm Name and address**

**Raison sociale et adresse du fournisseur / de l’entrepreneur**

<b>Title / Sujet</b> Government Contact Centre Services (GCCS) – Stream 2: Contact Centre as a Service (CCaaS) – Resulting Contract Clauses	
<b>Contract No. / Numéro de contrat</b>	<b>Amendment No. /No de la modification</b>
<b>Date</b>	
<b>Supply Arrangement No. / Numéro de l’arrangement</b>	<b>Requisition No. / Numéro de la demande</b> TBD
<b>Financial Code (s) / Code (s) financier (s)</b> Not Applicable - Details will be provided at the time of bid solicitation.	
<b>F.O.B. / F.A.B.</b> Destination	
<b>GST / HST    TPS / TVH</b> See Herein - Voir ci-inclus	<b>Duty / Droits</b> Herein - Voir ci-inclus
<b>Destination - of Goods, Services, and Construction:</b> <b>Destination - des biens, services et construction:</b>	
<b>Invoices:</b>  Not Applicable - Details will be provided at the time of bid solicitation.	
<b>Contracting Authority / Autorité contractante:</b>  James Graves (613) 668-9563 <a href="mailto:james.graves2@canada.ca">james.graves2@canada.ca</a>	
<b>Increase (Decrease) / Augmentation (Diminution)</b>	
<b>Total Estimated Cost / Coût total estimatif</b>	<b>Currency / Devise</b>
<b>For the Minister / Pour le Ministre</b>	



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**Note to Bidders:** These Resulting Contract Clauses are intended to form the basis of any contract resulting from this bid solicitation. Except where specifically set out in these Resulting Contract Clauses, acceptance by Bidders of all the clauses is a mandatory requirement of this bid solicitation.

**No modification or other terms and conditions included in the bid will apply to the resulting contract, despite the fact that the bid may become part of the resulting contract.**

Any Bidder submitting a bid containing statements implying that the bid is conditional on modification of these Resulting Contract Clauses (including all documents incorporated by reference) or containing terms and conditions that purport to supersede these Resulting Contract Clauses will be considered non-compliant. As a result, Bidders with concerns regarding the provisions of these Resulting Contract Clauses should raise those concerns in accordance with the Questions and Comments provision of the bid solicitation.

If additional legal issues are raised by a bid, Canada reserves the right to address those issues in any contract awarded as a result of this bid solicitation. If the additional provisions are unacceptable to the Bidder, the Bidder may withdraw its bid.

## 1. Overview of Requirement

### 1.1 Overview of the Work

- a) \_\_\_\_\_ (the “Contractor”) (**The Contractor’s name will be entered at contract award**) agrees to supply to the Client the goods and services described in the Contract, including the **Statement of Work (Annex A)** in accordance with, and at the prices set out in, the Contract. This includes:
- i) **“Subscription Service(s)”** providing all or a subset of SSC’s Clients and Users with access to interactive cloud-based services with specified capabilities and service levels;
  - ii) **“Managed Service(s)”** in which the Contractor performs one of Canada’s functions for Canada, which may or may not be related to a Subscription Service (e.g., instead of using the Subscription Service itself to identify the amount payable to a member of Canada’s workforce in any given pay period, Canada pays the Contractor to provide that as a Managed Service);
  - iii) **“Value-Added Service(s)”**, consisting of any other service that falls within the scope of this Contract; and
  - iv) **“Professional Services”**, which could consist of stand-alone professional services (such as a study or a design) or professional services that support the delivery of a Subscription Service or a Value-Added Service, including services such as those relating to requirements definition, analysis, design, implementation, business transformation, data cleansing, data migration and conversion, training, and testing.

together with providing the Materials (defined in the next paragraph) related to the provision of any of these services. Any time Canada issues a Work Request Notice (Requirement) for more than one of the above, they are collectively referred to in this Contract as a **“Solution”**. This reflects that Canada will, in most cases, not simply be seeking a Subscription Service, but a full suite of services that accomplish specified outcomes that may involve the use of a Subscription Service. Any reference to the **“Work”** means all the activities, goods, services, matters and things required to be done, delivered or performed by the Contractor under the Contract, as specified in the individual Requirements.

- b) In this Contract:



- i) **“Articles of Agreement”** refers to this document, including any attachments or documents incorporated by reference;
- ii) **“Canada”, “the Government”, or “GC”** means Her Majesty the Queen in right of Canada as represented by the Minister of Shared Services Canada and any other person duly authorized to act on behalf of that minister or, if applicable, an appropriate minister to whom the Minister of Shared Services Canada has delegated his or her powers, duties or functions and any other person duly authorized to act on behalf of that minister;
- iii) **“the Contract” or “this Contract”** refers to these Articles of Agreement and all other parts of the Contract, as set out in the “Priority of Documents” article including, without limitation, any Requirements entered into under these Articles of Agreement;
- iv) the **“Material(s)”** means anything that is provided by the Contractor to Canada in performing the Work under the Contract in which copyright subsists. Where incorporated into it the Material(s), they also include anything created by the Contractor before the date of the Contract or, if the Materials are delivered pursuant to a specific Requirement, prior to the Requirement being issued (the **“Pre-existing Material”**). For greater certainty:
  - (A) the Material does not include any of the Contractor’s terms and conditions included either in the Contract or in an individual Requirement, the Contractor’s bid that resulted in the award of this Contract or the Contractor’s responses to individual Requirements; and
  - (B) the Material includes all reports, analyses, scripts, processes, training materials and anything else delivered in writing delivered pursuant to the Requirement.

## 1.2 Minimum Work Guarantee

- a) If the Contractor is not issued Requirements during the **Initial Contract Period** totalling at least **\$5,000** (not including any Applicable Taxes), then at the end of that period Canada will pay the Contractor the difference between that amount and the aggregate amount paid for (not including any Applicable Taxes) all Requirements issued to the Contractor (as amended, if the value changed after the Requirement was issued). The maximum face value of any Requirements or part of a Requirement terminated for default will be counted, but the face value of any Requirements or part of Requirements terminated for convenience will not be counted.
- b) The Contractor is not guaranteed any Work or to be issued Requirements pursuant to this Contract beyond the commitments set out in this Article.

## 1.3 Non-Exclusive Engagement

Canada may choose to use any resulting contracts issued under the GCCS: Stream 2 (CCaaS) SA to serve any or all of the Clients but may also use alternative means to provide the same or similar services to one or more Clients.

## 1.4 No Liability or Warranty for Work done by other Contractors

The parties agree that, if a Solution, Subscription Service, Material, Managed Service or Value-Added Service is provided by the Contractor, but implemented or managed by a third party not certified by the Contractor or one of its subcontractors (following a standard certification process available to any other third party that would want to perform such services), the Contractor will not be liable for the work performed by that third party and all covenants, representations and



warranties that would otherwise apply to the Solution, Subscription Service, Material, Managed Service or Value-Added Service are null and void.

## 1.5 Collaborative Environment

The Contractor agrees that it will:

- a) Except for disclosures required by law, not make any media or other public statements regarding any services rendered or products delivered under this Contract without the prior consent of the Contracting Authority.
- b) **Contractor's Roadmap:** The Contractor agrees, at least during the **Initial Contract Period** (and thereafter only if it has active contracts under the SA), it will provide to Canada materials that explain upcoming changes to the capabilities and features of its Subscription Service generally as well as to any Solutions it is providing under a contract as it would normally provide to its customers.
- c) **Engagement with Public Servants:**
  - i) The Contractor agrees that, unless it has the written consent of the Contracting Authority, it will not send unsolicited emails or other materials to Canadian federal public servants lobbying or otherwise promoting that the Contractor be given more Work or relating to the administration of this Contract or any Requirements issued pursuant to it.
  - ii) Except as contemplated under a Requirement, the Contractor must not discuss the products of any third party, including the other contractors under this SA, in any of its interactions with public servants.

## 2. Contract Period and Extensions

### 2.1 Contract Period

**Contract Period:** The "Contract Period" is:

- a) the "**Initial Contract Period**", begins on the date the Contract is awarded and ends \_\_\_\_ years after the Contract Award date; and
- b) the period during which the Contract is extended at Canada's discretion.

### 2.2 Option Periods

- i) The Contractor grants to Canada the irrevocable option to extend the Contract Period by up to \_\_\_\_ additional one-year period(s) under the same conditions. The Contractor agrees that, during the extended period of the Contract, it will be paid in accordance with the applicable provisions as set out in the Basis of Payment.
- ii) Canada may exercise this option at any time by sending a written notice to the Contractor at least **30 calendar days** before the expiry date of the Contract.
- iii) The option, which is for the exclusive benefit of Canada and may be exercised unilaterally by Canada, may be exercised only by the Contracting Authority, and will be evidenced, for administrative purposes only, through an amendment to the Contract.

## 3. Standard Clauses and Conditions





### 3.1 Standard Clauses and Conditions

- 3.2** 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.

In all clauses and conditions identified in the Contract, all reference to the Minister of Public Works and Government Services should be deleted and replaced with the Minister of Shared Services Canada. Also all reference to the Department of Public Works and Government Services should be deleted and replaced with Shared Services Canada.

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

#### General Conditions

2035 (2020-05-28), General Conditions – Higher Complexity - Services, are incorporated by reference into and form part of the Contract.

### 3.3 Applicable Laws

This Contract will be interpreted and governed by the laws of Ontario. The parties further agree that any disputes relating to the Contract will be determined in accordance with the laws of, and by the courts of, the Province of Ontario.

### 3.4 Priority of Documents

If there is a conflict 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 appears later on the list:

- a) the Articles of Agreement including any individual SACC clauses incorporated by reference in these Articles of Agreement;
  - b) SSC's Standard Instructions for Procurement Documents No 1.4 (SSC's Standard Instructions), attached as Attachment 1.0 - SSC Standard Instructions for Procurement Documents; and
  - c) The Resulting Contract and all associated Annexes;
  - d) 2035 (2020-05-28), General Conditions - Higher Complexity – Services;
  - e) the signed Task Authorization (including all of its annexes); however, any Task Authorization may specify that specific terms and conditions it contains apply instead of or in addition to a document that appears higher on the order of priority (including the Articles of Agreement);
- a) the specific Statement of Work that forms part of any Task Authorization;
  - b) the Contractor's bid dated \_\_\_\_ including only Contractor terms and conditions expressly approved by Canada in accordance with the bid solicitation.

## 4. Clients and Users



## 4.1 Definition of SSC Clients and Users

- a) Under the Contract, the “Client” is Shared Services Canada (“SSC”), an organization with a mandate to provide shared services. This Contract will be used by SSC to provide shared services to its clients, which include SSC itself, those government institutions for whom SSC’s services are mandatory at any point during the Contract Period, and those other organizations for whom SSC’s services are optional at any point during the Contract Period and that choose to use those services from time to time.
- b) Users includes individuals authorized by the Client to use the Services under the Contract which includes any employee, agent or Contractor authorized resource.
- c) SSC may choose to use this Contract for some or all of its clients and may use alternative means to provide the same or similar services.

## 4.2 Role of SSC

SSC is the Contracting Authority under this Contract. SSC intends to use one or more of the Solutions to provide services to SSC’s Clients for their respective workforces.

## 4.3 Reorganization of Clients

- a) The Contractor's obligation to perform the Work will not be affected by (and subject to the provisions of this paragraph) no additional fees will be payable as a result of) the renaming, reorganization, reconfiguration, or restructuring of any Client, its merger with another entity, or its dissolution, where that dissolution is followed by the creation of another entity or entities with mandates similar to the original Client. Canada acknowledges that, unless otherwise provided in a Task Authorization, any modification of the Work required by a reorganization of one or more Clients that would require additional Work by the Contractor, including Work performed by professional services resources will have to be agreed to between the parties (both with respect to the scope of the Work and the amount payable), consistent with the terms of this Contract and any applicable Task Authorization, including the change management provisions of the Task Authorization. Except as otherwise provided in a Task Authorization, the Contractor is not required to perform additional Work, including Work performed by professional services resources, contemplated by this paragraph if the parties are not able to agree on the scope or fees payable with respect to that Work.
- b) If a Client for whom the Contractor is performing Work or providing a Solution is privatized, Canada will determine a reasonable timeline and process for completing any professional services that are underway and, if applicable, moving the Client off any Solution, all as reasonably determined by Canada.

# 5. The Services

## 5.1 Canada’s Official Languages

- a) The Contractor must deliver all Subscription Services, Managed Services and Value-Added Services that it contracts to deliver pursuant to a Task Authorization in both of Canada’s Official Languages. The Parties agree that this means, but not limited to, that:
  - i) Callers must be able, prior to speaking with a live technician, to select whether the technician will provide the support services to them in either French or English;
  - ii) A technician who fluently speaks the language selected by the caller will provide the support to the caller in that language (i.e., without the need for a translator); and



- iii) Users must experience the same level of service, regardless of whether they choose French or English (i.e., the Contractor is solely responsible for providing technicians fluent in French and English in sufficient numbers to respond to calls as quickly and effectively in both of Canada's Official Languages while complying with all other service levels under the Contract).

## 5.2 Subscription Services

- a) **Software as a Service:** Unless otherwise indicated in the Task Authorization, the Contractor will deliver any Subscription Service as a "Software as a Service" (also known simply as SaaS) solution that is interactive and hosted by the Contractor. However, the parties acknowledge that, given the potential length of the Contract Period, technology will evolve, and other means may become available for delivering or making the Subscription Service available to Users. If the parties agree that Software as a Service is no longer the most effective means for providing the Subscription Service, the parties may negotiate such changes as are necessary for the continued effective delivery of the Subscription Service under any applicable Task Authorization(s).
- b) **Scalable:** Each Subscription Service must be scalable so that it can be made available to all Users or the sub-set of Users identified by the Contracting Authority from time to time, in accordance with the applicable pricing and Task Authorization.
- c) **Accurate and Timely:** Unless otherwise provided in a Task Authorization (such as a Task Authorization that includes cleansing of Canada's Data as part of the Work), Canada is solely responsible for the accuracy, quality and legality of all Canada's Data and Canada will use reasonable efforts to prevent unauthorized access to, or use of, the Subscription Service, and notify the Contractor promptly of any unauthorized access or use of the Subscription Services. Subject to the foregoing, each Subscription Service must generate accurate, reproducible results in a timely manner, in accordance with any service levels set out in any applicable Task Authorization. Task Authorizations will contain further obligations and Task Authorizations, including allocation of risk, associated with delivery of such results in a timely manner.
- d) **Task Authorizations for CCaaS:**
  - i) Any Subscription Service provided under a Task Authorization must allow Canada, when using the Subscription Services in accordance with the Task Authorization and any User instructions or other documentation provided by the Contractor, to comply with:
    - (A) the laws of Canada that apply to CCaaS and are addressed in any given Subscription Service, including the laws of Canada's provinces that may apply, all as amended from time to time;
    - (B) Government of Canada policies that are specifically identified in a Task Authorization (in which case the version in effect at the time the Task Authorization is issued applies); and
    - (C) any other rules described in the applicable Task Authorization;
    - (D) any individual Task Authorization may specify those laws, policies and rules that do or do not apply to any given Solution.
  - i) Canada will have no obligation to pay for work associated with updating a Subscription Service, Managed Service or Value-Added Service with respect to any change to the laws of Canada or a province of general application (other than laws than are specific



to the Government of Canada's workforce). If there are changes to the laws of Canada or one or more provinces that must be performed by a Subscription Service, the Contractor must update it in order to implement those changes within a reasonable period of time, and in any case before such laws apply. There must be no circumstances where Canada cannot comply with its legal obligations with respect to its Users and the Contractor acknowledges that the services provided under Task Authorizations must always ensure that Canada can comply with its legal obligations with respect to its Users.

