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Attn: Jordan Kearns

REQUEST FOR PROPOSAL

**Proposal to: Innovation, Science and
Economic Development 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 hereof.

Issuing Office:

Innovation, Science and Economic
Development Canada
Contracts & Materiel Management
235 Queen Street
Ottawa, ON
K1A 0H5

Title Brokerage Service for Warrants Received	
Solicitation N° ISED206241	Date January 26, 2023
Solicitation Closes at 02:00 PM on February 20, 2023	Time Zone Eastern Daylight Time (EDT)
F.O.B. Destination	
Address inquiries to: Jordan Kearns	
Telephone N° 343-548-6416	Email address Jordan.Kearns@ised-isde.gc.ca
Destination – of Goods, Services or Construction See Herein	

Instructions: See Herein

Comments:

This document contains a Security Requirement

Delivery Required: See Herein	
Bidder's Name and address	
Name and title of person authorized to sign on behalf of the Bidder (type or print)	
Signature:	Date:



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PART 1 - GENERAL INFORMATION

1.1 Introduction

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

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

The Annexes include the Statement of Work, the Basis of Payment, the Electronic Payment Instruments, the Federal Contractors Program for Employment Equity - Certification, the Insurance Requirements, and any other annexes.

1.2 Summary

- 1.2.1** Innovation, Science and Economic Development Canada (ISED) is soliciting bids (also referred to as “proposals”) for the services of a Contractor to manage Innovation, Science and Economic Development’s warrant and share portfolio, including the review of warrants and share when received, and the holding and disposition of warrants as per preestablished criteria, outlined in the Innovation, Science and Economic Development’s Policy and Procedures for Accepting, Holding and Disposing of Warrants. Direction for the holding and disposition of shares is to be established in consultation with the selected broker.
- 1.2.2** The Federal Contractors Program (FCP) for employment equity applies to this procurement; refer to Part 5 – Certifications and Additional Information, Part 7 - Resulting Contract Clauses and the annex titled Federal Contractors Program for Employment Equity - Certification.”

1.3 Debriefings

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



PART 2 - BIDDER INSTRUCTIONS

2.1 Standard Instructions, Clauses and Conditions

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

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

The [2003](#) (2022-03-29) Standard Instructions - Goods or Services - Competitive Requirements, are incorporated by reference into and form part of the bid solicitation.

“Subsection 3.a) of Section 01, Integrity Provisions - Bid of Standard Instructions [2003](#) incorporated by reference above is deleted in its entirety and replaced with the following:

- a. at the time of submitting an arrangement under the Request for Supply Arrangements (RFSAs), the Bidder has already provided a list of names, as requested under the [Ineligibility and Suspension Policy](#). During this procurement process, the Bidder must immediately inform Canada in writing of any changes affecting the list of names “.

Subsection 5.4 of [2003](#), Standard Instructions - Goods or Services - Competitive Requirements, is amended as follows:

Delete: 60 days

Insert: 120 days

2.2 Submission of Bids

Bids must be submitted to ISED by the date, time and place indicated on page 1 of the bid solicitation.

2.4 Enquiries - Bid Solicitation

All enquiries must be submitted in writing to the Contracting Authority no later than 10 calendar days before the bid closing date. Enquiries received after that time may not be answered.

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

2.5 Applicable Laws

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



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

2.6 Improvement of Requirement During Solicitation Period

Should bidders consider that the specifications or Statement of Work contained in the bid solicitation could be improved technically or technologically, bidders are invited to make suggestions, in writing, to the Contracting Authority named in the bid solicitation. Bidders must clearly outline the suggested improvement as well as the reason for the suggestion. Suggestions that do not restrict the level of competition nor favour a particular bidder will be given consideration provided they are submitted to the Contracting Authority at least 20 days before the bid closing date. Canada will have the right to accept or reject any or all suggestions.

2.7 Bid Challenge and Recourse Mechanisms

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



PART 3 - BID PREPARATION INSTRUCTIONS

3.1 Bid Preparation Instructions

Canada requests that bidders prepare and submit their formal proposal as four (4) separate documents as follows:

Section I:	Technical Bid	1 electronic copy
Section II:	Financial Bid	1 electronic copy
Section III:	Certifications	1 electronic copy
Section IV:	Additional Information	1 electronic copy

Section I: Technical Bid

In their technical bid, Bidders should demonstrate their understanding of the requirements contained in the bid solicitation and explain how they will meet these requirements. Bidders should demonstrate their capability in a thorough, concise and clear manner for carrying out the work.

The technical bid should address clearly and in sufficient depth the points that are subject to the evaluation criteria against which the bid will be evaluated. Simply repeating the statement contained in the bid solicitation is not sufficient. In order to facilitate the evaluation of the bid, Canada requests that Bidders address and present topics in the order of the evaluation criteria under the same headings. To avoid duplication, Bidders may refer to different sections of their bids by identifying the specific paragraph and page number where the subject topic has already been addressed.

Section II: Financial Bid

3.1.1 Bidders must submit their financial bid in accordance with the Basis of Payment in Annex "B".

3.1.2 Electronic Payment of Invoices – Bid

If you are willing to accept payment of invoices by Electronic Payment Instruments, complete Annex "X" Electronic Payment Instruments, to identify which ones are accepted.

If Annex "X" Electronic Payment Instruments is not completed, it will be considered as if Electronic Payment Instruments are not being accepted for payment of invoices.

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

3.1.3 Exchange Rate Fluctuation

[C3011T](#) (2013-11-06), Exchange Rate Fluctuation

3.1.4 SACC Manual Clauses

Section III: Certifications

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



PART 4 - EVALUATION PROCEDURES AND BASIS OF SELECTION

4.1 Evaluation Procedures

- (a) Bids will be assessed in accordance with the entire requirement of the bid solicitation
- (b) An evaluation team composed of representatives of Canada will evaluate the bids.
- (c) The evaluation team will determine if there are two (2) or more bids with a valid Canadian content certification with the bids coming from two or more Bidders that are not affiliated within the meaning used in the *Competition Act*, R.S.C., 1985, c. C-34. In that event, only those bids with a valid certification will be eligible to be awarded a contract; otherwise, all bids will be eligible. If at any point in the evaluation process it is found, whether by determination of invalidity of certifications, determination that bids are non-responsive or withdrawal of bids by Bidders, that there are no longer two (2) or more responsive bids with a valid certification, then all responsive bids 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.

4.1.1 Technical Evaluation

Mandatory technical evaluation criteria are included in Annex C.

4.1.2 Financial Evaluation

4.1.2.1 Mandatory Financial Criteria

SACC *Manual* Clause [A0220T](#) (2014-06-26), Evaluation of Price-Bid

4.2 Basis of Selection

4.2.1 Mandatory Technical Criteria

SACC *Manual* Clause [A0031T](#), Basis of Selection – Mandatory Technical Criteria

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



PART 5 – CERTIFICATIONS AND ADDITIONAL INFORMATION

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

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

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

5.1 Certifications Required with the Bid

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

5.1.1 Integrity Provisions - Declaration of Convicted Offences

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

5.1.2 Certification of Language – Bilingual

By submitting a bid, the Bidder certifies that, should it be awarded a contract as result of the bid solicitation, clients will have access to services within the official language of their choice and all final deliverables (Reports, summaries, etc.) will be provided in both official languages.

5.2 Certifications Precedent to Contract Award and Additional Information

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

5.2.1 Integrity Provisions – Required Documentation

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

5.2.2 Federal Contractors Program for Employment Equity - Bid Certification

By submitting a bid, the Bidder certifies that the Bidder, and any of the Bidder's members if the Bidder is a Joint Venture, is not named on the Federal Contractors Program (FCP) for employment equity "FCP Limited Eligibility to Bid" list available at the bottom of the page of the [Employment and Social Development Canada \(ESDC\) - Labour's](#) website.



Canada will have the right to declare a bid non-responsive if the Bidder, or any member of the Bidder if the Bidder is a Joint Venture, appears on the "FCP Limited Eligibility to Bid list at the time of contract award.

Canada will also have the right to terminate the Contract for default if a Contractor, or any member of the Contractor if the Contractor is a Joint Venture, appears on the "[FCP Limited Eligibility to Bid](#)" list during the period of the Contract.

The Bidder must provide the Contracting Authority with a completed annex titled [Federal Contractors Program for Employment Equity - Certification](#), before contract award. If the Bidder is a Joint Venture, the Bidder must provide the Contracting Authority with a completed annex Federal Contractors Program for Employment Equity - Certification, for each member of the Joint Venture.



