

REQUEST FOR PROPOSAL

RFP NO. 110-2024-01

EMPLOYEE ENGAGEMENT SURVEY AND RECOGNITION PLATFORM

ISSUE DATE: MARCH 21, 2024

ELECTRONIC BID SUBMISSIONS ONLY SHALL BE RECEIVED BY THE PARTNERSHIP THROUGH THE ELECTRONIC BIDDING SYSTEM NO LATER THAN:

RFP SUBMISSION DEADLINE: MONDAY, APRIL 22, 2024
AT 12:00 PM EASTERN STANDARD TIME

TO BE CLEAR, AND NOTWITHSTANDING ANY OTHER TERM OF THIS REQUEST FOR PROPOSALS THAT MAY BE INTERPRETED OTHERWISE, IT IS NOT THE INTENT OF THE PARTNERSHIP, NOR THE EFFECT OF THIS RFP, TO INITIATE CONTRACTUAL RELATIONS BY THE PROVISION OF A PROPOSAL BY ANY PROPONENT IN RESPONSE TO THIS RFP.

NOTWITHSTANDING ANY OTHER TERM OF THIS RFP, THIS RFP IS MERELY A CALL FOR PROPOSALS AND NOT A TENDER CALL INTENDING TO PLACE LEGALLY BINDING OBLIGATIONS ON THE PARTNERSHIP OR ON ANY PROPONENT TO ENTER INTO AN AGREEMENT OR TO BE BOUND BY ANY OF THE TERMS OF ITS PROPOSAL. IT IS NOT THE INTENTION OF THE PARTNERSHIP TO ENTER INTO AN AGREEMENT FOR THE IT SOLUTION DESCRIBED IN THIS RFP OR ENTER INTO ANY OTHER LEGALLY BINDING OBLIGATIONS UNLESS AND UNTIL THE PARTNERSHIP HAS COMPLETED THE NEGOTIATION AND FINALIZATION OF AN AGREEMENT SATISFACTORY TO BOTH THE PARTNERSHIP AND THE PROPONENT, IF ANY, THAT THE PARTNERSHIP DETERMINES TO NEGOTIATE WITH.

IT IS CONCEIVABLE THAT THESE EVENTS WILL NOT OCCUR DUE TO THE DISCRETION OF THE PARTNERSHIP AND/OR ANY PROPONENT TO NOT PROCEED, AS THERE IS NO LEGALLY BINDING OBLIGATION ON THE PARTNERSHIP OR ANY PROPONENT TO PROCEED.

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About the Canadian Partnership Against Cancer

As the steward of the *Canadian Strategy for Cancer Control* (the Strategy), the Partnership works with Canada's cancer community to take action to ensure fewer people get cancer, more people survive cancer and those living with the disease have a better quality of life. This work is guided by the Strategy, which was refreshed for 2019 to 2029 and will help drive measurable change for all Canadians affected by cancer. The Strategy includes five priorities which will tackle the most pressing challenges in cancer control as well as distinct First Nations, Inuit and Métis Peoples-specific priorities and actions reflecting Canada's commitment to reconciliation. The Partnership will oversee the implementation of the priorities in collaboration with organizations and individuals on the front lines of cancer care - the provinces and territories, health-care professionals, people living with cancer and those who care for them, First Nations, Inuit and Métis communities, governments and organizations, and its funder Health Canada. Learn more about the Partnership and the refreshed Strategy at www.cancerstrategy.ca.



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1.0 INSTRUCTION TO PROPONENTS

1.1 *Invitation to Proponents*

This Request for Proposals ("RFP") is an invitation to suppliers/vendors (the "Proponents") to submit proposals (the "Proposals") for the services and deliverables described in Schedule A (the "Deliverables"). This RFP is issued by the Canadian Partnership Against Cancer (the "Partnership"), a not-for-profit corporation funded by Health Canada. The Partnership is committed to the ongoing process of reconciliation. Through our work and partnerships, we continue to support self-determined, Peoples-specific solutions for sustainable system change across cancer care that benefit all First Nations, Inuit and Métis in Canada.

1.2 *Enquiries*

Proponents should forward all enquiries and other communications, via Biddingo™ only.

Proponents acknowledge that all enquiries received from Proponents and corresponding responses provided by the Partnership will be disclosed to all Proponents by way of an Addendum.