- ii) If there are changes to legislation that are specific to Government of Canada policies related to CCaaS that are not able to be performed by a Subscription Service, the Contractor will reasonably consider requests for changes requested by Canada, and agrees to use commercially reasonable efforts to incorporate such changes into the service. Any Work required to accommodate those changes and any additional fees subject to the change management provisions of the applicable Task Authorization, and the parties will negotiate and confirm in writing a price for any work required to address those changes subject to the price not exceeding what would reasonably be charged in the market for such services and any pricing contemplated under this Contract.
- iii) The Contractor is not responsible for providing any legal, financial, regulatory, benefits, accounting or tax advice to the Government of Canada and the provision of any Subscription Service will not be construed as the provision of any such advice.
- e) **Hosting Subscription Service:** At the time of Contract award, the parties intend for the Contractor to host the Subscription Service and Canada's Data for the majority of Subscription Services or Clients. However, given the potential length of the Contract Period and the varied types of Clients that may be served by the Subscription Service(s), it is possible that the parties will agree that this is no longer the most effective way to deliver the Subscription Service(s). Canada may also require, in a Task Authorization, that Canada's Data associated with a particular Subscription Service be hosted on Canada's servers or that the Contractor's servers be located in a Government of Canada data centre. In each case, Canada and the Contractor will either negotiate alternative terms and conditions pursuant to the change management provisions of the applicable Task Authorization that might involve, for example, Canada hosting Canada's Data or the Contractor hosting Canada's Data on its servers, but co-located within one of Canada's data centres, or the Contractor will respond to the Task Authorization with any pricing adjustments required to reflect the change in default hosting requirement, all in accordance with any change management provisions of the Task Authorization and otherwise subject to the price not exceeding what would reasonably be charged in the market for those services and any pricing contemplated under this Contract.
- c) **Accessibility:** The Solution must conform with **insert relevant accessibility standards**.
- f) **Additional Instances:** The Contractor must provide additional instances at Canada's request if required by the Task Authorization. If the fees associated with additional instances are not set out in the Task Authorization, those fees and any other required changes will be subject to the change management provisions of the applicable Task Authorization.
- g) **Configuration Management:** If required by a Task Authorization, the Subscription Service must permit Canada to manage configurations itself. If Canada wishes for the Contractor to manage configurations on Canada's behalf, Canada will issue a separate Task Authorization for those additional services.
- h) **Underlying Commercially Available Subscription Service(s):**



- i) Canada acknowledges that the Subscription Service(s) (including those that are part of a Solution) may be based on a commercially available service provided to other customers.
- ii) Given that the underlying commercially available Subscription Service(s) will evolve over time, the Contractor agrees to provide a roadmap for the evolution of those services periodically in accordance with the applicable Task Authorization. The Contractor must provide the Technical Authority (and CC the Contracting Authority) with written notice at least 90 calendar days in advance of removing or disabling any material functionality or feature of the underlying commercially -available solution that is not specifically required to be provided under any Task Authorization along with any further requirements or limitations as may be set forth in the applicable Task Authorization including certain limitations on the removal of functionality as may be contained in a Task Authorization.
- iii) The Contractor represents and warrants that, while Canada has the right pursuant to any Task Authorization to use the Subscription Service(s), the applicable Subscription Service(s) will perform materially in accordance with or exceeds all the requirements of the Contract that apply to it (i.e., Task Authorizations may contain different or additional requirements) and, to the best of the Contractor's knowledge, does not contain any malicious code.
- iv) As part of the Subscription Services, the Contractor agrees to make available to SSC and its Clients and Users all the features and functionalities included in the commercially available version of the Subscription Services supplied under a Task Authorization that are available to the Contractor's other customers, regardless of whether those features or functionalities have been described in this Contract at the prices set out in the applicable Task Authorization. To the extent such features and functionalities are generally included in the subscription fees charged by Contractor to its clients for modules being used by Canada, then such new features will be included in the subscription price. However, if new or additional features, functionality or modules are developed that are not introduced by the Contractor generally as part of a new release or upgrade to the Subscription Service(s) being used by Canada, then the Contractor will offer those new modules to Canada for the subscription and onetime fees agreed upon by the parties in the context of individual Task Authorizations and subject to the change management provisions and any further pricing terms set out in the relevant Task Authorization(s).
- v) If the Contractor is permitted by a Task Authorization to remove any material capabilities or functions from the Subscription Service(s) and in accordance with that right intends to so remove any capability or function and:
  - (A) the Contractor offers those capabilities or functions in any new or other services or products, the Contractor must provide to Canada, as part of the Subscription Service(s), and under the existing terms and conditions of the Contract at the time the applicable Task Authorization was signed (as amended by the parties), the part of those new or other services or products that contain the relevant functions, regardless of whether those other services or products also contain new or additional functions; or
  - (B) the Contractor is not offering those capabilities or functions in any new or other services or products, the Contractor will provide written notice to Canada identifying the removed capabilities or functions, alternative options, and comply with any change management provisions in the applicable Task Authorization along with a reduction in pricing as contemplated in such Task Authorization and where not so contemplated, then on such terms as are reasonable reflected



the decreased value from such removal. If no proposed alternative option is acceptable to Canada, Canada may terminate the relevant Task Authorization and the Contractor will pay to Canada any identifiable direct costs incurred by Canada to migrate to a new replacement service and store Canada's Data, and to procure equivalent replacement services (but the Contractor is not required to pay for the replacement services).

### 5.3 Canada's Rights to Use Subscription Service(s):

- a) If, as a result of a Task Authorization, Canada chooses to make use of one or more Subscription Services (each of which will be identified in a Contract Amendment or Task Authorization Amendment documenting Canada's right to make use of the applicable Subscription Service(s)), the Contractor grants to Canada a license providing all Users with Universal Access Rights to the Subscription Service(s) identified in the Task Authorization along with any other additional rights set out in that Task Authorization or Contract Amendment.
- b) **"Universal Access Rights"** means that Users may access and use the Solution:
  - i) from an unlimited number of locations, devices and operating environments, including secure, wireless, mobile or otherwise;
  - ii) using the Internet or such other means as may become possible from time to time; and
  - iii) regardless of the amount of data created, processed or stored by the Solution except as expressly contemplated in the Task Authorization,all of which is included in the subscription price.
- c) **Pop-Up Terms and Conditions Do Not Apply:** Unless expressly specified in the applicable Task Authorization, the parties agree that no terms and conditions not set out in this Contract apply to Canada's, a Client's or a User's use of the Subscription Service or any of the software, infrastructure or tools used to provide it, including any "click-through" or "pop-up" notices or terms and conditions associated with the Subscription Service or any of the tools or infrastructure used to provide it (the **"Click-Through Terms"**). With respect to any third-party tools provided by the Contractor, any additional terms and conditions, including Click-Through Terms, will be established through the Task Authorization process.
- d) **Terms and Conditions Attached to Services Provided by Third Parties:** Subscription Services may interact with web services made available by third parties (other than Contractor or its affiliates) that are accessed through use of the Subscription Cloud Service and subject to terms and conditions with those third parties (e.g., Google Maps or the postal code lookup functionality provided by Canada Post). These third-party web services are not part of the Subscription Services and the Contract does not apply to them. This paragraph applies only to those third-party services not described in the applicable Task Authorization).
- e) **Notices and Consents:** The Contractor may provide User consents or similar notices as required or prudent pursuant to applicable laws (by way of example only, User consent to use finger prints or other personal information in the manner contemplated in connection with and solely for the purpose of providing the services) to the extent permitted by a Requirement, in which case such consents will be valid as against the User for the benefit of Contractor and / or the Client (but, for the avoidance of doubt, no such consents or notices may alter, amend or conflict with the terms of the Contract and/or bind the Client).

### 5.4 Evolution of a Subscription Service, Value-Added Service or Solution



The parties acknowledge that technology and business models evolve quickly and that any Subscription Service(s), Value-Added Service(s) or Solution(s) provided early in the Contract Period will inevitably be very different from those provided at the end of the Contract Period. The parties acknowledge that even the method(s) by which Subscription Service(s), Value-Added Service(s) and Solutions are delivered to Canada are likely to change or evolve and that, at the time of entering into this Contract, the parties cannot contemplate all the goods or services that may be delivered under the Requirements, other than they will be connected to delivering end-to-CCaaS to Users as described in this Contract. With that in mind, the parties agree that the Contractor must maintain and continuously improve the Subscription Service(s), Value-Added Service(s) and Solutions as long as it is providing them, including maintaining and continuously improving the underlying software and infrastructure used to deliver any Subscription Service(s), Value-Added Service(s) or Solution.

## 5.5 Integrity Controls to Prevent Fraud

- a) The Contractor and its Subscription Services, Managed Services or Value-Added Services must support Canada in identifying, defining, and implementing integrity controls to mitigate the risk of identity theft or fraudulent data or system use. These controls must include, but not be limited to:
  - i) mechanisms to mitigate identity theft risks;
  - ii) the ability to define/configure control mechanisms to identify data quality/integrity issues (including automated control mechanisms where it is commercially reasonable to provide them);
  - iii) the ability to create integrity cases in order to escalate/action based on identified potential fraud and integrity issues, and
  - iv) the ability for the Client to validate the User's identity in a secure way during communication via real-time channels,

these controls are included in the price of the Subscription Services, Managed Services or Value-Added Services, as the case may be, unless the controls relate to matters within the control of Canada or one of its Users, such as misuse by a User or incorrect or fraudulent information included in Canada's Data. Where the controls relate to matters with the control of Canada or one of its Users, a Task Authorization may involve the provision of professional services to assist Canada in designing or implementing appropriate controls.

- b) The Contractor must:
  - i) provide a Solution that offers tools allowing for the monitoring of a User's compliance with the applicable policies as outlined in the applicable Task Authorization;
  - ii) institute a continuous monitoring program;
  - iii) ensure that that all process controls are working effectively and as intended; and
  - iv) wherever practical, maximize technologies that are applied automatically and periodically to support processes that are repeatable, consistent, and predictable.
- c) The Contractor must work with Canada to evolve and refine the integrity controls as circumstances and technologies change over time. Canada agrees that changes requested by Canada may be associated with additional fees that are reasonable and consistent with any change management provisions.



## 6. Intellectual Property Rights

- a) **Canada's Rights in Intellectual Property Restricted:** Canada acknowledges that this is a Contract primarily for services and the Contractor is not delivering copies of software to Canada as part of any Subscription Service, Managed Service, Value-Added Service or Solution (unless otherwise provided in a Task Authorization). The parties agree that Canada will acquire no ownership or intellectual property rights in any Subscription Service, Managed Service, Value-Added Service or Solution, or any of the software, products, infrastructure or tools used by the Contractor to provide them, except as expressly provided in an individual Task Authorization. Canada must not remove, alter, or obscure any copyright, trademark, or other proprietary rights notice on or in the Subscription Service(s), Managed Service(s), Value-Added Service(s), products or Solution(s). Canada must not:
- i) distribute, license, loan, sublicense, resell, rent, lease, transfer, assign, or sell any Subscription Service provided by the Contractor Subscription Service, except for the sole purpose of Clients and Users being able to access and receive the services for internal business purposes only, and in accordance with the express provisions of this Contract;
  - ii) impair or circumvent any security mechanisms or controls;
  - iii) reverse engineer or decompile any portion of the Work, including but not limited to, any software used by the Contractor to provide the Subscription Service, except to the extent required by law or policy;
  - iv) access the Subscription Service for the purpose of building any commercially available product or service;
  - v) modify, copy, or create derivative works based on the Subscription Service; or
  - vi) copy any features, functions, integrations, interfaces or graphics of the Subscription Service.
- b) **Intellectual Property Generated in Performing Warranty, Maintenance, and Support:** Canada acknowledges that, in performing any Work, including warranty, maintenance, and support related to any Subscription Service, Value-Added Service or Solution, the Contractor and its employees, agents, and subcontractors may develop and share with Canada ideas, know-how, teaching techniques and other intellectual property. Subject to any Task Authorization providing otherwise, the parties agree the Contractor will own that intellectual property. Where such intellectual property is owned by Canada, Canada grants to the Contractor a worldwide, perpetual, irrevocable, royalty-free license to use all suggestions, ideas, enhancement requests, feedback and recommendations from Canada and its Users subject to the confidentiality obligations contained in the Contract.
- c) **Intellectual Property Rights in Materials:** copyright in the Material and the Pre-Existing Material belongs to the Contractor (or to third parties who have granted rights to the Contractor that include the right to sub-license). Subject to any limits or rights set out in a Task Authorization, the Contractor grants to Canada an irrevocable, non-exclusive, perpetual, fully paid, royalty-free license to use, copy and distribute the Materials (including the Pre-Existing Materials incorporated into the Materials) received, provided Canada does not do so for resale or for the purposes of commercial exploitation. Canada's license includes the right to share the Materials or parts of the Materials with:
- i) third parties performing or proposing to perform work for Canada; and
  - ii) other governments for information purposes only.





In requirements issued under the SA, different intellectual property rights may be required depending on the nature of the Materials. For example, for some Materials (e.g., a Target Operating Model for Canada, a happiness or wellness study of public servants conducted by the Contractor), Canada may require ownership or the right to publish the study on the Internet. In contrast, for some other Materials that include Pre-Existing Materials that have simply been customized for Canada (e.g., training materials), the term of the license may be restricted to the period during which Canada has the right to use the Subscription Service.

- d) **Translation of Materials:** If the Contractor provides any Material in only one of Canada's official languages, and does not wish to provide a translation (or if Canada considers the quality of any translation to be unacceptable), the Contractor agrees that Canada may translate into the other official language any Material delivered to Canada by the Contractor that does not belong to Canada. The Contractor acknowledges that Canada owns the translation and that it is under no obligation to provide any translation to the Contractor. Canada agrees that any translation must include any copyright notice and any proprietary right notice that was part of the original. Canada acknowledges that the Contractor is not responsible for any errors or omissions that may arise as a result of the translation.

## 7. ISO Certifications

- a) By Contract Award, the Contractor must provide to Canada evidence from an independent third party that it has met the following certification requirements:
  - i) ISO/IEC 27001:2013 Information technology – Security techniques – Information security management systems – Requirements;
  - ii) ISO/IEC 27017:2015 Information technology – Security techniques – Code of practice for information security controls based on ISO/IEC 27002 for cloud services; and
  - iii) AICPA Service Organization Control (SOC) 2 Type II for the trust principles of security, availability, processing integrity, and confidentiality.
- b) If, at any time, the Contractor believes that there is a risk that it will not have satisfied all the certification requirements by the above date, the Contractor must provide Canada with notice in writing including a detailed explanation of the reasons for the delay and any work-arounds that it proposes.
- c) Once obtained, the Contractor must maintain these certifications (or certifications that the parties agree are equivalent or better) throughout the **Initial Contract Period** and, thereafter, at all times that it is providing any Subscription Service, Managed Service or Value-Added Service to Canada, unless a specific Task Authorization specifies that one or more of these certifications is not required.
- d) If the Contractor has not met the requirement by the above-noted date (or if at any time during the performance of any Work, the Contractor loses its status), Canada may, in its discretion, suspend the ability of the Contractor to receive Requirements until it has met all the certifications requirements.
- e) If, after becoming certified, the Contractor no longer meets the above certification requirements and is providing any Subscription Service, Managed Service or Value-Added Service under a Task Authorization at that time, the Contractor must provide notice to the Technical Authority (and CC the Contracting Authority) within 10 business days, together with its plan for meeting the certification requirements.
- f) The above-noted certifications are required only by the Contractor.



## 8. On-going Qualification Requirements

- a) Given the potential Contract Period and that certifications and standards will evolve as time progresses, it is anticipated that Canada or the Contractor may propose, additions, deletions and/or substitutions to these requirements, however, unless specifically changed by contract amendment. The Contractor must continue to meet the following on-going qualification requirements throughout the Contract Period:
  - i) it continues to have the financial capability to perform the Work under the Requirements that have been issued to it (and financial capability may be assessed in the context of any individual Task Authorization);
  - ii) if the Contractor is a joint venture, the membership in the joint venture has not changed (if it has, the Contractor must request an assignment pursuant to the Article entitled "**Assignment**");
  - iii) it continues to meet the certification requirements for the Federal Contractors Program for Employment Equity;
  - iv) during the **Initial Contract Period**, it continues to meet the qualification requirements as specified in their RFSA Bid Response; and
  - v) such other requirements as set forth in any Requirements.
- b) The Contractor must provide any information requested by Canada with respect to whether it continues to meet the on-going qualification requirements within a reasonable period requested by Canada, not to exceed 10 business days.