PART 6 - SECURITY, FINANCIAL AND OTHER REQUIREMENTS

6.1 Security Requirements

There is no security requirement applicable to the Contract.

6.2 Financial Capability

SACC Manual clause [A9033T](#) (2012-07-16) Financial Capability



PART 7 - RESULTING CONTRACT CLAUSES

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

7.1 Statement of Work

The Contractor must perform the Work in accordance with the Statement of Work at Annex A.

7.2 General Conditions

Attachment 1 of Part 7, Innovation, Science and Economic Development Canada's General Conditions of a Services Contract, apply to and form part of the contract.

7.3 Security Requirements

7.3.1 There is no security requirement applicable to the Contract.

7.4 Term of Contract

7.4.1 Period of the Contract

The period of the Contract is from date of Contract to March 31, 2027.

7.4.2 Option to Extend the Contract:

The Contractor grants to Canada the irrevocable option to extend the term of the Contract by up to two (2) additional three-year period(s) under the same terms and conditions. The Contractor agrees that, during the extended period of the Contract, it will be paid in accordance with the applicable provisions set out in the Basis of Payment.

Canada may exercise this option at any time by sending a written notice to the Contractor before the expiry date of the Contract. The option may only be exercised by the Contracting Authority, and will be evidenced, for administrative purposes only, through a formal contract amendment.

7.5.1 Contracting Authority

The Contracting Authority for the Contract is:

Name: Jordan Kearns
Organization: ISED
Address: 235 Queen Street, Ottawa ON K1A 0h5
Telephone: 343-548-6416
E-mail address: Jordan.kearns@ised-isde.gc.ca

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

7.5.2 Project Authority

The Project Authority for the Contract is:

Name: _____
Title: _____
Organization: _____



Address: _____

Telephone: ____ - ____ - _____

Facsimile: ____ - ____ - _____

E-mail address: _____

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

7.5.3 Contractor's Representative

7.6 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.

7.7 Payment

7.7.1 Basis of Payment

In consideration of the Contractor satisfactorily completing all of its obligations under the Contract, the Contractor will be paid in accordance with the terms of payment, in Appendix B. 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 authorized, in writing, by the Contracting Authority before their incorporation into the Work.

7.7.2 Limitation of Expenditure

1. Canada's total liability to the Contractor under the Contract must not exceed \$ _____. Customs duties are _____ (insert "included", "excluded" or "subject to exemption") and Applicable Taxes are extra.
2. 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:
 - a. when it is 75% committed, or
 - b. four 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.



3. If the notification is for inadequate contract funds, the Contractor must provide to the Contracting Authority a written estimate for the additional funds required. Provision of such information by the Contractor does not increase Canada's liability.

7.7.3 Electronic Payment of Invoices – Contract

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

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

7.8 Invoicing Instructions

Canada will pay the Contractor on a monthly basis for work performed during the month covered by the invoice in accordance with the payment provisions of the Contract if:

- i. 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;
- ii. all such documents have been verified by Canada;
- iii. the Work performed has been accepted by Canada.

7.9 Certifications and Additional Information

7.9.1 Compliance

Unless specified otherwise, the continuous compliance with the certifications provided by the Contractor in its bid or precedent to contract award, and the ongoing cooperation in providing additional information are conditions of the Contract and failure to comply will constitute the Contractor in default. Certifications are subject to verification by Canada during the entire period of the Contract.

7.9.2 Federal Contractors Program for Employment Equity - Default by the Contractor

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

7.10 Applicable Laws

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



7.11 Priority of Documents

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

- (a) the Articles of Agreement;
- (b) Annex E, Innovation, Science and Economic Development Canada's General Conditions of a Services Contract;
- (c) Annex A, Statement of Work;
- (d) Annex B, Basis of Payment;
- (e) the Contractor's bid dated _____ .

7.12 Dispute Resolution

- (a) The parties agree to maintain open and honest communication about the Work throughout and after the performance of the contract.
- (b) The parties agree to consult and co-operate with each other in the furtherance of the contract and promptly notify the other party or parties and attempt to resolve problems or differences that may arise.
- (c) If the parties cannot resolve a dispute through consultation and cooperation, the parties agree to consult a neutral third party offering alternative dispute resolution services to attempt to address the dispute.
- (d) Options of alternative dispute resolution services can be found on Canada's Buy and Sell website under the heading "[Dispute Resolution](#)".



ANNEX “A”

STATEMENT OF WORK

1.0 PROJECT TITLE

Brokerage Service for Warrants Received by the Minister of Innovation, Science and Industry and Shares Received by the Superintendent of Bankruptcy

2.0 BACKGROUND

The Minister of Innovation, Science and Industry has the authority to acquire, exercise, assign or sell a stock option, under the *Department of Industry Act*. The Superintendent of Bankruptcy has the authority to receive and sell shares under the *Bankruptcy and Insolvency Act* or the *Companies’ Creditor Arrangement Act*.

Warrants may be accepted from time to time by the Minister as repayment for, or recovery of, funding provided under departmental programs. Shares may also be accepted from time to time by the Superintendent as payment for fees owed and payable under the *Bankruptcy and Insolvency Act* or the *Companies’ Creditor Arrangement Act*. Currently, the Superintendent holds shares for five (5) publicly traded companies with an estimated value of \$1.5 million as of December 1, 2022.

3.0 PURPOSE / OBJECTIVE

The department of Innovation, Science and Economic Development requires services to manage its portfolio of stock warrants and shares.

Brokerage services are required to manage Innovation, Science and Economic Development’s warrant and share portfolio, including the review of warrants and share when received, and the holding and disposition of warrants as per preestablished criteria, outlined in the Innovation, Science and Economic Development’s Policy and Procedures for Accepting, Holding and Disposing of Warrants. Direction for the holding and disposition of shares is to be established in consultation with the selected broker.

It is the objective of this request to contract with one (1) brokerage firm, which is a member of the Investment Dealers Association of Canada, to provide such services. It is also intended that, in consideration for all broker’s fees and expenses related to the services provided, compensation will be based solely on a percentage commission on the value of warrants and shares when sold.

4.0 SCOPE OF WORK

The successful Broker will be provided with the criteria to determine when the Warrants and Shares should be sold, transferred or otherwise disposed of on behalf of the Minister or Superintendent. The contract resulting from this process will be for an initial



period of four (4) years, starting on April 1, 2023. If it is determined that the services will be required beyond the initial period, Canada may decide to extend the term of the contract by two (2) additional option periods of three (3) years each. The maximum amount allowable under this contract is \$3.75M for the duration of the contract, including the potential extensions years; or whichever come first.

5.0 PROJECT DETAILS

5.1 The Broker will have a broad mandate to hold and to dispose of the Warrants and Shares in accordance with the procedures set out below, which will form part of the contractual obligations of the Broker.

5.2 The following procedures will outline the responsibility of the Broker:

5.2.1. In no event shall the Minister's right under the Warrants to acquire shares be exercised, whether by the Minister, the Department or the Broker. Rather, the Warrants shall be sold, assigned, transferred or otherwise disposed (hereinafter collectively referred to as disposal of the warrants) by the Broker.

5.2.2. The criteria for disposal of all or a portion of Warrants and Shares held by the Broker are set out below. The timing as contained in the sections below is to be at the discretion of the Broker, subject to certain restrictions such as any applicable statutory or regulatory waiting-periods.

5.3 The Broker shall comply with the following requirements:

5.3.1. The Broker must not communicate with the Innovation, Science and Economic Development with respect to receiving instructions on whether to sell or not sell. The Broker's services include the exercise of its professional judgement in making its own decision to sell/not sell, within the parameters set out below.

5.3.2. Where the Broker determines that the value of a Warrant is negligible or significantly lower than the most recent prior valuation by the Broker, the Broker may choose to delay the disposal of the Warrants to a latter period, but no later than the expiry date of the Warrants.

5.3.3. In the case of publicly traded companies, the Warrants will be disposed of by the Broker:

- six months before their expiry date, or
- when the value of the Warrants has achieved a target value as provided by the Department or deferred for a period up to one (1) year based on the market.

