

s.20(1)(b)

s.20(1)(c)

s.20(1)(d)



Services publics et
Approvisionnement Canada

Public Services and
Procurement Canada

164528
ADM: Arianne Reza, 613-947-7436

Security: Protected B
November 9, 2020

MEMORANDUM TO THE MINISTER

FOR DECISION

SUBJECT: Contract with Medicago for its COVID-19 vaccine candidate

SUMMARY

This memorandum is to seek your approval to enter into a contract, on behalf of the Public Health Agency of Canada (PHAC), with Medicago Inc. of Québec, Quebec, for 20 million doses of its COVID-19 vaccine candidate at a cost of CAN\$. The contract also allows Canada to purchase up to 56 million additional doses at a cost of up to \$. This antigen must be used with GlaxoSmithKline (GSK)'s AS03 adjuvant, which was purchased by PHAC under a separate contract. The contract is consistent with the Memorandum of Understanding that was signed on October 22, 2020.

It is recommended that you approve the attached advance purchase agreement (APA).

TIME FRAME

A decision is requested at your earliest convenience.

BACKGROUND

The COVID-19 Vaccine Task Force has identified seven suppliers of COVID-19 vaccine candidates as being of interest to Canada: Sanofi, Novavax, AstraZeneca, Janssen, Moderna, Medicago and Pfizer. All seven suppliers have vaccine candidates that are currently in clinical trials. No vaccine against COVID-19 has been approved for market entry to date.

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Medicago has developed a vaccine candidate that uses a novel plant-based method to manufacture a virus-like particle vaccine. Novel vaccine types are considered to have a higher level of development risk than more established types of vaccines. As such,

The antigen being procured through this contract cannot be used on its own. It must be paired with GSK's AS03 adjuvant that has already been purchased through the separate contract with GSK.

CURRENT STATUS

The cost of Medicago's antigen is CAN\$ per dose for a total of CAN\$ for 20 million doses, plus up to CAN\$ for the options.

The contract with GSK places the cost of adjuvant at CAN\$ per dose plus up to \$ As such, the total cost per dose of the adjuvanted Medicago vaccine will be up to CAN\$ per dose.

outlined in the APA sets out that first delivery will take place no later than and assumes that Medicago will receive market authorization for its vaccine by . Medicago has indicated to Public Services and Procurement Canada (PSPC) that it could deliver doses of its adjuvanted vaccine in . The bulk of the first antigen doses would be manufactured at risk between March and before market authorization.

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As identified in the APA, Medicago is responsible for delivering the co-packaged adjuvanted vaccine (i.e. its antigen paired with vials of GSK's adjuvant) to at least 24 delivery points in Canada, including at least one in each province and territory.

In the event that Medicago has not received market authorization of its vaccine by _____ Canada would have the right to terminate the contract, _____ If market authorization is achieved but doses are not delivered by _____ Canada has the right to reduce its order by up to the total number of undelivered doses. _____ Canada would have no obligation to make _____ payments to Medicago for those doses.

ANALYSIS/CONSIDERATIONS

This is a sole source procurement under section 6(a) of the *Government Contracts Regulations*, which does not require the solicitation of bids in cases where there is a pressing emergency in which delay would be injurious to the public interest.

Coordination with GSK

As noted above, the acquisition of Medicago's vaccine candidate requires a series of contractual arrangements. In addition to the two contracts with Medicago and GSK, the relationship between Medicago and GSK is governed by a separate agreement between those two parties.

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In order to support the procurement of 20 million doses of Medicago's vaccine candidate, PSPC will approve an amendment to the contract with GSK to procure an additional _____ doses of its adjuvant for use by Medicago upon your approval of the Medicago APA.

The Medicago APA includes firm options for up to 56 million additional doses, which must be exercised no later than _____. However,

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The Chief Financial Officer of PHAC is aware of the legal and financial risks

Domestic biomanufacturing

ISED, through the SIF, has provided Medicago a partially repayable contribution of \$173 million, representing 40.47 per cent of total eligible supported costs, in support of its efforts to scale its Québec plant to produce the vaccine and build a Good Manufacturing Practice (GMP) vaccine and antibody production facility in Québec.

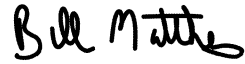
RECOMMENDATION

Your approval of this contract with Medicago is being sought as per the Treasury Board's decision to provide you with an unlimited emergency contract limit for the research, development, acquisition and deployment of vaccines related to COVID-19 until March 31, 2021. PSPC is required to provide a report

This procurement has been approved by PHAC, based on the recommendations of the Vaccine Task Force, and was approved by the DM's procurement committee for COVID-19 vaccines on October 20 and 27, 2020.

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I recommend that you approve the attached contract.



Bill Matthews
Deputy Minister



November 13, 2020

I agree, Anita Anand

I disagree, Anita Anand

Attachments

- Annex A:
- Annex B: Advance Purchase Agreement with Medicago

**Pages 7 to / à 8
are withheld pursuant to section
sont retenues en vertu de l'article**

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**of the Access to Information
de la Loi sur l'accès à l'information**

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Adjuvanted Vaccine Supply Contract

This contract is being put in place by Canada as part of its response to the COVID-19 pandemic.

The Contract is made on November 13, 2020 (the "Effective Date")

BETWEEN:

CANADA

-and-

MEDICAGO INC., a corporation under the laws of Quebec (the "Contractor")

NOW THEREFORE in consideration of the mutual covenants herein contained and good consideration paid by each Party to the other (the sufficiency and receipt of which is hereby acknowledged by each of the Parties to the other), the Parties hereby agree as follows:

1. Security Requirement

There is no security requirement applicable to this Contract.

2. Requirement

- (a) The Contractor must provide the items detailed under the Requirement at 0 to the Delivery Locations listed in Annex C, subject to the terms and conditions set out in this Contract.
- (b) For the purposes of this Contract, the defined terms contained in the General Conditions shall be incorporated herein and the following:
 - (i) "Antigen" means the plant-derived Coronavirus Virus-Like Particle antigen component of the Adjuvanted Vaccine, being developed by Medicago;
 - (ii) "Adjuvant" means the adjuvant component of the Adjuvanted Vaccine developed by GlaxoSmithKline Biologicals S.A. (GSK) or one of its affiliates, being procured by Canada; and
 - (iii) "Adjuvanted Vaccine" means the adjuvanted COVID-19 vaccine, comprising the Adjuvant and Antigen; for clarity, it being acknowledged and agreed that the Contractor will pursue Canadian regulatory approval from Health Canada by way of an Adjuvanted Vaccine comprising an Antigen and Adjuvant (one product licence).

3. Standard Clauses and Conditions

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

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3.1 General Conditions

2030 (2020-05-28) General Conditions – Goods – Higher Complexity, as contained in 0, apply to and form part of the Contract.

4. Period of Contract

The period of the Contract is from the Effective Date until the date that is six (6) months after the later of:

- (a) the delivery of the last of all Fixed Quantities; and
- (b) if Canada exercises the option to order additional doses pursuant to Section 5.2, the date that the last of such additional doses are delivered;

unless the Contract is terminated by Canada prior to such date in accordance with the Contract.

5. Quantities

5.1 Fixed Quantities

The Contractor shall supply the Adjuvanted Vaccine doses, duly approved by Health Canada for sale in Canada, ordered by Canada, all on the terms and conditions contained in the Contract. The initial order is for 20 million of Adjuvanted Vaccine doses at a unit price of : per dose of Antigen comprised in the Adjuvanted Vaccine.

5.2 Optional Quantities

- (a) The Contractor grants to Canada the irrevocable option to acquire up to an additional 56 million Adjuvanted Vaccine doses, under the same conditions and at the prices stated in Annex B of the Contract. The option may only be exercised by the Contracting Authority and will be evidenced, for administrative purposes only, through a contract amendment pursuant to Section 28 of General Conditions 2030.
- (b) The Contracting Authority may exercise the option at any time before by sending a written notice to the Contractor. Such notice shall include the number of additional Adjuvanted Vaccine doses being ordered by Canada, in Canada's sole and absolute discretion, pursuant to this option.

5.3 Pre-condition: Notwithstanding any other provisions in this Contract, any and all supply by the Contractor of the Adjuvanted Vaccine doses anticipated in this Contract is subject to:

- (a) successful development, successful production (including without limitation, availability of raw materials and successful technical transfer to industrial production), and
- (b) regulatory approval in Canada of the Adjuvanted Vaccine and the other terms and conditions contained in the Contract.