## 9. Task Authorization Process

### 9.1 As-and-when-requested Task Authorizations

- a) **Purpose of TA:** Services identified in the Statement of Work, which are to be provided under this Contract on an as-and-when requested basis, will be ordered by Canada using a "Task Authorization" (TA).
- b) **All Work will be Pursuant to Task Authorization:** Any Work under this Contract will be performed on an as-and-when-requested basis in response to individual Task Authorizations issued by Canada to the Contractor. The Work described in a Task Authorizations must be in accordance with the scope of the Contract. The Contractor must not start the Work until a Task Authorization has been issued by an authorized representative of Canada.
- c) **Content of a Task Authorization:** A TA may consist of one or more of the following:
  - i) Subscription Service(s);
  - ii) Managed Service(s);
  - iii) Value-Added Service(s);
  - iv) Professional Services; and
  - v) any other services within the scope of this Contract.



## 9.2 Extension of a Task Authorization

- a) Once a TA has been issued to the Contractor under this contract, Canada may in its discretion:
- i) add an unlimited number of Clients and Users to the Subscription Service(s), Managed Service(s), Value-Added Service(s), or Solution(s) being provided under that Task Authorization, at the prices set out in that Task Authorization or, if there are no prices for doing so, at the prices negotiated with the Contractor;
  - ii) use any additional modules or functionality or additional subscription types that may be available for that the Subscription Service(s) being provided under that Task Authorization, at the prices set out in that Task Authorization or, if there are no prices for doing so, at the prices negotiated with the Contractor; and
  - iii) negotiate from time to time such changes as Canada considers to be necessary to continue using or make better use of the professional services, Subscription Service(s), Managed Service(s), Value-Added Service(s), or Solution(s) being provided under that Task Authorization, including any negotiations relating to (i) or (ii), for the delivery of a CCaaS solution including any or all available features and functionalities,

all of which can be documented by way of an amendment to that Task Authorization.

- b) Notwithstanding the foregoing, Canada anticipates that any single Subscription Service, Managed Service, Value-Added Service or Solution may not be suitable for all Clients or all Users, for a variety of reasons. Canada may also decide that additional modules available with respect to any of these are not as robust or varied as desirable. As a result, Canada may, in its discretion, issue other Task Authorizations for alternatives and for any other Work that falls within the scope of the Supply Arrangement. In that situation, when issuing a new Task Authorizations, Canada may in its discretion exclude the contractor under the Supply Arrangement that is already providing the Subscription Service, Managed Service, Value-Added Service or Solution that Canada has determined is not suitable for all Clients or Users or for which the additional modules are not as robust or varied as desirable.

## 9.3 Authorized Signatories for Issuing Task Authorizations

To be validly issued, a Task Authorizations must be:

- a) signed by the Contracting Authority;
- b) signed by the Technical Authority; and
- c) signed by the Contractor (where the Contractor's signature may be given by submitting an unconditional response to a Task Authorizations)

Any work performed by the Contractor without receiving a validly issued Task Authorization is done at the Contractor's own risk. If the Contractor receives a Task Authorization that is not appropriately signed, the Contractor must notify the Contracting Authority (and CC the Technical Authority) immediately.

## 9.4 Quarterly Task Authorizations Usage Reports

- a) The Contractor must compile and maintain records on its authorized Task Authorizations issued under the Contract. The Contractor must provide this data to Canada in accordance



with the reporting requirements detailed below. If some data is not available, the reason must be indicated. If services are not provided during a given period, the Contractor must still provide a "NIL" report. The data must be submitted on a quarterly basis to the Contracting Authority (and CC the Technical Authority). From time to time, the Contracting Authority may also require an interim report during a reporting period.

b) The quarterly periods are defined as follows:

- i) 1<sup>st</sup> quarter: April 1 to June 30;
- ii) 2<sup>nd</sup> quarter: July 1 to September 30;
- iii) 3<sup>rd</sup> quarter: October 1 to December 31; and
- iv) 4<sup>th</sup> quarter: January 1 to March 31.

The data must be submitted to the Contracting Authority (and CC the Technical Authority) no later than 10 business days after the end of the reporting period.

c) Each report must contain the following information for each validly issued Task Authorization (as amended):

- i) the Task Authorization number and the Task Authorization Revision number(s), if applicable;
- ii) a title or a brief description of the Task Authorization;
- iii) the name, Category of Personnel and level of each resource involved in performing the Task Authorization, as applicable;
- iv) the total estimated cost specified in the validly issued Task Authorization, exclusive of Applicable Taxes;
- v) the total amount, exclusive of Applicable Taxes, expended to date against each authorized Task Authorization;
- vi) the start and completion date for each authorized order; and
- vii) the active status of each authorized order as applicable (e.g., indicate whether work is in progress or if Canada has cancelled or suspended the Task Authorization, etc.).

d) Each report must also contain the following cumulative financial information for all the validly issued Task Authorizations (as amended):

- i) the amount (exclusive of Applicable Taxes) specified in the contract (as last amended, as applicable) as Canada's total liability to the contractor for all authorized Task Authorizations; and
- ii) the total amount, exclusive of Applicable Taxes, expended to date against all validly issued orders.

## 9.5 Consolidation of Requirements for Administrative Purposes

The Contract may be amended from time to time to reflect all validly issued Task Authorizations to date, to document the Work performed under those Task Authorizations for administrative purposes.



## 10. Provision of Resources

### 10.1 General Requirements

- a) **Task Authorizations for Resources:** All resources performing any part of the Work must:
  - i) be competent to perform the Work by any delivery dates described in the applicable Task Authorization;
  - ii) meet any specific qualifications in any individual Task Authorizations (including those relating to previous experience, professional designation, education, language proficiency and security clearance);
  - iii) be capable of working efficiently and effectively with Canada's representatives; and
  - iv) maintain all required professional qualifications and security levels throughout the performance of the Work.
- b) **Security Clearance:** In order to avoid delays associated with security clearance requirements, the Contractor must initiate the assessment and security clearance of resources by SSC within 5 business days of being issued a Task Authorization. However, given that certain Task Authorizations may require security clearance at the time the Contractor responds to the Task Authorization (i.e., as a qualification requirement for those capable of responding to the Task Authorization), the Contractor should work with Canada following award of the contract to clear some of its personnel, and particularly its potential Key Resources, to the level of SECRET.
- c) **Removal of a Resource:** If, in Canada's reasonable opinion, any resource (regardless of whether he or she is a named Key Resource) performing the Work is unable to perform the required services effectively and efficiently with Canada's team, subject to any alternative terms set forth in the applicable Task Authorization, the Contractor must remove that resource from the performance of the Work and:
  - i) in the case of resources that are not Key Resources, the Contractor must replace the resource within 10 business days and the replacement is not subject to Canada's approval;
  - ii) in the case of Key Resources, follow the process for Substitutions set out below.

### 10.2 Task Authorizations for Key Resources

- a) **Identification of Key Resources:** If the Contractor identifies specific individuals by name who will perform some portion of the Work, those individuals are considered "**Key Resources**". Any individual Canada approves as a replacement for a Key Resource pursuant to this article becomes a Key Resource, whether or not named.
- b) **Substitutions:**
  - i) The Contractor must provide the services of the Key Resources unless the Contractor is unable to do so for reasons beyond its control. For the purposes of the Contract, "reasons beyond its control" include the death of the individual, the termination of that individual's employment, or the extended absence of that individual for reasons of illness, disability, parental leave or another form of leave. "Reasons beyond its control" do not include the deployment of the individual on another project, including another project of an affiliate or another project for Canada except if the individual was deployed on the other project following a suspension of the Work by Canada. In cases



in which an individual has been promoted to a new role, Canada agrees to discuss with the Contractor the extent to which that new role is consistent with the Work being performed under the Task Authorization.

- ii) If the Contractor is unable to provide the services of any Key Resource for reasons beyond its control, it must provide a replacement with similar qualifications and experience. The replacement must meet any criteria used in the selection of the Key Resource and be acceptable to Canada. The Contractor must, as soon as possible and in any event no more than 10 business days after the Key Resource's departure, give notice to the Contracting Authority of the reason for replacing the individual and provide:
  - (A) the name, qualifications and experience of the proposed replacement, who must be available to begin work within 10 business days, or a longer period agreed to by the Contracting Authority; and
  - (B) proof that the proposed replacement has the required security clearance granted by Canada, if applicable.
- iii) If Canada is not satisfied that the proposed resource is qualified, the Contractor must submit 2 other resources until a qualified resource has been selected by Canada. Canada agrees to act reasonably in granting extensions and in selecting a new resource, based on its operational Task Authorizations and the deadlines established in the Contract.
- c) **Back-Ups:** the Contractor must provide to Canada the name of the back-up for Key Resources, in order to ensure that the Key Resource's functions will be fulfilled during any period of illness, holidays or other absence. Before assigning a back-up to fill in for any Key Resource (except on an emergency basis), the Contractor must demonstrate that the back-up has similar experience and qualifications to the Key Resource being temporarily replaced. Canada will act reasonably, in light of its operational Task Authorizations and any deadlines under the Task Authorization, in requiring a back-up for a short-term absence.

## 11. The Performance of the Work

### 11.1 Conduct of the Work

- a) The Contractor must, with respect to each Task Authorization:
  - i) perform the Work diligently and efficiently;
  - ii) except for Government property specifically identified in a Task Authorization, supply everything necessary to perform the Work (provided, however, that Canada is responsible for equipping its Users with all necessary equipment, delivered Materials, a device(s) and a browser so that it can access any Subscription Service);
  - iii) perform the Work and use quality assurance procedures, inspections and controls generally used and recognized by the industry to ensure the delivery of first-class goods and services that fully conform with the Contract;
  - iv) select and employ a sufficient number of qualified personnel to achieve the Work as provided in the Contract; and
  - v) provide effective and efficient supervision to ensure that the quality of workmanship meets the Task Authorizations of the Contract.



- b) Unless the Contracting Authority orders the Contractor to suspend the Work or part of the Work pursuant to the Suspension of the Work Article, the Contractor must not stop or suspend the Work or part of the Work except as expressly contemplated in accordance with the terms of a Task Authorization.
- c) The Contractor must provide all reports specified in the Contract or an individual Task Authorization that are required by the Contract and any other information that Canada may reasonably require from time to time.
- d) Each party is fully responsible for performing its obligations in accordance with the Contract, including any roles and responsibilities set out in any Task Authorization.

## 11.2 Access to Crown Premises or Property to Perform the Work

- a) Canada's premises, facilities, equipment, documentation, and personnel are not automatically available to the Contractor. If any will be provided to the Contractor, it will be specified in an individual Task Authorization.
- b) In some cases, given the nature of the task to be performed, Canada may request or require that certain resources co-locate with Canada and, in this case, Canada may provide property or other facilities such as a laptop, email address and network access. All Government property and facilities remain the property of Canada and must be returned immediately upon request in the condition in which they were provided, subject to reasonable wear and tear.
- c) The Contractor must comply with and ensure that its employees and subcontractors comply with all security measures, standing orders, policies or other rules in force at any Canada premises where the Work is performed and as provided by Canada in the applicable Task Authorization.

## 11.3 Subcontracting

- a) Despite the General Conditions, none of the Work may be subcontracted (even to an affiliate of the Contractor) unless the Contracting Authority has first consented in writing. In order to seek the Contracting Authority's consent, the Contractor must provide the following information:
  - i) the name of the subcontractor;
  - ii) the portion of the Work to be performed by the subcontractor;
  - iii) the Designated Organization Screening or the Facility Security Clearance (FSC) level of the subcontractor;
  - iv) the date of birth, the full name and the security clearance status of individuals employed by the subcontractor who will require access to Canada's facilities;
  - v) completed sub-SRCL signed by the Contractor's Company Security Officer for CISC completion; and
  - vi) any other information required by the Contracting Authority.
- b) This article applies to subcontractors retained directly by the Contractor but does not apply to subcontractors retained by those subcontractors.
- c) For the purposes of this Article, a "subcontractor" does not include a supplier who deals with the Contractor at arm's length whose only role is to provide telecommunications or other equipment or software that will be used by the Contractor to provide services, including if the equipment will be installed in the backbone or infrastructure of the Contractor.



## 11.4 Foreign Nationals

- a) If the Contractor is Canadian, the Contractor must comply with Canadian immigration requirements that apply 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.
- b) If the Contractor is not Canadian, the Contractor must comply with Canadian immigration legislation that applies 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 for ensuring 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.

## 11.5 Excusable Delay

The following provisions apply to any Requirements for the exclusive provision of professional services and any other Requirements will include specific Excusable Delay provisions:

- a) **No Liability:** The Contractor will not be liable for performance delays or 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 (including Canada's failure to meet its obligations as specified in a Task Authorization), 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 (referred to as an "**Excusable Delay**").
- b) **Notification of Circumstances:** The Contractor must also advise the Contracting Authority, within 15 business 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) **Canada Not Responsible for Costs:** Unless Canada has caused the delay by failing to meet an obligation under the Contract, Canada will not be responsible for any costs incurred by the Contractor or any of its subcontractors or agents as a result of an Excusable Delay.
- e) **Right to Terminate:** If an Excusable Delay (other than an Excusable Delay caused by Canada, a Client or a User) prevents performance under the Contract for more than 30 calendar days, then the Contracting Authority may elect to terminate this Contract on a "no fault" basis, meaning neither party will be liable to the other in connection with the Excusable Delay or resulting termination, and Canada will only be responsible for paying for those services received up to the effective date of the termination.

## 11.6 Acceptance of Work for Professional Services





- a) **Application:** This Article deals with the inspection and acceptance of Work resulting from Professional Services including:
  - i) deliverables; and
  - ii) major milestones, plans, designs and documents as specified in the TA1 SOW.
- b) **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. Canada will have the right to reject any Work that is not in accordance with the requirements of the Contract and the Contractor is required to correct or replace it at its own expense.
- c) **Acceptance Procedures:**
  - iii) The Contractor must receive Canada's written acceptance for the Work in accordance with:
    - (A) an Acceptance Period which is the number of Federal Government Working Days (FGWDs) after TA1 award to obtain Canada's acceptance of the Work; and
    - (B) Canada Response Time for Review which is the number of FGWDs during the Acceptance Period that Canada has to review the Work after the Contractor submits the Acceptance Form for the Work.
  - iv) Canada may, in its sole discretion, agree in writing to extend timeframe for a acceptance of the Work.
  - v) Canada may, in its sole discretion, agree in writing to accept Work on a conditional basis. Conditional acceptance for Work means that Canada accepts it, subject to specific items that require correction in order to provide final acceptance. Where Canada conditionally accepts Work, Canada will identify in a disposition log the remaining deficiencies that must be completed/corrected for the Work to receive Canada's final acceptance and the date for final acceptance, which includes any time required by Canada to review that Work. Canada's conditional acceptance of a deliverable would allow the Contractor to move on with any part of the Work that was otherwise contingent on acceptance of that Work.
  - vi) Canada and the Contractor agree to work together in the level of detail required for the Work and scheduling the submission of the Work for review in a manner that will permit the Contractor to complete the Work and Canada to perform the acceptance of the Work as expeditiously as possible.
  - vii) When the Contractor submits the Work for review to Canada, Canada will provide a written response to the Contractor within the review period indicated TA1. The review period will not apply to any Material(s) submitted for the Work where, in any given week the Contractor has:
    - (A) not given Canada at least 10 FGWDs' notice of the week during which the Material(s) would be submitted (or if the Contractor provided that notice, but did not submit the Material(s) during that week as anticipated and did not provide a new notice of the week during which the Material(s) would be submitted);
    - (B) submitted Material(s) for acceptance collectively containing content in excess of 10,000 words; and



- (C) submitted more than one Material instance (e.g. document) that has not been previously submitted. A Material instance will be treated as one that has not been previously submitted if 50% or more of the Material has been changed.
- viii) The review period will also not apply to any Material(s) that are an update or modification to a Material version previously reviewed by Canada, unless the Contractor has clearly identified (e.g., by marking up the changes, blacklining/highlighting, coloured text, comments, tagging), compared to the last version provided to Canada, what content has being changed or added.
- ix) Where a portion of Material for the Work has been reviewed and a review of a later portion thereafter affects or otherwise interacts with the earlier portion, Canada will specifically note the impact on the earlier portion and that the earlier portion must be revised/corrected accordingly and may be subject to further review and/or acceptance, at Canada's sole discretion. This will also apply where Material has been reviewed, but a later version of the Material affects or interacts with an earlier version of the Material .
- x) While Canada will endeavour to adhere to the review period specified in TA1 for Work, it is not required to do so where the Contractor has already submitted for review more than 2 versions of the same Material (unless the Material is being submitted because of changes resulted from the review of another portion of the Material or other separate Material pursuant to the previous paragraph, in which case the review periods set out in TA1 applies).
- xi) Canada may, in its sole discretion, agree in writing to extend the delivery timeframe for the Work, and thereby extend the date by which the Contractor must obtain Canada's acceptance, for any aspect of the Work. However, any such individual extension does not, in itself, extend the deadline for any other Work. If Canada provides an extension for specific Work, the extension will only apply to that Work and not to any other Work. For the Work for which any extension has been granted, the Contractor must obtain Canada's acceptance by the extended deadline approved by Canada for that Work.
- xii) The Contractor must include time for the review and acceptance process and any time required by the Contractor to consult with Canada within the Work delivery schedule specified in TA1.
- xiii) The following criteria will be taken into consideration by Canada in its review of Work:
  - (A) document format and clarity in accordance with section Documentation in TA1 SOW General;
  - (B) content alignment and consistency; and
  - (C) completeness.
- b) **Deficiencies and Resubmission of Materials:** 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. If Canada determines that any of the Materials are incomplete or deficient, Canada is not required to identify all missing items or all deficiencies before rejecting those Materials.
- c) **Contractor Inspection for Quality:** The Contractor must inspect and approve any part of the Work before submitting it for acceptance or delivering it to Canada. All Materials submitted by the Contractor must be of a professional quality, free of typographical and other errors, and consistent with industry standards.