5.4 In the case of private recipients about to issue an initial public offering (IPO), the Warrants may be disposed-of to net a Minimum Disposal Value (MDV) equivalent



- to the valuation of the warrants (up to five (5) years), following an IPO. The MDV shall be reduced by 20% per year for five (5) years and reduced to zero by the tenth year.
- 5.5 In the case of private recipients where there is an agreement with a stipulated date by which an IPO is to be completed, but does not occur by that date, the Warrants will be forthwith returned to the Department as soon as the Broker is informed of this "non-IPO decision" by either the recipient or by the Department.
- 5.6 The Broker shall seek to obtain the maximum price for the disposal of Shares, subject to criteria which will be provided to the selected broker.
- 5.7 Any special condition pertaining to the sale, assignment, transfer or disposal of Warrants, contained in a Contribution Agreement will be communicated to the Broker by the Program Administrators. A Notice of special conditions will be provided by the Program Administrators when transferring the warrants to the Broker.
- 5.8 Where a warrant contains a right of first refusal, the Broker will follow the procedures set out in that right of first refusal or other special condition limiting their liquidity.
- 5.9 The Broker shall, within three (3) business days of the execution of the disposal, remit the net proceeds of the disposition of the Warrants and Shares, gross proceeds less sales commission. The Broker's remittance will be accompanied with a summary report on the disposal, including an itemized list of any fees and costs deducted from the gross proceeds of sale. The Department will forward these payments after review and approval of Broker fees to the Comptroller's Branch for deposit to the Consolidated Revenue Fund.
- 5.10 The contract with the successful Broker will provide for:
- the criteria to be used in determining when the warrants should be sold, transferred or otherwise "disposed of" by the Broker on behalf of the Minister;
 - the review and valuation of new warrant certificates and shares when received;
 - the holding and safekeeping of warrants and shares;
 - the periodic valuation of warrants and shares on a quarterly basis and at such other times as requested by the Minister;
 - the issuance of periodic reports to Innovation, Science and Economic Development whenever warrants are valued, as indicated in the Warrant Policy, informing of estimated current values of Warrants, of disposal price of Warrants and of payments received therefore;
 - the disposal of warrants as per the Innovation, Science and Economic Development's policy and procedures;
 - the disposal of shares as per criteria which will be provided to the selected broker;



- the production, execution and filing of all certificates and other documents in compliance with provincial securities laws and regulations and applicable Canadian and foreign stock exchange rules; and
- the payment to the Receiver General for Canada, care of the Department, of sale proceeds, net of any agreed-upon commissions for the Broker in selling or disposing of the Warrants and Shares.

6.0 MANDATORY REQUIREMENTS

- 6.1 To be considered responsive, a proposal must meet all of the mandatory requirements of this solicitation.
- 6.2 Proposals not meeting any of the mandatory requirements will be given no further consideration. Innovation, Science and Economic Development may choose to terminate the evaluation upon the first finding of non-compliance with a mandatory requirement.
- 6.3 Requirement (bidder's proposal should repeat exactly as defined in the Request for Proposal (RFP)). Bidder must provide supporting document demonstrating he is a nationally based brokerage firm that is a member of the Investment Dealers Association of Canada, with offices across Canada.
- 6.4 The Bidder must have a minimum of five (5) years of experience, over the last five (5) years, in the management of an investment portfolio of a minimum \$500 million dollars. The Bidder shall provide a curriculum vitae (CV) of all personnel who it is proposed will participate in the project and identify the role of each team member. The experience listed in each CV must provide supporting data that describes where and how such experience was obtained.
- 6.5 The Bidder proposed senior team members must have a minimum of three (3) years experience in the provision of services as identified in Project Details section above.
- 6.6 Bidders must provide supporting information of previous experience in managing multimillion dollar investment portfolios by submitting samples of relevant reports submitted to three (3) separate clients within the preceding five (5) years.

7.0 FEES AND COSTS

Bidders must provide a fixed percentage point (of warrants and shares sold), as all-inclusive reimbursement for brokerage services as per the Financial Proposal section.

8.0 FINANCIAL PROPOSAL

The financial proposal must be submitted as a separate document to the technical proposal.



NO FINANCIAL INFORMATION FROM THE FINANCIAL PROPOSAL MAY APPEAR IN THE TECHNICAL PROPOSAL.

9.0 FINANCIAL PROPOSAL

9.1 The financial proposal is to be submitted as a separate package to the technical proposal and will be assessed only if the bidder's proposal meets all the technical and financial mandatory requirements.

Innovation, Science and Economic Development may choose to terminate the evaluation upon the first finding of non-compliance.

9.2 No points are awarded for the mandatory requirements, but each one (1) must be met in order for the bidder's proposal to receive consideration.

9.3 The Bidder's financial proposal must include a sales commission as a firm percentage for this project, which will be the only consideration for fees and expenses, GST/HST extra. The percentage commission will only be applied against warrants and shares sold.

9.4 Innovation, Science and Economic Development reserves the right to extend the term of the contract by two (2) additional option periods of three (3) years each. Failure to provide the commission rate for the extension years will be considered the same as for the initial years.

10.0 METHOD OF PAYMENT – RESULTING CONTRACT

Payment will be made as a percent of warrants or shares sold or disposed of. The Broker shall, within three (3) business days of the execution of the trade, remit the net proceeds of the disposition of the Warrants and Shares. Net proceeds are defined as gross proceeds less the Broker's sales commission.

11.0 CONTRACTOR SELECTION METHOD

The contractor will be selected on the basis of the lowest sales commission, as long as the bidder's proposal meets all the technical and financial requirements.

12.0 FINANCIAL CAPABILITY

The Bidder must have the financial capability to undertake this requirement. In order to demonstrate its financial capability, the Bidder is asked to provide the following information:

- Audited Financial Statements, for the Bidder's last three (3) fiscal years, including the Balance Sheet, Income Statement and Statement of Cash Flow.



ANNEX "B"

Period	Method of Payment	Percentage of Sales Commission
April 1, 2023 to March 31, 2027 + Two additional three year option periods	Payment will be made as a percent of warrants or shares sold or disposed of. The Broker shall, within three (3) business days of the execution of the trade, remit the net proceeds of the disposition of the Warrants and Shares. Net proceeds are defined as gross proceeds less the Broker's sales commission.	%



ANNEX “C”

EVALUATION CRITERIA

Mandatory Requirements are evaluated on a pass or fail basis. Failure on the part of the Bidder to meet any one (1) of the following Mandatory Requirements will result in the proposal being deemed non- responsive and ineligible for any further consideration or evaluation. It is the responsibility of the Bidder to ensure that the proposal meets ALL of the Mandatory Requirements as indicated below.

Criteria Requirements	Met	Not Met	Cross Reference to Proposal
M1 Bidder must provide supporting document demonstrating he is a nationally based brokerage firm that is a member of the Investment Dealers Association of Canada, with offices across Canada.			
M2 The Bidder must have a minimum of five (5) years of experience, over the last five (5) years, in the management of an investment portfolio of a minimum \$500 million dollars.			
M3 The Bidder shall provide a curriculum vitae (CV) of all personnel who it is proposed will participate in the project and identify the role of each team member. The experience listed in each CV must provide supporting data that describes where and how such experience was obtained.			
M4 The Bidder proposed senior team members must have a minimum of three (3) years` experience in the provision of services.			
M5 Bidders must provide supporting information of previous experience in managing multimillion dollar investment portfolios by submitting samples of relevant reports submitted to three (3) separate clients within the preceding five (5) years.			
M6 Bidders must complete, sign and return the certification forms as indicated in the Certification Requirements section of this RFP -			



Financial capability of bidder.			
M7 Bidders must provide a fixed percentage point (of warrants and shares sold), as all-inclusive reimbursement for brokerage services as per the Financial Proposal section.			



ANNEX “D” ELECTRONIC PAYMENT INSTRUMENTS

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

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



ANNEX “E” to PART 5 OF THE BID SOLICITATION

FEDERAL CONTRACTORS PROGRAM FOR EMPLOYMENT EQUITY – CERTIFICATION

I, the Bidder, by submitting the present information to the Contracting Authority, certify that the information provided is true as of the date indicated below. The certifications provided to Canada are subject to verification at all times. I understand that Canada will declare a bid non-responsive, or will declare a contractor in default, if a certification is found to be untrue, whether during the bid evaluation period or during the contract period. Canada will have the right to ask for additional information to verify the Bidder's certifications. Failure to comply with any request or requirement imposed by Canada may render the bid non-responsive or constitute a default under the Contract.

For further information on the Federal Contractors Program for Employment Equity visit [Employment and Social Development Canada \(ESDC\) – Labour's](#) website.

Date: _____ (YYYY/MM/DD) (If left blank, the date will be deemed to be the bid solicitation closing date.)

Complete both A and B.

A. Check only one of the following:

- A1. The Bidder certifies having no work force in Canada.
- A2. The Bidder certifies being a public sector employer.
- A3. The Bidder certifies being a [federally regulated employer](#) being subject to the [Employment Equity Act](#).
- A4. The Bidder certifies having a combined work force in Canada of less than 100 permanent full-time and/or permanent part-time employees.