5.4 The anticipated volume of Adjuvanted Vaccine doses, and supply timelines set out in Annex C are indicative only and are based on current assumptions around development, technical transfer to industrial capacity, manufacturing, yield, and release and under the

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provision of free movement of raw materials, intermediates and finished goods. For greater certainty,

6. Authorities

6.1 Contracting Authority

(a) The Contracting Authority for this Contract is:

Telephone:
Email address:

(b) The Contracting Authority is responsible for the management of the Contract and the Contracting Authority must authorize any changes to the Contract in writing. 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.

6.2 Technical Authority

(a) The Technical Authority for this Contract is:

Telephone:
Email address:

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

6.3 Contractor Representative

(a) General enquiries:

Name: Nicolas Petit
Telephone: 418-658-9393
E-mail address: @medicago.com

(b) Delivery follow-up:

Name:
Telephone:
E-mail address: @medicago.com

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7. Delivery

The Contractor must deliver the Work in accordance with the Delivery Schedule detailed in Annex C.

7.1 Points of Manufacturing, Fill and Finish and Shipping

- (a) Contractor's Points of Manufacturing are located at:
 - (i)
 - (ii)
- (b) Contractor's Fill and Finish Facilities are located at:
- (c) Contractor's Shipping Facilities are located at:

7.2 Shipping Instructions

8. Payment

Payment will be in accordance with the Basis of Payment detailed in Annex B.

9. Invoicing Instructions

The Contractor must submit invoices in accordance with the Section entitled "Invoice Submission" of the General Conditions. Invoices cannot be submitted until all Work identified in the invoice is completed.

10. Product Recall or Withdrawal

- (a)

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- (b) The Contractor must, upon the request of Canada, deliver the same amount of Adjuvanted Vaccine doses as was recalled or withdrawn as soon as possible after the recall or withdrawn Adjuvanted Vaccine doses at no further cost to Canada, provided an equivalent number of doses of Adjuvant is made available to the Contractor if the Adjuvant was the cause of the recall or withdrawal.
- (c) If full replacement is not available in a timeframe acceptable to Canada, then Canada may, in addition to and without prejudice to any other remedy available under the Contract, choose from one of the following options for the quantity and Contract value of the Work affected:
 - (i) Full reimbursement;
 - (ii) Equivalent full credit against future purchases under the Contract; or
 - (iii) Partial replacement and partial immediate reimbursement or partial credit under the Contract.

11. Product Dating

- (a) All Adjuvanted Vaccine doses must be labelled with an expiry date.
- (b) The targeted minimum shelf life _____ The minimum shelf life will be confirmed at the time of licensure of the vaccine, at which time this Section will be updated through an amendment to the Contract.
- (c) Unless otherwise agreed to by the Contracting Authority in writing:
 - (i) Adjuvanted Vaccine delivered prior to _____ must have a minimum remaining shelf life as specified in Annex C at the time of delivery; and
 - (ii) Adjuvanted Vaccine delivered after _____ must have a minimum remaining shelf life _____ at the time of delivery.

12. Returns

- (a) In addition to and without prejudice to any other remedy available under the Contract, Work damaged during shipment from Contractor, the Contractor must provide full credit or replacement or refund for all returned Work where Contractor was contacted within _____ Damaged Work will be returned FCA Free Carrier (Final Destination) Incoterms 2010 to the address specified below. The Contractor is responsible for shipping costs.
- (b) Contractor's Returns Facilities:

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Name:
Telephone No.:
E-mail address: | @medicago.com

13. Notice of Anticipated Shortage

The Contractor must notify the Contracting Authority when it becomes aware of a potential problem, delay, or event that may lead to a shortage of any of the quantities listed in Annex B. Such notice must include a description of the nature of the problem or delay or event, the anticipated impact on the requirements of the Contract, the steps being taken by the Contractor to rectify the situation or to minimize the impact on this Contract, and the expected date by which the shortage will be fully corrected.

14. Intellectual Property

Each Party acknowledges and agrees that no rights or licenses, implied or otherwise, covering or relating to the manufacture, use or sale of the Antigen, or any other product or process, are granted to either Party by the other Party, save to the limited extent required in order to allow Canada to redistribute the Adjuvanted Vaccine doses which have been delivered to Canada by the Contractor within Canada or to such places where Canada may donate and sell the same in accordance with this Contract. For clarity, the Contractor warrants that it has, or will have prior to delivery to Canada, all rights, licences, implied or otherwise, that are required for the sale to and use of the Adjuvanted Vaccine in Canada.

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A.

B.

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A.

B.

(iii)

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(vi)

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B.

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2)

I.

II.

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IV.

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16. Right to Donate Doses of Adjuvanted Vaccine

The Contractor acknowledges and agrees that Canada, and the Provinces and Territories reserve the right to donate Adjuvanted Vaccine doses purchased under the Contract to the WHO or to developing countries at any time. For such donations, Canada will be responsible for all logistics and costs associated with shipping the donated Adjuvanted Vaccine doses to the donation recipients and the Contractor will not be responsible for any matters in respect of such product.

17. Right to Sell Surplus Adjuvanted Vaccine Doses

17.1 If any quantity of ordered but as yet undelivered Adjuvanted Vaccine doses under the Contract (including those under option following the exercise of same by Canada) is surplus to the needs of Canada or the Provinces and Territories, then Canada may, on its own behalf or on behalf of the Provinces and Territories:

- (a) ask the Contractor to actively seek out alternative customers for the surplus Adjuvanted Vaccine doses; or
- (b) seek out alternative customers and identify those alternative customers to the Contractor.

The Contractor must make reasonable efforts to sell the surplus Adjuvanted Vaccine doses to any of the identified alternative customers. Canada will obtain GSK's consent, if required.

17.2 If the Contractor sells the surplus Adjuvanted Vaccine doses to an alternative customer at the same or a higher price than the price paid by Canada under the Contract (the "**Contract Price**") then:

- (a) if Canada has paid for the surplus Adjuvanted Vaccine doses, the Contractor must reimburse Canada the Contract Price for the surplus Adjuvanted Vaccine doses; or

- (b) if Canada has not yet paid for the surplus Adjuvanted Vaccine doses, the Contractor will not invoice Canada for the surplus Adjuvanted Vaccine doses.
- 17.3** If the Contractor sells the surplus Adjuvanted Vaccine doses to an alternative customer at a lower price than the Contract price then:
- (a) If Canada has paid for the surplus Adjuvanted Vaccine doses, the Contractor must reimburse Canada the amount paid by the alternative customer(s) for the surplus Adjuvanted Vaccine doses; or
- (b) If Canada has not yet paid for the surplus Adjuvanted Vaccine doses, the Contractor must credit Canada the price paid by the alternative customer(s) and Canada will pay the Contractor only the difference between the Contract Price and the price paid by the alternative customer(s).
- 17.4** The Contractor may negotiate conditions of sale acceptable to the Contractor. The sale of surplus Adjuvanted Vaccine doses to alternative customer(s) will terminate Canada's remaining contractual obligations with respect to the surplus Adjuvanted Vaccine doses sold, subject to Canada's obligation to pay the Contractor set out above.
- 17.5** Canada's right to ask for the sale of any surplus Adjuvanted Vaccine doses is subject to the following:
- (a) The conditions of sale with the alternative customer must be acceptable to the Contractor.
- (b) The Contractor or any of its affiliates (where affiliates means companies that the Contractor controls, is controlled by, or are under common control with the Contractor and who are involved in the supply of Adjuvanted Vaccine) do not, at the time of Canada's request, already have an agreement nor are the Contractor or any of its affiliates in negotiations with the alternative customer;
- (c) The Adjuvanted Vaccine must be approved for sale in the country of the alternative customer; and
- (d) The Contractor will not have to re-label the surplus to be delivered under this provision.

18. Certifications

18.1 Compliance

Unless specified otherwise, the continuous compliance with the certifications provided by the Contractor precedent to the execution of the Contract, 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.

18.2 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.

19. Applicable Laws

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

20. 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: General Conditions 2030A (2020-05-28) Goods (Higher Complexity) as amended for the purposes of this Contract;
- (c) Annex A: Requirement;
- (d) Annex B: Basis of Payment;
- (e) Annex C: Delivery Schedule;
- (f) Annex D: Delivery Locations; and
- (g) Annex F: Dispute Resolution

21. Insurance

Canada acknowledges that the Contractor may choose to insure itself as opposed to obtaining outside insurance. To the extent that this Contract requires that the Contractor rely or draw on insurance referenced in this Contract, the Contractor hereby agrees to bear the financial and other costs that would be covered by any insurance policy that it would have reasonably taken out but for its decision to self-insure. Nothing herein shall or shall be deemed to release or limit Canada's obligations towards the Contractor in any manner whatsoever.