- d) **Inspection Records:** The Contractor must keep accurate and complete inspection records related to the inspection of the Work for quality prior to submitting any of the Work to Canada for review and acceptance, which 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 Period.
- e) **Informal Feedback:** Upon request by the Contractor, Canada may provide informal feedback prior to any Materials being formally submitted for acceptance. However, this must not be used as a form of quality control for the Contractor's Work. Canada is not obliged to provide informal feedback.
- f) **Timing:** The Contractor must not submit more than one deliverable at the same time, unless they are due for acceptance on the same day.
- d) **Acceptance Form:**
  - (A) The Contractor must develop an acceptance form to be used to obtain written acceptance from Canada for Work Deliverables, completion of major project milestones, and any other Work associated with Professional Services . The acceptance form must at a minimum include the following:
    - (1) description of the Work;
    - (2) required completion date for the Work (according to the Task Authorization);
    - (3) date the Work is submitted to Canada for review and acceptance;
    - (4) fields for the name, date and signature of the Contractor's Senior Project Manager that has reviewed and endorses the quality and completeness of the Work being submitted for acceptance;
    - (5) check-boxes for Canada to indicate Acceptance or Rejection of the Work being submitted for acceptance;
    - (6) field for Canada to enter the reason for rejecting the Work being submitted for acceptance;
    - (7) date that Canada responds with acceptance or rejection of the Work being submitted for acceptance;
    - (8) date that Canada meets with the Contractor (at the Contractor's request) to review the Work being submitted for acceptance;
    - (9) the number of FGWDs that the delivery timeframe for the Work being submitted for acceptance is extended due to Canada's delay in its review, or delay in meeting with the Contractor to discuss concerns about the Work; and
    - (10) a checklist, as specified by Canada, with each deliverable submission that summarizes the quality actions performed by the Contractor on the Work prior to submission of the deliverable. The checklist will include a formal statement that the Work has been reviewed by the Contractor and quality checks outlined in the checklist have been performed. Canada's review of the deliverable will not start until the checklist has been provided and includes the confirmation that the Work has been reviewed



## 11.7 Acceptance of Work for Services

- a) The provisions in this Section will be applicable to the acceptance of Work for Subscription Services, Managed Services and Value Added Services.
- b) The Contractor will test the Work in accordance with Contractor's testing processes, procedures and test cases in Accordance with the Acceptance Test Plan (ATP), specified in the Task Authorization, approved by Canada for the Work (e.g. ATP for the Subscription Service).
- c) The Contractor must demonstrate the test cases in the ATP in accordance with the processes and procedures in the ATP and document the results in an Acceptance Test Report (ATR). Where Canada determines in the demonstration for a test that the actual results are not the expected results as documented in the ATR, or the test demonstrates that the Work is not implemented in accordance with the Contract and Task Authorization, Canada will consider the test as failed. A test failure will be considered as a reason for not accepting the ATR and the Work.
- d) The Contractor must provide a Work Completion Notice (WCN) and ATR to Canada for the Work where the WCN includes:
  - i) date/time the Work completed;
  - ii) Acceptance Test Plan approved by Canada;
  - iii) Acceptance Test Report (ATR);
  - iv) attestation that the Work has been fully inspected and tested based on the approved Acceptance Test Plan (ATP); and
  - v) attestation that the Work was completed by the date and time indicated in the WCN, if applicable, or an attestation regarding when the Work was completed.
- e) An ATR must contain the following information for each of the test items in the associated ATP:
  - i) the expected results (i.e., pass/fail criteria);
  - ii) the actual results;
  - iii) a description of deviations and how each was resolved;
  - iv) a traceability matrix that describes how each requirement (including reports, data, service levels and documentation) of the Work in the acceptance test plan was tested and validated (i.e. demonstration, documentation, etc); and
  - v) Service Level Target testing results where applicable.
- f) Contractor will only provide a WCN once it has corrected any deficiencies uncovered by the testing processes and procedures for the test cases in the approved ATP as evidenced in the ATR. Failure of Contractor to complete its testing processes and procedures for the Work it provided to Canada, where the completion by Contractor of its testing processes and procedures would have demonstrated that the Work would not have passed the test cases in the approve ATP, will constitute a breach of this Task Authorization and, in such case, in addition to any other remedies available to Canada.



- g) The Contractor must provide all hardware and software for acceptance testing performed for Work.
- h) The Contractor must not require Canada to install any software on Canada's devices or any hardware at Canada sites for the acceptance testing performed for the Work.
- i) Following receipt of the WCN and ATR, Canada may test the Work during an "Acceptance Period" to determine if it satisfies the Contract and TA1 SOW in accordance with the article "Acceptance Period Process".
- j) No payments for the Work are chargeable under the Task Authorization until the Work is accepted.
- k) **Acceptance Period Process:**
  - vi) The process described in this Article applies to the Work where an Acceptance Period is required.
  - vii) Once Canada receives the WCN for the Work, an Acceptance Period will apply from the date the WCN was received where the duration of the Acceptance Period will be specified for the Work in the Task Authorization.
  - viii) During the Acceptance Period, as part of Canada's acceptance process for the Work, Canada may test any function of the Work to determine whether it meets the requirements of the Contract and Task Authorization.
  - ix) If the Work does not meet the requirements of the Contract and Task Authorization as determined by Canada's testing, in addition to any other remedies available to it, Canada will require that Contractor promptly make, at its sole cost and expense, all necessary corrections, repairs, fixes, modifications, or additions to or replacements of all or any part of the Work so that it conforms to and performs in accordance with the Contract and Task Authorization,
  - x) If Canada provides notice of any deficiency during the Acceptance Period by delivering notice to Contractor in writing (each, a "**Rejection Notice**"), the Contractor must address the deficiency at no cost to Canada as soon as possible and notify Canada in writing once the deficiency is corrected and re-issue the WCN, at which time Canada will be entitled to re-inspect the Work and the Acceptance Period will start again.
  - xi) At 11:59pm on the final day of the Acceptance Period during which Canada has not initiated any Rejection Notice, Canada will be deemed to have accepted the Work. The Contractor may begin billing for the Work effective the day following that acceptance.
  - xii) if Canada issues three (3) Rejection Notices for any Work, then Canada may terminate this Task Authorization or the applicable portion of the Task Authorization, in whole or in part, in which case Contractor will provide Canada with a refund of all amounts paid for such Work under the Task Authorization, or part thereof, so terminated.
  - xiii) If the Work is delivered in modules pursuant to the Task Authorization, then Canada will have the right to conduct testing of the entire Work (all modules) following testing of the last module to be delivered, with such entire Work requiring separate Acceptance Testing.



- xiv) Contractor must assist Canada with the testing described in this section as reasonably required by Canada.

## 11.8 Work Assessments

- a) Canada reserves the right to conduct assessments of the Work throughout the lifecycle of the Task Authorization. These assessments may be conducted by independent 3rd parties and could cover topics such as, but not limited to: project health and risks, security, privacy, architecture, change management, user satisfaction.
- b) The Contractor must, if requested by the Contracting Authority, provide any information that the Canada requires to perform its assessment.
- c) Canada may use any government resources or third party resources to conduct the assessment and may contact third parties to obtain further information. Any information, whether it is provided by the Contractor, or comes from another source, may be used to conduct a comprehensive assessment.

## 12. Branding

- a) Canada may develop one or more brand for this project, which may consist of a name, sign, symbol, slogan or anything that can be used to identify and distinguish the project. However, such branding may identify the Contractor as providing any Subscription Service (such as, by example only, a reference to the Subscription Service being “powered by” the Contractor). Any branding-specific terms identifying the Contractor may be set out in a Task Authorization.
- b) The Contractor will (unless it is not technically possible to do so or pre-existing intellectual rights of a third party prohibit it), implement the brand as specified by Canada, including by putting the brand identification on:
  - i) documentation;
  - ii) reports;
  - iii) the landing page for accessing the Solution; and
  - iv) other Web-based Graphical User Interfaces (GUIs).

The Contractor must not use Canada’s brand for purposes other than those set out in this Contract without the Contracting Authority’s written authorization.

- c) Canada will retain all rights to the project brand after expiry or termination of the Contract. Subject to more detailed transition provisions which may be contained in a Task Authorization, the Contractor will transfer to Canada or its designates all toll-free numbers and Internet domain names established specifically and solely for the Government of Canada for providing services under this Contract, at least 20 business days prior to expiration or termination of the Contract (or a later date agreed to by the parties in writing).
- d) Canada is solely responsible for any infringement of any third party’s rights or interests connected with its own branding requirements.

## 13. Canada’s Data



### 13.1 Ownership of Canada's Data related to a Subscription Service

In all cases, Canada owns "Canada's Data", which means any content, materials, data and information that any Client or User enters into the system of a Subscription Service or that Canada derives from its use of and stores in the Subscription Service. Canada's Data and its derivatives will not include any Subscription Service, any terms and conditions of the Contractor included in the Contract or any Task Authorization, Materials, Work or any analyses or reports created by the Contractor in accordance with the Contract. Any rights that Canada grants to the Contractor with respect to Canada's Data or its use in the performance of the Work and other provisions relating to the handling of Canada's Data (e.g., encryption) will be set out in individual Requirements.

### 13.2 Storage of Canada's Data

Canada agrees to make the Subscription Service(s), Managed Service(s), Value-Added Service(s), or any Solution(s) available only to the Users of the Clients, except as expressly provided in a Task Authorization. If applicable, usage is limited to the usage metrics and volumes set out in the applicable Task Authorization. Except as otherwise provided in a Task Authorization, Canada is responsible for breaches of the Contract caused by its Users and Clients, provided, however, that:

- a) the Contractor will have no right to terminate the Contract for default or terminate access to any Subscription Service in connection with a breach caused by a User or Client without providing Canada with a reasonable opportunity to cure the breach by providing notice to the Contracting Authority; and
- b) The Contractor agrees not to move any of Canada's Data to an alternative data centre without providing written notice to the Contracting Authority. Any additional requirements with respect to moving Canada's Data will be set out in individual Requirements.

### 13.3 Protection of Canada's Data

The Contractor must safeguard Canada's Data at all times by taking all measures reasonably necessary to secure it and protect its integrity and confidentiality. Specific security measures will be included in individual Requirements but, at a minimum, the Contractor must:

- a) store Canada's 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 Canada's Data is stored based on a least access privileges system;
- b) ensure that passwords or other access controls are provided only to individuals who require access to the Canada's Data to perform the Work;
- c) not outsource the electronic storage of Canada's Data to a third party (including an affiliate) unless Canada has first consented in writing;
- d) safeguard any database or computer system on which Canada's 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 Canada's Data, updated at least weekly; and
- f) implement any reasonable security or protection measures agreed to by the parties from time to time.

### 13.4 Data Retrieval and Destruction



- a) **Data Retrieval:** Subject to any further requirements as set out in a Task Authorization, prior to the Contractor storing any of Canada's Data, the parties must agree on a method and format for the Contractor to deliver to Canada a complete copy of Canada's Data. Canada may require that the Contractor deliver to Canada a complete copy of Canada's Data at any time and may also require that the Contractor do so according to a regular schedule, to be no more frequent than once a month in ordinary circumstances.
- b) **Data Transition:** Provisions relating to the transition of Canada's Data back to Canada or to a third-party contractor will be addressed in individual Requirements.
- c) **Data Destruction:** Subject to any further requirements as set out in a Task Authorization, on the expiration or termination of this Contract (after receiving confirmation in writing that Canada has received a full copy of Canada's Data), or on Canada's request, the Contractor must (i) promptly destroy all Canada's Data in its control, and (ii) if requested by Canada, deliver to Canada a certificate executed by the Contractor confirming compliance with the destruction obligation; provided, however, that Contractor may retain copies of Canada Data: (A) for so long as such retention and access is, upon opinion of the Contractor's legal counsel, required by law or regulation; and (B) as are created pursuant to automatic archiving and back up procedures; provided however that in the case of both (A) and (B), those retained copies will remain subject to the obligations of confidentiality under this Contract for so long as such information is retained and that the Contractor must advise Canada of which data is being retained, for how long, and the reason the data is being retained pursuant to this paragraph.

### 13.5 Data Security Program

- a) Without limiting the Contractor's general obligations of confidentiality, and subject to any further requirements set forth in a Task Authorization, the Contractor is responsible for establishing and maintaining a data security program, including physical, technical, administrative, and organizational safeguards that are designed to:
  - i) ensure the security and confidentiality of Canada's Data;
  - ii) protect against any anticipated threats or hazards to the security or integrity of Canada's Data;
  - iii) protect against unauthorized disclosure, access to, or use of Canada's Data;
  - iv) ensure the proper disposal of Canada's Data; and
  - v) ensure that all employees, agents, and subcontractors of the Contractor, if any, comply with all of the above.
- b) Once Canada has decided to store any of Canada's Data with the Contractor, the Contractor must submit to Canada all available details of its Data Security Program to the Contracting Authority for review by Canada. Canada will treat any details of the Contractor's Data Security Program marked as proprietary or confidential in accordance with the provisions of this Contract.

### 13.6 Compromises and Potential Compromises of Canada's Data

In the event any act, error or omission, negligence, misconduct, or breach compromises or is suspected to have compromised the security, confidentiality, or integrity of Canada's Data or the physical, technical, administrative, or organizational safeguards put in place by the Contractor that





relate to the protection of the security, confidentiality, or integrity of Canada's Data (or if at any time there is any evidence that leads the Contractor reasonably to believe that a compromise is imminent), the Contractor must, as applicable:

- a) notify Canada as soon as possible, but no later than 24 hours of becoming aware;
- b) cooperate with Canada in investigating the occurrence, including making available all records, logs, files, data reporting, and other materials relevant to Canada's Data required to comply with applicable law or as otherwise required by Canada;
- c) identify all of Canada's Data affected or at risk of being affected;
- d) inform Canada of the actions it is taking or will immediately take to reduce the risk of further loss to Canada;
- e) perform or take any other actions required to comply with applicable law as a result of the occurrence;
- f) recreate any lost, corrupted or otherwise compromised data in the manner and on the schedule set by Canada without charge to Canada;
- g) provide to Canada a detailed plan within 10 business days or as soon as reasonably practical (provided that, within 10 business days, a preliminary plan has been provided to Canada) of the occurrence describing the measures Contractor will undertake to prevent a future occurrence;
- h) provide Canada the opportunity to participate in the investigation of the breach and to exercise control over reporting the unauthorized access or disclosure of Canada's Data, to the extent permitted by law and to the extent that Canada's tenant application activity audit logs are relevant to the event and investigation, and subject to the Contractor's obligations and confidentiality controls as reflected in the Contract and applicable industry certifications, including but not limited to those specified in the Article entitled ISO Certifications; and
- i) comply with any other requirements as may be set out in a Task Authorization.

