



**RETURN BIDS TO:**  
**RETOURNER LES SOUMISSIONS À:**  
PWGSC/TPSGC Acquisitions Bid Receiving  
Box/Boîte de Réception des Soumissions  
Bid Receiving Box/Boîte de Récepti  
1st Floor/1ère étage, Suite 1212  
100-1045 Main Street  
Moncton  
New Brunswick  
E1C 1H1  
Bid Fax: (506) 851-6759

**REQUEST FOR PROPOSAL**  
**DEMANDE DE PROPOSITION**

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

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

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

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

**Comments - Commentaires**

<b>Title - Sujet</b> Shell and Tube Heat Exchanger - J10 Shell and Tube Heat Exchanger - J10	
<b>Solicitation No. - N° de l'invitation</b> W6898-230601/A	<b>Date</b> 2022-08-30
<b>Client Reference No. - N° de référence du client</b> W6898-230601	
<b>GETS Reference No. - N° de référence de SEAG</b> PW-\$MCT-045-6248	
<b>File No. - N° de dossier</b> MCT-2-45037 (045)	<b>CCC No./N° CCC - FMS No./N° VME</b>
<b>Solicitation Closes - L'invitation prend fin</b> <b>at - à 02:00 PM</b> Atlantic Daylight Saving Time ADT <b>on - le 2022-09-21</b> Heure Avancée de l'Atlantique HAA	
<b>F.O.B. - F.A.B.</b> <b>Plant-Usine:</b> <input type="checkbox"/> <b>Destination:</b> <input checked="" type="checkbox"/> <b>Other-Autre:</b> <input type="checkbox"/>	
<b>Address Enquiries to: - Adresser toutes questions à:</b> MacFarlane (MCT), Andrew	<b>Buyer Id - Id de l'acheteur</b> mct045
<b>Telephone No. - N° de téléphone</b> (782) 377-4248 ( )	<b>FAX No. - N° de FAX</b> (506) 851-6759
<b>Destination - of Goods, Services, and Construction:</b> <b>Destination - des biens, services et construction:</b> DEPARTMENT OF NATIONAL DEFENCE 5 CDSB GAGETOWN 17000, B18, 238 CHAMPLAIN AVENUE OROMOCTO New Brunswick E2V4J5 Canada	

**Instructions: See Herein**

**Instructions: Voir aux présentes**

**Vendor/Firm Name and Address**

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

**Issuing Office - Bureau de distribution**

Acquisitions NB/PEI (Moncton Office) – Bureau  
d'acquisitions N.-B./Î.-P.-É. (Moncton)  
1045 Main Street / 1045, rue Main  
Moncton  
New Bruns  
E1C 1H1

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

## Public Works and Government Services Canada

Please note this solicitation of offers is being tested as part of PSPC's Contract Modernization Initiative. For more information please consult the following <https://buyandsell.gc.ca/contract-modernization-initiative>.

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## 1. Solicitation of Offers.

Canada requests offers from Offerors to meet its requirements. For the convenience of Offerors, a brief description is set out below with detailed requirements in subsequent sections of this solicitation of offers. If interested and able to meet these requirements, Canada appreciates and welcomes an offer.

**1.1. Offers.** Canada is seeking proposals from qualified Offerors to provide goods to the Department of National Defence as defined in the Annex-SOW.

**1.2. Term.** The period of the Contract is from date of Contract to 31 March 2023 inclusive.

**1.3. Delivery Date.** All the deliverables must be received on or before 31 March 2023.

**1.4. Delivery Points.** Delivery of the requirement will be made to delivery point(s) specified at "Annex-Requirement" of the Contract.

## 2. Offer Requirements.

**2.1. Security Requirements.** There are no security requirements associated with this solicitation of offers.

**2.2. Canadian Content.** The requirement is subject to a preference for Canadian goods.

## 3. Offeror Requirements.

**3.1. Offeror Responsibilities.** Each Offeror must

- a. obtain any clarification it considers necessary of the solicitation of offers requirements before submitting an offer;
- b. prepare its offer in accordance with the solicitation of offers instructions;
- c. submit a complete offer by the closing date and time as per the instructions noted in section titled "Offer Submission";
- d. provide a comprehensible and sufficiently detailed offer, including all requested pricing details that will enable Canada to complete its evaluation based on the solicitation of offers criteria, and
- e. comply with all other requirements of this solicitation of offers.

**3.2. Legal capacity.** The Offeror must have the legal capacity to contract. If the Offeror is a sole proprietorship, a partnership, or a corporate body, the Offeror must provide, if requested by the Contracting Authority, a statement and any requested supporting documentation indicating the laws under which it is registered or incorporated together with the registered or corporate name and place of business. This also applies to offerors submitting an offer as a joint venture.

**3.3. Compliance with Code of Conduct.** The Offeror must comply with Canada's [Code of Conduct for Procurement](#).

**3.4. Ineligibility and Suspension Policy.** The Offeror must (i) comply with Canada's [Ineligibility and Suspension Policy](#) and applicable directives in effect on the date Canada issues the solicitation of offers, which are incorporated into the solicitation of offers, and (ii) submit an [Integrity Declaration Form](#).

**3.5. Conflict of Interest.**

- a. **Right to Reject.** Canada may reject an offer if the Offeror, any of its subcontractors, or any of their respective employees or former employees
  - i. was involved in any manner in the preparation of the solicitation of offers or in any situation of conflict of interest or appearance of a conflict of interest, or
  - ii. had access to information related to the solicitation of offers that was not available to other offerors and that would, in Canada's opinion, give or appear to give the Offeror an unfair advantage.

- b. Experience Not an Unfair Advantage.** Canada will not consider any experience any Offeror has acquired by providing the goods and/or services described in the solicitation of offers (or similar goods and/or services), in itself, as conferring an unfair advantage or creating a conflict of interest.
- c. Notification of Rejection.** If Canada intends to reject an offer under this section, the Contracting Authority will inform the Offeror and provide the Offeror an opportunity to make representations.

**3.6. Offer Submission Form.** Each Offeror is required to include the Offer Submission Form (Annex - Offer Submission Form) with their offers. If Canada determines that the information required by the Offer Submission Form is incomplete or requires correction, Canada will provide the Offeror with a deadline to do so.

**3.7. Offeror Declaration Form.** Each Offeror is required to submit a signed Offeror Declaration (Annex- Offeror Declaration Form) in which it certifies to Canada all the information required by the Offeror Declaration. If Canada determines that the information required by the Offeror Declaration Form is incomplete or requires correction, Canada will provide the Offeror with a deadline to do so.

**3.8. Insurance.** The successful Offeror will be responsible to meet insurance requirements in accordance with the resulting contract section entitled "Insurance".

#### **4. Offer Submission.**

**4.1. Offer Receipt.** Subject to provisions for delayed offers, Canada will consider only offers submitted to Public Works and Government Services Canada (PWGSC) Bid Receiving Unit by the date, time and place indicated on page 1 and the "Offer Submission" section of the solicitation.

#### **4.2. Delayed Offers.**

- a. Late Offers.** Canada will not consider offers delivered after the offer submission closing date and time, unless they qualify as a delayed offer as described below. Canada will return late offers submitted physically, and will delete late offers submitted electronically (while retaining the transaction history).
- b. Cause of Delay.** Canada may consider an offer delivered after the solicitation of offers closing date but before Canada awards the Contract if the Offeror can prove the delay is due solely to a delay in the delivery caused by the Canada Post Corporation (or the national equivalent of a foreign country). Canada will not consider delayed offers due to private couriers (Purolator Inc., FedEx Inc., etc.) misrouting, traffic volume, weather disturbances, labour disputes or any other causes for the late delivery of offers.
- c. Evidence of Delay.** The only evidence relating to a delay in the CPC system that Canada will accept are (i) a CPC cancellation date stamp, (ii) a CPC Priority Courier bill of lading, (iii) a CPC Xpresspost label that clearly indicates that the Offeror mailed the offer before the solicitation of offers closing date, or (iv) a Canada Post Corporation Connect date and time record indicated in the Connect conversation history that clearly indicates that the Offeror sent the offer before the solicitation of offers closing date and time. Postage meter imprints are not acceptable as proof of timely mailing. For the national equivalent to the CPC in a foreign country, Canada will accept the local equivalent to these CPC documents.

**4.3. Customs Clearance.** It is the responsibility of the Offeror to allow sufficient time to obtain Customs clearance, where required, before the offer closing date and time. Delays related to the obtaining of Customs clearance cannot be construed as "undue delay in the mail" and will not be accepted as a delayed offer.

#### **4.4. Offers Submitted by Canada Post Corporation's (CPC) Connect service.**

- a. Submission by CPC Connect.** Offerors may submit their offers by CPC Connect provided by Canada Post Corporation.

- b. CPC Connect Address.** Unless specified otherwise in the solicitation, Offerors may submit offers by CPC Connect to:
- i. PWGSC regional offices at [TPSGC.RAReceptionSoumisNBPE-ARBidReceivingNBPE.PWGSC@tpsgc-pwgsc.gc.ca](mailto:TPSGC.RAReceptionSoumisNBPE-ARBidReceivingNBPE.PWGSC@tpsgc-pwgsc.gc.ca)**  
Note: Offers will not be accepted if emailed directly to this email address. This email address is to be used to open an CPC Connect conversation or to send offers through an CPC Connect message if the Offeror is using its own licensing agreement for CPC Connect.
- c. CPC Connect Requirements.**
- i. Submission Process.** To submit an offer using CPC Connect, the Offeror must either:
    1. send its offer directly to the specified PWGSC offer Receiving Unit, using its own licensing agreement for CPC Connect provided by CPC, or
    2. send, as early as possible, and in any case at least six business days before the solicitation closing date and time, an email that includes the solicitation number to the specified PWGSC offer Receiving Unit requesting to open an CPC Connect conversation. Canada may not answer any requests to open an CPC Connect conversation received after that time.
  - ii. Transmission Capacity.** The CPC Connect system has the capacity to receive multiple documents, with a limit of 1GB per single message posted and a limit of 20GB per conversation.
  - iii. CPC Connect Conversations.** If the Offeror sends an email requesting CPC Connect to the specified offer Receiving Unit in the solicitation, an officer of the offer Receiving Unit will then initiate an CPC Connect conversation. This will create an email notification from Canada Post Corporation prompting the offeror to access and action the message within the conversation. The offeror will then be able to transmit its offer.
  - iv. Conversation Time Periods.** If the Offeror is using its own licensing agreement to send its offer, the Offeror must keep the CPC Connect conversation open for at least 30 business days after the solicitation closing date and time.
  - v. Message Fields.** The Offeror must identify the solicitation number in the CPC Connect message field of all electronic transfers.
  - vi. Acknowledgement of Receipt.** The offer Receiving Unit will send an acknowledgement of the receipt of offer document(s) via the CPC Connect conversation. This acknowledgement will confirm only the receipt of offer document(s) and will not confirm if Canada is able to open the attachments or that the content is readable.
  - vii. Canadian Mailing Address.** The use of CPC Connect requires a Canadian mailing address. Offerors that do not have a Canadian mailing address may use the offer Receiving Unit address specified in the solicitation in order to register for CPC Connect
- d. Use of Correct Email Address.** Offerors must ensure that they are using the correct email address for the offer Receiving Unit when initiating a conversation in CPC Connect or communicating through an CPC Connect conversation.
- e. Errors in CPC Transmissions.** Canada will not be responsible for any failure attributable to the transmission or receipt of an offer transmitted by CPC Connect.
- 4.5. Offer Submitted by Mail.**
- a. Submission by Mail.** Offerors may deliver their offer by mail, in person or by courier to the address specified in the clause entitled "Offer Receipt".
- 4.6. Offers Submitted by Fax.**
- a. Submission by Fax.** Offerors may submit their offers by fax.
  - b. Fax Numbers.** Offerors may submit their offer by fax to
    - i. PWGSC regional offices.** The fax number for responses to solicitations of offers issued by PWGSC regional office is 506-851-6759.