A5. The Bidder has a combined workforce in Canada of 100 or more employees; and

- A5.1. The Bidder certifies already having a valid and current [Agreement to Implement Employment Equity](#) (AIEE) in place with ESDC-Labour.

OR

- A5.2. The Bidder certifies having submitted the [Agreement to Implement Employment Equity \(LAB1168\)](#) to ESDC-Labour. As this is a condition to contract award, proceed to completing the form Agreement to Implement Employment Equity (LAB1168), duly signing it, and transmit it to ESDC-Labour.

B. Check only one of the following:

- B1. The Bidder is not a Joint Venture.

OR

- B2. The Bidder is a Joint venture and each member of the Joint Venture must provide the Contracting Authority with a completed annex Federal Contractors Program for Employment Equity - Certification. (Refer to the Joint Venture section of the Standard Instructions)



ANNEX “F”

INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT CANADA GENERAL CONDITIONS OF A SERVICE CONTRACT

Innovation, Science and Economic Development Canada (ISED) General Conditions of a Service Contract, as set out in Attachment 1 to Part 7, forms part of and is incorporated in the Contract.

- CG01 Interpretation
- CG02 Standard Clauses and Conditions
- CG03 Powers of Canada
- CG04 Status of the Contractor
- CG05 Conduct of the Work
- CG06 Subcontracts
- CG07 Specifications
- CG08 Replacement of Specific Individuals
- CG09 Time of Essence
- CG10 Excusable Delay
- CG11 Inspection and Acceptance of the Work
- CG12 Invoice Submission
- CG13 Taxes
- CG14 Payment Period
- CG15 Interest on Overdue Accounts
- CG16 Compliance with Applicable Laws
- CG17 Ownership
- CG18 Confidentiality
- CG19 Liability
- CG20 Contractor to Own Intellectual Property Rights in the Foreground Information

- 20.1 Interpretation
- 20.2 Records and disclosure of Foreground Information
- 20.3 Ownership of Intellectual Property Rights in Foreground Information
- 20.4 Licences to Intellectual Property Rights in Foreground and Background Information
- 20.5 Contractor’s Right to Grant Licences
- 20.6 Waiver of Moral Rights
- 20.7 Licence to Intellectual Property Rights to Canada’s Information
- 20.8 Transfer or Licence of Contractor’s Rights
- 20.9 Transfer of Intellectual Property Rights upon Termination of the Contract for Default
- 20.10 Products created using the Foreground Information

- CG21 Intellectual Property Infringement and Royalties
- CG22 Amendment and Waivers
- CG23 Assignment
- CG24 Suspension of the Work
- CG25 Default by the Contractor
- CG26 Termination for Convenience
- CG27 Accounts and Audit
- CG28 Right of Set-off
- CG29 Notice
- CG30 Conflict of Interest and Values and Ethics Codes for the Public Service
- CG31 No Bribe or Conflict
- CG32 Survival
- CG33 Severability
- CG34 Successors and Assigns
- CG35 Contingency Fees



CG36 International Sanctions
CG37 Code of Conduct for Procurement
CG38 Harassment in the Workplace
CG39 Entire Agreement

GC01 Interpretation

1.1 In the present Contract, unless the context otherwise requires:

1.1.1 "Articles of Agreement" means the clauses and conditions forming part of the body of the Contract not including these general conditions, any supplemental general conditions, schedules, appendices and attachments, the Contractor's bid or any other document;

1.1.2 "Terms of Payment" defines the amounts that the Contractor will be paid for the services or goods acquired, for the duration of the Contract. It must also include other related costs, such as travel and administrative expenses. (as set out in Appendix B of the Contract)

1.1.3 "Canada", "Crown", "Her Majesty" or "the Government" means Her Majesty the Queen in right of Canada as represented by the Minister of Industry and any other person duly authorized to act on behalf of that minister;

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

1.1.5 "Contract Price" means the amount stated in the Contract to be payable to the Contractor for the Work, exclusive of Goods and Services Tax and Harmonized Sales Tax;

1.1.6 "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;

1.1.7 "Contractor" means the person, entity or entities identified in the Articles of Agreement to supply goods, services or both to Canada;

1.1.8 "Government Property" means anything supplied to the Contractor by or on behalf of Canada, including information, assets and rights in Intellectual Property, 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;

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

1.1.10 "Project Authority" means the individual designated in the Contract and delegated by the Contracting Authority to act as administrative liaison between the Contractor and the Contracting Authority; (as set out in Part 7)

1.1.11 "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;

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

GC02 Standard Clauses and Conditions



In the event that clauses and conditions identified by number, date and title in the Contract are incorporated by reference, then such clauses and conditions form part of the Contract as though expressly set out in the Contract.

GC03 Powers of Canada

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

GC04 Status of the Contractor

The Contractor is an independent contractor engaged by Canada to perform the Work. Nothing in the Contract is intended to 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 is engaged as an employee or agent of Canada. The Contractor is responsible for all deductions and remittances required by law in relation to its employees.

GC05 Conduct of the Work

5.1 The Contractor represents and warrants that:

- (a) it is competent to perform the Work;
- (b) it has everything necessary to perform the Work, including the human resources, facilities, labour, technology, equipment, and materials; and
- (c) it has the necessary qualifications, including knowledge, skill, know-how and experience, and the ability to use them effectively to perform the Work.

5.2 The Contractor must:

- (a) perform the Work diligently and efficiently;
- (b) except for Government Property, supply everything necessary to perform the Work;
- (c) select and employ a sufficient number of qualified people;
- (d) perform the Work in accordance with standards of quality acceptable to Canada and in full conformity with the Specifications and any requirements established under the Contract;
- (e) provide effective and efficient supervision to ensure that the quality of workmanship meets the requirements established under the Contract.

5.3 The Work must not be performed by any person who, in the opinion of Canada, is incompetent, unsuitable or has been conducting himself/herself improperly.

5.4 All services rendered under the Contract must be free from defects in workmanship and conform to the requirements of the Contract. If the Contractor is required to correct or replace the Work or any part of the Work, it will be at no cost to Canada.

5.5 Canada's facilities, equipment and personnel are not available to the Contractor to perform the Work unless the Contract specifically provides for it. The Contractor is responsible for advising the Contracting Authority in advance if it requires access to Canada's facilities, equipment or personnel to perform the Work. 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.

5.6 Unless the Contracting Authority orders the Contractor to suspend the Work or part of the Work pursuant to section 24, the Contractor must not stop or suspend the Work or part of the Work pending the settlement of any dispute between the Parties about the Contract.



5.7 The Contractor must provide all reports that are required by the Contract and any other information that Canada may reasonably require from time to time.

5.8 The Contractor is fully responsible for performing the Work. Canada will not be responsible for any negative consequences or extra costs if the Contractor follows any advice given by Canada unless the Contracting Authority provides the advice to the Contractor in writing and includes a statement specifically relieving the Contractor of any responsibility for negative consequences or extra costs that might result from following the advice.

GC06 Subcontracts

6.1 Except as provided in subsection 6.2 the Contractor must obtain the Contracting Authority's written consent before subcontracting or permitting the subcontracting of any part of the Work. A subcontract includes a contract entered into by any subcontractor at any tier to perform any part of the Work.

6.2 The Contractor is not required to obtain consent for subcontracts specifically authorized in the Contract. The Contractor may also without the consent of the Contracting Authority:

- (a) purchase "off-the-shelf" items and any standard articles and materials that are ordinarily produced by manufacturers in the normal course of business;
- (b) permit its subcontractors at any tier to make purchases as permitted in paragraph (a).

6.3 In any subcontract other than a purchase referred to in paragraph 6.2 (a) or (b), the Contractor must, unless the Contracting Authority agrees in writing, ensure that the subcontractor is bound by conditions compatible with and, in the opinion of the Contracting Authority, not less favourable to Canada than the conditions of the Contract.

6.4 Even if Canada consents to a subcontract, the Contractor is responsible for performing the Contract and Canada is not responsible to any subcontractor. The Contractor is responsible for any matters or things done or provided by any subcontractor under the Contract and for paying any subcontractors for any part of the Work they perform.

GC07 Specifications

7.1 All Specifications provided by Canada or on behalf of Canada to the Contractor in connection with the Contract belong to Canada and must be used by the Contractor only for the purpose of performing the Work.