### 13.7 Personal Information

At the time of award, the Contractor will not be creating, processing or using personal information on Canada's behalf. The award of a contract does not provide the contractor with rights to access personal information. All access to personal information will be addressed within a Task Authorization.

## 14. Confidentiality

- a) **Definition of Canada's Confidential Information: "Confidential Information"**, with respect to Canada, means all material, non-public information other than Canada's Data, 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.
- b) **The Contractor's Confidential Information:** Wherever possible, the Contractor must mark or identify any of its own proprietary information delivered to Canada under this Contract as "Property of [CONTRACTOR'S NAME], permitted government uses defined under Shared Services Canada (SSC) 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 Canada's Confidential Information:** The Contractor will hold the Confidential Information in confidence and use Canada's Confidential Information only for performing the Work and in accordance with the terms of this Contract.
- d) **Standard of Care:** Each party agrees to exercise reasonable care to protect the Confidential Information of the other from any loss or unauthorized disclosure.
- e) **Notification of Disclosure:** Each party must immediately notify the other if it discovers any loss or unauthorized disclosure of the other party's Confidential Information.
- f) **Permitted Disclosure by the Contractor:** The Contractor may disclose Confidential Information: (i) if and to the extent that Canada consents in writing to the disclosure; or (ii) to the Contractor's officers, directors, employees, affiliates, or representatives who (1) need-to-know that Confidential Information in order to perform the Work; (2) have been informed of the confidentiality obligations of this Contract; and (3) agree to abide and be bound by confidentiality provisions no less onerous than that's contained in this Contract.
- g) **Permitted Disclosure by Canada:** Canada may disclose the Contractor's Confidential Information internally to those officials or representatives (including third party contractors working as part of Canada's internal team) Canada determines have a "need to know". Subject to the *Access to Information Act*, R.S.C., 1985, c. A-1 and any other applicable laws relating to disclosure and open government (as they exist from time to time), and to any right of Canada under this Contract to release or disclose, Canada must not release or disclose outside the Government of Canada (other than third party contractors permitted under this Contract) any information delivered to Canada under this Contract that is proprietary to the Contractor or its subcontractor.
- h) **Return or Destruction of Confidential Information by the Contractor:** 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 article provided however, that (a) Confidential Information contained in an archived computer backup system stored as a result of automated backup procedures and/or (b) one copy of the Confidential Information to the extent and for so long as such retention and access is, upon opinion of legal counsel, required by law or regulation, may be kept subject to all confidentiality obligations set out in this Contract for so long as such information is retained, provided the Contractor has notified the Contracting Authority in writing regarding the retention.
- i) **Non-Confidential Information:** The restrictions of this Contract on use and disclosure of either party's confidential information will not apply to information that, without the breach of this Contract:
  - i) is already known to the receiving party;
  - ii) is or becomes publicly known through no fault of the receiving party;
  - iii) is or later comes into the possession of the receiving party from a third party not known to be bound by a duty of confidentiality; or
  - iv) is independently developed by the receiving party without the use of Confidential Information.
- j) **Other Confidentiality Requirements:** The parties may include alternative or additional confidentiality provisions in a Task Authorization depending upon the nature of the information being disclosed thereunder.



## 15. Security Requirements

### 15.1 Security Clearance & Document Safeguarding Requirements

- a) The following security requirement (SCRL and related clauses) applies to and forms part of the Contract:

The Contractor/Offeror will be asked during the performance of the Contract through subsequent Task Authorization(s), hold minimum a valid Designated Organization Screening (DOS) with approved Document Safeguarding at the level of SECRET, issued by the Industrial Security Sector (ISS), **Public Works and Government Services Canada (SSC)**. The Security Requirements will be addressed in subsequent Task Authorization(s)

When the Contractor/Offeror personnel require access to PROTECTED information, assets or work site(s) must EACH hold a valid personnel security screening at the level of SECRET, or RELIABILITY STATUS, as required by the security guide, granted or approved by the ISS/SSC. The Security Requirements will be addressed in subsequent Task Authorization(s)

**NOTE:** There are multiple levels of personnel security screenings associated with this file. In this instance, a security guide must be added to the SRCL clarifying these screenings. The security guide is normally generated by the organization's project authority and/or security authority and will be according to the specific Task Authorization(s) requirements.

- b) **Contractor's Site or Premises Requiring Safeguard Measures:** Individual requirements will be identified at the time Canada issues Requirements.

### 15.2 General Security Requirements

- a) The Contractor acknowledges that Canada requires, and the Contractor agrees that, the Subscription Services under the Contract will be the subject of robust, comprehensive security measures that evolve as security threats and technologies evolve, so that the security measures in use are updated throughout the Contract Period in accordance with the highest industry standards for data integrity, availability and confidentiality.
- b) In addition to any security requirements set out in these Articles of Agreement, the Contractor must perform the Work in accordance with the security requirements set out in the Statement of Work and any Task Authorization.

### 15.3 Safeguarding Electronic Media

- a) Before using them on Canada's equipment or sending them to Canada, the Contractor must use a regularly updated product to scan electronically all electronic media used to perform the Work for computer viruses and other coding intended to cause malfunctions. The Contractor must notify Canada if any electronic media used for the Work are found to contain computer viruses or other coding intended to cause malfunctions.
- b) If Canada's Data is damaged or lost while in the Contractor's care or at any time before it is delivered to Canada in accordance with the Contract, including accidental erasure that is not the fault of Canada or one of its Users, the Contractor must immediately replace it at its own expense.
- c) Canada may return non-conforming or defective media to the Contractor within the warranty period specified in the relevant Task Authorization 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.

#### **15.4 Securing Canada's Data**

- a) The Contractor must protect Canada's Data from unauthorized access, modification, or exfiltration. This includes implementing and maintaining appropriate technical and organizational security measures including information security policies, procedures, and security controls to preserve the confidentiality, integrity, and availability of Canada's Data.

#### **15.5 Roles and Responsibilities for Security**

- a) The Contractor must clearly delineate the roles and responsibilities for the security controls and features of Services between the Contractor and Canada. This includes, at a minimum, the roles and responsibilities for:
  - i) account management;
  - ii) boundary protection;
  - iii) asset and information system backup;
  - iv) incident management;
  - v) System monitoring; and
  - vi) vulnerability management.
- b) When requested by Canada, the Contractor must provide an up-to-date document that delineates the roles and responsibilities for Security.

#### **15.6 Cloud Infrastructure**

- a) The Contractor agrees that they have a continuous obligation to ensure that Subscription Service is hosted on Cloud infrastructure that is located in Canada and that was assessed by CCCS.
- b) When requested by Canada, the Contractor must provide written evidence that the Subscription Service is hosted on Cloud infrastructure located in Canada and assessed by CCCS.

#### **15.7 Data Protection**

- a) The Services must implement encryption of data at rest for the hosting of Canada's Data where the encryption of data at rest remains in effect, uninterrupted, and active at all times, even in the case of equipment or technology failure, in accordance with the section on Cryptographic Protection.
- b) The Services must implement encryption for all transmissions of Canada's Data, in accordance with section on Cryptographic Protection and section on Network and Communications Security.
- c) The Contractor must implement security controls that restricts administrative access to Canada's Data and systems by the Contractor.
- d) The Contractor must take reasonable measures to ensure that Contractor Personnel do not have standing or ongoing access rights to Canada's Data, and access is restricted to



Contractor Personnel with a need-to-know, including resources that provide technical or customer support.

- e) The Contractor must not make any copies of databases or any part of those databases containing Canada's Data outside of regular service resilience capabilities and in accordance with section on Cloud Infrastructure.

## 15.8 Data Isolation

- a) The Contractor must implement controls to ensure appropriate isolation of resources such that Canada's Data is not co-mingled with other tenant data, while in use, storage or transit, and throughout all aspects of the Subscription Service and Contractor Infrastructure's functionality and system administration. This includes implementing access controls and enforcing appropriate logical or physical segregation to support:
  - i) the separation between Contractor's internal administration from resources used by its customers;
  - ii) the separation of customer resources in multi-tenant environments in order to prevent one malicious or compromised consumer from affecting the service or data of another; and
  - iii) ability for Canada to support isolation within Canada-managed tenant environment
- b) Upon request of Canada, the Contractor must provide Canada with a document that describes the approach for ensuring appropriate isolation of resources such that Canada's Data are not co-mingled with other tenant data, while in use, storage or transit.

## 15.9 Cryptographic Protection

- a) The Contractor must configure any cryptography used to implement confidentiality or integrity safeguards, or used as part of an authentication mechanism (e.g., VPN solutions, TLS, software modules, PKI, and authentication tokens where applicable), in accordance with Communications Security Establishment (CSE)-approved cryptographic algorithms and cryptographic key sizes and crypto periods.
- b) The Contractor must use cryptographic algorithms and cryptographic key sizes and crypto periods that have been validated by the Cryptographic Algorithm Validation Program (<http://csrc.nist.gov/groups/STM/cavp/>) and are specified in ITSP.40.111 Cryptographic Algorithms for Unclassified, Protected A, and Protected B Information, or subsequent versions (<https://cyber.gc.ca/en/guidance/cryptographic-algorithms-unclassifiedprotected-and-protected-b-information-itsp40111>);
- c) The Contractor must ensure that FIPS 140 validated cryptography is employed when encryption is required, and is implemented, configured, and operated in a Cryptographic Module, validated by the Cryptographic Module Validation Program (<https://www.cse-cst.gc.ca/en/groupe/groupe/crypto-module-validation-program>), in an either approved or an allowed mode to provide a high degree of certainty that the FIPS 140-2 validated cryptographic module is providing the expected security services in the expected manner.
- d) The Contractor must ensure that any FIPS 140-2 modules in use have an active, current, and valid certification. FIPS 140 compliant/validated products will have certificate numbers.

## 15.10 Identity and Access Management



- a) The Contractor must have the ability for Canada to support secure access to Services including ability to configure:
  - i) multi-factor authentication in accordance with CSE's ITSP.30.031 V2 (or subsequent versions) (<https://www.cse-cst.gc.ca/en/node/1842/html/26717>) using GC-approved credentials;
  - ii) role-based access;
  - iii) access controls on objects in storage; and
  - iv) granular authorization policies to allow or limit access.
- b) The Contractor must have the ability to establish organization-wide defaults to manage tenant-wide policies.

### 15.11 Federated Identity Integration

- a) The Services must allow federated identity integration including:
  - i) support for open standards for authentication protocols such as Security Assertion Markup Language (SAML) 2.0 and OpenID Connect 1.0 where the End User credentials and authentication to services are under the sole control of Canada; and
  - ii) ability to associate Canada unique identifiers (e.g. a Canada unique ID, a Canada email address, etc.) with the corresponding user account(s).

### 15.12 Privileged Access Management

- a) The Contractor must manage and monitor privileged access to the Services to ensure that all service interfaces within a multi-tenant environment are protected from unauthorized access.
- b) The Contractor must restrict and minimize access to the Services and Canada's Data to only authorized devices and End Users with an explicit need to have access.
- c) The Contractor must enforce and audit authorizations for access to the Services and Canada's Data.
- d) The Contractor must constrain all access to service interfaces that host Canada's Data to uniquely identified, authenticated and authorized End Users, devices, and processes (or services).
- e) The Contractor must implement password policies to protect credentials from compromise by either online or off-line attacks and to detect these attacks by logging and monitoring events such as:
  - i) successful use of credentials;
  - ii) unusual use of credential, and
  - iii) access to and exfiltration from the password database, in accordance with CSE's ITSP.30.031 V3 (or subsequent versions) (<https://cyber.gc.ca/en/guidance/user-authentication-guidance-information-technology-systems-itsp30031-v3>);
- f) The Contractor must implement multi-factor authentication mechanisms to authenticate End Users with privileged access, in accordance with CSE's ITSP.30.031 V3 (or subsequent



versions) (<https://cyber.gc.ca/en/guidance/user-authentication-guidance-information-technology-systems-itsp30031-v3>).

- g) The Contractor must implement role-based access control mechanisms to assign privileges which form the basis to enforce access to Canada's Data.
- h) The Contractor must define and implement separation of duties to achieve, at a minimum, separation of service management and administration roles from information system support roles, development roles from operational roles, and access management roles from other operational roles.
- i) The Contractor must adhere to the principles of least privilege and need-to-know when granting access to the Services and Canada's Data.
- j) The Contractor must use security-hardened endpoints (e.g. computers, end user devices, jump servers, etc.) that are configured for least functionality (e.g. dedicated endpoint that does not have Internet browsing or open e-mail access) to provide support and administration of Services and Canada's Data.
- k) The Contractor must implement an automated process to periodically audit, at a minimum, account creation, modification, enabling, disabling, and removal actions.
- l) Upon termination of employment, the Contractor must terminate or revoke authenticators and access credentials associated with any Services Personnel.
- m) Upon request of Canada, the Contractor must provide a document that describes the Contractor's approach and process for managing and monitoring privileged access of the Services.
- n) **Remote Management**
- o) The Contractor must manage and monitor remote administration of Services and take reasonable measures to:
  - i) implement multi-factor authentication mechanisms for authenticate remote access users, in accordance with CSE's ITSP.30.031 V3 (or subsequent versions) (<https://cyber.gc.ca/en/guidance/user-authentication-guidance-information-technology-systems-itsp30031-v3>);
  - ii) employ cryptographic mechanisms to protect the confidentiality of remote access sessions, in accordance with Cryptographic Protection;
  - iii) route all remote access through controlled, monitored, and audited access control points.
  - iv) expeditiously disconnect or disable unauthorized remote management or remote access connections; and
  - v) authorize remote execution of privileged commands and remote access to security-relevant information.

### 15.13 Network and Communications Security

- a) The Contractor must allow Canada to establish secure connections to Services, including providing data-in-transit protection between Canada and Services using:



- i) TLS 1.2, or subsequent versions configured with certificates in accordance with CSE guidance; and
- ii) up-to-date and supported protocols, cryptographic algorithms and certificates, as outlined in CSE's ITSP.40.062 (<https://cyber.gc.ca/en/guidance/guidance-securelyconfiguring-network-protocols-itsp40062>) and ITSP.40.111 (<https://cyber.gc.ca/en/guidance/cryptographic-algorithms-unclassified-protected-andprotected-b-information-itsp40111>).

#### 15.14 Logging and Auditing

- a) The Contractor must provide the ability for Canada to export security event logs for the Services it consumes, in support of Canada's operations including monitoring of the Services.

#### 15.15 Continuous Monitoring

- a) For Services and Canada's Data, the Contractor must
  - i) actively and continuously monitor threats and vulnerabilities;
  - ii) undertake best efforts to prevent attacks through security measures;
  - iii) undertake best efforts to detect attacks, Security Incidents, and other abnormal events;
  - iv) identify unauthorized use and access of any service, data and components;
  - v) manage and apply security-related patches and updates in a timely and systematic manner to mitigate vulnerabilities and remedy any publicly reported issues and provide advance notices of patches in accordance with agreed-upon service level commitments;
  - vi) respond, contain, and recover from threats and attacks; and
  - vii) take proactive countermeasures, including taking both pre-emptive and responsive actions to mitigate threats.

#### 15.16 Security Incident Management

- b) The Contractor's Security Incident response process must encompass IT security incident management lifecycle and supporting practices for preparation, detection, analysis, containment, and recovery activities that include:
  - i) ability for the Contractor to support Canada's investigative efforts for any compromise of the users or data in the service that is identified;
  - ii) allows only designated representatives authorized by the Technical Authority to request and receive discrete access and information associated with Canada Data (user data, system/security event logs, etc.), in an unencrypted fashion, for the purposes of conducting investigations;
  - iii) the ability for Customer to track the status of a reported information security event; and





- iv) procedures to respond to requests for potential digital evidence or other information from within the Subscription Services environment and includes forensic procedures and safeguards for the maintenance of a chain of custody;
- c) The Contractor must Work with Canada's Security Operations Centre(s) (e.g. CCCS, Departmental SOC) on Security Incident containment, eradication and recovery in accordance with the Security Incident Response process.
- d) The Contractor must maintain a record of security breaches with a description of the breach, the time period, the consequences of the breach, the name of the reporter, and to whom the breach was reported, and the procedure for recovering data or the service.
- e) The Contractor must track, or enable Canada to track, disclosure of Canada's Data, including what data has been disclosed, to whom, and at what time.
- f) Canada may require forensic evidence from the Contractor to assist in an investigation. The Contractor agrees to provide assistance to Canada on a best effort basis

### 15.17 Information Spillage

- a) The Contractor must have a process for an Information Spillage incident aligned with:
  - i) ITSG-33 Security Control for IR-9 Information Spillage Response; or
  - ii) another industry standard approved by Canada in writing.
- b) Notwithstanding the foregoing, the Contractor's Information Spillage process must include:
  - i) identifying the specific data elements involved in a System's contamination;
  - ii) isolating and eradicating a contaminated System; and
  - iii) identifying systems that may have been subsequently contaminated and any other actions performed to prevent further contamination.
- c) When requested by Canada, the Contractor must provide a document on the Information Spillage process.

