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Annex List :

Annex A – Statement of Work

Annex B – Pricing Table

Annex C – Mandatory Requirements for Equivalent Products

Annex D – Resulting Contract Clauses

Form 1 – Bid Submission Form

Form 2 – OEM Certification Form

Form 3 – Integrity Form

Articles of Agreement

1.1 Requirement

- a. _____ (the "Contractor") agrees to supply to the Client the goods and services described in the Contract, including the Statement of Work in accordance with, and at the prices set out in the Contract, which includes the Annex A – Statement of Work, and the line items noted in the Annex B – Pricing Table. This includes:
 - i. Providing the goods;
 - ii. Providing the installation and perform tests.
- b. **Client:** Under the Contract, the "Client" is Shared Services Canada ("SSC"), an organization with a mandate to provide shared services. This Contract will be used by SSC to provide shared services to Canada Border Services Agency (CBSA) its client.
- c. **Reorganization of Client:** The Contractor's obligation to perform the Work will not be affected by (and no additional fees will be payable as a result of) the renaming, reorganization, reconfiguration, or restructuring of any Client. The reorganization, reconfiguration and restructuring of the Client includes the privatization of the Client, its merger with another entity, or its dissolution, where that dissolution is followed by the creation of another entity or entities with mandates similar to the original Client. In connection with any form of reorganization, Canada may designate another department or government body as the Contracting Authority or Technical Authority, as required to reflect the new roles and responsibilities associated with the reorganization.
- d. **Defined Terms:** Words and expressions defined in the General Conditions or Supplemental General Conditions or Annex - A Statement of Work and used in the Contract have the meanings given to them in the General Conditions or Supplemental General Conditions or Annex - A Statement of Work.

1.2 Trade Agreements

- a. Only the Canada Free Trade Agreement (CFTA) applies to this procurement.

1.3 Security Requirement

SRCL with no Security Clauses:

Date: 2022-07-05

HQ #: SRCL-HQ-2022-23-056 PR#: 57940

1. Unscreened Contractor personnel must be escorted by a CBSA employee or a Commissionaire at all times when visiting CBSA facilities.
2. Information which is to be used in the development of the contracted product, as reference material or otherwise made available to the contractor must be unclassified material and considered to be releasable to the public by CBSA and/or The Government of Canada.
3. No Protected or Classified information is to be made available to the contractor, used in the production of the contracted product, or produced as a result of this contract.

1.4 Standard Clauses and Conditions

All clauses and conditions identified in the Contract by number, date and title are set out in the Standard Acquisition Clauses and Conditions Manual (<https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual/all>) issued by Public Works and Government Services Canada. All references contained within the General Conditions or Supplementary General Conditions to the Minister of Public Works and Government Services will be interpreted as a reference to the minister presiding over Shared Services Canada and all references to the Department of Public Works and Government Services will be interpreted as Shared Services Canada.

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

- a. **General Conditions:**
 - i. 2030 (2022-05-12), General Conditions - Higher Complexity - Goods, apply to and form part of the Contract.
 - ii. 2010C (2022-01-28), General Conditions - Services (medium complexity), apply to and form part of the Contract.

1.5 Contract Period

- a. **Contract Period:** The “**Contract Period**” is the entire period of time during which the Contractor is obliged to perform the Work, which includes:
 - i. The “**Contract Period**”, which begins on the date the contract is awarded and ends 31 March 2023; and
 - ii. The period during which the Contract is extended, if Canada and the Contractor choose to extend the contract and reflect it through a formal contract amendment.

1.6 Authorities

a. Contracting Authority

The Contracting Authority for the Contract is:

Name:	Eric Vanasse
Title:	Senior Procurement Officer
Organizations:	Shared Services Canada
Telephone:	(514) 607-8519
E-mail address:	Eric.Vanasse@ssc-spc.gc.ca

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

b. Technical Authority

The Technical Authority for the Contract is:

Name:	Kim Shirley
Title:	Technical Advisor
Organization:	Canada Border Services Agency
Telephone:	343-553-1768
E-mail address:	kim.shirley@cbsa-asfc.gc.ca

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

c. Contractor's Representative:

The Contractor Representative for the Contract is:

Name:	
Title:	
Organization:	
Address:	
Telephone:	
E-mail address:	

1.7 Proactive Disclosure of Contracts with Former Public Servants

By providing information on its status, with respect to being a former public servant in receipt of a [Public Service Superannuation Act](#) (PSSA) pension, the Contractor has agreed that this

information will be reported on departmental websites as part of the published proactive disclosure reports, in accordance with [Contracting Policy Notice: 2012-2](#) of the Treasury Board Secretariat of Canada.