7.2 If the Contract provides that Specifications furnished by the Contractor must be approved by Canada, that approval will not relieve the Contractor of its responsibility to meet all requirements of the Contract.

GC08 Replacement of Specific Individuals

8.1 If specific individuals are identified in the bid or otherwise in the Contract to perform the Work, the Contractor must provide the services of those individuals unless the Contractor is unable to do so for reasons beyond its control.

8.2 If the Contractor is unable to provide the services of any specific individual identified in the Contract, it must provide a replacement with similar qualifications and experience. The replacement must meet the criteria used in the selection of the Contractor and be acceptable to Canada. The Contractor must, as soon as possible, give notice to the Contracting Authority of the reason for replacing the individual and provide:

- (a) the name, qualifications and experience of the proposed replacement; and
- (b) proof that the proposed replacement has the required security clearance granted by Canada, if applicable.



8.3 The Contractor must not, in any event, allow performance of the Work by unauthorized replacement persons. The Contracting Authority may order that a replacement stop performing the Work. In such a case, the Contractor must immediately comply with the order and secure a further replacement in accordance with subsection 2.

8.4 The fact that the Contracting Authority does not order that a replacement stop performing the Work does not relieve the Contractor from its responsibility to meet the requirements of the Contract.

GC09 Time of the Essence

It is essential that the Work be performed within or at the time stated in the Contract.

GC10 Excusable Delay

10.1 A delay in the performance by the Contractor of any obligation under the Contract that is caused by an event that:

(a) is beyond the reasonable control of the Contractor;
(b) could not reasonably have been foreseen;
(c) could not reasonably have been prevented by means reasonably available to the Contractor; and
(d) occurred without the fault or neglect of the Contractor, will be considered an "Excusable Delay" if the Contractor advises the Project Authority of the occurrence of the delay or of the likelihood of the delay as soon as the Contractor becomes aware of it. The Contractor must also advise the Project Authority, within fifteen (15) working days, of all the circumstances relating to the delay and provide to the Project Authority for approval a plan explaining in detail the steps that the Contractor proposes to take in order to minimize the impact of the event causing the delay.

10.2 Any delivery date or other date that is directly affected by an Excusable Delay will be postponed for a reasonable time that will not exceed the duration of the Excusable Delay.

10.3 However, if an Excusable Delay has continued for thirty (30) days or more, the Contracting Authority may, by giving notice in writing to the Contractor, terminate the Contract. 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 unearned at the date of the termination.

10.4 Unless Canada has caused the delay by failing to meet an obligation under the Contract, Canada will not be responsible for any costs incurred by the Contractor or any of its subcontractors or agents as a result of an Excusable Delay.

10.5 If the Contract is terminated under this Section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work not delivered and accepted before the termination and anything that the Contractor has acquired or produced specifically to perform the Contract. Canada will pay the Contractor:

(a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price, including the proportionate part of the Contractor's profit or fee included in the Contract Price, plus applicable taxes; and
(b) the Cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.

10.6 The total amount paid by Canada under the Contract to the date of termination and any amounts payable under this Section must not exceed the Terms of Payment.



GC11 Inspection and Acceptance of the Work

11.1 All the Work is subject to inspection and acceptance by Canada. 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. Canada will have the right to reject any Work that is not in accordance with the requirements of the Contract and require its correction or replacement at the Contractor's expense.

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

11.3 The Contractor must inspect and approve any part of the Work before submitting it for acceptance or delivering it to Canada. The Contractor must keep accurate and complete inspection records that must be made available to Canada on request. Representatives of Canada may make copies and take extracts of the records during the performance of the Contract and for up to three (3) years after the end of the Contract.

GC12 Invoice Submission

12.1 Invoices must be submitted in the Contractor's name. The Contractor must submit invoices for each delivery, shipment, or otherwise as set out in the Terms of Payment. Invoices must only apply to the Contract.

12.2 Invoices must show:

- (a) the date, the name and address of the Project Authority, item or reference numbers, deliverable and/or description of the Work, contract number, Procurement Business Number (PBN), and financial code(s);
- (b) details of expenditures in accordance with the Terms of Payment, exclusive of Goods and Services Tax (GST) or Harmonized Sales Tax (HST) (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable);
- (c) deduction for holdback, if applicable;
- (d) the extension of the totals, if applicable; and
- (e) if applicable, the method of shipment together with date, case numbers and part or reference numbers, shipment charges and any other additional charges.

12.3 If applicable, the GST or HST must be specified on all invoices as a separate item. All items that are zero-rated, exempt or to which the GST or HST does not apply, must be identified as such on all invoices.

12.4 By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work performed and is in accordance with the Contract.

GC13 Taxes

13.1 Applicable Taxes

Federal government departments and agencies are required to pay applicable taxes

13.1.1 Responsibility of Canada and of the Contractor



(a) 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;

(b) 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.

13.1.2 Changes to Taxes and Duties

In those cases where applicable taxes, customs duties, and excise taxes are included in the Terms of Payment, the Terms of Payment will be adjusted to reflect any increase, or decrease, of such taxes and duties that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Terms of Payment 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.

13.1.3 Tax Withholding of 15 Percent

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.

GC14 Payment Period

14.1 Canada's standard payment period is thirty (30) days. The payment period is measured from the date an invoice in acceptable form and content is received in accordance with the Contract or the date the Work is delivered in acceptable condition as required in the Contract, whichever is later. A payment is considered overdue on the 31st day following that date and interest will be paid automatically in accordance with section 15.

14.2 If the content of the invoice and its substantiating documentation are not in accordance with the Contract or the Work is not in acceptable condition, Canada will notify the Contractor within fifteen (15) days of receipt. The 30-day payment period begins upon receipt of the revised invoice or the replacement or corrected Work. Failure by Canada to notify the Contractor within fifteen (15) days will only result in the date specified in subsection 1 to apply for the sole purpose of calculating interest on overdue accounts.

GC15 Interest on Overdue Accounts

15.1 For the purpose of this section:

"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;

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



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

15.2 Canada will pay to the Contractor simple interest at the Average Rate plus 3 percent per year on any amount that is overdue; from the date that amount becomes overdue until the day before the date of payment, inclusive. The Contractor is not required to provide notice to Canada for interest to be payable.

15.3 Canada will pay interest in accordance with this section only if Canada is responsible for the delay in paying the Contractor. Canada will not pay interest on overdue advance payments.

GC16 Compliance with Applicable Laws

16.1 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.

16.2 The Contractor must obtain and maintain at its own cost all permits, licences, regulatory approvals and certificates required to perform the Work. If requested by the Project Authority, the Contractor must provide a copy of any required permit, licence, regulatory approvals or certificate to Canada.

GC17 Ownership

17.1 Unless provided otherwise in the Contract, the Work or any part of the Work belongs to Canada after delivery and acceptance by or on behalf of Canada.

17.2 However if any payment is made to the Contractor for or on account of any Work, either by way of progress or milestone payments, that work paid for by Canada belongs to Canada upon such payment being made. This transfer of ownership does not constitute acceptance by Canada of the Work or any part of the Work and does not relieve the Contractor of its obligation to perform the Work in accordance with the Contract.

17.3 Despite any transfer of ownership, the Contractor is responsible for any loss or damage to the Work or any part of the Work until it is delivered to Canada in accordance with the Contract. Even after delivery, the Contractor remains responsible for any loss or damage to any part of the Work caused by the Contractor or any subcontractor.

17.4 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.

GC18 Confidentiality

18.1 The Contractor must keep confidential all information provided to the Contractor by or on behalf of Canada in connection with the Work, including any information that is confidential or proprietary to third parties, and all information conceived, developed or produced by the Contractor as part of the Work when copyright or any other intellectual property rights in such information belongs to Canada under the Contract. The Contractor must not disclose any such information without the written permission of Canada. The Contractor may disclose to a subcontractor any information necessary to perform the subcontract as long as the subcontractor agrees to keep the information confidential and that it will be used only to perform the subcontract.

18.2 The Contractor agrees to use any information provided to the Contractor by or on behalf of Canada only for the purpose of the Contract. The Contractor acknowledges that all this information remains the property of Canada or the third party, as the case may be. Unless provided otherwise in the Contract, the Contractor must deliver to Canada all such information, together with every copy, draft, working paper



and note that contains such information, upon completion or termination of the Contract or at such earlier time as Canada may require.

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

18.4 The obligations of the Parties set out in this section do not apply to any information if the information:

- (a) is publicly available from a source other than the other Party; or
- (b) is or becomes known to a Party from a source other than the other Party, except any source that is known to be under an obligation to the other Party not to disclose the information or that provides the information on behalf of the other Party; or
- (c) is developed by a Party without use of the information provided by or on behalf of the other Party.