- c. **Errors in Faxed Transmissions.** Canada will not be responsible for any failure attributable to the transmission or receipt of a faxed offer.

**4.7. Offer Sections.** Offerors are requested to submit their offers separated into the following sections:

Section I: Technical Offer;

Section II: Financial Offer;

Section III: Offer Submission Form; and

Section IV: Offeror Declaration Form.

**4.8. Offer Submission Method Restrictions.** Canada will not accept offers submitted in any other manner.

**4.9. Hard Copy Offer Delivery.**

- a. **Offer Sections.** If the Offeror chooses to submit its offer in hard copies, the Offeror must submit its offer in separately bound sections as follows:
- i. Section I: Technical Offer (2 hard copies)
  - ii. Section II: Financial Offer (1 hard copy)
  - iii. Section III: Offer Submission Form (1 hard copy)
  - iv. Section IV: Offeror Declaration Form (1 hard copy)
- b. **Prices in Financial Offer Only.** Offerors are requested to indicate prices in the financial offer and if prices are indicated elsewhere, they will not be considered.
- c. **Format Instructions.** Offerors should submit the hard copy of their offer on 8.5 x 11 inch (216 mm x 279 mm) paper, using a numbering system that corresponds to the solicitation of offers.
- d. **Policy on Green Procurement.** In compliance with Canada's [Policy on Green Procurement](#), Offerors should:
- i. include all environmental certification(s) relevant to your organization (e.g., ISO 14001, Leadership in Energy and Environmental Design (LEED), Carbon Disclosure Project, etc.);
  - ii. include all environmental certification(s) or Environmental Product Declaration(s) (EPD) specific to your product/service (e.g., Forest Stewardship Council (FSC), ENERGYSTAR, etc.);
  - iii. use paper containing fibre certified as originating from a sustainably-managed forest and containing minimum 30% recycled content; and
  - iv. use an environmentally-preferable format (including black and white printing instead of colour printing, printing double-sided/duplex, using staples or clips instead of cerlox, duotangs, or binders).

**4.10. Discrepancies.**

- a. **Submission via CPC Connect Service.** If the Offeror provides simultaneous copies of its offer using multiple acceptable delivery methods and there is a discrepancy between the wording of any of these copies and the copy provided through CPC Connect service, the wording of the copy provided through CPC Connect service will have priority.
- b. **Submission via Other Methods.** In all other cases of discrepancy, the wording of the hard copy of the offer will have priority.

**4.11. Offer Submission Requirements.**

- a. **Authority.** Each Offeror (and each member of a Joint Venture submitting an offer) must (i) have legal capacity to contract and (ii) sign the offer by an authorized representative of the Offeror. If a Joint Venture Offeror submits an offer, the Joint Venture will be required to identify its representative chosen to act on behalf of the Joint Venture (if the Offeror has not done so in the offer, Canada will provide it a deadline to do so).
- b. **Procurement Business Number.** Each Offeror (and each member of a Joint Venture submitting an offer) must have a Procurement Business Number (PBN) before contract award. Suppliers may register for a PBN online at [Supplier Registration Information](#). For non-Internet registration, suppliers

may contact the Info Line at 1-800-811-1148 to obtain the telephone number of the nearest Supplier Registration Agent.

- c. **Offer Identification.** Each Offeror must ensure that its name, its return address, the solicitation of offers number, and the solicitation of offers closing date and time are clearly visible on any envelope or parcels containing samples or any paper offer as applicable
- d. **Validity of Offers.** Offers will remain open for acceptance for a period of not less than 120 calendar days from solicitation of offers closing date, unless specified otherwise in the solicitation of offers. Canada reserves the right to seek an extension of the offer validity period from all compliant Offerors in writing, at least three calendar days before the end of the offer validity period. If all compliant Offerors agree to extend their offers, Canada will continue with the evaluation of the offers. If not all compliant Offerors extend their offers, Canada, at its sole discretion, will either continue with the evaluation of the offers of those who have accepted the extension or cancel the solicitation of offers.
- e. **Offer Language.** Offerors may submit their documents and supporting information in either English or French.
- f. **Offer Become Property of Canada.** Offers received on or before the solicitation of offers closing date and time will become the property of Canada and Canada will not return them to Offerors. Canada will treat all offers as confidential, subject to the provisions of the *Access to Information Act* and the *Privacy Act*.
- g. **No Assignment of Offers.** An offer cannot be assigned or transferred in whole or in part.

**4.12. Provision of Documentation.** Canada will make available Notices of Proposed Procurement, solicitation of offers, and related documents for download through the Government Electronic Tendering Service. Canada is not responsible and will not assume any liabilities whatsoever for the information found on websites of third Parties. Canada will not notify Offerors if it amends a Notice of Proposed Procurement, a solicitation of offers, or any related documentation. It will post all amendments (including significant enquiries received and their replies) using Government Electronic Tendering Service. Offerors are responsible for regularly consulting Government Electronic Tendering Service for the most up-to-date information. Canada will not be liable for any oversight on the Offeror's part nor for notification services offered by a third Party.

**4.13. Offer Costs.** The Offeror is solely responsible for all costs associated with preparing, submitting, and evaluating its offer.

**4.14. Applicable Laws.** Any Contract must be interpreted and governed, and the relations between the Parties determined, by the laws in force in a Canadian province or territory. Offerors may insert the Canadian province or territory of their choice in the Offer Submission Form. If the Offeror does not include this information in the Offer Submission Form, the applicable laws will be those of New Brunswick.

**4.15. Entire Requirement.** The solicitation of offers documents contain all the requirements relating to the solicitation of offers; no other information or documentation is relevant. Offerors should not assume that practices used under previous solicitations of offers or contracts will continue or that the Offeror's existing capabilities meet the requirements of the solicitation of offers simply because they have met previous requirements.

## 5. Communications.

**5.1. Communications During Solicitation of Offers Period.** To ensure the integrity of the competitive process, the Offeror must direct all questions and other communications regarding the solicitation of offers only to the Contracting Authority identified in the solicitation of offers. Failure to comply may result in Canada rejecting the offer.

- a. **Period for Questions.** Offerors should submit all questions in writing no later than 7 business days before the offer closing date. Canada may not respond to questions submitted after this.

- b. **Detail of Questions.** Offerors must accurately reference the numbered item of the solicitation of offers to which the question relates and explain each question in sufficient detail to enable Canada to provide an accurate answer.
- c. **Proprietary Questions.** For any technical questions containing proprietary information, Offerors must clearly mark those questions as "proprietary". Canada will treat such questions as proprietary except where Canada determines that the question is not of a proprietary nature. Canada may edit the question(s) or may request that the Offeror revise the question(s) to eliminate the proprietary nature of the question(s) and Canada can provide the answer to all Offerors. Canada may not answer questions that are not in a form it can distribute to all Offerors.

**5.2. Improvement of Requirement During Solicitation Period.** Offerors may make suggestions, in writing, to Canada of technical or technological improvements to the specifications or Statement of Work contained in the solicitation of offers. Offerors must, in such case, clearly outline the suggested improvement as well as the reason for the suggestion. Canada will consider suggestions that do not restrict the level of competition or favour a particular Offeror, but only if the Offeror submits its suggestions at least 7 days before the offer closing date. Canada may accept or reject any suggestions.

**5.3. Offer Debriefings.** Offerors may request a debriefing on the results of the solicitation of offers process. Offerors should make such a request to the Contracting Authority within 15 business days from its receipt of the results of the solicitation of offers process. Canada may provide the debriefing in writing, by telephone, or in person.

**5.4. Offer Challenge and Recourse Mechanisms.**

- a. **Challenges to Procurement Process.** Several mechanisms are available to potential suppliers to challenge aspects of the procurement process up to and including contract award.
- b. **Bid Challenge and Recourse Mechanisms.** Canada encourages suppliers to bring their concerns first to the attention of the Contracting Authority. Canada's [Buy and Sell](#) website, under the heading "[Offer Challenge and Recourse Mechanisms](#)", contains information on potential complaint bodies such as:
  - i. Office of the Procurement Ombudsman (OPO)
  - ii. Canadian International Trade Tribunal (CITT)
- c. **Deadlines for Filing Complaints.** There are strict deadlines for filing complaints; the time periods vary depending on the particular complaint body. Suppliers should therefore act quickly when they want to challenge any aspect of the procurement process.

**6. Technical Proposal.**

**6.1. Technical Offer Contents.**

- a. **Requirements.** Offerors should:
  - i. demonstrate their understanding of the requirements contained in the solicitation of offers;
  - ii. concisely explain how they will meet these requirements; and
  - iii. address the points that are subject to the evaluation criteria against which the Offer will be evaluated. Simply repeating a statement contained in the solicitation of offers is not sufficient.
- b. **Organization.** Offerors should address and present topics in the order of the evaluation criteria under the same headings. To avoid duplication, an Offeror may refer to different sections of its offer by identifying where it has already addressed the subject topic, by identifying the specific paragraph and page.

**7. Financial Proposal.**

**7.1. Financial Proposal.** Offerors must submit their financial offer in accordance with the Basis of Payment in Annex-B.

**7.2. Pricing.** Offerors must provide individual prices for each item and destination.

**7.3. Exchange Rate Fluctuation.** Canada is not offering exchange rate fluctuation risk mitigation for this solicitation. Canada will declare any offer non-compliant if there is any indication that offer is conditional on exchange rate fluctuation protection.