1.8 Payment

a. Basis of Payment

For providing the Hardware, Maintenance and Support in accordance with the Contract, Canada will pay the Contractor the firm price(s) set out in Annex B, DDP destination, including all customs duties, GST/HST extra. A return to service fee is incorporated into the firm prices set out in Annex B.

Estimated Cost - Year 1: \$

Taxes (NB 15%): \$

b. Limitation of Expenditure

- i. Canada's total liability to the Contractor under the Contract must not exceed the amount set out on page 1 of the Contract, plus any Applicable Taxes. With respect to the amount set out on page 1 of the Contract, Customs duties and applicable taxes are excluded. Any commitments to purchase specific amounts or values of goods or services are described elsewhere in the Contract.
- ii. No increase in the total liability of Canada or in the price of the Work resulting from any design changes, modifications or interpretations of the Work, will be authorized or paid to the Contractor unless these design changes, modifications or interpretations have been approved, in writing, by the Contracting Authority before their incorporation into the Work. The Contractor must not perform any work or provide any service that would result in Canada's total liability being exceeded before obtaining the written approval of the Contracting Authority. The Contractor must notify the Contracting Authority in writing as to the adequacy of this sum when:
 - A. it is 75 percent committed, or
 - B. 4 months before the Contract expiry date, or
 - C. as soon as the Contractor considers that the contract funds provided are inadequate for the completion of the Work,whichever comes first.
- iii. If the notification is for inadequate contract funds, the Contractor must provide to the Contracting Authority a written estimate for the additional funds required. Providing this information does not increase Canada's liability.

c. Limitation of Price

- i. 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.

d. Method of Payment – 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. an accurate and complete invoice and any other documents required by the Contract have been submitted in accordance with the invoicing instructions provided in the Contract;
- b. all such documents have been verified by Canada;
- c. the Work delivered has been accepted by Canada.

1.9 Invoicing Instructions

- a. The Contractor must submit invoices in accordance with the information required in General Conditions 2030.
- b. By submitting invoices, the Contractor is certifying that the goods and/or services have been delivered and that all charges are in accordance with the Basis of Payment provision of the Contract, including any charges for work performed by subcontractors.
- c. For Purchase Orders, the Contractor's invoice or equivalent must indicate which line item(s) and the quantity for which it is invoicing.
- d. On request, the Contractor must provide the original of each invoice or equivalent to the Technical Authority. On request, the Contractor must provide a copy of any invoices or equivalent requested by the Contracting Authority.
- e. The Contractor must provide the original of each invoice by email to the address identified by Canada

1.10 Certifications

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

1.11 Applicable Laws

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

1.12 Priority of Documents

If there is a discrepancy between the wording of any documents that appear on the following list, the wording of the document that first appears on the list has priority over the wording of any document that appears later on the list:

- a. these Articles of Agreement, including any individual SACC clauses incorporated by reference in these Articles of Agreement;
- b. 2010C (2022-01-28), Supplemental General Conditions - Services (medium complexity) General conditions 2030 (2022-05-12), General Conditions - Higher Complexity - Goods;
- c. Annex A – Statement of Work; and
- d. Annex B – Pricing Table

1.13 Foreign Nationals (Canadian Contractor)

- a. SACC Manual clause A2000C (2006-06-16) Foreign Nationals (Canadian Contractor)

1.14 Insurance Requirements

- a. SACC Manual clause G1005C (2016-01-28) Insurance Requirements applies.

1.15 Limitation of Liability

- a. This section applies despite any other provision of the Contract and replaces the section of the general conditions entitled "Liability". Any reference in this section to damages caused by the Contractor also includes damages caused by its employees, as well as its subcontractors, agents, and representatives, and any of their employees. This section applies regardless of whether the claim is based in contract, tort, or another cause of action. The Contractor is not liable to Canada with respect to the performance of or failure to perform the Contract, except as described in this section and in any section of the Contract pre-establishing any liquidated damages. The Contractor is only liable for indirect, special or consequential damages to the extent described in this Article, even if it has been made aware of the potential for those damages.