18.5 Wherever possible, the Contractor must mark or identify any proprietary information delivered to Canada under the Contract as "Property of (Contractor's name), permitted Government uses defined under ISED Contract No. (fill in Contract Number)". Canada will not be liable for any unauthorized use or disclosure of information that could have been so marked or identified and was not.

18.6 If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED by Canada, the Contractor must at all times take all measures reasonably necessary for the safeguarding of the material so identified, including those set out in the PWGSC Industrial Security Manual and its supplements and any other instructions issued by Canada.

18.7 If the Contract, the Work, or any information referred to in subsection 1 is identified as TOP SECRET, SECRET, CONFIDENTIAL, or PROTECTED, by Canada, representatives of Canada are entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the Contract. The Contractor must comply with, and ensure that any subcontractor complies with, all written instructions issued by Canada dealing with the material so identified, including any requirement that employees of the Contractor or of any subcontractor execute and deliver declarations relating to reliability screenings, security clearances and other procedures.

GC19 Liability

The Contractor is liable for any damage caused by the Contractor, its employees, subcontractors, or agents to Canada or any third party. Canada is liable for any damage caused by Canada, its employees or agents to the Contractor or any third party. The Parties agree that no limitation of liability or indemnity provision applies to the Contract unless it is specifically incorporated in full text in the Articles of Agreement. Damage includes any injury to persons (including injury resulting in death) or loss of or damage to property (including real property) caused as a result of or during the performance of the Contract.

GC20 Contractor to Own Intellectual Property Rights in the Foreground Information

20.1 Interpretation

20.1.1 In the Contract, unless the context otherwise requires:

"Background Information" means all Intellectual Property that is not Foreground Information that is incorporated into the Work or necessary for the performance of the Work and that is proprietary to or the confidential information of the Contractor, its subcontractors or any other third party);



"Firmware" means computer programs that are stored in integrated circuits, read-only memory or other similar devices within the hardware or other equipment;

"Foreground Information" means all Intellectual Property first conceived, developed, produced or reduced to practice as part of the Work under the Contract;

"Intellectual Property" means any information or knowledge of an industrial, scientific, technical, commercial, literary, dramatic, artistic or otherwise creative nature relating to the Work, whether oral or recorded in any form or medium and whether or not subject to copyright; this includes but is not limited to any inventions, designs, methods, processes, techniques, know-how, show-how, models, prototypes, patterns, samples, schematics, experimental or test data, reports, drawings, plans, specifications, photographs, manuals and any other documents, Software, and Firmware;

"Intellectual Property Right" means any intellectual property right recognized by law, including any intellectual property right protected by legislation such as patents, copyright, industrial design, integrated circuit topography, and plant breeders' rights, or subject to protection under the law as trade secrets;

"Software" means any computer program whether in source or object code (including Firmware), any computer program documentation recorded in any form or upon any medium, and any computer database, including any modification.

20.1.2 Canada's primary objective in entering into the Contract is performance of the Work, including receipt of the deliverables contracted for, to be able to use those deliverables, and any Intellectual Property arising by virtue of the Contract for Canada's activities, including future contracts, procurements and to protect or advance the broader public interest. GC20 does not affect ownership of any existing Intellectual Property Rights belonging to Canada, the Contractor or a third party.

20.1.3 References in these conditions to the Contractor owning rights in the Foreground Information refer to the Contractor, its subcontractors, its suppliers, its agents, its representatives or any of their employees owning such information or rights, as applicable.

20.2 Records and disclosure of Foreground Information

20.2.1 During and after the performance of the Contract, the Contractor must keep detailed records of the Foreground Information, including details of its creation, ownership and about any sale or transfer of any right in the Foreground Information. The Contractor must report and fully disclose to Canada all Foreground Information as required by the Contract. If the Contract does not specifically state when and how the Contractor must do so, the Contractor must provide this information when requested by the Contracting Authority or a representative of the department or agency for which the Contract is performed, whether before or after the completion of the Contract.

20.2.2 Before and after final payment to the Contractor, the Contractor must provide Canada with access to all records and supporting data that Canada considers pertinent to the identification of Foreground Information.

20.2.3 For any Intellectual Property that was developed or created in relation to the Work, Canada will be entitled to assume that it was developed or created by Canada, if the Contractor's records do not list that Intellectual Property or do not indicate that it was created by the Contractor, or by someone on behalf of the Contractor, other than Canada.

20.3 Ownership of Intellectual Property Rights in Foreground Information

20.3.1 All Intellectual Property Rights in the Foreground Information belong to the Contractor as soon as they come into existence.



20.3.2 Despite the Contractor's ownership of all the Intellectual Property Rights in the Foreground Information, Canada has unrestricted ownership rights in any prototype, model, custom or customized system or equipment that is a deliverable under the Contract, including manuals and other operating and maintenance documents. This includes the right to make them available for public use, whether for a fee or otherwise sell them or otherwise transfer ownership in them.

20.3.3 Any personal information, as defined in the *Privacy Act*, R.S., 1985, c. P-21, collected by the Contractor in the execution of the Work under the Contract becomes the property of Canada immediately upon collection and must be used only for the performance of the Work. The Contractor has no right in any such personal information.

20.3.4 If the Work involves the preparation of a database or other compilation using information or data supplied by or on behalf of Canada and any personal information referred to above, the Intellectual Property Rights in the database or compilation containing such information will belong to Canada. The Contractor's Intellectual Property Rights in the Foreground Information are restricted to those capable of being exploited without the use of the information or data supplied by or on behalf of Canada and the personal information.

20.3.5 The Contractor must maintain the confidentiality of the information or data supplied by or on behalf of Canada and the personal information as required in the Contract. The Contractor must return all the information provided by or on behalf of Canada to Canada on request or on completion or termination of the Contract. This includes returning all hard copies and electronic copies as well as any paper or electronic record that contains any part of the information or information derived from it.

20.4 Licences to Intellectual Property Rights in Foreground and Background Information

20.4.1 As Canada has contributed to the cost of developing the Foreground Information, the Contractor grants to Canada a licence to exercise all Intellectual Property Rights in the Foreground Information for Canada's activities. Subject to any exception described in the Contract, this licence allows Canada to do anything that it would be able to do if it were the owner of the Foreground Information, other than exploit the Intellectual Property Rights commercially and transfer or assign ownership of them. The Contractor also grants to Canada a licence to use the Background Information to the extent that it is reasonably necessary for Canada to achieve its objectives in entering into the Contract and to exercise fully all its rights in the deliverables and in the Foreground Information.

20.4.2 These licences are non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free. Neither licence can be restricted in any way by the Contractor providing any form of notice to the contrary, including the wording on any shrink-wrap or click-wrap licence or any other kind of packaging, attached to any deliverable.

20.4.3 For greater certainty, Canada's licences include, but are not limited to:

- (a) the right to disclose the Foreground and Background Information to third parties bidding on or negotiating contracts with Canada and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such contracts. Canada will require these third parties and contractors not to use or disclose that information except as may be necessary to bid on, negotiate or carry out those contracts;
- (b) the right to disclose the Foreground and Background Information to other governments for information purposes;
- (c) the right to reproduce, modify, improve, develop or translate the Foreground and Background Information or have it done by a person hired by Canada. Canada, or a person designated by Canada, will own the Intellectual Property Rights associated with the reproduction, modification, improvement, development or translation;
- (d) without restricting the scope of any licence or other right in the Background Information that Canada may otherwise hold, the right, in relation to any custom-designed or custom-manufactured part of the



Work, to exercise such of the Intellectual Property Rights in the Background Information as may be required for the following purposes:

- (i) for the use, operation, maintenance, repair or overhaul of the custom-designed or custom-manufactured parts of the Work;
- (ii) in the manufacturing of spare parts for maintenance, repair or overhaul of any custom-designed or custom-manufactured part of the Work by Canada, if those parts are not available on reasonable commercial terms to enable timely maintenance, repair or overhaul;
- (e) for Software that is custom designed or adapted for Canada, the right to use any source code the Contractor must deliver to Canada under the Contract.

20.4.4 The Contractor agrees to make the Background Information, including in the case of Software, the source code promptly available to Canada for any purpose mentioned above. This does not apply to any Software that is subject to detailed licence conditions that are set out elsewhere in the Contract.

Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada applies only to source code that is within the control of or can be obtained by the Contractor or any subcontractor.