## **8. Evaluation Procedures.**

**8.1. Assessment.** Canada will assess offers in accordance with the entire requirement of the solicitation of offers including the Financial evaluation criteria. Canada will declare any offer that fails to meet all mandatory solicitation requirements non-compliant.

### **8.2. Conduct of Evaluation.**

**a. Support for Offer Requirements.** Canada may request information to support any offer requirement.

The Offeror must address each requirement in sufficient depth to permit a complete analysis and assessment. In particular, Canada may, by written notice,

- i.** seek clarification or verification as to any information provided,
- ii.** contact any references to verify any information it submitted,
- iii.** request information about the Offeror's legal status,
- iv.** conduct a survey of the Offeror's facilities,
- v.** examine the Offeror's its technical, managerial, and financial capabilities,
- vi.** correct any error in
  - 1.** the extended pricing of offers by using unit pricing, or
  - 2.** the quantities in offers to reflect the quantities stated in the solicitation of offers (and, in the case of error in the extension of prices, the unit price will govern),
- vii.** verify any information the Offeror provided, or
- viii.** interview, at the Offeror's sole cost, the Offeror, any resources it proposes to fulfill the solicitation of offers requirements or both.

**b. Compliance.** The Offeror must comply with any such request within the specified time.

**8.3. Evaluation Based on Documents Provided.** Unless otherwise specified in this solicitation of offers, Canada will evaluate only the documentation provided with the offer. Canada will not consider information such as references to website addresses where additional information can be found, or technical manuals or brochures not submitted with the offer.

**8.4. Evaluation Team.** An evaluation team composed of representatives of Canada will evaluate the offers.

**8.5. Canadian Content.** The evaluation team will determine if there are two or more offers with a valid Canadian Content certification with the offers coming from two or more Offerors that are not affiliated within the meaning used in the *Competition Act*. If there are, only those offers will be eligible to be awarded a contract; if not, all offers will be eligible. If, at any point in the evaluation process it is found, whether by determination of invalidity of certifications, determination that offers are non-compliant or withdrawal of offers by Offerors, that there are no longer two (2) or more compliant offers with a valid certification, then all compliant offers will be eligible to be awarded a contract. Canada may conduct the validation of Canadian content certifications at any time in the evaluation process including doing so concurrently with other steps.

**8.6. Rights of Canada.** Canada may:

- a.** reject any or all offers in response to the solicitation of offers;
- b.** enter into negotiations with Offerors on any or all aspects of their offers;

- c. accept any offer in whole or in part without negotiations;
- d. cancel the solicitation at any time;
- e. reissue the solicitation; or
- f. if no compliant offers are received and the requirement is not substantially modified, reissue the solicitation by inviting only the Offerors who offer to resubmit offers within a period designated by Canada and negotiate with the sole compliant Offeror to ensure the best value to Canada.

**8.7. Rejection of Offer.** Canada may reject an offer where:

- a. **Bankruptcy.** The Offeror is bankrupt or its activities are inoperable for an extended period;
- b. **Improper Conduct.** The Offeror or an employee or subcontractor included as part of the offer:
  - i. is subject to a Vendor Performance Corrective Measure, under the Vendor Performance Corrective Measure Policy, which renders the Offeror ineligible to offers on the requirement;
  - ii. based on evidence satisfactory to Canada, has committed fraud, bribery, fraudulent misrepresentation or failed to comply with laws protecting individuals against any manner of discrimination;
  - iii. based on evidence satisfactory to Canada, has conducted themselves improperly in the past;
- c. **Suspension or Termination.** The Offeror or an employee or subcontractor included as part of the offer has been suspended or terminated by Canada for default under a contract with Canada;
- d. **Poor Performance.** In Canada's opinion, the Offeror's performance on other contracts, including the efficiency and workmanship as well as the extent to which the Offeror performed the work in accordance with contractual clauses and conditions, is sufficiently poor to jeopardize the successful completion of the requirement;
- e. **Not Good Value.** In Canada's opinion, it does not offer good value to Canada;
- f. **Conflict of Interest.** In Canada's opinion, the Offeror is in a conflict of interest or had an unfair advantage over other Offerors. Among other things, being involved in preparing the solicitation or having access to information not available to other Offerors may be considered grounds for rejection, although having experience on the previous or related contracts does not, in itself, confer an unfair advantage or create a conflict of interest. Offerors who are in doubt about a particular situation should contact the Contracting Authority before offer closing; or
- g. **Prejudicing Integrity or Fairness - Multiple Offers from Single Offeror or Joint Venture.** Canada may apply additional scrutiny when it receives multiple offers in response to a solicitation of offers from a single Offeror or a Joint Venture. Canada may reject any offer submitted by a single Offeror or Joint Venture if their inclusion
  - i. in the evaluation has the effect of prejudicing the integrity and fairness of the process, or
  - ii. in the procurement process would distort the solicitation of offers evaluation or would not provide good value to Canada.
- h. **Ability to Make Representations.** If Canada intends to reject an offer under (c) or (d), the Contracting Authority will inform the Offeror and give the Offeror ten calendar days within which to make representations, before making a final decision on the offer rejection.

**9. Technical Evaluation.**

**9.1. Mandatory Technical Criteria.** Canada will review each offer for compliance with the mandatory requirements of the solicitation of offers. Any element of the solicitation of offers identified specifically with the words "must" or "mandatory" is a mandatory requirement. Canada will declare non-compliant any offer that does not comply with every mandatory requirement. For mandatory technical criteria, see Annex Statement of Requirement.

**10. Financial Evaluation.**

**10.1. Evaluation of Price.** Canada will evaluate all offers in Canadian dollars, Applicable Taxes excluded, delivery, and Canadian customs duties and excise taxes included.

**10.2. Blank Prices.** Offerors must insert "\$0.00" for any item for which they do not intend to charge or for items that are already included in other prices set out in the tables. If the Offeror leaves any price blank, Canada will treat the price as "\$0.00" for evaluation purposes and may request that the Offeror confirm that fact. Canada will not permit any Offeror to add or change a price as part of such a confirmation. If an Offeror does not confirm that the price for a blank item is \$0.00, Canada will declare its offer to be non-responsive.

**10.3. Basis of Selection.** For Canada to declare an offer compliant, the offer must comply with the requirements of the solicitation of offers and meet all mandatory technical evaluation criteria. Canada will consider the compliant offer with the lowest evaluated price on an aggregate basis.

**10.4. Price Justification.** If an offer is the sole compliant offer received, the Offeror must provide, on Canada's request, one or more of the following:

- a. a current published price list indicating the percentage discount available to Canada;
- b. a copy of paid invoices for the like quality and quantity of the goods, services, or both sold to other customers;
- c. a price breakdown of all costs (including labour, materials, transport, general and administrative overhead, transportation, etc.) and profit;
- d. price or rate certifications; and
- e. any other supporting documentation that Canada may request.

**11. Additional Information.**

**11.1. Condition of Material.** Unless provided otherwise in the Contract, material supplied must be new and conform to the latest issue of the applicable drawing, specifications and part number that is in effect on the bid closing date or, if there was no bid solicitation, the date of the Contract.

## RESULTING CONTRACT CLAUSES

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

### 1. Summary

**1.1. Summary.** The Contract is for the supply and delivery of shell and tube heat exchangers at 5th Canadian Division Support Base Gagetown, located in Oromocto, New Brunswick, as described in the Annex - Statement of Requirement.

### 2. Performance of Work.

**2.1. No Security Requirement.** There is no security requirement applicable to the Contract.

**2.2. Permission to Subcontract.** When the consent of the Minister is required to subcontract any of the Work, the Contractor must submit to the Contracting Authority a completed form PWGSC-TPSGC 1137 entitled Application for Permission to Subcontract.

### 3. Term of the Contract.

**3.1. The Contract Term.** The contract shall remain in effect until delivery of the Goods is made or 31 March 2023.

### 4. Delivery of Goods.

**4.1. Delivery Obligation.** The Contractor must deliver the Goods **Delivered Duty Paid (DDP)** 5th Canadian Division Support Base Gagetown, located in Oromocto, New Brunswick, **Incoterms 2020**.

**4.2. Delivery Points.** Delivery of the requirement will be made to delivery point(s) specified at Annex A of the Contract.

#### 4.3. Delivery and Unloading

- a. Unloading.** The Contractor must equip its delivery trucks with an unloading device that permits unloading at sites with no hydraulic, stationary, or other type of unloading facility.
- b. Personnel.** When making deliveries, the Contractor must provide sufficient personnel to permit unloading of any type of vehicle without the assistance of federal government personnel.
- c. Curbside Unloading.** At some sites, the delivery truck must be unloaded while parked at the curb. When material is placed on the sidewalk, it must be placed in proximity to the designated entrance so as to be readily accessible to transport by mechanical handling equipment utilized by site personnel.

**4.4. Excess Goods.** The Contract specifies the quantity of goods that the Contractor will deliver. The Contractor is liable for any shipment in excess of that quantity. Canada will not pay the Contractor for any goods shipped in excess of the specified quantity. Canada will not return such goods to the Contractor unless the Contractor agrees to pay all costs related to the return. Canada may deduct such costs from any invoice that the Contractor submits .

### 5. Transportation.

**5.1. Shipping Documentation.** When shipping goods, the transportation bill of lading must accompany the original invoice, except for "collect" shipments (when stipulated), in which event it must accompany the shipment. In addition, a packing slip must accompany each shipment, showing item, quantity, part or reference numbers, description of the goods and contract number, including the CRN and PBN. If Canada has inspected the goods at the Contractor's plant, the Contractor must attach the signed inspection voucher to the packing slip.

## 5.2. Palletization.

- a. For all shipments exceeding 0.566 m<sup>3</sup> or 15.88 kg (20 ft<sup>3</sup> or 35 lbs), except for those shipped by courier, the following applies:
  - i. The Contractor must strap, and if necessary wrap, shipments on standard 1.22 m x 1.02 m (48 in. x 40 in.) wood pallets. The four-way forklift entry pallet must be supplied at no charge to Department of National Defence. Total height, including pallet, must not exceed 1.19 m (47 in.). The pallet load must not extend further than 2.54 cm (1 in.) from any edge of the pallet.
  - ii. The Contractor must group items by stock number (on the same pallet) within consolidated shipments. Pallet loads composed of more than one stock number must be marked as "Mixed Items".
  - iii. Individual items exceeding 1.22 m (48 in.) in length or 453.6 kg (1000 lbs) must be secured to larger pallets or must have 10.16 cm x 10.16 cm (4 in. x 4 in.) skids securely fastened to the bottom of the item. Skids must be separated by a minimum of 71.12 cm (28 in.).
- b. Any exception requires the prior approval of the Contracting Authority.