All enquiries and communications should be received prior to the Deadline for Proponent Enquiries set out in Section 1.7 RFP Timetable.

1.3 *Proposal Submission*

As part of its commitment to diversity equity and inclusion (DEI), the Partnership encourages participation from all qualified Proponents including submissions from Indigenous-owned, women-owned, LGBTQ-owned, and minority-owned businesses.

Proponents should submit their Proposals in two separate parts. The financial part will contain the price portion of the Proposal using the Pricing Sheet, in Schedule C. The technical part of will contain the rest of the Proposal. Each part should be submitted in separate sealed package or electronic file in accordance with the instructions in this section.

Proponents must submit the Proposal in electronic copy in Microsoft Word format or portable document format (PDF) through Biddingo™ before the Proposal Submission Deadline.

Proposals submitted in any other manner will not be accepted.

It is the sole responsibility of the Proponent to ensure that its Proposal is received by the Partnership before the Proposal Submission Deadline.



1.4 Amendment and Withdrawal of Proposal

Proponents may amend their Proposals prior to the Proposal Submission Deadline by withdrawing a submitted Proposal and resubmitting the amended Proposal prior to the Proposal Submission Deadline.

A Proponent may withdraw its Proposal via Biddingo™ before the RFP Submission Deadline. A Proposal may not be withdrawn after the RFP Submission Deadline

The Partnership is under no obligation to return withdrawn Proposals.

1.5 Agreement for Deliverables

The selected Proponent will be invited to enter into an agreement (the “Agreement”) with the Partnership for the provision of the Deliverables. The final terms of the Agreement may be negotiated with the selected Proponent. However, Proponents are advised that the Agreement is expected to include the terms and conditions set out in Schedule F to this RFP.

It is the Partnership’s intention to enter into an Agreement with only one (1) legal entity. The term of the Agreement is to be for a period of up to 3 years with an option in favour of the Partnership to renew or extend the Agreement on the same terms and conditions up to an additional term of up to 2 years.

1.6 No Guarantee of Volume of Work or Exclusivity of Agreement

The Partnership makes no guarantee of the value or volume of work to be assigned to any Proponent. Any Agreement executed with a selected Proponent will not be an exclusive contract for the provision of the described services and deliverables. The Partnership may contract with others for the same or similar services and deliverables to those described in this RFP or may obtain the same or similar services and deliverables internally.

1.7 RFP Timetable

The following is the schedule for this RFP:

ISSUE DATE:	March 21, 2024
DEADLINE FOR PROPONENT QUESTIONS	April 2, 2024
DEADLINE FOR ISSUING FINAL ADDENDA & RESPONSES TO PROPONENT QUESTIONS	April 11,2024
PROPOSAL SUBMISSION DEADLINE	April 22, 2024
PROPONENT INTERVIEWS	May 17-24, 2024
ANTICIPATED CONTRACT AWARD DATE	July 5, 2024
ANTICIPATED AGREEMENT START DATE	July 8, 2024

The Partnership may amend the schedule for this RFP in its sole discretion at any time prior to the Proposal Submission Deadline.



1.8 *Proposal Content*

The Proposal should include:

- a) an executive summary;
- b) a summary of the Proponent’s understanding of the requirements and strengths of the proposed approach;
- c) a description of the relevant qualifications and experience of the Proponent organization;
- d) references for three similar projects (excluding the Partnership) successfully completed by the Proponent organization within the last three years (Schedule D Form 1);
- e) a description of the proposed approach and work plan to accompany the Project Deliverables and Milestones (Schedule E);
- f) a description of the proposed project team structure, key roles and reporting relationships;

1.9 *Pricing and Timing*

Please submit the price for completion of this project (both fees and expenses). The Proponent should assume that it is required to supply all necessary professional staff to undertake the project. The Proponent shall provide **a firm maximum ceiling price** for the assignment and a proposed payment schedule, if applicable. The Proponent should submit pricing (Schedule C) in a separate electronic file from the rest of the Proposal (see Section 1.3).