22. Confidentiality

For the purposes of this Section 22, “**Confidential Information**” means information disclosed verbally, in writing, electronically and in other forms, about a Party's business, operations and affairs, including but not limited to its business plans, services, products, pricing, marketing, clients, prospective clients, strategies, collaborations, research, development, manufacturing, know-how, methodologies, trade secrets, software, intellectual property, financial information and forecasts. Without limiting the foregoing, this Contract and its terms as well as all information

pertaining to the relationship between the Parties will be deemed Confidential Information (the “**Contract Information**”), except as set forth in the last sentence of Section 22.1.

22.1 Mutual Non-Disclosure and Non-Use

Except as set forth herein, each Party or its representatives will keep completely confidential and will not disclose to any person any Confidential Information of the other Party, except in accordance with Sections 22.2, 22.3 or 22.4. Neither Party will use Confidential Information of the other Party except as necessary to perform its obligations or to exercise its rights under this Contract. Without Canada’s consent and except as expressly provided for herein (as if such information is Confidential Information of the Contractor), the Contractor will not disclose to any other person (other than representatives of the Contractor or any of its affiliates) any Contract Information in any way that identifies Canada or would reasonably be expected to identify Canada. Without the Contractor’s consent and except as expressly provided for herein (as if such information is Confidential Information of Canada), Canada will not disclose to any other person (other than representatives of Canada) any Contract Information in any way that identifies the Contractor or would reasonably be expected to identify the Contractor.

22.2 Exclusions

The obligations of non-disclosure and non-use set forth in Section 22.1 will not apply to the extent that such Confidential Information:

- (a) is known by the receiving Party at the time of its receipt (and not pursuant to a prior disclosure by or on behalf of the disclosing Party, or any of its or their representatives, as applicable), as documented by the receiving Party’s contemporaneous written business records or government records;
- (b) at the time of disclosure by the disclosing Party, or their representatives, as applicable, is in the public domain;
- (c) becomes part of the public domain, by publication or otherwise, through no fault of the receiving Party, or its or their Representatives, as applicable;
- (d) is subsequently disclosed to the receiving Party, without restriction as to confidentiality or use, by a third party who is lawfully and contractually entitled to the possession and disclosure of such Confidential Information; or
- (e) is developed by the receiving Party independently without use of, reliance upon or reference to Confidential Information received from the disclosing Party, any of its affiliates or any of its or their representatives, as applicable, as documented by the receiving Party’s contemporaneous written business records or government records.

22.3 Authorized Disclosures

Each receiving Party represents and warrants that it has instituted, and will maintain, security procedures to identify and account for all copies of Confidential Information of the disclosing Party. Notwithstanding the obligations of confidentiality and non-use set forth above:

- (a) With Consent: A receiving Party may provide Confidential Information disclosed to it to the extent agreed to in writing in advance by the disclosing Party;
- (b) For Advice: A receiving Party may provide Confidential Information disclosed to it to such Party's professional advisors;
- (c) Contract Performance: Canada will be permitted to discuss this Contract (and its terms) with personnel within its administration who: (a) have a need to know such information in order to execute this Contract or to pay any amounts or to make or approve any decisions hereunder; (b) are legally bound to keep such information confidential and not disclose such information to any other person outside its administration and restricts the use of such information, in each case, on terms no less stringent than the terms of this Section 22; (c) are informed of the confidential nature of such information; and (d) use such information solely for the permitted purpose set forth in Section 22.1 or as required to perform the functions required by applicable Law or under this Contract;
- (d) Contract Performance: The Contractor will be permitted to discuss this Contract (and its terms) with subcontractors and representatives who (a) have a need to know such information in order to perform this Contract; (b) are legally bound to keep such information confidential and not disclose such information to any other person and restricts the use of such information, in each case, on terms no less stringent than the terms of this Section 22; (c) are informed of the confidential nature of such information and (d) use such information solely for the permitted purpose set forth in Section 22.1;
- (e) Contract Performance; Contractor Collateral Duties: The Contractor will be permitted to disclose Confidential Information of Canada to governmental authorities in order to perform its obligations or to exercise its rights under this Contract; provided, that such Confidential Information will be disclosed only to the extent reasonably necessary to do so, and where permitted, subject to confidential treatment;
- (f) Required by Law: A receiving Party may disclose Confidential Information disclosed to it to the extent required by applicable law; provided, that (A) if a Party is required by law to disclose Confidential Information of the other Party that is subject to the confidentiality provisions of this Section 22, then if legally permitted, such Party will use reasonable best efforts to prevent and limit the disclosure of such Confidential Information and promptly inform the other Party of the disclosure that is being sought in order to provide the other Party an opportunity to challenge or limit the disclosure; (B) if Canada receives a request under the relevant access to information or other similar law ("**ATIP**") to disclose any Confidential Information, if legally permitted, the receiving Party will comply with its legal disclosure obligations, including providing notice to the disclosing Party prior to disclosure of the request for disclosure being sought in order to provide the other Party an opportunity to submit to the receiving Party a non-disclosure justification, or to challenge or limit the disclosure by other methods. Additionally, the receiving Party will inform the other Party of the process and opportunity to make representations and challenge the receiving Party's proposed disclosure of information decision; and (C) Confidential Information that is required to be disclosed by law will remain otherwise subject to the confidentiality and non-use provisions of this Section 22;

- (g) Business Purposes: The Contractor may disclose Confidential Information of Canada to any bona fide actual or prospective acquirers, underwriters, financial advisors, investors, lenders, or other non-strategic financing sources and any bona fide actual or prospective collaborators, licensors, licensees, or strategic partners and to employees, directors, agents, consultants, and advisers of any such third party, in each case, who are under obligations of confidentiality and non-use with respect to such information that is no less stringent than the terms of this Section 22 (but of duration customary in confidentiality agreements entered into for a similar purpose with underwriters, financial advisors, investors, lenders, or other non-strategic financing sources but not less than two (2) years); and
- (h) Governmental Purposes: Canada will be permitted to disclose Confidential Information of the Contractor for the purposes of government administration and operations, and in the exercise of Crown privileges. For greater clarity, this includes reporting to the Parliament of Canada, for public safety and national security purposes and for proactive disclosure required by applicable law. Any such disclosure of Confidential Information under this clause (viii) will be limited to only that Confidential Information that is reasonably necessary to disclose under applicable law, and under and in compliance with the privacy, confidentiality and proactive disclosure policy regimes of the Government of Canada.

22.4 Information Sharing

The Contractor acknowledges that Canada needs to share certain information on a confidential basis regarding the storage, distribution and use of the Adjuvanted Vaccine for the purposes of vaccination program planning and program administration; it being agreed by the parties that such information can be shared with the advanced consent of the Contractor, which consent shall not be unreasonably withheld, delayed or conditioned.

23. Food and Drugs Act (Canada)

Notwithstanding anything contained in the Contract (including Annexes), to the extent that there is a conflict between an obligation of the Contractor under this Agreement and a requirement under the *Food and Drugs Act* (Canada), including a regulation or Interim Order made under that Act or an Order issued pursuant to that Act, the obligation or requirement under the Food and Drugs Act, the regulation, Interim Order or Order shall prevail.

24. Collaboration Agreement with Adjuvant Manufacturer

(a)

(b)

25. Operational Discussions


The Parties agree to discuss, after the Effective Date, the need to set up an informal operational discussions to discuss, on an as-needed basis, certain operational matters regarding the implementation of this Contract (such as, for instance, regulatory, supply chain, logistics and/or other relevant matters).

26. Dispute Resolution

The Parties agree to resolve any disputes in accordance with Annex F which is attached hereto and forms part of the Contract.

IN WITNESS WHEREOF the Parties hereto have signed this Contract in counterparts as of the day and year first above written.

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA AS REPRESENTED BY THE MINISTER
OF PUBLIC WORKS AND GOVERNMENT
SERVICES**

Per: 
Anita Anand
Minister of Public Service and Procurement

MEDICAGO INC.

Per: _____
Name:
Title:

I have authority to bind the Corporation.

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25. Operational Discussions

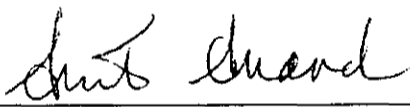
The Parties agree to discuss, after the Effective Date, the need to set up an informal operational discussions to discuss, on an as-needed basis, certain operational matters regarding the implementation of this Contract (such as, for instance, regulatory, supply chain, logistics and/or other relevant matters).

26. Dispute Resolution

The Parties agree to resolve any disputes in accordance with Annex F which is attached hereto and forms part of the Contract.

IN WITNESS WHEREOF the Parties hereto have signed this Contract in counterparts as of the day and year first above written.

**HER MAJESTY THE QUEEN IN RIGHT OF
CANADA AS REPRESENTED BY THE MINISTER
OF PUBLIC WORKS AND GOVERNMENT
SERVICES**

Per: 
Anita Anand
Minister of Public Service and Procurement

MEDICAGO INC.

s.19(1)

Per: _____
Name: Bruce D. CEANE
Title: CEO.