## 6. Inspection and Acceptance.

### 6.1. Inspection, Acceptance and Cure.

- a. **Canada's Rights.** All the Work is subject to inspection and acceptance by Canada.
  - i. **Inspection and Acceptance.** Canada has the right to inspect and accept all Work. Canada's inspection and acceptance of the Work by Canada do not relieve the Contractor of its responsibility for defects or other failures to meet the requirements of the Contract.
  - ii. **Rejection and Cure.** If Canada rejects any Work, it may require the Contractor to correct or replace the Work at no additional cost.

## 7. Basis of Payment.

**7.1. Basis of Payment – Firm Price (all Work).** In consideration of the Contractor satisfactorily completing all of its obligations under the Contract, Canada will pay the Contractor a firm price, as specified in Annex B for a cost of **[Insert the amount at Contract award.]** Customs duties are included, and Applicable Taxes are extra. 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.

## 8. Payments.

### 8.1. Invoices.

- a. **Invoice Submission.** The Contractor must submit invoices for each delivery in accordance with the Contract. Each invoice must indicate whether it covers partial or final delivery.
- b. **Invoice Details.** Invoices must show:
  - i. the date, the name and address of the client department, item or reference numbers, deliverable or description of the Work, contract number, Client Reference Number, Procurement Business Number, 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. deduction for holdback, if applicable;
  - iv. the extension of the totals, if applicable;
  - v. if applicable, the method of delivery together with date, case numbers and part or reference numbers, shipment charges and any other additional charges; and

- vi. Applicable Taxes as a separate item along with corresponding registration numbers from the tax authorities. The Contractor must identify on all invoices all items that are zero-rated, exempt or to which Applicable Taxes do not apply.
- c. **Payment of Taxes.** Canada will pay Applicable Taxes. It is the sole responsibility of the Contractor to charge Applicable Taxes at the correct rate. The Contractor must pay Applicable Taxes, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable legislation), including for material incorporated into real property.
- d. **Exemptions.** The Contractor is not entitled to use Canada's exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law.
- e. **Withholding for Non-Residents.** Canada will withhold 15 percent of the amount to pay 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.

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

**8.3. Late Payments.**

- a. **Interest on Late Payments.** Canada will pay 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. The Contractor is not required to provide notice to Canada for interest payable.
- b. **Exceptions.** Canada will pay interest only if Canada is responsible for the delay in paying the Contractor. Canada will not pay interest on Overdue advance payments.

**8.4. Electronic Payment of Invoices.** The Contractor accepts that Canada will use the following electronic payment instruments:[\[Remove what does not apply\]](#) :

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

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

**8.6. Taxes.**

- a. Federal government departments and agencies are required to pay Applicable Taxes.
- b. Applicable Taxes will be paid by Canada as provided in the Invoice Submission section. It is the sole responsibility of the Contractor to charge Applicable Taxes at the correct rate in accordance with applicable legislation. The Contractor agrees to remit to appropriate tax authorities any amounts of Applicable Taxes paid or due.
- c. The Contractor is not entitled to use Canada's exemptions from any tax, such as provincial sales taxes, unless otherwise specified by law. The Contractor must pay applicable provincial sales tax, ancillary taxes, and any commodity tax, on taxable goods or services used or consumed in the performance of the Contract (in accordance with applicable legislation), including for material incorporated into real property.

- d. In those cases where Applicable Taxes, customs duties, and excise taxes are included in the Contract Price, the Contract Price will be adjusted to reflect any increase, or decrease, of Applicable Taxes, customs duties, and excise taxes that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Contract Price if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change.
- e. Tax Withholding of 15 Percent – Canada Revenue Agency.  
Pursuant to the Income Tax Act, 1985, c. 1 (5th Supp.) and the Income Tax Regulations, Canada must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is not a resident of Canada, unless the Contractor obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed to Canada.

## 9. Method of Payment.

**9.1. Single Payment.** Canada will pay the Contractor upon completion and delivery of the Work in accordance with the payment provisions of the Contract if:

- a. the Contractor has properly submitted an accurate and complete invoice along with any other necessary documents
- b. Canada has verified all such documents, and
- c. Canada has accepted the Work performed.

## 10. Warranties.

### 10.1. Warranty.

- a. **General Warranty.** The Contractor states that the Work will be new, conform to the Specifications, and be free from defects in design, material and workmanship during the longer of Contractor's standard warranty period and 24 months after Canada accepts the Work (the "Warranty Period").
- b. **Government Property.** With respect to Government Property not supplied by the Contractor, the Contractor's warranty will extend only to its proper incorporation into the Work.
- c. **Replacement or Repair.** Upon Canada's request during the Warranty Period the Contractor at its expense, must replace or repair any nonconforming or defective goods within 5 days or such other time as specified by Canada.
- d. **Defective or Non-conforming Work.** The Work or any part of the Work found to be defective or non-conforming, will be returned to the Contractor's plant for replacement, repair or making good. However, when in the opinion of Canada it is not expedient to remove the Work from its location, the Contractor must carry out any necessary repair or making good of the Work at that location. In such cases, the Contractor will be paid the fair and reasonable Cost (including reasonable travel and living expenses) incurred in so doing, with no allowance for profit, less an amount equal to the Cost of rectifying the defect or non-conformance at the Contractor's plant.
- e. **Transportation Costs.** Canada must pay the transportation cost associated with returning the Work or any part of the Work to the Contractor's plant. The Contractor must pay the transportation cost associated with forwarding the replacement or returning the Work or part of the Work when rectified to the delivery point specified in the Contract or to another location directed by Canada.
- f. **Warranty Work on Canada's Premises.** If in the opinion of Canada it is not expedient to remove the Work from its location, the Contractor must carry out any necessary repair or making good of the Work at that location. In such cases, Canada will pay the Contractor the Cost (including travel and living expenses) incurred in so doing, with no allowance for profit, less an amount equal to the Cost of rectifying the defect or non-conformance at the Contractor's plant.

**10.2. Extension of Warranty.** The Contractor must automatically extend the Warranty Period by the duration of any period or periods where the Work is unavailable for use by Canada or Canada cannot use the Work because of a defect or non-conformance during the original Warranty Period. The warranty applies to any part of the Work repaired, replaced or otherwise made good, for the greater of:

- a. the Warranty Period remaining, including the extension, or
- b. 90 days or such other period as the Parties may specify for that purpose.

## **11. Ownership and Risk of Loss.**

### **11.1. Ownership.**

- a. **Transfer of Ownership to Canada.** The Work or any part of the Work belongs to Canada after acceptance by or on behalf of Canada.

**11.2. Risk of Loss.** Despite any transfer of ownership, the Contractor is responsible for any loss or damage the Contractor or its subcontractor causes to the Work or any part of the Work in accordance with the Contract.

**11.3. Title.** Upon transfer of ownership to the Work or any part of the Work to Canada, the Contractor must, if requested by Canada, establish to Canada's satisfaction that the title is free and clear of all claims, liens, attachments, charges or encumbrances. The Contractor must execute any conveyances and other instruments necessary to perfect the title that Canada may require.

## **12. Government Property.**

**12.1. Care of Property.** The Contractor must take reasonable and proper care of all Government Property while it is in its possession or subject to its control. The Contractor is responsible for any loss or damage resulting from its failure to do so other than loss or damage caused by ordinary wear and tear.

## **13. Accounts and Audit.**

### **13.1. Discretionary Audit**

- a. **Price Verification.** Canada may at any time, by audit, verify the Contractor's certification that the price or rate is not in excess of the lowest price or rate charged to anyone else for the like quality and quantity of the goods, the services, or both.
- b. **Repayment.** If such an audit, made after Canada has paid the Contractor, demonstrates that the certification is in error, the Contractor must, if Canada requests, either repay Canada the amount found to be in excess of the lowest price or rate, or authorize the retention by Canada of that amount by way of deduction from any sum of money that may be due or payable to the Contractor under the Contract.
- c. **Adjustment.** If such an audit, made before Canada has paid the Contractor, demonstrates that the certification is in error,, Canada will adjust any pending invoice accordingly. If the Contract is still in effect at the time of the verification, the price or rate will be lowered in accordance with the results of the audit.

## **14. Insurance.**

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

## **15. Certifications and Additional Information.**

**15.1. Compliance with Certifications.** Unless specified otherwise, the Contractor will be in default if it does not continuously comply with the certifications it provided in its offer or before contract award or if the Contractor does not provide evidence about its compliance when requested by the Contracting Authority. Canada may verify the Contractor's certifications throughout the Contract Period.

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

**15.3. Compliance with Code of Conduct.** The Contractor must comply with the [Code of Conduct for Procurement](#).

**15.4. Contingency Fees.** The Contractor certifies and agrees that it has not paid and will not pay, directly or indirectly, any contingency fee for the solicitation, negotiation or obtaining of the Contract to any person (including, without limitation any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbying Act*), other than an employee of the Contractor acting in the normal course of the employee's duties. In this section:

- a. contingency fee means any payment or other compensation that depends or is calculated based on a degree of success in soliciting, negotiating or obtaining the Contract; and
- b. "person" included any individual who is required to file a return with the registrar pursuant to section 5 of the *Lobbying Act* 1985, c. 44 (4th Supplement).

**15.5. No Bribe.** The Contractor certifies that it has not and will not offer, promise, give or pay any bribe, gift, benefit, or other inducement directly or indirectly to any official or employee of Canada or to any member of their family, in order to influence the issuance or administration of the Contract.

**15.6. No Influence; No Financial Interest.** The Contractor must not influence, seek to influence, or otherwise take part in any decision of Canada that might further the Contractor's own interests. The Contractor must have no financial interest in the business of any third party that causes or would appear to cause a conflict of interest in connection with the performance of the Work. The Contractor must immediately declare any such financial interest to the Contracting Authority.

**15.7. No Conflict.** The Contractor warrants that, to the best of its knowledge after making diligent inquiry, no conflict exists or is likely to arise in its performance of the Contract. If the Contractor becomes aware of any matter that causes or is likely to cause such a conflict, the Contractor must immediately disclose it to the Contracting Authority. If the Contracting Authority is of the reasonable opinion that such a conflict exists, it may either (i) require the Contractor to take steps to deal with the conflict or (ii) terminate the Contract for default. In this section, "conflict" means any matter, circumstance, interest, or activity affecting the Contractor, its personnel, or its subcontractors, that may impair or may appear to impair its ability to perform the Work diligently and independently.

**15.8. Ethics Codes for Public Service.** The Contractor acknowledges that individuals who are subject to the provisions of the Conflict of interest Act, 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 or indirect benefit from the Contract.

**15.9. Integrity Provisions.** The Contract incorporates the *Ineligibility and Suspension Policy* and all related Directives incorporated by reference into the solicitation of offers on its closing date, and form a binding part of the Contract. The Contractor must comply with the provisions of the *Ineligibility and Suspension Policy* and Directives, found on Public Works and Government Services Canada's website at [Ineligibility and Suspension Policy](#).