1.10 *Key Personnel*

The key personnel who are named in the Proposal will be expected to remain assigned for the duration of the project, unless otherwise agreed to in writing by the Partnership. In the event the Proponent wishes to substitute any of the key personnel, the individual(s) proposed would have to demonstrate similar qualifications and experience as required to successfully perform such duties. Under the Agreement, the Partnership will have the sole right to determine whether key personnel proposed as substitutes are qualified to work on the project. The Partnership reserves the right to refuse the substitute if it’s deemed the qualification and experience are not up to expectation.

1.11 *AODA Compliance Legislation*

As part of its response to this RFP, a Proponent may describe all measures that the Proponent intends to implement or make available in order that the Deliverables provided in response to this RFP be in compliance with applicable standards under the Accessibility for Ontarians with Disabilities Act, 2005 (“AODA”) and its regulations, including but not limited to (i) any training that has been, or will be, provided to Proponent’s staff; and (ii) all policies implemented by the Proponent in respect of the AODA and its regulations.



The Agreement will require that the successful Proponent provide all Deliverables in accordance with AODA and its regulations.

1.12 Evaluation Process and Criteria

Proposals will be reviewed and evaluated by an evaluation committee which is comprised of representatives of the Partnership and may include external advisors (the “Evaluation Committee”).

1.12.1. Mandatory Criteria

First, the Partnership will evaluate Proposals for compliance with the following Mandatory Criteria:

MANDATORY FORMS:
Submission Form (Schedule B)
Pricing Sheet (Schedule C)
References (Schedule D)

1.12.2. Rating Criteria

Next, the Partnership will evaluate and score Proposals based on the following rating criteria:

Evaluation Criteria	Weights
Qualifications and experience of Proponent organization <ul style="list-style-type: none"> • Demonstrated experience in industry and proposed product(s) • Ability to meet timelines • Implementation support such as a lead project or implementation specialist • Ongoing technical/user support 	25%
Tool/Platform <ul style="list-style-type: none"> • Ability to meet or exceed above noted deliverables • Comprehensive overview materials (e.g., guides, screenshots, videos, etc.) that outline system functionality, features and capabilities 	35%



Vendor Presentation <ul style="list-style-type: none">Demonstration and functionality of proposed solutionQuality of demonstration focusing on system functionality as both administrators and end users	15%
Price	25%
Total	100%

1.12.3. Stages of the Proposal Evaluation

The Partnership will conduct the evaluation of Proposals in the following three (3) stages:

Stage I

Stage I will consist of a review to determine which Proposals comply with all of the Mandatory Criteria. If a Proposal fails to satisfy all of the Mandatory Criteria, the Partnership will issue the Proponent a rectification notice identifying the deficiencies and providing the Proponent an opportunity to rectify the deficiencies within a period of **2 business days** from the date of the notice (the “Rectification Period”). If the Proponent fails to satisfy all of the Mandatory Criteria within the Rectification Period, the Proposal will be disqualified. If a Proposal is disqualified, it will not be further evaluated.

Stage II

Stage II will consist of a scoring by the Partnership of each qualified Proposal on the basis of the rating criteria. The Partnership may shortlist the top scoring Proposals and the Proponents may be invited to an interview with the Partnership. Interviews to be scheduled, at a time that is convenient for the Partnership.

Stage III

Stage III will consist of a scoring of the pricing submitted. The evaluation of price may be undertaken after the evaluation of mandatory criteria (Stage I) and any rated criteria (Stage II) has been completed.

The formula to be used for scoring price is as follows:

$$\text{Proponent's price score} = \text{lowest proposal price} \div \text{Proponent's price} \times \text{weighting}$$



Cumulative Score

At the conclusion of Stage III, the scores from Stage II and Stage III will be added and, subject to satisfactory reference checks, the highest scoring Proposal will be selected, and the Proponent of that Proposal will be invited to finalize and enter into the Agreement.

1.13 Discussion with Preferred Proponent

The Preferred Proponent will be notified by the Partnership, via Preferred Notification Letter, that they have been selected to enter into Agreement discussions contingent on successful negotiations. The Partnership may attempt to finalize the terms and conditions of the Agreement with the Preferred Proponent, or it may, in its sole discretion,

- (a) prior to making the award, enter into a letter of intent with the Preferred Proponent or enter into an interim purchase order, on terms satisfactory to Partnership, as an interim measure; and
- (b) negotiate changes, amendments, or modifications to the Preferred Proponent's Proposal.