I have authority to bind the Corporation.

ANNEX A REQUIREMENT

1. Introduction

Canada has a requirement for twenty (20) million doses of Adjuvanted Vaccine duly approved by Health Canada for sale in Canada. In addition, Canada may require up to an additional fifty-six (56) million doses of Adjuvanted Vaccine.

Canada shall procure directly from GSK, twenty (20) million doses of Adjuvant for the fixed quantity and up to fifty-six (56) million doses for the optional quantity, if exercised and Canada will arrange for delivery of the Adjuvant to the Contractor's Shipping Facilities.

2. Quantity

The Contractor must deliver to Canada twenty (20) million doses of Adjuvanted Vaccine duly approved by Health Canada for sale.

3. Distribution in Canada

The Contractor must deliver the Adjuvanted Vaccine to the destinations specified in 0.

4. Packaging and Vaccine Format

- (a) The Adjuvanted Vaccine will be supplied in a multi-dose vial (MDV) format containing 10 doses per vial. Each MDV must be overfilled sufficiently to ensure the availability of 10 doses.
- (b) The Adjuvanted Vaccine will be supplied in packages containing an equal number of Antigen MDV and Adjuvant MDV such that re-packaging is not required.
- (c) Unless otherwise agreed to by the Contracting Authority in writing, packages will contain between 100 doses (i.e. 10 Antigen MDV and 10 Adjuvant MDV) and 1,000 doses (i.e., 100 Antigen MDV and 100 Adjuvant MDV).
- (d) Canada will inform the Contractor, at least 180 days prior to the Contractor's availability dates indicated in Annex C, of the mix of package sizes required.

5. Packaging

Packaging for the Adjuvanted Vaccine must clearly indicate on packing slips and on the outside of outer packages and cartons, as applicable, the following:

- (a) On each package and carton:
 - (i) Contractor's Name;
 - (ii) Manufacturer's Brand Name;
- (b) On each package, carton, vial, ampoule, bottle, and pre-filled syringe (if applicable) the following:

- (i) Drug Identification Number (DIN) and NATO Stock Number (NSN) (if applicable);
 - (ii) Global Trade Identification Number (GTIN) ;
 - (iii) Lot Number; and
 - (iv) Expiry Date.
- (c) Identify the carton(s) which contain the packing slip. The Contractor will use the GTIN and Bar codes on shipping package (i.e., shrink wrapped product), secondary and primary package, including variable data, must comply with GS1 standards and the Canadian Automated Identification of Vaccine Products process (if applicable);
- (d) The Contractor must identify partly packed carton(s) and box(es).
- (e) Packaging is to be in accordance with good commercial standards to ensure safe arrival at destination. In addition to the Contract Requirement, the Contractor must ensure that all goods are properly labeled and packaged in compliance with the Food and Drugs Act (Canada) and any regulations, orders or instruments made thereunder, for the approved Adjuvanted Pandemic Vaccine authorized for sale in Canada.
- (f) Over the period of the Contract, the Contractor may offer other packaging options consistent with emerging technology. Canada retains the right to refuse such offerings.

6. Maintenance of the Cold Chain During Transportation and the Use of Cold Chain Monitors

Adjuvanted Vaccine must be transported in accordance with the requirements of the *Food and Drugs Act (Canada)* and regulations as it relates to temperature conditions and labelled instructions. Where Product label controlled storage conditions (e.g. temperature) are required, the necessary controls (temperature monitors) will be in place for each shipment delivered by the Contractor to Canada.

7. Adverse Event Following Immunization (AEFI) Reporting Requirement

The Contractor must comply with all AEFI reporting requirements.

8. Customer Service

- (a) The Contractor must identify and provide a bilingual (English and French) Customer Support Contact, and maintain a bilingual customer support desk (reached via a toll free telephone number and an e-mail account) throughout a declared pandemic period to provide immediate customer support to Canada and to health care providers (“Requestors”).
- (b) The Customer Support Contact or Support Desk must, as a minimum:

- (i) Be available Monday through Friday from 8:00 a.m. Newfoundland Standard Time to 5:00 p.m. Pacific Standard Time, with adjustments as necessary for daylight savings time
 - (ii) Respond to general enquiries on product information concerning the use of the vaccine, its indications, contraindications, dosage and administration, drug interactions, storage and handling requirements;
 - (iii) Provide scientific and technical advice and guidance in response to detailed technical and scientific questions;
 - (iv) Provide up-to-date information on product holds or suspensions and on product recalls and withdrawals;
 - (v) Provide technical advice concerning the continued ability to use vaccine which has experienced a cold chain excursion;
 - (vi) Provide order status including real-time tracking of shipments; and
 - (vii) Log reports received on AEFI.
- (c) For general enquiries, such as those regarding order tracking and status, product information, storage and administration, etc., a response must be communicated to the Requestor on the same or the next business day. Enquiries of a scientific or technical nature that require more detailed review and investigation by the Contractor may take longer; however, the Contractor must inform the Requestor of the steps being taken to respond to the enquiry and of the expected timeline for a complete response.
- (d) When requested by Canada and health care providers, responses should be provided in writing.
- (e) The Contractor must provide Canada with an emergency contact and telephone number for any urgent enquiries that occur outside the regular business hours listed above, such as for urgent scientific or technical information or to report an adverse event. The Contractor representative must call-back the Requestor within 2 hours.
- (f) The Contractor must identify their representative in Canada who will act as the primary contact for Health Canada for any enquiries resulting from a post market safety signal or quality issue that arises over the period of the Contract and that would require follow-up with the Contractor.

9. Logistics Support

The Contractor must, as a minimum:

- (a) Provide to the Contracting Authority and the Technical Authority immediate notification of interruptions or delays in production and delivery schedules; and

- (b) Initiate and coordinate product holds, recalls or withdrawals, if necessary including coordinating trace back through Automated Identification of the Vaccine Product; provide clear and concise instructions on the activities necessary to implement the hold, recall or withdrawal; and provide regular updates on the status of same;

10. Support in the Management of Cold Chain Excursions

As a minimum, the Contractor must:

- (a) provide all published information on the stability of the vaccine including continued stability if subject to temperature fluctuations (outside of recommended storage conditions);
- (b) clearly state all of the information required on a specific cold chain excursion to allow the Contractor to properly assess the excursion;
- (c) provide clear and consistent written responses on the question of continued use of vaccine following an excursion; and
- (d) provide a written assessment on the viability of continued use of the Adjuvanted Vaccine following an excursion within three (3) calendar days of receipt of a request for assistance.

11. Technical Information and Data

- (a) The Contractor must upon request, make available to the Technical Authority, who may make copies and take extracts therefrom during the performance of the Contract and for any period of time provided for in the Contract, all reports, communications, etc. received from Health Canada which deal with, or relate to, the performance of the Contract. If requested, the Contractor must provide to the Technical Authority, where available, data and technical information concerning the Adjuvanted Vaccine doses being delivered under the Contract, including such information as:
 - (i) Clinical trial data – Canadian and International;
 - (ii) Product safety data – Canadian and International; and
 - (iii) Product quality and stability data.
- (b) Unless specifically prohibited by the Contractor in writing, the information and data provided will be shared, on a confidential and need to know basis, within the Public Health Agency of Canada and Health Canada, as well as with Provincial and Territorial public health officials and experts in the field who provide public health advice to these officials, to inform recommendations regarding the use of Adjuvanted Vaccine. Any information or data shared in this manner will contain the notices provided by the Contractor concerning the confidential or proprietary nature of the material submitted and the restrictions with respect to publication or further dissemination. If Canada wishes to present some aspect of the information or data in a scientific forum it will obtain the prior permission of the Contractor in writing.

12. Timely Lot Release, Contractor's Responsibility

The Contractor must submit all Adjuvanted Vaccine lots or other information when required by Health Canada in accordance with the Food and Drugs Act as quickly as reasonably possible so as to ensure that the release of lots by Health Canada will occur early enough to allow the Contractor to meet the delivery requirements of the Contract.