### 15.18 Personnel Security Screening

- a) The Contractor must implement security measures that grant and maintain the required level of security screening for Contractor personnel engaged in the provision of the Services and for Sub-processor personnel pursuant to their access privileges to information system assets on which Canada's Data is stored and processed.
- b) The Contractor screening measures must be applied in accordance with the definition and practices in the Treasury Board Standard on Security Screening (<https://www.tbssct.gc.ca/pol/doc-eng.aspx?id=28115>), or use an acceptable equivalent agreed to by Canada.
- c) Upon request of Canada, the Contractor must provide a document that describes the Contractor's personnel security screening process. The process must provide, at a minimum:
  - i) a description of the employee and Sub-processor positions that require access to Canada Data or have the ability to affect the confidentiality, integrity or availability of the Services;



- ii) a description of the security screening activities and practices, including notification procedures that need to be followed if screening has not been completed or if the results give cause for doubt or concern;
- iii) a description of the security awareness and training as part of employment onboarding, when employee and sub-processor roles change, and on an ongoing
- iv) basis, to ensure that employees and Sub-processors understand, are aware of, and fulfil, their responsibilities for information security;
- v) a description of the process that is enforced when an employee or sub-processor changes their role or when employment is terminated;
- vi) the approach to detecting potential malicious insiders and controls implemented to mitigate the risk of access to Canada Data and/or effect on the reliability of Services hosting Canada's Data.

### 15.19 Physical Security (Data Centre Facilities)

- a) The Contractor must implement physical security measures that ensure the protection of IT facilities and information system assets on which Canada's Data are stored and processed against all forms of tampering, loss, damage, and seizure. Physical protection of all facilities that host Canada's Data, must be applied in accordance with, or use an adequate risk-based approach based on a prevent-detect-respond-recover approach to physical security, aligned with the physical security controls and the practices in the Treasury Board Operational Security Standard on Physical Security (<http://www.tbssct.gc.ca/pol/doc-eng.aspx?id=12329>). The security measures required under this include, at a minimum:
  - i) sufficient redundancy and recovery capabilities within and between the Contractor's facilities including, being geographically disparate such that the loss of one facility does not prohibit recovery of data and Canada's Data within the prescribed service level commitments;
  - ii) proper handling of IT Media;
  - iii) controlled maintenance of all information systems and their components to protect their integrity and ensure their ongoing availability;
  - iv) controlled access to information system output devices to prevent unauthorized access to Canada's Data;
  - v) limiting physical access to Canada's Data and Service locations to authorized personnel based on position or role and the need-to-access principle, and validated by two forms of identification;
  - vi) escorting visitors and monitoring visitor activity;
  - vii) enforcing safeguarding measures for GC data at alternate work sites (e.g., telework sites); and
  - viii) recording and monitoring all physical access to Service locations and all logical access to systems hosting Canada's Data, using a combination of access logs and video surveillance in all sensitive areas and intrusion detection mechanisms.
- d) Upon request of Canada, the Contractor must provide a document that describes the Contractor's physical security measures.



- e) If any physical security measures are to change in a way that materially degrades the physical security, the Contractor must inform Canada.

## 15.20 Supply Chain Risk Management

- a) The Contractor must implement safeguards to mitigate supply chain threats and vulnerabilities to IT services in order to maintain confidence in the security of the sources of information systems and the IT components used to provide Services. This includes but is not limited to designing and implementing controls to mitigate and contain data security risks through proper separation of duties, role-based access, and least privilege access for all personnel within the supply chain.
- b) The Contractor must have a supply chain risk management approach including a Supply Chain Risk Management Plan that is aligned with one of the following best practices:
  - i) ISO/IEC 27036 Information technology -- Security techniques -- Information security for supplier relationships (Parts 1 to 4);
  - ii) NIST Special Publication 800-161 -- Supply Chain Risk Management Practices for Federal Information Systems and Organizations; or
  - iii) ITSG-33 security control for SA-12 where the organization defined security safeguards are documented in an SRCM plan.
- c) Within 90 days of contract award, the Contractor must:
  - i) provide proof that the SRCM approach and plan has been independently assessed and validated by an independent third party certified under AICPA or CPA Canada, and/or ISO certification regime; or
  - ii) provide Canada with a copy of the SRCM Plan on an annual basis, or upon request of Canada.

## 15.21 Change of Control

- a) At any time during the Contract Period, if requested by the Contracting Authority, the Contractor must provide to Canada:
  - i) an organization chart for the Contractor showing all related corporations and partnerships; for the purposes of this Sub-article, a corporation or partnership will be considered related to another entity if:
    - (A) they are “related persons” according to the *Canada Income Tax Act*;
    - (B) they are “affiliates” according to the meaning provided to that term by the *Canada Business Corporations Act*;
    - (C) the entities have now or in the two years before the request for the information had a fiduciary relationship with one another (either as a result of an agency arrangement or any other form of fiduciary relationship); or
    - (D) the entities otherwise do not deal with one another at arm’s length, or each of them does not deal at arm’s length with the same third party.
  - ii) a list of all the Contractor’s shareholders; if the Contractor is a subsidiary, this information must be provided for each parent corporation or parent partnership, up to the ultimate owner; with respect to any publicly traded corporation, Canada anticipates



that the circumstances in which it would require a complete list of shareholders would be unusual and that any request from Canada for a list of a publicly traded corporation's shareholders would normally be limited to a list of those shareholders who hold at least 1% of the voting shares;

- iii) a list of all the Contractor's directors and officers and such other information as Canada may reasonably require that the Contractor is not legally prohibited from sharing with Canada; if the Contractor is a subsidiary, this information must be provided for each parent corporation or parent partnership. Up to the ultimate owner, and; and
- iv) any other information related to ownership and control that may be requested by Canada, subject to applicable securities legislation that would prevent that disclosure, if the Contractor, or its ultimate parent, is a publicly traded company.

If requested by the Contracting Authority, the Contractor must provide this information regarding its subcontractors or proposed subcontractors as well. However, if a subcontractor considers this information to be confidential, the Contractor may meet its obligation by having the subcontractor submit the information directly to the Contracting Authority. Regardless of whether the information is submitted by the Contractor or a subcontractor, Canada agrees to handle this information in accordance with the Confidentiality article of this Contract, provided the information has been marked as either confidential or proprietary.

b) The Contractor must notify the Contracting Authority in writing of:

- i) any change of control in the Contractor itself;
- ii) any change of control in any parent corporation or parent partnership of the Contractor, up to the ultimate owner; and
- iii) any change of control in any subcontractor performing any part of the Work (including any change of control in any parent corporation or parent partnership of the subcontractor, up to the ultimate owner).

The Contractor must provide this notice by no later than 10 business days after any change of control takes place (or, in the case of a subcontractor, within 15 business days after any change of control takes place). Where possible, Canada requests that the Contractor provide advance notice of any proposed change of control transaction.

- c) In this article, a "**change of control**" includes but is not limited to a direct or indirect change in the effective control of the corporation or partnership, whether resulting from a sale, encumbrance, or other disposition of the shares (or any form of partnership units) by any other means. In the case of a joint venture Contractor or subcontractor, this applies to a change of control of any of the joint venture's corporate or partnership members. In the case of a Contractor or subcontractor that is a partnership or limited partnership, this requirement also applies to any corporation or limited partnership that is a partner.
- d) If Canada determines in its sole discretion that a change of control affecting the Contractor (either in the Contractor itself or any of its parents, up to the ultimate owner) may be injurious to national security, Canada may terminate the Contract on a "no-fault" basis by providing notice to the Contractor within 90 days of receiving the notice from the Contractor regarding the change of control. Canada will not be required to provide its reasons for terminating the Contract in relation to the change of control, if Canada determines in its discretion that the disclosure of those reasons could itself be injurious to national security.
- e) If Canada determines in its sole discretion that a change of control affecting a subcontractor (either in the subcontractor itself or any of its parents, up to the ultimate owner) may be



injurious to national security, Canada will notify the Contractor in writing of its determination. Canada will not be required to provide the reasons for its determination, if Canada determines in its discretion that the disclosure of those reasons could itself be injurious to national security. The Contractor must, within 90 days of receiving Canada's determination, arrange for another subcontractor, acceptable to Canada, to perform the portion of the Work being performed by the existing subcontractor (or the Contractor must perform this portion of the Work itself). If the Contractor fails to do so within this time period, Canada will be entitled to terminate the Contract on a "no-fault" basis by providing notice to the Contractor within 180 days of receiving the original notice from the Contractor regarding the change of control.

- f) In this article, termination on a "no-fault" basis means that neither party will be liable to the other in connection with the change of control or the resulting termination, and Canada will only be responsible for paying for those products or services received up to the effective date of the termination.
- g) Despite the foregoing, Canada's right to terminate on a "no-fault" basis will not apply to circumstances in which there is an internal reorganization that does not affect the ownership of the ultimate parent corporation or parent partnership of the Contractor or subcontractor, as the case may be; that is, Canada does not have a right to terminate the Contract pursuant to this article where the Contractor or subcontractor continues, at all times, to be controlled, directly or indirectly, by the same ultimate owner. However, in any such case, the notice requirements of this article still apply.

## 15.22 Security Audit

Security audits may be addressed in individual Requirements.

## 16. Pricing, Invoicing and Auditing

### 16.1 Basis of Payment

- a) **Pricing Catalogue represents Ceiling Prices:** The prices in the Pricing Catalogue represent ceiling prices. These ceiling prices represent the maximum that can be proposed when responding to a Task Authorization. For clarity, there may be pricing arrangements contemplated by a Task Authorization that are not directly based upon the elements in the Contractor's Pricing Catalogue (such as a fixed price arrangement for implementation services). In those circumstances the terms of this Article still apply based upon any inputs (such as hours of work) into the determination of those alternative pricing arrangements.
- b) **Adding Line Items to the Pricing Catalogue:** The Contractor may propose additional line items to the Pricing Catalogue on a quarterly basis. Canada may reject the addition of any line item that, in Canada's opinion, does not fall within the scope of this Contract. Once a line item has been added to the Pricing Catalogue, it becomes a ceiling price that cannot be changed until the next refresh of the pricing in accordance with the previous paragraph.
- c) **Prices charged under Requirements based on services provided under entire Contract:** Subject to the provisions of any individual Task Authorization, the prices payable under any given Task Authorization will be based on the Contract as a whole, rather than under individual Requirements. For example, if the Contractor has offered to provide:
  - i) a threshold discount on service pricing for a specific Task Authorization, and that service is being used by the Contractor to respond to more than one Task Authorization, the amount payable for those services under both Requirements will be



- determined by taking into account the services provided under all those Requirements;
- ii) a threshold discount on the hourly rate for Professional Services, then the Professional Services provided to Canada at an hourly rate across all Requirements issued to that Contractor will be used to determine the discount that applies; and
  - iii) any other service being provided under more than one Task Authorization will also be billed based on the total amount of that service being rendered across all Requirements.
- d) **Firm Pricing for Requirements:** The firm pricing for the Work to be performed under each Task Authorization (including any variables that apply to the pricing) will be set out in the Task Authorization.
- e) **Methods of Payment:** The method(s) of payment for the Work to be performed under each Task Authorization will be set out in the Task Authorization.
- f) **Pre-Authorized Travel and Living Expenses:** Subject to any Task Authorization specifying a different regime regarding travel and living expenses, Canada will not reimburse the Contractor for travel and living expenses incurred to perform the Work in the National Capital Region, nor will Canada reimburse for travel and living expenses incurred to travel from the Contractor's location to and from the National Capital Region. These costs must be part of the all-inclusive fixed daily rate. The Contractor will be able to charge for time spent travelling from the National Capital Region to Canada's work site(s), at the per diem rates set out in the Contract, for Work outside the National Capital Region. Canada will reimburse the Contractor for its pre-authorized travel and living expenses reasonably and properly incurred in the performance of the Work outside the National Capital Region, at cost, without any allowance for profit and/or administrative overhead, in accordance with the meal, private vehicle and incidental expenses provided in Appendices B, C and D of the Treasury Board Travel Directive, and with the other provisions of the directive referring to "travellers", rather than those referring to "employees". All travel must have the prior authorization of the Technical Authority. All payments are subject to government audit.

## 16.2 Prices to be Negotiated

For all items for which the Contract (or an individual Task Authorization) expressly refers to pricing being negotiated or for new items not priced in the Pricing Catalogue, upon request by the Contracting Authority, the Contractor must submit one or more (as requested) of the following forms of price support for the prices it proposes:

- a) a current published price list and the percentage discount available to Canada (which must be commensurate with the discount for the other services already being provided to Canada);
- b) paid invoices for similar goods or services (similar quality and quantity) sold to other customers; if the Contractor is required or wishes to keep the identity of its customers confidential, the Contractor may black out any information on these invoices that could reasonably reveal the customer's identity, as long as the Contractor provides, together with the invoices, a certification from its Senior Financial Officer with the profile of the customer (e.g., whether it is a public sector or private sector customer, the customer's size and service locations, and the nature of the goods and/or services it receives from the Contractor), in order to allow Canada to determine whether the goods or services received by the customer are comparable to those Canada receives from the Contractor; or
- c) a price certification from the Contractor.



### 16.3 Competitive Award

The Contractor acknowledges that the Contract has been awarded as a result of a competitive process. No additional charges to the prices and rates specified in any Task Authorization will be allowed to compensate for errors, oversights, misconceptions or underestimates made by the Contractor when bidding for the Contract or responding to a Task Authorization.

### 16.4 Annual Inflation Adjustment for Prices under Task Authorizations

- a) Except as otherwise set out in a Task Authorization (such as for fixed price services), all prices in a Task Authorization are subject to adjustment to reflect inflation starting on the January 1 following the 5<sup>th</sup> anniversary of the date on which the Task Authorization was awarded.
- b) The adjustment will be made every year, effective January 1. The adjustment will be equal to the increase in the all-items Consumer Price Index, monthly (CANSIM Table 326-0020) for January of that year over the same Index for the previous January, as published by Statistics Canada for the previous year.
- c) Each time an adjustment is made, it will be calculated using the then-current prices in the Contract.
- d) If in any year the CPI rate is a negative value, it will be treated as zero for the purposes of this adjustment.