**15.10. Canadian Content Certification**

- a. The Contractor warrants that the certification of Canadian Content submitted by the Contractor is accurate and complete, and that the goods, services or both to be provided under the Contract are in accordance with the definition contained in the Annex "Contract Definitions".
- b. The Contractor must keep proper records and documentation relating to the origin of the goods, services or both provided to Canada. The Contractor must not, without obtaining before the written consent of the Contracting Authority, dispose of any such records or documentation until the expiration of six years after final payment under the Contract, or until settlement of all outstanding claims and disputes under the Contract, whichever is later. All such records and documentation must at all times during the retention period be open to audit, inspection and examination by the representatives of Canada, who may make copies and take extracts. The Contractor must provide all facilities for such audits, inspections and examinations, and must furnish all such information as the representatives of Canada may from time to time require with respect to such records and documentation.
- c. Nothing in this clause must be interpreted as limiting the rights and remedies which Canada may otherwise have pursuant to the Contract.

**15.11. Invoice Submittal Certification.** By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

**15.12. Compliance with On-site Rules.** The Contractor must comply and ensure that its employees and subcontractors comply with all security measures, standing orders, policies, or other rules in force at the site where the Work is performed.

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

**15.14. Identification Markings**

- a. When identification markings are required, the Contractor must arrange for their design and manufacture in accordance with the current issue of Canadian Forces Specification D-02-002-001/SG-001. The markings must be affixed to the deliverable end item(s) before delivery.
- b. Identification markings applicable to the United States (U.S.) Navy F-18 program must be manufactured in accordance with the current issue of MIL-STD-130, except that the "U.S." must be blanked out and the Canadian contract number, prefixed with the word "CANADA", must be specified in the Contract Number block.
- c. The Contractor must submit drawings for identification markings for approval through the responsible Department of National Defence Technical Authority at least sixty (60) days before production.

**15.15. Quality Assurance Document.** The Contractor must ensure that a packing note and copies of the quality assurance document accompany each shipment. They must be enclosed in a waterproof envelope fastened to the last package of the shipment or inside the last package, which is to be marked to indicate the enclosures. In the case of a carload shipment, they must be fastened to the inside door frame of the railway car.

**16. International Sanctions.**

**16.1. Sanctions Limitations.** Canada cannot accept delivery of goods or services that originate, directly or indirectly, from the countries or persons subject to economic sanctions.

**16.2. Contractor Obligations.**

- a. The Contractor must:
  - i. not supply to the Government of Canada any goods or services that are subject to economic sanctions,

- ii. comply with changes to the regulations imposed during the Contract Period, and
  - iii. immediately advise Canada if it is unable to perform the Work because 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.
- b. If the Parties cannot agree on a workaround plan, Canada will terminate the Contract for convenience.

## 17. Anti-forced Labour Requirements.

**17.1. Contractor's Statement.** The Contractor states that the Work is not mined, manufactured, or produced wholly or in part by forced labour. In performing the Contract and regardless of who acts as an importer, the Contractor must not, directly or indirectly, deliver Work to Canada or import Work into Canada the importation of which is prohibited under ss. 136(1) of the Customs Tariff Act and tariff item No. 9897.00.00 of the Customs Tariff – Schedule (as amended from time to time), because it is mined, manufactured, or produced wholly or in part by forced labour.

**17.2. Effect of Tariff Classification Determination or Investigation.** If a tariff classification determination is made under the Customs Act that the importation of the Work or any part of the Work is prohibited, the Contractor must immediately so notify the Contracting Authority. If the Work or any part of the Work is classified under tariff item no. 9897.00.00 of the Customs Tariff – Schedule as mined, manufactured, or produced wholly or in part by forced labour, Canada may immediately terminate the Contract for default. If the Contractor is aware that the Work, or any part of it, is being or has been investigated regarding whether it is prohibited from entry under to tariff item No. 9897.00.00, the Contractor must immediately notify the Contracting Authority of that investigation.

**17.3. Canada's Reasonable Grounds for Termination.** If Canada has reasonable grounds to believe the Work was or is mined, manufactured, or produced in whole or in part by forced labour or was or is linked to human trafficking, Canada may terminate the Contract for default. Reasonable grounds for making such a determination may include

- a. Findings or Withhold Release Orders issued by the United States Customs and Border Protection, under the US Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015, or
- b. credible evidence from a reliable source.

**17.4. Contractor's Conviction in Canada of Specified Offences.** Canada may terminate the Contract for default if the Contractor has, in the past three years, been convicted of any of the following offences under the Criminal Code or the Immigration and Refugee Protection Act:

- a. Criminal Code
  - i. section 279.01 (Trafficking in persons),
  - ii. section 279.011 (Trafficking of a person under the age of eighteen years),
  - iii. subsection 279.02(1) (Material benefit - trafficking),
  - iv. subsection 279.02(2) (Material benefit - trafficking of person under 18 years),
  - v. subsection 279.03(1) (Withholding or destroying documents - trafficking),
  - vi. subsection 279.03(2) (Withholding or destroying documents - trafficking of person under 18 years), or
- b. Immigration and Refugee Protection Act
  - i. section 118 (Trafficking in persons).

**17.5. Contractor's Conviction Abroad of Similar Offences.** If the Contractor has, in the past three years, been convicted of an offence in a jurisdiction other than Canada that, in Canada's opinion, is similar to any of the offences identified in the immediately preceding paragraph entitled Contractor's Conviction in Canada of Specified Offences, Canada may immediately terminate the Contract for default.

**17.6. Determination of Similarity of Offences.** For the purposes of determining whether a foreign offence is similar to a listed offence, Canada will take into account the following factors:

- a. in the case of a conviction, whether the court acted within its jurisdiction,
- b. whether the Contractor was afforded the right to appear during the court's proceedings or to submit to the court's jurisdiction,
- c. whether the court's decision was obtained by fraud, or
- d. whether the Contractor was entitled to present to the court every defence that the Contractor would have been entitled to present if the proceeding had been tried in Canada.

**17.7. Representations from Contractor.** If Canada intends to terminate the Contract under this section, Canada will so inform the Contractor and give the Contractor an opportunity to make written representations before making a final decision. Unless Canada establishes a different deadline, the Contractor must submit such written representations within 30 calendar days from receiving Canada's notice of concern.

## **18. Termination and Suspension.**

### **18.1. Termination for Convenience.**

- a. **Right to Terminate.** Canada may terminate the Contract for convenience in whole or in part by giving written notice to the Contractor. The termination for convenience will take effect immediately or at the time specified in the termination notice.
- b. **Effect of Termination.** Upon termination for convenience of the Contract
  - i. the Contractor must comply with the requirements of the termination notice; or
  - ii. if Canada terminates the Contract in part only, the Contractor must proceed to complete any part of the Work that is not part of the termination notice.
- c. **Payments.** Canada will pay the Contractor
  - i. according to the Basis of Payment, for any part of the Work delivered, inspected, and accepted whether completed before, or after the termination in accordance with the Contract;
  - ii. costs incurred by the Contractor plus a fair and reasonable profit thereon as determined by Canada in accordance with the profit provisions found in PWGSC Supply Manual section [10.65 Calculation of profit on negotiated contracts](#), for any part of the Work commenced, but not completed, before the date of the termination notice; and
  - iii. costs incidental to the termination of the Work incurred by the Contractor but not including the cost of severance payments or damages to employees whose services are no longer required, except wages that the Contractor is obligated by statute to pay.
- d. **Maximum Payment.** The total of the amounts, which Canada may pay the Contractor under this section, together with any amounts paid, due or becoming due to the Contractor must not exceed the Contract Price. Canada may reduce the payment in respect of any part of the Work, if upon inspection, it does not meet the requirements of the Contract.
- e. **Acknowledgments.**
  - i. **Claims.** The Contractor will have no claim for damages, compensation, loss of profit, allowance arising out of any termination notice given by Canada under this section except to the extent that this section expressly provides;
  - ii. **Anticipated Profits.** The Contractor agrees that it is not entitled to any anticipated profit on any part of the Contract terminated; and
  - iii. **Repayments.** The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.

### **18.2. Termination on Default.**

- a. **Right to Terminate.** Canada may, by giving written notice to the Contractor, terminate the Contract or any part of the Contract if the Contractor

- i. fails to perform any term of the Contract, or
- ii. becomes bankrupt, makes an assignment for the benefit of creditors, 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.

**b. Effect of Termination**

- i. For (a)(i) above, the termination will take effect immediately or at the expiration of a cure period specified in the notice, if the Contractor has not cured the default to the satisfaction of the Contracting Authority within that cure period.
- ii. For (a)(ii) above, the termination will take effect immediately.
- iii. **No Further Payment.** If Canada terminates the Contract for default, the Contractor will have no claim for further payment except as provided in this section;
- iv. **Payment of Outstanding Amounts.** The Contractor must immediately pay Canada any amounts paid by Canada, including milestone payments, and all losses and damages suffered by Canada because of the default or occurrence upon which the notice was based, including any increase in the cost incurred by Canada in procuring the Work from another source;
- v. **Refund of Advance Payments.** The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination; and
- vi. **Completed Parts of the Work.** Upon termination of the Contract for default, 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:
  - 1. 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
  - 2. the cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.

**18.3. Suspension of Work.**

- a. **Suspension Order.** The Contracting Authority may at any time notify the Contractor to suspend any of the Work for a period of up to 180 calendar days. The Contractor must immediately comply with such a suspension order in a way that minimizes the cost of doing so. While such an order is in effect, the Contractor must not remove any part of the Work from any premises. Before the end of this period, the Contracting Authority must either cancel the suspension order or terminate the Contract either under the section entitled Default by Contractor or the section entitled Termination for Convenience.
- b. **Canada's Payment Relating to Suspension.** If Canada makes such a suspension order but does not terminate the Contract, Canada must pay the Contractor the additional costs that the Contractor incurs as a result, plus a reasonable profit.
- c. **Cancellation of Suspension Order.** When Canada cancels a suspension order, the Contractor must resume Work as soon as practicable. If the suspension of Work 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 Contracting Authority's opinion, following consultation with the Contractor, is necessary for the Contractor to resume the Work. The Parties will make any necessary equitable adjustments to any affected provisions of the Contract.

**19. General Provisions.**

**19.1. Status of Contractor.** The Contractor is an independent contractor engaged by Canada to perform the Work. The Contract does not create a partnership, a joint venture or an agency between Canada and the other Party or Parties. The Contractor must not represent itself as an agent or representative of Canada to anyone. Neither the Contractor nor any of its personnel are an employee or agent of Canada. The Contractor is responsible for all deductions and remittances required by law in relation to its employees.