20.5 Contractor's Right to Grant Licences

The Contractor represents and warrants that it has the right to grant to Canada the licences and any other rights to use the Foreground and Background Information. If the Intellectual Property Rights in any Foreground or Background Information are or will be owned by a subcontractor or any other third party, the Contractor must have or obtain promptly a licence from that subcontractor or third party that permits compliance with subsection 20.4 or arrange, without delay, for the subcontractor or third party to grant promptly any required licence directly to Canada.

20.6 Waiver of Moral Rights

If requested by Canada, during and after the Contract, the Contractor must provide a written permanent waiver of moral rights, as defined in the *Copyright Act*, R.S., 1985, c. C-42, from every author or performer that contributes to any Foreground Information subject to copyright protection that is a deliverable to Canada under the Contract. If the Contractor is an author or performer of the Foreground Information, the Contractor permanently waives the Contractor's moral rights in that Foreground Information.

20.7 Licence to Intellectual Property Rights to Canada's Information

20.7.1 Any information supplied by or on behalf of Canada to the Contractor for the performance of the Work remains the property of Canada. The Contractor must use this information only to perform the Contract.

20.7.2 If the Contractor wants to use any information supplied by or on behalf of Canada for the commercial exploitation or further development of the Foreground Information, the Contractor must obtain a licence from Canada.

20.8 Transfer or Licence of Contractor's Rights

20.8.1 During the Contract, the Contractor must not sell, transfer, assign or exclusively licence Intellectual Property Rights in Foreground Information without first obtaining the Contracting Authority's written permission.

20.8.2 After the Contract, if the Contractor transfers ownership of Intellectual Property Rights in the Foreground Information, the Contractor is not required to obtain Canada's permission, but must notify the department or agency for whom the Contract is performed in writing of the transfer by referring to the serial number of the Contract and its date and by providing details about the transferee, including the conditions of the transfer. The Contractor must ensure that the transfer requires the transferee to notify Canada of any future transfer. Any transfer must be subject to all Canada's rights to use the Foreground



Information and Canada's licence to exercise all Intellectual Property Rights in the Foreground Information.

20.8.3 After the Contract, if the Contractor grants a licence or any other right (other than a transfer of ownership) to a third party to use Intellectual Property Rights in the Foreground Information, the Contractor is not required to notify Canada, but the licence or right granted must not affect Canada's rights in any way.

20.8.4 If the Contractor at any time transfers or grants rights in its Intellectual Property Rights in the Foreground Information that interferes in any way with Canada's rights to use the Foreground Information or Canada's licence to exercise all Intellectual Property Rights in the Foreground Information, the Contractor must, if requested by Canada, immediately take all steps necessary to restore Canada's rights. If the Contractor is not successful in doing so, within the time reasonably required by Canada, the Contractor must immediately reimburse Canada for all costs Canada incurs to do so itself.

20.9 Transfer of Intellectual Property Rights upon Termination of the Contract for Default

20.9.1 If Canada terminates the Contract in whole or in part for default, Canada may, by giving notice to the Contractor, require the Contractor to transfer to Canada all the Intellectual Property Rights in the Foreground Information, including the rights owned by subcontractors. In the case of Intellectual Property Rights in the Foreground Information that have been sold or assigned to a third party, the Contractor must pay to Canada on demand, at Canada's discretion, the fair market value of the Intellectual Property Rights in the Foreground Information or an amount equal to the payment received by the Contractor from the sale or assignment of the Intellectual Property Rights in the Foreground Information.

20.9.2 In the event of the issuance of a notice under subsection 20.9.1, the Contractor must, at its own expense and without delay, execute such documents relating to ownership of the Intellectual Property Rights as Canada may require. The Contractor must, at Canada's expense, provide all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Rights in any jurisdiction, including the assistance of the inventor in the case of an invention.

20.10 Products created using the Foreground Information

If the Contractor uses the Foreground Information to develop any new product or any improvement in any existing product, the Contractor agrees that, if Canada wishes to purchase such new or improved product, the Contractor must sell them to Canada at a discount off the lowest price for which it has sold those products to other customers, to recognize Canada's financial contribution to the development of those products.

GC21 Intellectual Property Infringement and Royalties

21.1 The Contractor represents and warrants that, to the best of its knowledge, neither it nor Canada will infringe any third party's intellectual property rights in performing or using the Work, and that Canada will have no obligation to pay royalties of any kind to anyone in connection with the Work.

21.2 If anyone makes a claim against Canada or the Contractor concerning Intellectual property rights infringement or royalties related to the Work, that Party agrees to notify the other Party in writing immediately. If anyone brings a claim against Canada, according to Canada's *Department of Justice Act*, R.S., 1985, c. J-2, the Attorney General of Canada must have the regulation and conduct of all litigation for or against Canada, but the Attorney General may request that the Contractor defend Canada against the claim. In either case, the Contractor agrees to participate fully in the defence and any settlement negotiations and to pay all costs, damages and legal costs incurred or payable as a result of the claim, including the amount of any settlement. Both Parties agree not to settle any claim unless the other Party first approves the settlement in writing.



21.3 The Contractor has no obligation regarding claims that were only made because:

- (a) Canada modified the Work or part of the Work without the Contractor's consent or used the Work or part of the Work without following a requirement of the Contract; or
- (b) Canada used the Work or part of the Work with a product that the Contractor did not supply under the Contract (unless that use is described in the Contract or the manufacturer's specifications); or
- (c) the Contractor used equipment, drawings, specifications or other information supplied to the Contractor by Canada (or by someone authorized by Canada); or
- (d) the Contractor used a specific item of equipment or software that it obtained because of specific instructions from the Contracting Authority; however, this exception only applies if the Contractor has included the following language in its own contract with the supplier of that equipment or software:

"[Supplier named herein] acknowledges that the purchased items will be used by the Government of Canada. If a third party claims that equipment or software supplied under this contract infringes any intellectual property right, [supplier name], if requested to do so by either [Contractor named herein] or Canada, will defend both [Contractor name] and Canada against that claim at its own expense and will pay all costs, damages and legal fees payable as a result of that infringement." Obtaining this protection from the supplier is the Contractor's responsibility and, if the Contractor does not do so, it will be responsible to Canada for the claim.

21.4 If anyone claims that, as a result of the Work, the Contractor or Canada is infringing its intellectual property rights, the Contractor must immediately do one of the following:

- (a) take whatever steps are necessary to allow Canada to continue to use the allegedly infringing part of the Work; or
- (b) modify or replace the Work to avoid intellectual property rights infringement, while ensuring that the Work continues to meet all the requirements of the Contract; or
- (c) take back the Work and refund any part of the Contract Price plus applicable taxes that Canada has already paid.

If the Contractor determines that none of these alternatives can reasonably be achieved, or if the Contractor fails to take any of these steps within a reasonable amount of time, Canada may choose either to require the Contractor to do (c), or to take whatever steps are necessary to acquire the rights to use the allegedly infringing part(s) of the Work itself, in which case the Contractor must reimburse Canada for all the costs it incurs to do so.

GC22 Amendment and Waivers

22.1 To be effective, any amendment to the Contract must be done in writing by the Contracting Authority and the authorized representative of the Contractor.

22.2 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 accordance with subsection 22.1.

22.3 A waiver will only be valid, binding or affect the rights of the Parties if it is made in writing by, in the case of a waiver by Canada, the Contracting Authority and, in the case of a waiver by the Contractor, the authorized representative of the Contractor.

22.4 The waiver by a Party of a breach of any condition of the Contract will not be treated or interpreted as a waiver of any subsequent breach and therefore will not prevent that Party from enforcing that term or condition in the case of a subsequent breach.

GC23 Assignment



23.1 The Contractor must not assign the Contract without first obtaining the written consent of the Contracting Authority. Any assignment made without that consent is void and will have no effect. The assignment will be effective upon execution of an assignment agreement signed by the Parties and the assignee.

23.2 Assignment of the Contract does not relieve the Contractor from any obligation under the Contract and it does not impose any liability upon Canada.

GC24 Suspension of the Work

24.1 The Project Authority may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract for a period of up to seven hundred and thirty (730) days. The Contractor must immediately comply with any such order in a way that minimizes the cost of doing so. While such an order is in effect, the Contractor must not remove any part of the Work from any premises without first obtaining the written consent of the Project Authority. Within these seven hundred and thirty (730) days, the Contracting Authority may either cancel the order or terminate the Contract, in whole or in part, under section 24 or section 25.

24.2 When an order is made under subsection 24.1, unless the Contracting Authority terminates the Contract by reason of default by the Contractor or the Contractor abandons the Contract, the Contractor will be entitled to be paid its additional costs incurred as a result of the suspension plus a fair and reasonable profit.