- b. **First Party Liability:**

- i. The Contractor is fully liable for all damages to Canada, including indirect, special or consequential damages, caused by the Contractor's performance or failure to perform the Contract that relate to:
 - A. any infringement of intellectual property rights to the extent the Contractor breaches the section of the General Conditions entitled "Intellectual Property Infringement and Royalties";
 - B. physical injury, including death.
- ii. The Contractor is liable for all direct damages affecting real or tangible personal property owned, possessed, or occupied by Canada.
- iii. Each of the Parties is liable for all direct damages resulting from its breach of confidentiality under the Contract. Each of the Parties is also liable for all indirect, special or consequential damages in respect of its unauthorized disclosure of the other Party's trade secrets (or trade secrets of a third party provided by one Party to another under the Contract) relating to information technology.
- iv. The Contractor is liable for all direct damages relating to any encumbrance or claim relating to any portion of the Work for which Canada has made any payment. This does not apply to encumbrances or claims relating to intellectual property rights, which are addressed under subparagraph b.i.A. above.
- v. The Contractor is also liable for any other direct damages to Canada caused by the Contractor in any way relating to the Contract including:
 - A. any breach of the warranty obligations under the Contract, up to the total amount paid by Canada (including any applicable taxes) for the goods and services affected by the breach of warranty; and
 - B. any other direct damages, including all identifiable direct costs to Canada associated with re-procuring the Work from another party if the Contract is terminated by Canada either in whole or in part for default, up to an aggregate maximum for this subparagraph b.v.B. of the greater of 0.25 times the total estimated cost (meaning the dollar amount shown on the first page of the Contract in the cell titled "Total Estimated Cost" or shown on each call-up, purchase order or other document used to order goods or services under this instrument), or \$ 2 Million.
 - C. In any case, the total liability of the Contractor under subparagraph v. will not exceed the total estimated cost (as defined above) for the Contract or \$ 2 Million, whichever is more.
- vi. If Canada's records or data are harmed as a result of the Contractor's negligence or willful act, the Contractor's only liability is, at the Contractor's own expense, to restore Canada's records and data using the most recent back-up kept by Canada. Canada is responsible for maintaining an adequate back-up of its records and data.

a. Third Party Claims:

- i. Regardless of whether a third party makes its claim against Canada or the Contractor, each Party agrees that it is liable for any damages that it causes to any third party in connection with the Contract as set out in a settlement agreement or as finally determined by a court of competent jurisdiction, where the court determines that the Parties are jointly and severally liable or that one Party is solely and directly liable to the third party. The amount of the liability will be the amount set out in the settlement agreement or determined by the court to have been the Party's portion of the damages to the third party. No settlement agreement is binding on a Party unless its authorized representative has approved the agreement in writing.
- ii. If Canada is required, as a result of joint and several liability, to pay a third party in respect of damages caused by the Contractor, the Contractor must reimburse Canada by the amount finally determined by a court of competent jurisdiction to be the Contractor's portion of the damages to the third party. However, despite Sub-article c.i. with respect to special, indirect, and consequential damages of third parties covered by this Section, the Contractor is only liable for reimbursing Canada for the Contractor's portion of those damages that Canada is required by a court to pay to a third party as a result of joint and several liability that relate to the infringement of a third party's intellectual property rights; physical injury of a third party,

including death; damages affecting a third party's real or tangible personal property; liens or encumbrances on any portion of the Work; or breach of confidentiality.

- iii. The Parties are only liable to one another for damages to third parties to the extent described in this Sub-article c.

1.16 Subcontracting

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

1.17 Safeguarding Electronic Media

- a. Before using them on Canada's equipment or sending them to Canada, the Contractor must use a regularly updated product to scan electronically all electronic media used to perform the Work for computer viruses and other coding intended to cause malfunctions. The Contractor must notify Canada if any electronic media used for the Work are found to contain computer viruses or other coding intended to cause malfunctions.
- b. If magnetically recorded information or documentation is damaged or lost while in the Contractor's care or at any time before it is delivered to Canada in accordance with the Contract, including accidental erasure, the Contractor must immediately replace it at its own expense.