**19.2. Entire Agreement.** The Contract and the offer document are the entire agreement between the Parties and supersedes all previous negotiations, communications and agreements.

**19.3. Amendment.**

- a. Amendments to the Contract must be in writing and signed by the Parties.
- b. While the Contractor may discuss any proposed modifications to the Work with other representatives of Canada, Canada will not be responsible for the cost of any modification unless it has been incorporated into the Contract in writing and signed by the Parties.

**19.4. Counterparts.** The Parties may execute the Contract in several counterparts, each of which is an original and all of which constitute one single agreement between the Parties.

**19.5. Assignment.**

- a. The Contractor may only assign this agreement if
  - i. Canada agrees to the assignment in writing; and
  - ii. the Contractor remains responsible for the assignee's performance.
- b. The assignment will be effective upon execution of an assignment agreement signed by the Parties and the assignee.

**19.6. Applicable Laws.** The laws in force in New Brunswick will govern the Contract and the relations between the Parties and be used to interpret the Contract. The Contractor must comply with all laws applicable to the performance of the Contract and provide evidence of compliance with those laws to Canada if requested by the Contracting Authority.

**19.7. Dispute Resolution.**

- a. **Open Communication Between Parties.** The Parties agree to maintain open and honest communication about the Work during and after the period of the Contract.
- b. **Parties' Cooperation.** The Parties agree to consult and co-operate with each other to further the objectives of the Contract. They will promptly notify each other of, and attempt to resolve, any problems or differences that may arise.
- c. **Alternative Dispute Resolution.** If the Parties cannot resolve a dispute through consultation and cooperation, they will consult a neutral third party that offers alternative dispute resolution services.
- d. **Dispute Resolution Options.** Parties can find alternative dispute resolution options on Canada's Buy and Sell website under the heading "[Dispute Resolution](#)".

**19.8. Powers of Canada.** All rights, remedies, powers and discretions granted or acquired by Canada under the Contract or by law are cumulative, not exclusive.

**19.9. Time of the Essence.** It is essential that the Contractor delivery or perform the Work within or at the time stated in the Contract.

**19.10. Excusable Delay.**

- a. **Definition of Excusable Delay.** A delay in the performance by the Contractor or Canada of any obligation under the Contract that is caused by an event that
  - i. is beyond the reasonable control of the party,
  - ii. could not reasonably have been foreseen,
  - iii. could not reasonably have been prevented by means reasonably available to the party, and

- iv. occurred without the fault or neglect of the party, is an "Excusable Delay" if the party advises the other party's Contracting Authority or Contractor's Representative of the occurrence of the delay or of the likelihood of the delay as soon as the party becomes aware of it. The party must also advise the other, within 15 Business Days, of all the circumstances relating to the delay and provide to the Contracting Authority or Contractor's Representative for approval a clear Workaround plan explaining in detail the steps that the party proposes to take in order to minimize the impact of the event causing the delay.
- b. **Postponement of Delivery.** Either party will postpone for a reasonable time any delivery date or another date directly affected by an Excusable Delay. Any postponement will not exceed the duration of the Excusable Delay.
- c. **Right to Terminate.** However, if an Excusable Delay has continued for 30 days or more, the party may terminate the Contract on written notice to the other party. In such a case, the Parties agree that neither will make any claim against the other for damages, costs, expected profits or any other loss arising out of the termination or the event that contributed to the Excusable Delay. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unliquidated at the date of the termination.
- d. **Liability for Costs Incurred.** 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 because of an Excusable Delay.

**19.11. 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 subsequently appears on the list:

- a. these Articles of Agreement;
- b. Annex-Contract Definitions;
- c. Annex-Requirement;
- d. Annex-Basis of Payment; and
- e. the Contractor's offer dated [Insert date of offer].

**19.12. Authorities.**

**a. Contracting Authority**

- i. The Contracting Authority for the Contract is: Andrew MacFarlane  
Tel.: 782-377-4248  
E-mail: [andrew.macfarlane@pwgsc-tpsgc.gc.ca](mailto:andrew.macfarlane@pwgsc-tpsgc.gc.ca)  
Address: 1045 Main Street, 4th Floor  
Moncton, New Brunswick  
E1C 1H1

Department Name: Public Services and Procurement Canada, Acquisitions Branch

- ii. The Contracting Authority is responsible for the management of the Contract and must authorize in writing any changes to the Contract. 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. Project Authority**

- i. The Project Authority for the Contract is: [PROJECT AUTHORITY NAME]  
Tel:  
E-mail:  
Address:  
Department Name:
- ii. The Work is for a department or agency. The Project Authority represents that department or agency. The Project Authority is responsible for all matters concerning the technical content of

the Work under the Contract. The Contractor may discuss technical matters with the Project Authority, however the Project Authority has no authority to authorize changes to the scope of the Work. Only the Contracting Authority can issue a contract amendment to make changes to the scope of the Work.

**c. Contractor's Representative**

- i. The Contractor's Representative for the Contract is:[**CONTRACTOR REPRESENTATIVE NAME**]  
Tel:  
E-mail:  
Address:

## Annex Solicitation of Offers Definitions

In this solicitation of offers, unless the context otherwise requires, the following terms shall have the following meanings.

**"Canadian good"** A good wholly manufactured or originating in Canada is considered a Canadian good. A product containing imported components may also be considered Canadian for the purpose of this policy when it has undergone sufficient change in Canada, in a manner that satisfies the definition specified under the Canada-United States-Mexico Agreement (CUSMA) Rules of Origin. For the purposes of this determination, the reference in the CUSMA Rules of Origin to "territory of one or more of the Parties" is to be replaced with "Canada".

**"Canadian service"** means a service provided by an individual based in Canada is considered a Canadian service. Where a requirement consists of only one service, which is being provided by more than one individual, the service will be considered Canadian if a minimum of 80 percent of the total offer price for the service is provided by individuals based in Canada.

**"Variety of goods"** When requirements consist of more than one good, one of the two methods below is applied:

- (a) aggregate evaluation: no less than 80 percent of the total offer price must consist of Canadian goods; or,
- (b) item by item evaluation: in some cases, the offer evaluation may be conducted on an item-by-item basis and contracts may be awarded to more than one supplier. In these cases, suppliers will be asked to identify separately each item that meets the definition of Canadian goods.

**"Variety of services"** For requirements consisting of more than one service, a minimum of 80 percent of the total offer price must be provided by individuals based in Canada.

**"Mix of goods and services"**: When requirements consist of a mix of goods and services, no less than 80 percent of the total offer price must consist of Canadian goods and services (as defined above).

**"Other Canadian goods and services"**: Textiles: Textiles are considered to be Canadian goods according to a modified rule of origin, copies of which are available from the Clothing and Textiles Division, Commercial and Consumer Products Directorate.

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

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

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

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

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

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

**"Former Public Servant"** is any former member of a department as defined in the [Financial Administration Act](#), R.S., 1985, c. F-11, a former member of the Canadian Armed Forces or a former member of the Royal Canadian Mounted Police. A former public servant may be:

- (a) an individual;
- (b) an individual who has incorporated;
- (c) a partnership made of former public servants; or
- (d) a sole proprietorship or entity where the affected individual has a controlling or major interest in the entity.

**"Joint Venture"** means an association of two or more Parties who combine their money, property, knowledge, expertise or other resources in a single joint business enterprise, sometimes referred as a consortium, to offer together on a requirement.

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

**"Offeror"** means the person or entity (or, in the case of a Joint Venture, the persons or entities) submitting an offer. An Offeror can be a sole proprietorship, corporation, a partnership, a Joint Venture or a natural person.

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

**"Pension"** means a pension or annual allowance paid under the [Public Service Superannuation Act](#) (PSSA), R.S., 1985, c. P-36, and any increases paid pursuant to the [Supplementary Retirement Benefits Act](#), R.S., 1985, c. S-24 as it affects the PSSA. It does not include pensions payable pursuant to the [Canadian Forces Superannuation Act](#), R.S., 1985, c. C-17, the [Defence Services Pension Continuation Act](#), 1970, c. D-3, the [Royal Canadian Mounted Police Pension Continuation Act](#), 1970, c. R-10, and the [Royal Canadian Mounted Police Superannuation Act](#), R.S., 1985, c. R-11, the [Members of Parliament Retiring Allowances Act](#), R.S. 1985, c. M-5, and that portion of pension payable to the [Canada Pension Plan Act](#), R.S., 1985, c. C-8.

**"Security Deposit"** means (a) a bill of exchange that is payable to the Receiver General for Canada and certified by an approved financial institution or drawn by an approved financial institution on itself; or (b) a government guaranteed bond; or (c) an irrevocable standby letter of credit, or (d) such other security as may be considered appropriate by the Contracting Authority and approved by Treasury Board.

**"Approved Financial Institution"** means (a) any corporation or institution that is a member of the Canadian Payments Association (Payments Canada); (b) a corporation that accepts deposits that are insured by the Canada Deposit Insurance Corporation or the Régie de l'assurance-dépôts du Québec to the maximum permitted by law; (c) a credit union as defined in paragraph 137(6) of the Income Tax Act; (d) a corporation that accepts deposits from the public, if repayment of the deposits is guaranteed by a Canadian province or territory; or (e) the Canada Post Corporation.

**"Government-guaranteed Bond"** means a bond of the Government of Canada or a bond unconditionally guaranteed as to principal and interest by the Government of Canada that is: (a) payable to bearer; (b) accompanied by a duly executed instrument of transfer of the bond to the Receiver General for Canada in accordance with the Domestic Bonds of Canada Regulations; (c) registered in the name of the Receiver General for Canada.

**"Irrevocable Standby Letter of Credit"** (a) means any arrangement, however named or described, whereby a financial institution (the "Issuer"), acting at the request and on the instructions of a customer (the "Applicant"), or on its behalf, (i) will make a payment to or to the order of Canada, as the beneficiary; (ii) will accept and pay bills of exchange drawn by Canada; (iii) authorizes another financial institution to effect such payment, or accept and pay such bills of exchange; or (iv) authorizes another financial institution to negotiate, against written demand(s) for payment, provided that the conditions of the letter of credit are complied with; (b) must state the face amount which may be drawn against it; (c) must state its expiry date; (d) must provide for sight payment to the Receiver General for Canada by way of the financial institution's draft against presentation of a written demand for payment signed by the authorized departmental representative identified in the letter of credit by his or her office; (e) must provide that more than one written demand for payment may be presented subject to the sum of those demands not exceeding the face amount of the letter of credit; (f) must provide that it is subject to the International Chamber of Commerce (ICC) Uniform Customs and Practice (UCP) for Documentary Credits, 2007 Revision, ICC Publication No. 600. Pursuant to the ICC UCP, a credit is irrevocable even if there is no indication to that effect; and (g) must be issued (Issuer) or confirmed (Confirmer), in either official language,

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File No. - N° du dossier

MCT-2-45037

Buyer ID - Id de l'acheteur

MCT045

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by a financial institution that is a member of the Canadian Payments Association (Payments Canada) and is on the letterhead of the Issuer or Confirmer. The format is left to the discretion of the Issuer or Confirmer.