13. Contractor Reporting on Production and Delivery

The Contractor must provide both the Contracting Authority and the Technical Authority with weekly written updates on the status of production and delivery. The information provided must be sufficiently detailed so as to allow Canada time to plan for Adjuvanted Vaccine availability. As a minimum, these reports should provide information on:

- (a) For production in general:
 - (i) Expected and actual start of antigen production;
 - (ii) Expected and actual start of Antigen filling;
 - (iii) Expected and actual start of Antigen and Adjuvant co-packaging; and
 - (iv) Expected and actual start of Adjuvanted Vaccine doses deliveries (to any customer); and
- (b) For production intended to be delivered to Canada:
 - (i) Expected and actual start of Adjuvanted Vaccine doses deliveries (to Canada);
 - (ii) The number of lots, the lot numbers and the number of doses per lot filled and labelled;
 - (iii) The number of lots, the lot numbers and the number of doses per lot for which lot samples have been submitted to Health Canada for testing;
 - (iv) The number of lots, the lot numbers and the number of doses per lot for which Batch Release Protocols have been submitted to Health Canada;
 - (v) The number of lots, the lot numbers, the lot expiry dates and the number of doses per lot released by Health Canada; and
 - (vi) The number of lots, the lot numbers, the lot expiry dates, the number of doses per lot and the expected and actual shipment dates to each delivery destination in Canada.

Where multiple lot numbers apply (e.g. in the case of an adjuvanted vaccine supplied in separate vials of antigen and adjuvant) all applicable lot numbers should be provided.

s.18(b)

s.18(d)

s.20(1)(b)

s.20(1)(c)

s.20(1)(d)

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ANNEX B BASIS OF PAYMENT

1. Pricing Information

All prices are firm unit prices, in Canadian dollars, transportation charges included, Custom duties are included; and where applicable, zero rated for Goods and Services Tax (GST) or Harmonized Sales Tax (HST). Provincial sales taxes are not applicable. Each firm unit price is applicable for all destinations in Canada.

2. Vaccine

2.1 Firm Quantity

Firm unit price for Adjuvanted Vaccine doses: _____ of Antigen comprised in the Adjuvanted Vaccine; broken down as follows:

- (a) _____ per dose of Antigen comprised in the Adjuvanted Vaccine); and
- (b) Payment upon delivery: Firm Price Payment _____ per dose of Antigen comprised in the Adjuvanted Vaccine).

2.2 Optional Quantity

- (a) Firm unit price for the first _____ /dose of Antigen comprised in the Adjuvanted Vaccine; broken down as follows:
 - (i) _____ per dose of Antigen comprised in the Adjuvanted Vaccine); and
 - (ii) Payment upon delivery: Firm Price Payment _____ per dose of Antigen comprised in the Adjuvanted Vaccine).
- (b) Firm unit price for doses in excess of _____ /dose of Antigen comprised in the Adjuvanted Vaccine; broken down as follows:
 - (i) _____ per dose of Antigen comprised in the Adjuvanted Vaccine); and
 - (ii) Payment upon delivery: Firm price payment _____ per dose of Antigen comprised in the Adjuvanted Vaccine).

3. Basis of Payment

3.1

- (a) _____ above in Section 2 of the Annex B if:

s.18(b)

s.18(d)

s.20(1)(b)

s.20(1)(c)

s.20(1)(d)

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- (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.

(b) under Section 5 of Annex B applies.

3.2 Multiple Payments

Canada will pay the Contractor upon completion and delivery of doses of Adjuvanted Vaccine if:

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

4. Right to Reduce Quantities

- (a) If the Contractor fails to:
 - (i) obtain regulatory approval in Canada by
 - (ii) complete delivery of the initial 20 million doses of Adjuvanted Vaccine doses by _____ ; or
 - (iii) complete delivery of the optional Adjuvanted Vaccine doses by

Canada may, by giving written notice to the Contractor, reduce the number of doses ordered by Canada under this Contract by an amount or amounts at the discretion of Canada, totaling up to the number of doses that are undelivered at the time of notice. The reduction will take effect immediately or at the expiration of a cure period specified in the notice, if the Contractor has not resolved the issue to the satisfaction of the Contracting Authority within that cure period.

- (b) If Canada gives notice pursuant to (a) above, the Contractor will have no claim for further payment.

5.

s.20(1)(b)

s.20(1)(c)

s.20(1)(d)

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ANNEX C DELIVERY SCHEDULE

1. Availability Plan

The “Availability Plan” describes the quantities and dates by which the Contractor will be ready to deliver doses of Adjuvanted Vaccine. The following Availability Plan contains the two extreme possibilities of Canada requiring all doses of Adjuvanted Vaccine in packages of 100 or all doses of Adjuvanted Vaccine in packages of 250 or 1000. If Canada requires of mix of package sizes, the shelf lives may differ but in no event will be less than what is indicated for 100 doses per package.

Delivery Type	Quantity in Doses (remaining shelf life upon delivery or Health Canada authorization, whichever is later)		Availability Date
	If 100 doses per package	If 250 or 1000 doses per package	
Firm Quantity (20 million)			*No later than
			No later
			No later
Optional Quantity	Up to 56 million (in whole or in part)		No later than

* In accordance with the *Food and Drugs Act (Canada)* including the Interim Order Respecting the Importation, Sale And Advertising of Drugs for Use in Relation to COVID-19, Canada at its sole discretion may request pre-positioning of the Adjuvanted Vaccine doses at specified places in Canada, in advance of regulatory approval, to be held pending regulatory approval. Upon regulatory approval, the Contractor must inform the Contracting Authority in writing when the sale of the Adjuvanted Vaccine has been authorized in Canada. While pre-positioned, Canada is responsible only for ensuring that the Adjuvanted Vaccine doses are stored in accordance with the applicable storage conditions. For pre-positioned doses, delivery will only be complete and Canada shall have no liability for payment nor may the Contractor invoice Canada, unless the Adjuvanted Vaccine has been authorized in Canada and the Work accepted by Canada under Annex B clause 3.2. If the Adjuvanted Vaccine is not authorized in Canada within thirty (30) days

s.18(b)

s.18(d)

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of arrival at pre-positioning locations, Canada, at its sole discretion, may require the Contractor to collect the pre-positioned doses at no cost to Canada.

1.1 Revisions to the Availability Plan

- (a) The Contractor must notify the Contracting Officer in writing of filling of doses. Canada request that filling of some or all of the Adjuvanted Vaccine lots be delayed. The Availability Plan may
- (b) Availability of Adjuvanted Vaccine is dependent on the Contractor's receipt of Adjuvant at to the date on which the Adjuvanted Vaccine will be available for delivery. Should Canada be unable to provide the Contractor with sufficient quantities of

2. Delivery Plan:

- (a) The Contractor must ship the Adjuvanted Vaccine in accordance with a delivery plan (the "Adjuvanted Vaccine Delivery Plan").
- (b) The quantity of Adjuvanted Vaccine to be allocated to each Delivery Point will be set out in the Adjuvanted Vaccine Delivery Plan that will be provided to the Contractor by the Contracting Authority a the first delivery under the Contract.
- (c) Shipments to each Delivery Point must be made on a weekly/bi-weekly/monthly basis (unless otherwise instructed) in accordance with the Adjuvanted Vaccine Delivery Plan. Shipments must continue until Canada's entire order has been met, or until the Contracting Authority provides instructions to the Contractor to stop shipping to one or more Delivery Points.
- (d) The Contractor must provide to the Contracting Authority the lot numbers, expiry dates and number of doses per lot to be shipped to each Delivery Point as soon as possible in advance of any shipment.
- (e) Canada may choose to arrange its own transportation and to pick up Adjuvanted Vaccine directly from one of the Contractor's designated supply depots rather than have the Contractor deliver.

ANNEX D DELIVERY POINTS

Federal Government Departments and Agencies	
Jurisdiction	Shipping
CSC	TBD
Department of National Defence	TBD
Global Affairs Canada	TBD
Health Canada Alberta	Edmonton, AB
Health Canada Manitoba	TBD
Health Canada Winnipeg (First Nations & Inuit Health Branch)	TBD
Health Canada Workplace Health & Safety (OHS)	Ottawa, On K1A 0K9
RCMP	TBD
Non-Federal Government Departments or Agencies	
Alberta	Fort Saskatchewan, Alberta
British Columbia	Vancouver, BC
Quebec	Boucherville, Québec
Manitoba	Winnipeg, MB
New Brunswick	Saint John, NB
Newfoundland/Labrador	St. John's, NL
Northwest Territories -Stanton Territorial Hospital	Yellowknife, NT Inuvik, NT
Northwest Territories -Inuvik Regional Hospital	Yellowknife, NT
Northwest Territories - Yellowknife Public Health Unit	
Nova Scotia	Dartmouth NS
Nunavut - Baffin Region	Iqaluit, NU
Nunavut - Kitikmeot Region	Cambridge Bay, NU
Nunavut - Kivalliq Region	Rankin Inlet, NU
Ontario	Concord, Ontario
Prince Edward Island	Charlottetown, PEI
Saskatchewan	Regina, SK
Yukon	Whitehorse, YT

ANNEX E
GENERAL CONDITIONS – HIGHER COMPLEXITY – GOODS (2020-05-28)

2030 01 (2016-04-04) Interpretation

In the Contract, unless the context otherwise requires:

“Applicable Taxes”

means the Goods and Services Tax (GST), the Harmonized Sales Tax (HST), and any provincial tax, by law, payable by Canada such as, the Quebec Sales Tax (QST) as of April 1, 2013;

“Articles of Agreement”

means the clauses and conditions incorporated in full text or incorporated by reference from the Standard Acquisition Clauses and Conditions Manual to form the body of the Contract; it does not include these general conditions, any supplemental general conditions, annexes, the Contractor’s bid or any other document;

“Canada”, “Crown”, “Her Majesty” or “the Government”

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

“Contract”

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

“Contracting Authority”

means the person designated by that title in the Contract, or by notice to the Contractor, to act as Canada’s representative to manage the Contract;

“Contractor”

means the person, entity or entities named in the Contract to supply goods, services or both to Canada;

“Contract Price”

means the amount stated in the Contract to be payable to the Contractor for the Work, exclusive of Applicable Taxes;

“Cost”

means cost determined according to Contract Cost Principles 1031-2 as revised to the date of the bid solicitation or, if there was no bid solicitation, the date of the Contract;

“Government Property”

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

“Party”

means Canada, the Contractor, and "Parties" means all of them;

“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;

“Work”

means all the activities, services, goods, equipment, matters and things required to be done, delivered or performed by the Contractor under the Contract.

2030 02 (2008-05-12) Standard clauses and conditions

Pursuant to the *Department of Public Works and Government Services Act*, S.C. 1996, c. 16, the clauses and conditions identified by number, date and title in the Contract are incorporated by reference and form part of the Contract as though expressly set out in the Contract.

2030 03 (2008-05-12) Powers of Canada

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

2030 04 (2008-05-12) 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.

2030 05 (2008-05-12) Conduct of the Work

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 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.
2. The Contractor must:
- (a) perform the Work diligently and efficiently;
 - (b) except for Government Property, supply everything necessary to perform the Work;
 - (c) use, as a minimum, quality assurance procedures, inspections and controls generally used and recognized by the industry to ensure the degree of quality required by the Contract; and
 - (d) ensure that the Work is of proper quality, using appropriate material and workmanship and meets all the requirements of the Contract.
3. Unless the Contracting Authority orders the Contractor to suspend the Work or part of the Work pursuant to Section 30, 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.
4. 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. 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.

2030 06 (2013-06-27) Subcontracts

1. Except as provided in subSection 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.
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) subcontract any incidental services that would ordinarily be subcontracted in performing the Work;

- (c) in addition to purchases and services referred to in paragraphs (a) and (b), subcontract any part or parts of the Work to one or more subcontractors up to a total value of 40 percent of the Contract Price; and
 - (d) permit its subcontractors at any tier to make purchases or subcontract as permitted in paragraphs (a), (b) and (c).
3. In any subcontract other than a subcontract referred to in paragraph 2.(a), 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, with the exception of requirements under the Federal Contractors Program for employment equity which only apply to the Contractor.
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.

2030 07 (2008-05-12) Specifications

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.

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.

2030 08 (2008-05-12) Condition of material

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

2030 09 (2008-05-12) Replacement of specific individuals

1. If specific individuals are identified 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.
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.

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. 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.

2030 10 (2008-05-12) Time of the essence

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

2030 11 (2014-09-25) Excusable delay

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 Contracting 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 Contracting Authority, within 15 working days, of all the circumstances relating to the delay and provide to the Contracting Authority for approval a clear work around plan explaining in detail the steps that the Contractor proposes to take in order to minimize the impact of the event causing the delay.
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.
3. However, if an Excusable Delay has continued for 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 unliquidated at the date of the termination.
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.
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; 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 termination and any amounts payable under this subSection must not exceed the Contract Price.

2030 12 (2014-09-25) Inspection and acceptance of the Work

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.
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 and documentation that the representatives of Canada may reasonably require for the carrying out of the inspection. The Contractor must forward such test pieces and samples to such person or location as Canada specifies.
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 years after the end of the Contract.

2030 13 (2013-03-21) Invoice submission

1. Invoices must be submitted in the Contractor's name. The Contractor must submit invoices for each delivery or shipment; invoices must only apply to the Contract. Each invoice must indicate whether it covers partial or final delivery.
2. Invoices must show:
 - (a) the date, the name and address of the client department, item or reference numbers, deliverable/description of the Work, contract number, Client Reference Number (CRN), Procurement Business Number (PBN), and financial code(s);
 - (b) details of expenditures (such as item, quantity, unit of issue, unit price, fixed time labour rates and level of effort, subcontracts, as applicable) in accordance with the Basis of Payment, exclusive of Applicable Taxes;

- (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.
3. Applicable Taxes must be specified on all invoices as a separate item along with corresponding registration numbers from the tax authorities. All items that are zero-rated, exempt or to which Applicable Taxes do not apply, must be identified as such on all invoices.
 4. By submitting an invoice, the Contractor certifies that the invoice is consistent with the Work delivered and is in accordance with the Contract.

2030 14 (2013-03-21) Taxes

1. Federal government departments and agencies are required to pay Applicable Taxes.
2. 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.
3. 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.
4. In those cases where Applicable Taxes, customs duties, and excise taxes are included in the Contract Price, the Contract Price will be adjusted to reflect any increase, or decrease, of Applicable Taxes, customs duties, and excise taxes that will have occurred between bid submission and contract award. However, there will be no adjustment for any change to increase the Contract Price if public notice of the change was given before bid submission date in sufficient detail to have permitted the Contractor to calculate the effect of the change.
5. Tax Withholding of 15 Percent – Canada Revenue Agency

Pursuant to the Income Tax Act, 1985, c. 1 (5th Supp.) and the Income Tax Regulations, Canada must withhold 15 percent of the amount to be paid to the Contractor in respect of services provided in Canada if the Contractor is not a resident of Canada, unless the Contractor obtains a valid waiver from the Canada Revenue Agency. The amount withheld will be held on account for the Contractor in respect to any tax liability which may be owed to Canada.

2030 15 (2010-01-11) Transportation costs

If transportation costs are payable by Canada under the Contract and the Contractor makes the transportation arrangements, shipments must be made by the most direct and economical means

consistent with normal shipping practice. The costs must be shown as a separate item on the invoice.

2030 16 (2010-01-11) Transportation carriers' liability

The federal government's policy of underwriting its own risks precludes payment of insurance or valuation charges for transportation beyond the point at which ownership of goods passes to the federal government (determined by the FOB point or Incoterms). Where increased carrier liability is available without charge, the Contractor must obtain the increased liability for shipment.

2030 17 (2008-05-12) Shipment documentation

For the shipment of goods, the transportation bill of lading must accompany the original invoice, except for "collect" shipments (if and when stipulated), in which event it must accompany the shipment. In addition, a packing slip must accompany each shipment, showing item, quantity, part or reference numbers, description of the goods and contract number, including the CRN and PBN. If the goods have been inspected at the Contractor's plant, the signed inspection voucher must be attached to the packing slip normally enclosed in the packing note envelope.

2030 18 (2014-09-25) Payment period

1. Canada's standard payment period is 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 19.
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 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 15 days will only result in the date specified in subSection 1 to apply for the sole purpose of calculating interest on overdue accounts.

2030 19 (2008-12-12) Interest on overdue accounts

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.

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.
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.

2030 20 (2008-05-12) Compliance with applicable laws

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

2030 21 (2008-05-12) Ownership

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.
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.
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.
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.

2030 22 (2014-09-25) Warranty

1. For Work with a specified expiry date:

- (a) Despite inspection and acceptance of the Work by or on behalf of Canada and without restricting any other provision of the Contract or any condition, warranty or provision implied or imposed by law, the Contractor warrants that the Work conforms to the specifications until the expiration date required by the Requirement.
 - (b) The Contractor must, upon the request of Canada, replace at its own expense including costs of returns and delivery of replacement Work as soon as possible any supplies that fail to conform or that deteriorates prior to the expiration date required by the Requirement.
 - (c) If full replacement is not available in a timeframe acceptable to Canada, then Canada may, in addition to and without prejudice to any other remedy available, choose from one of the following options for the quantity and Contract value of the Work affected:
 - (i) Full reimbursement;
 - (ii) Equivalent full credit against future purchases under the Contract; or
 - (iii) Partial replacement and partial reimbursement or partial credit under the Contract.
2. The Contractor must remedy all data and reports pertaining to any correction or replacement under this section, including revisions and updating of all affected data, manuals, publications, software and drawings called for under the Contract, at no cost to Canada.
 3. If the Contractor fails to fulfill any obligation described in this Section within a reasonable time of receiving a notice, Canada will have the right to remedy or to have remedied the defective or non-conforming work at the Contractor's expense. If Canada does not wish to correct or replace the defective or non-conforming work, an equitable reduction will be made in the Contract Price.
 4. The warranty period is automatically extended by the duration of any period or periods where the Work is unavailable for use or cannot be used because of a defect or non-conformance during the original warranty period. The warranty applies to any part of the Work repaired, replaced or otherwise made good pursuant to subSection 1(b) or 2(b), for the greater of:
 - (a) the warranty period remaining, including the extension, or
 - (b) 90 days or such other period as may be specified for that purpose by agreement between the Parties.