### 16.5 Price Validation

No more than once every 3 years, Canada may require price validation, in order to ensure that the prices continue to offer good value to Canada, in light of the potential length of the Contract Period. The price validation process is independent of the Consumer Price Index adjustments made to pricing under individual Requirements. When Canada provides notice under this Article: (1) the Contractor may choose the method or methods to be used for price validation at that time; (2) the Contractor may choose an alternative method to be used for price validation that has been set out in the applicable Task Authorization; or (3) the parties may agree to add an alternative method:

- a) **Method 1 – Comparison against the Contractor’s Market Rates:** The Contractor may demonstrate that the prices under all the active Requirements (or selected prices for which Canada has requested validation) reflect good value to Canada by providing to Canada evidence that the rates it is charging to Canada are within 7% of the rates it generally charges to other customers of a similar size receiving similar services on similar terms and conditions. Both parties will act reasonably in determining what constitute customers of a similar size, similar services, or similar terms and conditions.
- b) **Method 2 – Benchmarking by an Independent Third Party:**
  - i) Benchmarking under this Article must be conducted by an independent industry-recognized benchmarking service provider (the “**Benchmarker**”). The Contractor will identify at least 2 proposed benchmarkers to Canada. If Canada does not agree with either choice within 10 business days, Canada will propose 2 benchmarkers to the Contractor. If the Contractor does not select one of the benchmarkers, Canada may choose the Benchmarker. If the Contractor does not agree with Canada’s selection, the Contractor may choose to use Method 1 for price validation.
  - ii) Canada will retain the services of the Benchmarker and will require that the Benchmarker sign a confidentiality agreement with respect to all information to which it



- is provided access in performing the benchmarking. Canada will be responsible for the costs of the benchmarking.
- iii) The Contractor must cooperate with the Benchmarker, including, as appropriate, by making available knowledgeable personnel and pertinent documents and records in a timely manner.
  - iv) The Benchmarker will perform the benchmarking in accordance with documented procedures to be specified by the Benchmarker. The Benchmarker will be required to provide these procedures to the parties before the start of the benchmarking process. The Benchmarker will be required to compare the prices under the individual Requirements to the prices being charged in a representative sample of corollary services being provided to other customers worldwide (the “**Representative Sample**”).
  - v) In conducting the benchmarking, the Benchmarker will be required, in accordance with the Benchmarker’s standard practices, to normalize the data used to perform the benchmarking to accommodate, as appropriate, differences in volume of services, scope of services, service levels, financing or payment streams, currency and foreign exchange terms, and any other pertinent factors that the parties and the Benchmarker agree should be taken into account. If the parties do not agree on additional factors to be taken into account, the Benchmarker will proceed using its standard practices. Without limiting the generality of the foregoing, to the extent the Representative Sample includes customers that receive comparable services that are not priced on a similar basis as services being provide under this Contract, the Benchmarker’s proposed findings and final report will be required to include a description of how the pricing was normalized.
  - vi) Each Party will be provided 20 business days to review, comment on, and request changes in the Benchmarker’s proposed findings. Although each of the parties may request changes and provide comments, the Benchmarker will not be required to make those changes or address those comments in finalizing its report. Following the parties’ review and comment, the Benchmarker will issue a final report of its findings and conclusions.
  - vii) If the Benchmarker’s final report includes data from at least 5 customers, the average aggregated prices will exclude the highest and lowest aggregated prices from the Representative Samples.
  - viii) If the Benchmarker’s final report indicates that the average aggregated prices for the Representative Samples exceed the aggregated price for the services being provided under any given Task Authorization, no adjustment will be made to the prices in the Service Catalogue.
  - ix) If the Benchmarker’s final report indicates that the average aggregated prices for the Representative Sample are at least 10% less than the aggregated price for the benchmarked Service Catalogue Items, then the Contractor will meet with the Government within fifteen (15) business days to review the report and discuss revisions to the pricing;
  - x) if the parties cannot agree to a reduction in the pricing (such reduction not to exceed the percentage difference determined by the benchmarking exercise), Canada has the right to terminate the Contract on a no-fault basis (meaning that no fees are payable other than for services that have been provided to Canada) at any time in the ensuing 3 years by providing the Contractor with no less than 180 days of notice.





Requirements may have additional provisions with respect to application of benchmarked prices to the Work contemplated under such Task Authorization.

## 16.6 Invoicing

- a) **Invoice Submission:** Subject to alternative payment methods contemplated in a Task Authorization, the Contractor must submit monthly invoices in accordance with this Contract. Canada will identify to the Contractor, from time to time, whether it wants to receive invoices on a per-Task Authorization basis or a consolidated invoice for all active Requirements.
- b) **Certification:** By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract and any further terms set forth in applicable Requirements.
- c) **Where to Send Invoices:** The Contractor must submit a copy of all invoices to the Technical Authority. For each Client with a Client Administrative Contact, the Contractor must provide a copy of that Client's invoice to the Client Administrative Contact.
- d) **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, high-level 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
  - iv) deduction for holdback, if applicable;
  - v) the extension of the totals, if applicable; and
  - vi) if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.

## 16.7 Applicable Taxes

- a) **"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).
- b) **Payment of Taxes:** Unless otherwise indicated, all prices in the Pricing Catalogue and in any Task Authorization are exclusive of any Applicable Taxes. Canada must pay all Applicable Taxes to the Contractor at the rate and the manner prescribed by law from time to time. The Contractor will show the Applicable Taxes as a separate line item on its invoices to Canada and must, on request by the Contracting Authority, show the way in which the Applicable Taxes were calculated. The Contractor must remit to appropriate tax authorities any amounts of Applicable Taxes paid or due.
- c) **Withholding for Non-Residents:** Canada must comply with its legal obligations to withhold an 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.

## 16.8 Payments

- a) **Payment Period:** Canada will pay any undisputed invoice in the correct form within 30 calendar days. If any invoice is not acceptable in either form or content or is incorrectly issued under a specific Task Authorization, Canada will notify the Contractor within 15 days and the 30-day payment period will begin once Canada receives a conforming invoice.
- b) **Good Faith Dispute:** In the event of a good faith dispute with respect to any amount charged under the Contract, the payment due date (as it relates to the disputed amount) will not be calculated until the disputed amount has been settled to the satisfaction of both parties, acting in good faith, provided that Canada has given the Contractor written notice of the disputed amount (and the reasons for it disputing the amount) within the period specified above unless Canada did not have knowledge of the basis of its dispute until after the respective notice period (acting reasonably), and provided Canada pays the undisputed amount within the required time period.
- c) **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. “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. 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.
- d) **Electronic Payment of Invoices:** The Contractor accepts to be paid using any of the following Electronic Payment Instrument(s):
  - i) Direct Deposit (Domestic and International) and;
  - ii) Wire Transfer (International Only);
- e) **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.
- f) **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. Further restrictions on payment based upon approved and accepted Work may be set forth in a Task Authorization.

## 16.9 Financial Accounts and Audit

- a) **Accounts and Records:** Subject to any limits as set forth in a Task Authorization (such as in respect of Subscription Services where the cost of performing the Work may not be relevant), 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 article 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, not more frequently than once per year, for examination only, those financial books, records, and files of Contractor that are necessary for Canada to verify the Contractor's charges for the Work performed under any Task Authorization. Canada's representatives 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. Canada must provide Contractor with reasonable notice prior to conducting the financial audit and the parties will mutually agree upon the timing of the financial audit which will be conducted in a manner that is not more disruptive to Contractor's business operations than necessary to complete the audit in accordance with this Article. Canada will pay for all costs related to such audits. This right does not extend to or require on-site audits of the Contractor's operations or third-party hosting facilities, disclosure of any confidential information of any other Contractor customer, or Contractor's payroll records or other financial records not related to fees invoiced to Canada.
- 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 article 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. Canada will exercise this right only during normal business hours, with reasonable advance notice to the Contractor, and no more than one time in any 12-month period (unless Canada has a reasonable belief that the Contractor is not complying with the terms of this Contract).
- e) **Service Level Audits:** Service level audit rights will be set out in individual Requirements.

## 17. Insurance, Infringement and Liability

### 17.1 Insurance

The Contractor is responsible for deciding if insurance coverage is necessary to fulfil its obligations under this Contract and to ensure compliance with any applicable law. Any insurance acquired or maintained by the Contractor is at its own expense and for its own benefit and protection. It does not release the Contractor from or reduce its liability under the Contract.

### 17.2 Intellectual Property Infringement

- a) **No Infringement:** The Contractor warrants that to the best of the Contractor's knowledge after making diligent inquiries:
  - i) none of the Materials, Subscription Services, Managed Services or Value-Added Services, nor Canada's use of them or any other product or service delivered under



- the Contract infringes or constitutes a misappropriation of the intellectual property or other rights of a third party;
- ii) the Contractor has obtained (or will obtain prior to performing any Work requiring intellectual property rights) and will continue to hold throughout the Contract Period all necessary intellectual property rights required to perform the Work in accordance with the terms and conditions of this Contract; and
  - iii) that Canada will have no obligation to pay royalties of any kind to anyone in connection with the Work.
- b) **Notice of Claim:** If anyone makes a claim against Canada or the Contractor concerning intellectual property infringement or royalties related to the Work (whether the Contractor had knowledge of the potential infringement or obligation to pay royalties or not), that party agrees to notify the other in writing immediately. According to *Department of Justice Act*, the Attorney General of Canada must have the regulation and conduct of all litigation for or against Canada, but the Attorney General may request that the Contractor defend Canada against a third-party claim. Regardless of whether Canada requests that the Contractor defend it against a claim, the Contractor agrees to participate fully in the defence and any settlement negotiations and to pay all damages, legal costs and other reasonable costs incurred or payable as a result of the claim, including the amount of any settlement. Both parties agree not to settle any claim unless the other party first approves the settlement in writing.
- c) **Limitation on Contractor's Obligations:** The Contractor has no obligation regarding claims that were only made because:
- i) Canada modified the Work or part of the Work without the Contractor's consent or used the Work or part of the Work without following a requirement of the Contract;
  - ii) Canada used the Work or part of the Work with a product that the Contractor did not supply under the Contract (unless that use is described in the Contract or the manufacturer's specifications);
  - iii) the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by Canada (or by someone authorized by Canada); or
  - iv) the Contractor used a specific item of equipment or software that it obtained because of specific instructions from the Contracting Authority; however, this exception only applies if the Contractor has included the following language in its own contract with the supplier of that equipment or software: "[Supplier name] acknowledges that the purchased items will be used by the Government of Canada. If a third party claims that equipment or software supplied under the Contract infringes any intellectual property right, [supplier name], if requested to do so by either [Contractor name] or Canada, will defend both [Contractor name] and Canada against that claim at its own expense and will pay all costs, damages and legal fees payable as a result of that infringement." Obtaining this protection from the supplier is the Contractor's responsibility and, if the Contractor does not do so, it will be responsible to Canada for the claim.
- d) **Remedying Infringement:** If anyone claims that, as a result of the Work, the Contractor or Canada is infringing its intellectual property rights, the Contractor must immediately do one of the following:
- i) take whatever steps are necessary to allow Canada to continue to use the allegedly infringing part of the Work; or



- ii) modify or replace the Work to avoid intellectual property infringement, while ensuring that the Work continues to meet all the requirements of the Contract.

If neither occurs, the Contractor must promptly terminate the affected service (but only to the minimum extent necessary to address the infringement), and refund all amounts paid for services not yet performed. If Canada determines that the termination of the affected service has a material effect on the Work under any Task Authorization, Canada may:

- (A) if Canada is willing to continue using the remaining Work, seek to negotiate a reduced price with the Contractor; or
- (B) failing, which Canada may terminate the Contract on a no-fault basis (with an effective date determined by Canada in its discretion) and the Contractor must pay to Canada an amount equal to the amount that would be payable by Canada on the effective date of the termination if at that time Canada were terminating the Contract for convenience.

### 17.3 Limitation of Liability - N0004C (2020-05-08) Public Cloud Software as a Service (SaaS)

#### First Party Liability

**Contract Performance:** The Contractor is fully liable for all damages to Canada, arising from the Contractor's performance or failure to perform the Contract.

**Data Breach:** The Contractor is fully liable for all damages to Canada resulting from its breach of security or confidentiality obligations resulting in unauthorized access to or unauthorized disclosure of records or data or information owned by Canada or a third party.

**Limitation Per Incident:** Subject to the following section, irrespective of the basis or the nature of the claim, the Contractor's total liability per incident will not exceed the cumulative value of the Contract invoices for 12 months preceding the incident.

**No Limitation:** The above limitation of Contractor liability does not apply to:

- a) wilful misconduct or deliberate acts of wrongdoing, and
- b) any breach of warranty obligations.

**Third Party Liability:** Regardless whether the third party claims against Canada, the Contractor or both, each Party agrees that it will accept full liability for damages that it causes to the third party in connection with the Contract. The apportionment of liability will be the amount set out by agreement of the Parties or determined by a court. The Parties agree to reimburse each other for any payment to a third party in respect of damages caused by the other, the other Party agrees to promptly reimburse for its share of the liability.

## 18. Dispute Resolution

### 18.1 Consultation and Cooperation

The parties agree to maintain open and honest communication throughout the performance of the Contract. The parties agree to consult and co-operate with each other in the furtherance of the Work and the resolution of problems or differences that may arise. Before raising a dispute under the Dispute Resolution provision, the parties agree to contact one another for informal discussions at the Director-General level within Canada and an equivalent representative of the Contractor. Where the Governance Framework is developed then that governance mechanism will be



leveraged to support informal escalation and resolution of problems or differences that may arise. In addition, Service Orders may have additional mechanisms for dispute resolution contained in them, where appropriate based upon the Work contemplated by the Service Order. By way of example, for project related work where rapid dispute resolution is critical for maintaining timeliness then an expedited dispute resolution process may be added to the Service Order.

## 18.2 Dispute Resolution

- a) **Interpretation:** In this Dispute Resolution Article, "**dispute**" means any disagreement regarding any issue identified by a party in a Notice to Negotiate submitted to Canada and includes any claim by either party arising from such disagreement and any counterclaim by the other party.
- b) **Decision or Direction from Canada Regarding Dispute:** Any dispute between the parties of any nature arising out of or in connection with the Contract which could result in a claim by either party, and which is not settled by consultation and co-operation, may be resolved in the first instance by Canada, whose written decision or direction will be final and binding subject only to the provisions of this Dispute Resolution Article unless:
  - i) Canada's direction is not technically possible;
  - ii) Canada's direction would undermine any security controls put in place by the Contractor;
  - iii) The out-of-pocket expense to the Contractor exceeds \$250,000 (not including Applicable Taxes).

A written decision or direction by Canada may relate to any obligation under the Contract.

- c) **Contractor Disputes Canada's Decision or Direction:** The Contractor will be deemed to have accepted the decision or direction of Canada referred to in the previous paragraph and to have expressly waived and released Canada from any claim in respect of the particular matter dealt with in that decision or direction unless, within 20 business days after receipt of the decision or direction, the Contractor submits to the Contracting Authority a written "**Notice to Negotiate**". That notice must refer to this Article, and must specify the issues in contention and the relevant provisions of the Contract, and for the avoidance of doubt must be sent to the attention of Contractor's General Counsel by registered mail (or courier where receipt is acknowledged) as follows: [address of GC for party's GC to be inserted].
- d) **Contractor's On-Going Obligation to Perform:** Providing notice under the previous paragraph does not relieve the Contractor from complying with Canada's decision or direction that is the subject of the dispute. The Contractor's compliance must not be construed by Canada as an admission by the Contractor of the correctness of Canada's decision or direction. This obligation does not apply if the object of the dispute is the non-payment by Canada of undisputed invoices.
- e) **Further Instructions if Dispute Not Resolved Promptly:** If a dispute is not resolved promptly, Canada must give such instructions as, in Canada's opinion, are necessary for the proper performance of the Work and to prevent delays pending a resolution of the matter. Unless Canada terminates the Contract or Service Order, orders the Contractor to suspend the Work, or takes the Work out of the hands of the Contractor, the Contractor must continue to perform the Work in accordance with the provisions and requirements of the Contract and the instructions of Canada. The Contractor's performance in those circumstances will not prejudice any claim that the Contractor may have with respect to the matter in dispute.



- f) **No Relief from Providing Other Notices:** Nothing in these Dispute Resolution procedures relieves the Contractor from its obligation to provide any other notice required by the Contract within the time specified in the Contract.

## 18.3 Negotiation

- a) Within 10 business days after receipt by Canada of a Notice to Negotiate, the parties must begin negotiations to resolve the dispute. Negotiations must occur initially between representatives of the Contractor and Canada who play a direct supervisory role in the performance, administration or management of the matter in dispute under the Contract.
- b) If the representatives referred to in the previous paragraph are unable to resolve some or all of the issues which are the subject of the negotiations within 30 business days, the parties may refer the remaining issues which are in dispute to a second level of negotiation between more senior representatives of each party.
- c) If negotiations fail to resolve the dispute within 30 business days from the date of the dispute is referred to the second level of negotiation, either party may, by giving written notice to the other party, within 15 business days from the end of such period, request that mediation be undertaken to assist the parties to reach agreement on the outstanding issues (a “**Notice to Mediate**”).
- d) Additional levels of negotiation and periods of time longer than those prescribed above may be agreed to in writing by the parties. At each level of negotiation, both the Contractor and Canada must identify their representative(s).