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

## Annex Contract Definitions

In the Contract, unless the context otherwise requires, the following terms have the following meanings.

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

"**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.

"**Bank Rate**" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association.

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

"**Canadian good**" A good wholly manufactured or originating in Canada is considered a Canadian good. A product containing imported components may also be considered Canadian for the purpose of this policy when it has undergone sufficient change in Canada, in a manner that satisfies the definition specified under the [Canada-United States-Mexico Agreement \(CUSMA\)](#) Rules of Origin. For the purposes of this determination, the reference in the CUSMA Rules of Origin to "territory of one or more of the Parties" is to be replaced with "Canada". (Consult Section 3.130 and Annex 3.6 of the Supply Manual for further information.)

"**Canadian Service**" means a service provided by an individual based in Canada is considered a Canadian service. Where a requirement consists of only one service, which is being provided by more than one individual, the service will be considered Canadian if a minimum of 80 percent of the total offer price for the service is provided by individuals based in Canada.

"**Variety of Goods**" When requirements consist of more than one good, one of the two methods below is applied:

- a) aggregate evaluation: no less than 80 percent of the total offer price must consist of Canadian goods; or,
- b) item by item evaluation: in some cases, the offer evaluation may be conducted on an item-by-item basis and contracts may be awarded to more than one supplier. In these cases, suppliers will be asked to identify separately each item that meets the definition of Canadian goods.

"**Variety of Services**" For requirements consisting of more than one service, a minimum of 80 percent of the total offer price must be provided by individuals based in Canada.

"**Mix of Goods and Services**" When requirements consist of a mix of goods and services, no less than 80 percent of the total offer price must consist of Canadian goods and services (as defined above).

"**Other Canadian Goods and Services**" Textiles are considered to be Canadian goods according to a modified rule of origin, copies of which are available from the Clothing and Textiles Division, Commercial and Consumer Products Directorate.

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

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

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

**"Contract Period"** means the entire period of time during which the Contractor is obliged to perform the Work, which includes initial Contract Period and the period during which the Contract is extended, if Canada chooses to exercise any options set out in the Contract.

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

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

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

**"Overdue"** means an amount that is unpaid on the first day following the day on which it is due and payable according to the Contract.

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

**"Security Deposit"** means (a) a bill of exchange that is payable to the Receiver General for Canada and certified by an approved financial institution or drawn by an approved financial institution on itself; or (b) a government guaranteed bond; or (c) an irrevocable standby letter of credit, or (d) such other security as may be considered appropriate by the Contracting Authority and approved by Treasury Board.

**"Approved Financial Institution"** means (a) any corporation or institution that is a member of the Canadian Payments Association (Payments Canada); (b) a corporation that accepts deposits that are insured by the Canada Deposit Insurance Corporation or the Régie de l'assurance-dépôts du Québec to the maximum permitted by law; (c) a credit union as defined in paragraph 137(6) of the Income Tax Act; (d) a corporation that accepts deposits from the public, if repayment of the deposits is guaranteed by a Canadian province or territory; or (e) the Canada Post Corporation.

**"Government-guaranteed Bond"** means a bond of the Government of Canada or a bond unconditionally guaranteed as to principal and interest by the Government of Canada that is: (a) payable to bearer; (b) accompanied by a duly executed instrument of transfer of the bond to the Receiver General for Canada in accordance with the Domestic Bonds of Canada Regulations; (c) registered in the name of the Receiver General for Canada.

**"Irrevocable Standby Letter of Credit"** (a) means any arrangement, however named or described, whereby a financial institution (the "Issuer"), acting at the request and on the instructions of a customer (the "Applicant"), or on its behalf, (i) will make a payment to or to the order of Canada, as the beneficiary; (ii) will accept and pay bills of exchange drawn by Canada; (iii) authorizes another financial institution to effect such payment, or accept and pay such bills of exchange; or (iv) authorizes another financial institution to negotiate, against written demand(s) for payment, provided that the conditions of the letter of credit are complied with; (b) must state the face amount which may be drawn against it; (c) must state its expiry date; (d) must provide for sight payment to the Receiver General for Canada by way of the financial institution's draft against presentation of a written demand for payment signed by the authorized departmental representative identified in the letter of credit by his or her office; (e) must provide that more than one written demand for payment may be presented subject to the sum of those demands not exceeding the face amount of the letter of credit; (f) must provide that it is subject to the International Chamber of Commerce (ICC) Uniform Customs and Practice (UCP) for Documentary Credits, 2007 Revision, ICC Publication No. 600. Pursuant to the ICC UCP, a credit is irrevocable even if there is no indication to that effect; and (g) must be issued (Issuer) or confirmed (Confirmer), in either official language, by a financial institution that is a member of the Canadian Payments Association (Payments Canada) and is on the letterhead of the Issuer or Confirmer. The format is left to the discretion of the Issuer or Confirmer.

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

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**"Work"** means all the activities, services, goods, equipment, matters and things that the Contractor is required to do, deliver or perform under the Contract.

## Annex Offer Submission Form

### 1. Offeror's Full Legal Name

The Offeror is the person or entity (or, for a Joint Venture, the persons or entities) submitting the proposal. Offerors who are part of a corporate group should identify the corporation that is the actual Offeror.

Offeror's Full Legal Name

### 2. Offeror's Procurement Business Number (PBN)

If the PBN does not match the Offeror's legal name, the Offeror will be determined based on the legal name provided, not based on the PBN, and the Offeror will be required to submit the PBN that matches its legal name.

PBN is not required at Offer closing, but required prior to contract award.

Offeror's Procurement  
Business Number (PBN)

### 3. Identification of Joint Venture Parties

For a proposal submitted on behalf of a Joint Venture, provide the information or indicate "N/A" if not applicable. If a contract is awarded to a Joint Venture, all members of the Joint Venture will be jointly and severally or solidarily liable for the performance of any resulting contract.

Name(s) of Joint Venture  
Member

PBN(s) of Joint Venture  
Member

Authorized  
Representative of the  
Offeror

Name

Title

Telephone Number

Fax Number

EMail

Name of the Joint  
Venture, if applicable

### 4. Applicable Laws

Offerors may substitute the applicable laws of another Canadian province or territory by deleting the name of the specified jurisdiction and inserting the name of the province or territory of their choice. If the Offeror has

not made a change, the Offeror acknowledges its acceptance of the jurisdiction specified in this offer solicitation.

**Applicable Laws**

**5. Electronic Payments**

The Offeror accepts the following payments (please check all that apply):

- VISA Acquisition Card
- MasterCard Acquisition Card
- Direct Deposit (Domestic and International)
- Wire Transfer (International Only)
- Large Value Transfer System (LVTS) (Over \$25 million dollars)

**Signatures**

Signature of representative authorized to sign on behalf of the Offeror

Name:

Title:

Date:



## Annex Offeror Declaration Form

Offeror's Full Legal Name	
Once you have read and understood each statement, please respond by checking [ ] each certification below and sign this declaration. The Offeror certifies to Canada that its response below are complete and truthful.	
<b>Federal Contractors Program for Employment Equity (FCP)</b>	
<b>Eligibility to submit an offer</b> Federal Contractors Program for Employment Equity	( ) The Offeror, and any of its members if it is a joint venture, is not named on the Federal Contractors Program (FCP) for Employment Equity " <a href="#">FCP Limited Eligibility to Bid</a> " list. <i>Canada may declare an offer non-responsive if the Offeror, or any of its members if the Offeror is a joint venture, appears on the "FCP Limited Eligibility to Bid" list at the time of contract award.</i>
<b>Accuracy and Integrity</b>	
Accuracy of information	( ) All the information that the Offeror submits with its offer is true, accurate, and complete as of the date indicated below.
Code of Conduct for Procurement	( ) The Offeror complies with Canada's <a href="#">Code of Conduct for Procurement</a> .
Ineligibility and Suspension Policy	( ) The Offeror has read, understands, and complied with the requirements of Canada's Ineligibility and Suspension Policy ("Policy") and applicable directives in effect on the solicitation of offers issue date. ( ) The Offeror is not currently suspended, or ineligible under Canada's Ineligibility and Suspension Policy. ( ) The Offeror understands that any subsequent criminal charges or convictions may result in the Offeror's suspension or ineligibility to contract with Canada.
<b>Canadian Content Certification</b>	
This procurement is <b>conditionally limited to Canadian goods</b> . Subject to the evaluation procedures contained in the bid solicitation, bidders acknowledge that only bids with a certification that the good(s) offered are Canadian goods, as defined in Annex Bid Solicitation Definitions, may be considered. Failure to provide this certification completed with the bid will result in the good(s) offered being treated as non-Canadian goods.  ( ) The Bidder certifies that a minimum of 80 percent of the total bid price consist of Canadian goods as defined in the Annex Bid Solicitation Definitions.	
<b>Best Delivery Date</b>	
While delivery is requested by as soon as possible, the best delivery that could be offered is _____ . <a href="#">(To be completed by the Offeror)</a>	
<b>Price Certification</b>	
The Offeror certifies that the price proposed	

is not in excess of the lowest price charged to anyone else for the like quality and quantity of the goods, the services, or both, and

does not include an element of profit on the sale in excess of that which the Offeror normally obtains on the sale of goods, services, or both of like quality and quantity.

**General Environmental Criteria Certification (To be completed by the Offeror)**

The Bidder **MUST** select and complete 1 of the following 2 certification statements.