2030 23 (2008-05-12) Confidentiality – Intentionally deleted**2030 24 (2008-05-12) Use and Translation of Written Material**

1. Unless provided otherwise in the Contract, copyright in any written material used, produced or delivered under the Contract belongs to its author or rightful owner. Canada

has the right to use, copy and disclose, for government purposes, the written material related to the Work that is delivered to Canada.

2. If the Contract does not require the delivery of any written material in both of Canada's official languages, Canada may translate the written material into the other official language. The Contractor acknowledges that Canada owns the rights on the translation and that Canada is under no obligation to provide the translation to the Contractor. Canada agrees that any translation must include any copyright and any proprietary right notice that was part of the original. Canada acknowledges that the Contractor is not responsible for any technical errors or other problems that may arise as a result of the translation.

2030 25 (2008-05-12) Government Property

1. All Government Property must be used by the Contractor solely for the purpose of the Contract and remains the property of Canada. The Contractor must maintain adequate accounting records of all Government Property and, whenever feasible, mark it as being the property of Canada.
2. The Contractor must take reasonable and proper care of all Government Property while it is in its possession or subject to its control. The Contractor is responsible for any loss or damage resulting from its failure to do so other than loss or damage caused by ordinary wear and tear.
3. All Government Property, unless it is installed or incorporated in the Work, must be returned to Canada on demand. All scrap and all waste materials, articles or things that are Government Property must, unless provided otherwise in the Contract, remain the property of Canada and must be disposed of only as directed by Canada.

At the time of completion of the Contract, and if requested by the Contracting Authority, the Contractor must provide to Canada an inventory of all Government Property relating to the Contract.

2030 26 (2008-05-12) Liability – Intentionally Deleted

2030 27 (2008-05-12) Intellectual property infringement and royalties – Intentionally Deleted

2030 28 (2008-05-12) Amendment and waivers

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.
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 1.
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.

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 of that term or condition in the case of a subsequent breach.

2030 29 (2008-05-12) Assignment

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.
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.

2030 30 (2014-09-25) Suspension of the Work

1. The Contracting Authority may at any time, by written notice, order the Contractor to suspend or stop the Work or part of the Work under the Contract for a period of up to 180 days. The Contractor must immediately comply with 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 Contracting Authority. Within these 180 days, the Contracting Authority must either cancel the order or terminate the Contract, in whole or in part, under Section 31 or Section 32.
2. When an order is made under subSection 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.
3. When an order made under subSection 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 Contracting 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.

2030 31 (2014-09-25) Default by the Contractor

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.
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-up of the Contractor,

- the Contracting Authority may, to the extent permitted by the laws of Canada, by giving written notice to the Contractor, immediately terminate for default the Contract or part of the Contract.
3. If Canada gives notice under subSection 1 or 2, the Contractor will have no claim for further payment except as provided in this section. The Contractor will be liable to Canada for any amounts paid by Canada, including milestone payments, and 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 unliquidated at the date of the termination.
 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, including the proportionate part of the Contractor's profit or fee included in the Contract Price; 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 Contract Price.
 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.
 6. If the Contract is terminated for default under subSection 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 1 of Section 32.

2030 32 (2020-05-28) Termination for convenience – Intentionally Deleted

2030 33 (2014-09-25) Accounts and audit

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.
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.
3. Unless Canada has consented in writing to its disposal, the Contractor must retain all the information described in this Section for six years after it receives the final payment under the Contract, or until the settlement of all outstanding claims and disputes, whichever is later. During this time, the Contractor must make this information available for audit, inspection and examination by the representatives of Canada, 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.
 4. The amount claimed under the contract, calculated in accordance with the Basis of Payment provision in the Articles of Agreement, 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.

2030 34 (2008-05-12) 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.

2030 35 (2008-05-12) 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.

2030 36 (2008-05-12) 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.

2030 37 (2008-05-12) No bribe

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.

2030 38 (2008-05-12) 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.

2030 39 (2008-05-12) 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.

2030 40 (2008-05-12) Successors and assigns

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

2030 41 (2008-12-12) 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).

2030 42 (2012-07-16) International sanctions

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.
2. The Contractor must not supply to the Government of Canada any goods or services which are subject to economic sanctions.
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 32.

2030 43 (2016-04-04) Integrity Provisions – Contract

The Ineligibility and Suspension Policy (the "**Policy**") and all related Directives incorporated by reference into the bid solicitation on its closing date are incorporated into, and form a binding part

of the Contract. The Contractor must comply with the provisions of the Policy and Directives, which can be found on Public Works and Government Services Canada's website at Ineligibility and Suspension Policy.

2030 44 (2008-05-12) Entire agreement

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

2030 45 (2016-04-04) Code of Conduct for Procurement – Contract

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

ANNEX F DISPUTE RESOLUTION

1 Consultation and Co-operation

- 1.1 The Parties agree to maintain open and honest communication throughout the performance of the Contract.
- 1.2 The Parties agree to consult and co-operate with each other in the furtherance of the Work and the resolution of problems or disagreements that may arise.

2 Notice of Dispute

- 2.1 Any disagreement between the Parties to the Contract of any nature arising out of or in connection with the Contract, which is not settled by consultation and co-operation as envisaged in Section 1, "Consultation and Co-operation", shall, upon notice from one Party to the other, be resolved by formal negotiation under Section 3, "Negotiation". Such notice shall refer specifically to Section 3, "Negotiation", and shall specify the issues in contention and the relevant provisions of the Contract.
- 2.2 The Parties shall continue to complete their obligations under the provisions and requirements of the Contract. Such performance shall not prejudice any claim by either Party. Moreover, nothing in this Annex relieves the Contractor from its obligation to provide any other notice required by the Contract within the time specified in the Contract.

3 Negotiation

- 3.1 Within 30 working days after receipt by a Party of a notice referred to in subsection 2.1, "Notice of Dispute", or within such other period of time as may be mutually agreed to, the Parties shall commence formal negotiations in order to resolve the disagreement. Negotiations shall occur initially between a principal or principals of the Contractor and a senior level manager or senior level managers representing Canada.
- 3.2 If negotiations fail to resolve the disagreement within 30 working days from the date of delivery of the notice referred to in subsection 3.1, "Notice of Dispute", or within such longer period as may have been agreed to by the Parties, the disagreement shall be determined pursuant to Section 4, "Mediation".

4 Mediation

- 4.1 If the disagreement is being determined in this Section 4, "Mediation", mediation shall be conducted in accordance with Section 8, "Rules for Mediation of Disputes".
- 4.2 If a Project Mediator (as defined below) has not previously been appointed for the purposes of the Contract, a Project Mediator shall be appointed in accordance with Section 8, "Rules for Mediation of Disputes", forthwith after the expiration of the negotiation period provided under Section 3, "Negotiations".
- 4.3 If the disagreement has not been resolved within:
 - 4.3.1 90 working days following the appointment of a Project Mediator in accordance with subsection 4.2, if a Project Mediator was not previously appointed;
 - 4.3.2 60 working days following the expiration of the negotiation period provided under Section 3, "Negotiations", if a Project Mediator was previously appointed; or

4.3.3 such other longer period as may have been agreed to by the Parties; the Project Mediator shall terminate the Mediation by giving written notice to the Parties stating the effective date of termination and, if there was no Project Mediator so appointed, the same shall be deemed terminated and notice given as of the expiration of the relevant foregoing period.

5 Binding Arbitration

- 5.1 If mediation of the dispute is terminated pursuant to the provisions of Section 4, "Mediation", the disagreement shall be resolved by binding arbitration pursuant to the *Commercial Arbitration Act*, R.S. 1985, c. 17 (2nd Supp.).
- 5.2 All regardless of the outcome, the Parties agree that save and except as provided in section 14 of the Contract:
- 5.2.1 that they will each be responsible for the costs of their own representatives and advisors and associated travel and living expenses associated with the arbitration; and
- 5.2.2 that fees and expenses of the arbitrator and all administrative costs of the arbitration, such as the cost of the meeting room(s), if any, shall be borne equally by the Parties.