## 19. Certifications, Representations and Warranties

### 19.1 Certifications

Compliance with the certifications provided by the Contractor in its bid, during contract negotiations, or when responding to a Task Authorization (the details of which will be set out in the Task Authorization or an annex to it), as well as during any process pursuant to which the bidder pre-qualified to bid (the details of which are set out in the written process documents where the bidder was pre-qualified), is a condition of the Contract and subject to verification by Canada during the entire Contract Period. If the Contractor does not comply with any certification or it is determined that any certification made by the Contractor in its bid is untrue, whether made knowingly or unknowingly, Canada has the right, under the default provision of the Contract, to terminate the Contract for default.

### 19.2 Representations and Warranties

The Contractor made statements regarding its experience and expertise in its Request for Supply Arrangement bid (including at the Invitation to Qualify stage) that resulted in the award of this Contract and, where applicable, in its response to any pre-qualification procurement process. The Contractor represents and warrants that all those statements are true and acknowledges that Canada relied on those statements in awarding the Contract.

## 20. Rights & Remedies

### 20.1 Service Credits



TBD per RFP under this SA.

## 20.2 Rights are Cumulative

All rights, remedies, powers and discretions granted or acquired by each party under the Contract or by law are cumulative, not exclusive.

## 20.3 Suspension of the Work

- a) 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 that order in a way that minimizes the cost of doing so. While a suspension order is in effect, the Contractor must not remove any part of the Work from any premises without first obtaining the written consent of the Contracting Authority. Within 180 days, the Contracting Authority must either cancel the suspension order or terminate the Contract, in whole or in part, in accordance with the provisions of this Contract.
- b) When an order is made under (a), unless the Contracting Authority terminates the Contract for default or the Contractor abandons the Contract, the Contractor will be entitled to be paid its additional fees and costs incurred as a result of the suspension (including the fees for resources who cannot be reassigned to other projects during the suspension, provided Canada was given timely notice regarding the resources who could not be reassigned).
- c) When Canada cancels a suspension order, the Contractor must resume work in accordance with the Contract as soon as reasonably possible. 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, acting reasonably) is necessary for the Contractor to resume the Work. Any equitable adjustments will be made as necessary to any affected conditions of the Contract.
- d) A Task Authorization may contain alternative provisions relating to the suspension of the Work.

## 20.4 Termination for Default

- a) If the party is in default in carrying out any material obligation under the Contract, the other party may, by giving written notice to the defaulting party, terminate for default the Contract or part of the Contract in accordance with this Article.
- b) **Cure Period:**
  - i) If it is not possible to remedy the Contractor's default, Canada may terminate the Contract for default immediately without providing any opportunity to cure the default. Individual Requirements may provide different cure periods than the ones set out in this Article.
  - ii) If the Contract (including any individual Task Authorization) specifies that a specific default will be subject to no cure period, Canada may terminate the Contract for default immediately without providing any opportunity to cure the default.
  - iii) In all other cases, the defaulting party will be provided with the opportunity to cure its default to the satisfaction of the other party. The length of the cure period will be as follows:





- (A) If the Contract (including any individual Task Authorization) specifies that a specific default will be subject to a specific cure period, that cure period will apply.
- (B) If the Contract (including any individual Task Authorization) does not specify whether or not a particular default is subject to a cure period, or does not specify the cure period, the parties agree that the default party will not be entitled to a cure period longer than:
  - (1) 10 FGWDs, if the default concerns a portion of the Work for which there is no specified completion or delivery date;
  - (2) 10 FGWDs, if the default concerns a portion of the Work for which the specified completion or delivery date is a period of more than 10 FGWDs, but less than 40 FGWDs;
  - (3) 20 FGWDs, if the default concerns a portion of the Work for which the specified completion or delivery date is a period of more than 40 FGWDs, but less than 80 FGWDs;
  - (4) 30 FGWDs, if the default concerns a portion of the Work for which the specified completion or delivery date is a period of more than 80 FGWDs, but less than 120 FGWDs; or
  - (5) 60 FGWDs, if the default concerns a portion of the Work for which the specified completion or delivery date is a period of more than 120 FGWDs
- (C) If there are multiple defaults, only a single cure period will be provided equal to the cure period associated with the default associated with the longest delivery time (i.e., if there are multiple defaults, the Contractor is not entitled to a series of consecutive cure periods).
- (D) Notwithstanding anything in this Sub-article (b) (Cure Period) to the contrary, the Contractor has no right to terminate any material Work (including any Subscription Services) unless the default by Canada relates to:
  - (1) non-payment of amounts that are not in dispute where non-payment continues for a period of at least 90 calendar days after written notice of its intention to terminate has been delivered and Canada does not remedy that default; or
  - (2) infringement of the Contractor's intellectual property that has a material adverse affect on the Contractor where that infringement persists for a period of at least 90 calendar days after the later of (a) written notice from the Contractor of its intention to terminate has been delivered and (b) the date that Canada could reasonably cease such infringement.
- iv) Upon receiving notice of default and the beginning of the cure period with respect to any one or more Requirements collectively valued at more than \$5 million (not including Applicable Taxes), the Contractor must make written submissions to Canada within 15 FGWDs regarding any reasons that Canada would not be entitled to terminate the Contract for default upon the expiry of the cure period.
- v) Upon receiving notice of default and the beginning of any cure period equal to or longer than 60 FGWDs, the Contractor must submit (within 15 FGWDs) an action plan describing in detail how it will cure its default within the allotted cure period.



- vi) Where Canada has the right to terminate under this Contract, Canada may instead elect, in its sole discretion, to deliver notice of deferred termination (the “**Deferred Termination Notice Date**”), which means the following:
- (A) After such Deferred Termination Notice Date, the Contract will continue in accordance with its terms and the Contractor will continue to remediate its default in accordance with the terms of this Contract;
  - (B) At any time after the Deferred Termination Notice Date Canada can elect, in its sole discretion, to deliver notice of termination and upon delivery of such notice this Contract (or any portion of this Contract as determined by Canada) will be terminated on the date of termination set forth in such notice; and
  - (C) If Canada does not elect to deliver a notice of termination within 18 months of the Deferred Termination Notice Date and the original default giving rise to the delivery of the deferred termination notice has been remedied then Canada's right to deliver notice of termination in respect of such original default will expire.
- c) If the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or if a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or an order is made or a resolution passed for the winding-up of the Contractor, the Contracting Authority may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract without providing an opportunity to cure.
- d) If Canada terminates the Contract for default, the Contractor will have no claim for further payment except as provided in this Article. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.
- e) Subject to any terms to the contrary in a Task Authorization, upon termination of the Contract under this Article, 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:
- i) 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
  - ii) the proven cost (demonstrated by producing invoices) to the Contractor in respect of anything else delivered to and accepted by Canada.
- This paragraph does not apply with respect to the Subscription Services and does not apply to any Materials being provided by the Contractor as part of the Subscription Services. This paragraph applies, however, to any Materials being produced using professional services paid for on the basis of an hourly or per diem rate.
- f) Subject to any terms to the contrary in a Task Authorization, the parties agree that the amount paid by Canada under the Contract to the date of the termination and any amount payable under this Section will not exceed the total value identified in the Requirements being terminated.



- g) If the Contract is terminated for default, but it is later determined by a court of competent jurisdiction that grounds did not exist for a termination for default, the notice will be considered a notice of termination for convenience, and Canada will pay the Contractor in accordance with the Termination for Convenience Article.

## 20.5 Termination for Convenience

Canada has the right to terminate all or parts of the Work for convenience on the terms and conditions set out in individual Requirements.

## 20.6 Subcontracting

- a) Despite the General Conditions, none of the Work may be subcontracted (even to an affiliate of the Contractor) unless the Contracting Authority has first consented in writing. In order to seek the Contracting Authority's consent, the Contractor must provide the following information:
  - i) the name of the subcontractor;
  - ii) the portion of the Work to be performed by the subcontractor;
  - iii) the Designated Organization Screening or the Facility Security Clearance (FSC) level of the subcontractor;
  - iv) the date of birth, the full name and the security clearance status of individuals employed by the subcontractor who will require access to Canada's facilities;
  - v) completed sub-SRCL signed by the Contractor's Company Security Officer for CISD completion; and
  - vi) any other information required by the Contracting Authority.
- b) This article applies to subcontractors retained directly by the Contractor, but does not apply to subcontractors retained by those subcontractors.
- c) For the purposes of this Article, a "subcontractor" does not include a Supplier who deals with the Contractor at arm's length whose only role is to provide telecommunications or other equipment or software that will be used by the Contractor to provide services, including if the equipment will be installed in the backbone or infrastructure of the Contractor.

## 20.7 Action Plan Following Failure to Deliver on Time

If the Contractor fails to deliver any Materials or complete any task described in the Contract on time, in addition to any other rights or remedies available to Canada under the Contract or the law, Canada may notify the Contractor of the deficiency, in which case the Contractor must submit a written plan to the Contracting Authority (and CC the Technical Authority) within 10 business days detailing the actions that the Contractor will undertake to remedy the deficiency. The Contractor must prepare and implement the plan at its own expense.

## 21. Change Management

- a) Each request or proposal for a change to the Contract and Task Authorization will be made and implemented in accordance with the provisions of this Section.
- b) Canada or the Contractor may submit a Change Request (CR) to the other party by delivering a CR form, developed by the Contractor and approved by Canada that includes:
  - xv) a description of the change;
  - xvi) the reason for the change;



- xvii) a description of how and when the Change will be implemented;
  - xviii) a description of the impact(s) that the implementation of the change will or could have on the Solution, Canada, and third parties associated with the Solution;
  - xix) an analysis of all risks of implementing the change;
  - xx) a statement of the Fees and Expenses that Contractor proposes to charge to implement the change (including supporting documentation evidencing that the Fees and Expenses are commercially reasonable and competitively priced based on the nature and scope of the Change);
  - xxi) proposed reductions to the Fees and Expenses if the Change reduces the scope of the Solution;
  - xxii) the anticipated implementation date for the change; and
  - xxiii) any other details reasonably required by Canada as set forth in its request for Change.
- c) The Contractor's response CR must be made within twenty (20) FGWDs of receipt of the CR. If the CR is to resolve an urgent matter (including confidentiality, privacy, security or internal control issues or as needed to comply with Applicable Law), the Contractor must respond to the CR within five (5) FGWDs of receipt of the CR.
  - d) The Contractor may reject a CR from Canada for Subscription Services.
  - e) The Contractor may reject a CR from Canada if the Contractor reasonably determines that it is not technically possible to carry out the proposed change.
  - f) In the event that the Contractor rejects a CR, the response to the CR must explain the Contractor's reasons for rejecting the change and provide supporting documentation, along with suggestions for how Canada may be able to achieve the proposed change by alternative means. If the proposed change becomes technically possible at a later date, Contractor will promptly notify Canada in writing.
  - g) Canada may reject any CR unless the change is necessary to comply with Applicable Law, required by a Regulatory Authority.
  - h) Unless expressly provided otherwise in a SOW, the Contractor will make changes requested by Canada in a CR at no cost to Canada which are required:
    - i) to comply with any Applicable Law; or
    - ii) by Contractor to enable Contractor to comply with its obligations under this Agreement.
  - i) The parties' agreement to a Change will be evidenced by a Change Order or amendment to the SOW reflecting such Change. If the parties are unable to agree to such Change Order or amendment to a SOW, including Fees for the Change, the parties will resolve the Dispute in accordance with the procedures set forth in Section 20. Upon notice by Canada, Contractor will begin to implement the Change pending resolution of the Dispute.

## 22. Work Provisioning

- a) **Work Request Notice:**



- i) Canada will issue a Work Request Notice (WRN) to the Contractor to perform Work for a Task Authorization on an as-and-when requested basis.
  - ii) Whenever the Contractor receives a WRN from Canada, the Contractor agrees to complete the Work in accordance with the Contract, Task Authorization and at the prices set out in the Pricing Catalogue.
  - iii) Regardless of when a WRN is issued, all WRNs automatically end no later than the last day of the Task Authorization Period, and Canada is not required to cancel any WRNs at the end of the Task Authorization Period.
  - iv) The Contractor will not be paid for providing information required to prepare or issue a WRN.
  - v) The Contractor agrees that WRNs can be issued by Canada 7 days per week, 24 hours per day, 365 days per year (7x24x365).
  - vi) The Contractor must not reject a WRN that has been submitted by Canada.
  - vii) The Contractor must provide an email acknowledgement within 1 FGWD of receiving a WRN that includes the date WRN was transmitted to Contractor and the Canada WRN identifier.
  - viii) Canada will include the following information in each WRN and, provided all this information is included, the Contractor must proceed with the fulfilment of the WRN:
    - (A) date WRN Transmitted to Contractor;
    - (B) Canada WRN identifier;
    - (C) identification, quantity, and description, basis of payment of the Work being ordered by Workload Migration Catalogue Item; and
    - (D) Contact Name, email and phone number(s);
  - ix) If the Contractor requires clarification of a WRN, the Contractor must request the clarifications within 1 FGWD of receiving a WRN. The Contractor must continue to meet the timeframes to complete the Work regardless of the time taken for clarifications.
- b) **Work Request Quote:**
- i) The Contractor must allow Canada to submit a Work Request Quote to obtain a Maximum Ceiling Price to complete the Work for Professional Services.
  - ii) The response provided by the Contractor to a Work Request Quote must be valid for a period of 60 FGWDs from the date the response was provided.
  - iii) The Contractor will not be paid for providing a response to a Work Request Quote.
  - iv) When requested by Canada, the Contractor must provide the following supporting information for a response as specified by Canada:
    - (A) detailed work breakdown structure that describes the milestones, schedule and resources to complete the Work; and



- (B) all costs from third parties involved in the Work as evidenced by invoices from the third parties, together with additional information with the same format and content as described above for the detailed cost breakdown.
- v) Where the supporting information for a response indicates a lower cost for the Work, the Contractor must:
  - (A) provide an updated response to the Work Request Quote that reflects the lower costs indicated in the supporting information; and
  - (B) the Contractor's invoice to Canada must reflect the lower cost in the updated response.
- vi) Where Canada has requested supporting information, the Contractor must not invoice for the Work until Canada agrees that the submitted supporting information is sufficient.
- vii) The response cannot include costs for work activities related to or materials used to provide Work to any other customer of the Contractor.
- viii) Canada is not required to issue a Work Request Notice following a Work Request Quote.

## 23. General & Interpretation

### 23.1 Authorities & Contacts

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

### 23.2 Closure of Government Offices

- a) Where the Contractor, its employees, subcontractors, or agents are providing services on government premises under the Contract and those premises are inaccessible because of the evacuation or closure of government offices, and as a result no work is performed, Canada is not responsible for paying the Contractor for work that otherwise would have been performed if there had been no evacuation or closure.
- b) If, as a result of any strike or lock-out, the Contractor or its employees, subcontractors or agents cannot obtain access to government premises and, as a result, no work is performed, Canada is not responsible for paying the Contractor for work that otherwise would have been performed if the Contractor had been able to gain access to the premises.

### 23.3 International Sanctions

- a) Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of



goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

- b) The Contractor must not supply to the Government of Canada any goods or services which are subject to economic sanctions.
- c) The Contractor must comply with changes to the regulations imposed during the period of the Contract with respect to such sanctions. The Contractor must immediately advise Canada if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the parties cannot agree on a work around plan, the Contract will be terminated on a “no-fault” basis, meaning that neither party will be liable to the other in connection with the termination, and Canada will only be responsible for paying for those products or services received up to the effective date of the termination.

### **23.4 Integrity Provisions**

The Ineligibility and Suspension Policy and all related Directives incorporated by reference into the bid solicitation on its closing date are incorporated into and form a binding part of the Contract. The Contractor must comply with the provisions of the Policy and Directives, which can be found on Public Works and Government Services Canada’s website at Ineligibility and Suspension Policy.

### **23.5 Code of Conduct for Procurement**

The Contractor agrees to comply with the Code of Conduct for Procurement and to be bound by its terms during the Contract Period.

### **23.6 Conflict of interest and Values and Ethics Codes for the Public Service**

The Contractor acknowledges that individuals who are subject to the provisions of the *Conflict of Interest Act*, 2006, c. 9, s. 2, the Conflict of interest Code for Members of the House of Commons, the Values and Ethics Code for the Public Service or all other codes of values and ethics applicable within specific organizations cannot derive any direct benefit from the Contract.