24.3 When an order made under subsection 24.1 is cancelled, the Contractor must resume work in accordance with the Contract as soon as practicable. If the suspension has affected the Contractor's ability to meet any delivery date under the Contract, the date for performing the part of the Work affected by the suspension will be extended for a period equal to the period of suspension plus a period, if any, that in the opinion of the Project Authority, following consultation with the Contractor, is necessary for the Contractor to resume the Work. Any equitable adjustments will be made as necessary to any affected conditions of the Contract.

GC25 Default by the Contractor

25.1 If the Contractor is in default in carrying out any of its obligations under the Contract, the Contracting Authority may, by giving written notice to the Contractor, terminate for default the Contract or part of the Contract. 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.

25.2 If the Contractor becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or if a receiver is appointed under a debt instrument or a receiving order is made against the Contractor, or an order is made or a resolution passed for the winding down of the Contractor, the Contracting Authority may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract.

25.3 If Canada gives notice under subsection 25.1 or 25.2, the Contractor will have no claim for further payment except as provided in this section. The Contractor will be liable to Canada for 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. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unearned at the date of the termination.

25.4 Upon termination of the Contract under this section, the Contracting Authority may require the Contractor to deliver to Canada, in the manner and to the extent directed by the Contracting Authority, any completed parts of the Work, not delivered and accepted before the termination and anything the



Contractor has acquired or produced specifically to perform the Contract. In such a case, subject to the deduction of any claim that Canada may have against the Contractor arising under the Contract or out of the termination, Canada will pay or credit to the Contractor:

- (a) the value, of all completed parts of the Work delivered to and accepted by Canada, based on the Contract Price plus applicable taxes, including the proportionate part of the Contractor's profit or fee included in the Contract Price plus applicable taxes; and
- (b) the cost to the Contractor that Canada considers reasonable in respect of anything else delivered to and accepted by Canada.

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

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

25.6 If the Contract is terminated for default under subsection 25.1, but it is later determined that grounds did not exist for a termination for default, the notice will be considered a notice of termination for convenience issued under subsection 26.1.

GC26 Termination for Convenience

26.1 At any time before the completion of the Work, the Contracting Authority may, by giving notice in writing to the Contractor, terminate for convenience the Contract or part of the Contract. Once such a notice of termination for convenience is given, the Contractor must comply with the requirements of the termination notice. If the Contract is terminated in part only, the Contractor must proceed to complete any part of the Work that is not affected by the termination notice. The termination will take effect immediately or, as the case may be, at the time specified in the termination notice.

26.2 If a termination notice is given pursuant to subsection 26.1, the Contractor will be entitled to be paid, for costs that have been reasonably and properly incurred to perform the Contract to the extent that the Contractor has not already been paid or reimbursed by Canada. The Contractor will be paid:

- (a) on the basis of the Contract Price, for all completed work that is inspected and accepted in accordance with the Contract, whether completed before, or after the termination in accordance with the instructions contained in the termination notice;
- (b) the cost to the Contractor plus a fair and reasonable profit for all work terminated by the termination notice before completion; and
- (c) all 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.

26.3 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.

26.4 The total of the amounts, to which the Contractor is entitled to be paid under this section, together with any amounts paid, due or becoming due to the Contractor must not exceed the Terms of Payment. 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. The Contractor agrees to repay immediately to Canada the portion of any advance payment that is unearned at the date of the termination.

GC27 Accounts and Audit

27.1 The Contractor must keep proper accounts and records of the cost of performing the Work and of all expenditures or commitments made by the Contractor in connection with the Work, including all invoices,



receipts and vouchers. The Contractor must retain records, including bills of lading and other evidence of transportation or delivery, for all deliveries made under the Contract.

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

27.3 Unless Canada has consented in writing to its disposal, the Contractor must retain all the information described in this section **for six (6) years** after it receives the final payment under the Contract, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of Canada, who may make copies and take extracts. The Contractor must provide all reasonably required facilities for any audit and inspection and must furnish all the information as the representatives of Canada may from time to time require to perform a complete audit of the Contract.

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

GC28 Right of Set-off

Without restricting any right of set-off given by law, Canada may set-off against any amount payable to the Contractor under the Contract, any amount payable to Canada by the Contractor under the Contract or under any other current contract. Canada may, when making a payment pursuant to the Contract, deduct from the amount payable to the Contractor any such amount payable to Canada by the Contractor which, by virtue of the right of set-off, may be retained by Canada.

GC29 Notice

Any notice under the Contract must be in writing and may be delivered by hand, courier, mail, facsimile or other electronic method that provides a paper record of the text of the notice. It must be sent to the Party for whom it is intended at the address stated in the Contract. Any notice will be effective on the day it is received at that address. Any notice to Canada must be delivered to the Contracting Authority.

GC30 Conflict of Interest and Values and Ethics Codes for the Public Service

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

GC31 No Bribe or Conflict

31.1 The Contractor declares that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of Canada or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.

31.2 The Contractor must not influence, seek to influence or otherwise take part in a decision of Canada knowing that the decision might further its private interest. The Contractor must have no financial interest in the business of a third party that causes or would appear to cause a conflict of interest in connection with the performance of its obligations under the Contract. If such a financial interest is acquired during the period of the Contract, the Contractor must immediately declare it to the Contracting Authority.



31.3 The Contractor warrants that, to the best of its knowledge after making diligent inquiry, no conflict exists or is likely to arise in the performance of the Contract. In the event the Contractor becomes aware of any matter that causes or is likely to cause a conflict in relation to the Contractor's performance under the Contract, the Contractor must immediately disclose such matter to the Contracting Authority in writing.

31.4 If the Contracting Authority is of the opinion that a conflict exists as a result of the Contractor's disclosure or as a result of any other information brought to the Contracting Authority's attention, the Contracting Authority may require the Contractor to take steps to resolve or otherwise deal with the conflict or, at its entire discretion, terminate the Contract for default. Conflict means any matter, circumstance, interest, or activity affecting the Contractor, its personnel or subcontractors, which may or may appear to impair the ability of the Contractor to perform the Work diligently and independently.

GC32 Survival

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

GC33 Severability

If any provision of the Contract is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, that provision will be removed from the Contract without affecting any other provision of the Contract.

GC34 Successors and Assigns

The Contract is to the benefit of and binds the successors and permitted assignees of Canada and of the Contractor.

GC35 Contingency Fees

The Contractor certifies that it has not directly or indirectly, paid or agreed to pay and agrees that it will not, directly or indirectly, pay a contingency fee for the solicitation, negotiation or obtaining of the Contract to any person, other than an employee of the Contractor acting in the normal course of the employee's duties. In this section, "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 "person" includes 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).

GC36 International Sanctions

36.1 Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

Details on existing sanctions can be found at:

<http://www.international.gc.ca/sanctions/index.aspx?lang=eng>

36.2 The Contractor must not supply to the Government of Canada any goods or services which are subject to economic sanctions.

36.3 The Contractor must comply with changes to the regulations imposed during the period of the Contract. The Contractor must immediately advise Canada if it is unable to perform the Work as a result of the imposition of economic sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services. If the Parties cannot agree on a work around plan, the Contract will be terminated for the convenience of Canada in accordance with section 26.



GC37 Code of Conduct for Procurement

The Contractor certifies that it has read the Code of Conduct for Procurement and agrees to be bound by its terms.

GC38 Harassment in the Workplace

38.1 The Contractor acknowledges the responsibility of Canada to ensure, for its employees, a healthy work environment, free of harassment. A copy of the Treasury Board policy, the Policy on the Prevention and Resolution of Harassment in the Workplace which is also applicable to the Contractor, is available on the Treasury Board Web site. <http://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=26041>

38.2 The Contractor must not, either as an individual, or as a corporate or unincorporated entity, through its employees or subcontractors, harass abuse, threaten, discriminate against or intimidate any employee, contractor or other individual employed by, or under contract with Canada. The Contractor will be advised in writing of any complaint and will have the right to respond in writing. Upon receipt of the Contractor's response, the Contracting Authority will, at its entire discretion, determine if the complaint is founded and decide on any action to be taken.

GC39 Entire Agreement

The Contract constitutes the entire and only agreement for the Work between the Parties and supersedes all previous negotiations, communications and other agreements for the Work, whether written or oral, unless they are incorporated by reference in the Contract. There are no terms, covenants, representations, statements or conditions related to the Work that are binding on the Parties other than those contained in the Contract.