6 Confidentiality

All information exchanged during alternative dispute resolution procedures, by whatever means, shall be without prejudice and shall be treated as confidential by the Parties and their representatives, unless otherwise required by law or as part of the arbitration process. However, evidence that is independently admissible or discoverable shall not be rendered inadmissible or non-discoverable by virtue of its use during an alternative dispute resolution process.

7 Settlement

Any agreement to settle all or any part of a disagreement, by whatever means, shall be in writing and be signed by the Parties or their authorized representatives.

8 Rules for Mediation of Disputes

8.1 Interpretation

In these Rules, "Coordinator" means the person designated by Canada to act as the Dispute Resolution Coordinator.

8.2 Application

By mutual agreement, the Parties may change or make additions to the Rules.

8.3 Appointment of Project Mediator

- 8.3.1 The Parties may, by mutual consent, at any time after entry into the Contract, appoint a mediator (the "**Project Mediator**") to conduct mediation proceedings in accordance with these Rules for Mediation of Disputes, in regard to any dispute that may arise with regard to the interpretation, application or administration of the Contract. In this case, they shall jointly enter into a contract with the appointed Project Mediator, which contract shall be in a form drafted by the Coordinator and agreed to by the Parties.
- 8.3.2 If the Parties do not appoint a Project Mediator pursuant to subsection 8.3.1, the Parties shall appoint a Project Mediator within 30] the expiration of the negotiation period provided under

Section 3, "Negotiations". Any contract entered into with the appointed Project Mediator shall meet the requirements set out herein.

8.3.3 If the Parties have previously entered into a contract with a Project Mediator, the Parties shall within 2 days send to both the Project Mediator and the Coordinator:

8.3.3.1 a copy of previous notices given pursuant to this Annex; and

8.3.3.2 a copy of the Parties position in relation to such notice, the issues in contention and the relevant provisions of the Contract.

8.3.4 If the Parties have not agreed on a Project Mediator, the Parties shall forthwith provide the Coordinator with the written materials referred to in subsection 8.3.3, together with a request that the Coordinator assist in the appointment of a mutually acceptable Project Mediator in accordance with these Rules.

8.3.5 Within 15 working days following receipt of the subsection 8.3.4 materials, the Coordinator shall provide the Parties with a list of qualified private sector mediators obtained from an independent and impartial entity, together with instructions to each Party to individually and confidentially select and rank their preferred and fully acceptable choices of mediator in descending order. Each mediator listed shall be impartial and independent of the Parties, and shall be an experienced and skilled commercial mediator, preferably with knowledge of the subject matter of the dispute.

8.3.6 Within 15 working days of receipt of the list referred to subsection 8.3.5, each party shall comply with the instructions accompanying the list(s) and shall deliver the completed listing to the Coordinator.

8.3.7 Within 2 working days following receipt of the completed listings, the Coordinator shall select the highest common ranked mediator to act as Project Mediator for the purposes of the contract.

8.3.8 In the event of a tie, the Coordinator shall consult both Parties to re-evaluate their rankings in order to assist the Coordinator in selecting a Project Mediator acceptable to both Parties. If the Parties cannot agree upon a Project Mediator, the Coordinator shall forthwith provide the Parties with a second list of mediators and the procedure shall be repeated.

8.3.9 If the Parties have not previously entered into a contract with a mutually acceptable Project Mediator, the Coordinator shall use reasonable efforts to negotiate a contract with a mutually acceptable Project Mediator on behalf of the Parties, which contract shall incorporate or otherwise comply with the provisions of these Rules. If negotiations are unsuccessful, or if for other reason the individual is unwilling or unable to enter into a contract to act as Project Mediator, the Coordinator shall repeat the process with the second-highest common ranked mediator.

8.3.10 The Parties agree that, upon successful completion of the negotiations referred to in subsection 8.3.9, they shall jointly enter into a contract with the selected Project Mediator, which contract shall be in a form drafted by the Coordinator and agreed to by the Parties.

8.3.11 Upon execution of the contract with the Project Mediator referred to in 8.3.10 the Coordinator shall provide the Project Mediator with copies of the documents referred to in 8.3.3.

8.4 Confidentiality

8.4.1 Subject to subsection 8.4.2, and unless otherwise agreed in writing by the Parties, the Project Mediator, the Parties and their counsel or representatives shall keep confidential all matters

and documents disclosed during mediation proceedings except where the disclosure is necessary for any implementation of any agreement reached or is required by law.

- 8.4.2 Evidence that is independently admissible or discoverable in any arbitral or judicial proceeding shall not be rendered inadmissible or non-discoverable by virtue of its use in mediation proceedings.
- 8.4.3 Neither party shall make transcripts, minutes or other records of a mediation conference.
- 8.4.4 The personal notes and written opinions of the Project Mediator made in relation to mediation are in the Project Mediator's sole possession and control, are confidential, and may not be used in any subsequent proceeding between the Parties or where they are opposed in interest without the express written permission of the Parties.
- 8.4.5 All information exchanged during mediation procedures, by whatever means, shall be without prejudice and shall be treated as confidential by the Parties and their representatives, unless otherwise required by law.

8.5 Time and Place of Mediation

The Project Mediator, in consultation with the Parties shall set the date, time and place of any mediation conference as soon as possible, bearing in mind that, subject to agreement to the contrary between the Parties, only 10 working days are available within which to attempt to settle the dispute.

8.6 Representation

- 8.6.1 Representatives of the Parties may be accompanied at the mediation conference by legal counsel or any other person.
- 8.6.2 If the Project Mediator is a lawyer, the Project Mediator shall not provide legal advice to a party during the course of the mediation conference, but may recommend that a party obtain independent legal advice before finalizing a settlement agreement.

8.7 Procedure

- 8.7.1 The Parties agree to an exchange of all facts, information and documents upon which they intend to rely in any oral or written presentation during the mediation. This exchange shall be completed no later than 2 working days prior to the date set for a mediation conference.
- 8.7.2 The Project Mediator shall be free to meet with the Parties individually during a mediation conference if the Project Mediator is of the opinion that this may improve the chances of a mediated settlement, and either party may request such an individual meeting at any time.
- 8.7.3 The Parties may agree to extend the 10 working days available for settlement of the dispute through mediation, and the Project Mediator shall record that agreement in writing.

8.8 Settlement Agreement

- 8.8.1 The Parties shall record in writing any settlement agreement reached, with sufficient detail to ensure a clear understanding of:
- 8.8.1.1 the issues resolved;
- 8.8.1.2 any obligations assumed by each party including criteria to determine if and when these obligations have been met; and

8.8.1.3 the consequences of failure to comply with the agreement reached.

8.8.2 The Parties agree to carry out the terms of a settlement agreement as soon as possible and, in any event, within any time periods specified in the agreement.

8.9 Termination of Mediation

8.9.1 Either party may withdraw from mediation at any time without reason and, in that event, the Project Mediator shall give each party a written notice terminating the mediation and establishing the effective date of termination.

8.9.2 If, in the opinion of the Project Mediator, either party fails to mediate in good faith or fails to comply with the terms of these Rules, or if the Project Mediator, at any time during mediation, is of the opinion that further negotiations will fail to resolve the issues outstanding, the Project Mediator may terminate the negotiations by providing the Parties with a written notice of termination, stating therein the Project Mediator's reasons for the termination, and the effective date of termination.

8.9.3 If a dispute has not been resolved within 10 working days or such other longer period as may have been agreed to by the Parties, the Project Mediator shall terminate the mediation by giving written notice to the Parties stating the effective date of termination.

8.10 Costs

The Parties agree that save and except as otherwise provided in section 15 of the Contract, they will each be responsible for the costs of their own representatives and advisors and associated travel and living expenses. Fees and expenses of the Project Mediator and all administrative costs of mediation, such as the cost of the meeting room(s), if any, shall be borne equally by the Parties.

8.11 Subsequent Proceedings

8.11.1 The Parties shall not rely on or introduce as evidence in any arbitral or judicial proceeding, whether or not such proceeding relates to the subject matter of mediation:

8.11.1.1 any documents of other Parties that are not otherwise producible in those proceedings;

8.11.1.2 any views expressed or suggestions made by any party in respect of a possible settlement of issues;

8.11.1.3 any admission made by any party in the course of mediation unless otherwise stipulated by the admitting party; and

8.11.1.4 the fact that any party has indicated a willingness to make or accept a proposal or recommendation for settlement.

8.11.2 The Project Mediator shall neither represent nor testify on behalf of either of the Parties in any subsequent investigation, action or proceeding relating to the issues in mediation proceedings.

8.11.3 The Project Mediator shall not be subpoenaed to give evidence relating to:

8.11.3.1 the Project Mediator's role in mediation; or

8.11.3.2 the matters or issues in mediation;
in any subsequent investigation, action or proceeding and the Parties agree to vigorously oppose any effort to have the Mediator so subpoenaed.