Option A	<input type="checkbox"/> The Offeror certifies that the Bidder is registered or meets ISO 14001.
Option B	<p>The Bidder certifies that the Bidder meets and will continue to meet throughout the duration of the contract, a minimum of <b>six (6) out of nine (9)</b> criteria identified in the table below.</p> <p>The Bidder must indicate which six (6) criteria, as a minimum, are met.</p> <p><input type="checkbox"/> Promotes a paperless environment through directives, procedures and/or programs.</p> <p><input type="checkbox"/> All documents are printed double sided and in black and white for day to day business activity unless otherwise specified by your client.</p> <p><input type="checkbox"/> Paper used for day to day business activity has a minimum of 30% recycled content and has a sustainable forestry management certification.</p> <p><input type="checkbox"/> Utilizes environmentally preferable inks and purchase remanufactured ink cartridges or ink cartridges that can be returned to the manufacturer for reuse and recycling for day to day business activity.</p> <p><input type="checkbox"/> Recycling bins for paper, newsprint, plastic and aluminum containers available and emptied regularly in accordance with local recycling program.</p> <p><input type="checkbox"/> A minimum of 50% of office equipment has an energy efficient certification.</p> <p><input type="checkbox"/> Promotes the reuse and/or recycling of packaging materials.</p> <p><input type="checkbox"/> Provides energy efficient and ECO green products.</p> <p><input type="checkbox"/> Invoices and payment can be sent and processed electronically.</p>

**Signatures**

Signature of representative authorized to sign on behalf of the Offeror

Name:	
Title:	
Date:	

## Annex Statement of Requirement

### Part 1 General

#### 1.1 SUMMARY

- .1 Public Services and Procurement Canada (PSPC), on behalf of the Department of National Defence (DND), requires the supply and delivery of Shell and Tube Heat Exchanger at 5th Canadian Division Support Base Gagetown, located in Oromocto, New Brunswick. Shell and Tube Heat Exchanger must be delivered to locations within 5 CDSB Gagetown on the award date of successful bidder.
- .2 Section Includes:
  - .1 Materials used in HVAC heat exchangers.
- .3 Scope of Work shall include the supply only of the heat exchanger specified in Section 2.1.
- .4 Provide price to supply specified equipment within a 20 week delivery to site. If equipment delivery is longer than 20 weeks, specify the delivery timeline and it will be considered.
- .5 Each heat exchanger shall be tagged for the building where it is to be delivered.

#### 1.2 REFERENCES

- .1 American Society of Mechanical Engineers (ASME):
  - .1 ASME Boiler and Pressure Vessel Code.
    - .1 BPVC-VIII B, BPVC Section VIII - Rules for Construction of Pressure Vessels Division 1.
    - .2 BPVC-VIII-2 B, BPVC Section VIII - Rules for Construction of Pressure Vessels Division 2 - Alternative Rules.
    - .3 BPVC-VIII-3 B, BPVC Section VIII - Rules for Construction of Pressure Vessels Division 3 - Alternative Rules High Press Vessels.
- .2 Canadian Standards Association (CSA International):
  - .1 CSA B51, Boiler, Pressure Vessel, and Pressure Piping Code.
- .3 Health Canada/Workplace Hazardous Materials Information System (WHMIS):
  - .1 Material Safety Data Sheets (MSDS).

#### 1.3 SUBMITTALS

- .1 Submittals to be provided in electronic PDF format English only.
- .2 Product Data:
  - .1 Submit manufacturer's printed product literature, specifications and datasheet for heat exchangers.
  - .2 Submit WHMIS MSDS to indicate VOC's for adhesive and solvents during application and curing.
- .3 Shop Drawings:
  - .1 Submit shop drawings to indicate project layout including layout, dimensions of heat exchangers and system. Indicate following information:
    - .1 Manufacturers recommended clearances for tube withdrawal and manipulation of tube cleaning tools.

- .2 Test Reports: submit certified test reports from approved independent testing laboratories indicating compliance with specifications for specified performance characteristics and physical properties. Manufacturers will provide certificates that exchanger adhere to codes and meet requirements of specs.
- .3 Certificates: submit certificates signed by manufacturer certifying that materials comply with specified performance characteristics and physical properties. Manufacturer will provide certificates that exchanger adhere to codes and meet requirements of specs.
- .4 Instructions: submit manufacturer's installation instructions.
- .5 Manufacturer's Field Reports: manufacturer's field reports specified.
- .6 Closeout Submittals: submit maintenance and engineering data for incorporation into manual.

#### 1.4 MAINTENANCE

- .1 Maintenance Materials:
  - .1 Provide maintenance materials in accordance with the following:
    - .1 Spare parts:
      - .1 Provide spare parts, in quantities specified in this specification section. We require one spare gasket per exchanger.
      - .2 Provide items of same manufacture and quality as heat exchanger.
      - .3 Deliver to location as directed; place and store.
      - .4 Receive and catalogue items.
        - .1 Include approved listings in Maintenance Manual.
  - .2 Supply following spare parts:
    - .1 Head gaskets.

#### Part 2 Products

##### 2.1 EQUIPMENT FOR BUILDING J10

- .1 Tube-in-shell Heat Exchanger:
  - .1 High Temperature Hot Water (HTHW) to heating water / heating glycol, as indicated. Heating media in tube, 2 pass design.
  - .2 Designed, constructed and tested in accordance with CSA B51 ASME Boiler and Pressure Vessel Code and provincial pressure vessel regulations.
  - .3 Pressure vessel to have Canadian Registration Numbers (CRN) and CRN plate affixed to heat exchanger shell.
  - .4 Manufacturer to supply data report as per ASME U1 form and heat exchanger to be stamped with the ASME U symbol.
  - .5 Shell: Carbon steel construction. ANSI Class 150 raised face flanged connection for secondary low temperature hot water (LTHW) inlet and outlet connections. LTHW

outlet located at front top side of shell. LTHW inlet connection located bottom at rear of shell. Tapped for gauge, drain, vacuum breaker, and relief valve.

- .6 Additional connections required on shell of heat exchanger;
  - .1 DN 25 mm (NPS 1) diameter female threaded connection for relief valve (by others) centered on top side of shell.
  - .2 DN 50 mm (NPS 2) diameter ANSI class 150 raised face flanged connection for drain valve (by others) centered on underside of shell.
- .7 Head: Channel style fabricated carbon steel with ANSI class 300, raised face, flanged HTHW inlet and outlet connections protruding on the horizontal from each side of the channel. Tapped connections for pressure relief valve and drain.
- .8 Tubes: DN 18 mm diameter, 18 BWG or as designed and indicated on submittals. Material: SAE 304/304L (UNS S304033) or SAE 316/316L (UNS S31600) stainless steel with 304SS (UNS S30400) or SAE 316/316L (UNS S31600) tube supports and baffles. Allowable tube velocity: 2 to 4 m/s (7 to 13 ft./s). Tubes to have smooth radii bends and be rolled fitted into tube sheet. Number of passes as design requires.
- .9 Tube sheet: SAE 304L (UNS S304033) or SAE 316/316L (UNS S31600) stainless steel. Quantity as design requires.
- .10 Baffles/Tie Rods: Carbon Steel.
- .11 Gaskets: Spiral Wound. Provide one complete set and one complete spare set of gaskets.
- .12 Fouling Resistance Coefficient: HTHW side 0.00009 m<sup>2</sup>K/W, water side 0.00018 m<sup>2</sup>K/W.
- .13 Minimum tube bundle test pressure and temperature: 3,100 kPa (450 psi). Minimum tube bundle working (design) pressure and temperature: 2,070 kPa (300 psi) and 190°C (375°F). Maximum allowable pressure drop across tube bundle: 68 kPa (10 psi).
- .14 Minimum shell test pressure and temperature: 1,550 kPa (225 psi). Minimum shell working (design) pressure and temperature: 1,030 kPa (150 psi) and 120°C (250°F). Maximum allowable pressure drop 14 kPa (2.0 psi)
- .15 Mounting supports: steel or cast iron saddles.
- .16 Capacity and Dimensions: as indicated in Schedule below:

HEAT EXCHANGER SCHEDULE

TAG	BUILDING/ SERVICE	LOCATION	HEATING CAPACITY KW (MBH)	SHELL SIDE						TUBE SIDE						EXISTING HX DIMENSIONS (MAXIMUM ALLOWABLE) (LxDIAM)	REMARKS
				PRESSURE (KPA/PSIG)	FLOW (L/S/GPM)	EWT (°C/°F)	LWT (°C/°F)	PRESSURE DROP (KPA/PSI)	FLUID	PRESSURE (KPA/PSIG)	FLOW (L/S/GPM)	EWT (°C/°F)	LWT (°C/°F)	PRESSURE DROP (KPA/PSI)	FLUID		
J10 HX-1	J10 (ENTIRE BUILDING)	SECOND FLOOR MECHANICAL ROOM	3,019KW/ 10,300MBH	1,034KPA/ 150PSIG	56.5L/S/ 895GPM	93.3°C/ 200°F	79.4°C/ 175°F	12.4KPA/ 1.80PSI	30% ETHYLENE GLYCOL	2,068KPA/ 300PSI	13.0L/S/ 206GPM	182°C/ 360°F	120°C/ 248°F	3.45KPA/ 0.50PSI	HTHW	1,778MMx457MM/ 70INx18IN	HTHW CONNECTIONS: NPS 4 LTHW CONNECTIONS: NPS 8 RELIEF VALVE CONN.: NPS 1 DRAIN VALVE CONN.: NPS 2
J10 HX-2	J10 (ENTIRE BUILDING)	SECOND FLOOR MECHANICAL ROOM	3,019KW/ 10,300MBH	1,034KPA/ 150PSIG	56.5L/S/ 895GPM	93.3°C/ 200°F	79.4°C/ 175°F	12.4KPA/ 1.80PSI	30% ETHYLENE GLYCOL	2,068KPA/ 300PSI	13.0L/S/ 206GPM	182°C/ 360°F	120°C/ 248°F	3.45KPA/ 0.50PSI	HTHW	1,778MMx457MM/ 70INx18IN	HTHW CONNECTIONS: NPS 4 LTHW CONNECTIONS: NPS 8 RELIEF VALVE CONN.: NPS 1 DRAIN VALVE CONN.: NPS 2

.17 Heat Exchanger dimensions to match existing.

**Part 3 Execution**

**3.1 NOT REQUIRED**

.1 Installation not required.

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## Annex Basis of Payment

### Annex B is comprised of 2 parts:

1. Note to the Offerors; and
2. See attached Excel spreadsheet for the list of items, to be completed and sent electronically for evaluation.

### Note to the Offerors:

1. All shipping charges are included in the quoted prices per item.
2. Instructions on how to complete the attached excel spreadsheets:
  - Column I: Offeror can insert their Product Code.
  - Column J: Offeror can insert proposed Brand.
  - Column K: Offeror **must** insert an answer to the question.
  - Column L: Offeror **must** insert the CRN number.
  - Column M: Offeror **must** insert the serial number.
  - Column N: Offeror **must** insert an answer to the question.
  - Column O: Offeror **must** provide their pricing as per Vendor Item Description.
  - Column P: Offeror can provide any comments they have for that particular line item.

**Please note:** Offerors must complete columns P, R, S and U even if their proposed line item's case description is the same as the Case Description provided in the Requirement. Failure to complete any of these columns will result in disqualification of that particular line item. It is the Offeror's sole responsibility to ensure all required information for their proposed line items are provided by bid closing. Canada will not be liable if any information is missing or not provided for these line items by bid closing. Clarification may be sought during the evaluation phase.

3. Bidders will be required to submit their bid electronically for evaluation purposes, via email, if CPC Connect is not used to submit the bid. No handwritten bids will be accepted.
4. Prices must be provided in 2 decimal place format (example: \$2.99 per kilogram).