For certainty, the Partnership makes no commitment to the Preferred Proponent that the Agreement will be executed. The Preferred Proponent acknowledges that the commencement of any discussions does not obligate the Partnership to execute the Agreement.

1.14 Negotiations and Finalization of Agreement

The final terms of the Agreement may be negotiated with the selected Proponent. However, Proponents are advised that the Agreement is expected to include the terms and conditions set out in Schedule F to this RFP.

Any negotiations will not constitute a legally binding offer to enter into a contract on the part of the Partnership or the Proponent and there will be no legally binding relationship created with any Proponent prior to the execution of a written agreement. Negotiations may include requests by the Partnership for supplementary information from the Proponent to verify, clarify or supplement the information provided in its Proposal or to confirm the conclusions reached in the evaluation, and may include requests by the Partnership for improved pricing or performance terms from the Proponent.

The Partnership intends to conclude negotiations and finalize the agreement with the selected Proponent within 30 days from the date the Partnership invites the selected Proponent to enter negotiations.



If the parties cannot conclude negotiations and finalize the agreement for the Deliverables within that time period, the Partnership may discontinue negotiations with the selected Proponent and may cancel the RFP process or invite the next-highest-scoring Proponent to enter into negotiations. This process will continue until an agreement is finalized or until the Partnership elects to cancel the RFP process.



2.0 SUPPLEMENTARY TERMS AND CONDITIONS

2.1 *All New Information to Proponents by way of Addenda*

This RFP may be amended only by a written addendum (an “**Addendum**”) in accordance with this section. If the Partnership, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all Proponents by Addenda made available to all Proponents in the same way as the original RFP. Each Addendum shall form an integral part of this RFP. Any amendments or supplements to this RFP made in any other manner shall not be binding. **It is the sole responsibility of the Proponent to ensure that it has received all Addenda pertaining to this RFP.** The Partnership will not take any responsibility for losses, misunderstandings, errors or omissions from the Proponent not having received or reviewed any and all Addenda.

2.2 *Retention and Disclosure of Proposals*

All information obtained by the Partnership from Proponents in connection with this RFP will be retained by the Partnership for internal purposes. Information provided by Proponents in response to this RFP may be disclosed by the Partnership if permitted or required by law.

2.3 *Governing Law of RFP Process*

The RFP process shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

2.4 *Proponents to Follow Instructions*

Proponents should structure their Proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a Proposal should reference the applicable section numbers of this RFP where that request was made. Proponents responding to the RFP should provide additional information related to contacts and their corporate identity and status.

2.5 *Proponents Shall Bear Their Own Costs*

The Proponent shall bear all of its own costs associated with or incurred in the preparation, presentation and submission of its Proposal including, if applicable, costs incurred for interviews, site visits or demonstrations.

2.6 *Communication after Issuance of RFP*

Proponents should promptly examine all of the documents comprising this RFP and report any errors, omissions or ambiguities. Proponents may direct questions or seek additional information via Biddingo™ as set out in Section 1.2, before the Deadline for Proponent Enquiries set out in Section 1.7. No such communications are to be directed to the Partnership in any other manner. It is the responsibility of the Proponent to seek clarification



from the Partnership on any matter it considers to be unclear. The Partnership is under no obligation to provide additional information; but, may do so at its sole discretion.

2.7 *Verify, Clarify and Supplement*

In the evaluation process, the Partnership may:

- request further information from the Proponent or third parties in order to verify, clarify or supplement the information provided in the Proposal;
- interview any or all Proponents to obtain information about or clarification of their Proposals;
- check references other than those provided by any Proponent; and
- consider the Proponent's past performance or conduct on previous contracts with the Partnership or other institutions.

The Partnership may revisit, re-evaluate, rescore or reject the Proponent's Proposal on the basis of any such information.

2.8 *Confidentiality*

All information received by the Proponent provided by or obtained from the Partnership in any form in connection with this RFP either before or after the issuance of this RFP:

- is the sole property of the Partnership and must be treated as confidential;
- is not to be used for any purpose other than replying to this RFP and the performance of any subsequent Agreement; and
- shall be returned by the Proponent to the Partnership immediately upon the request of the Partnership.

2.9 *Disqualification*

The Partnership may disqualify a Proposal on grounds of faulty submission, conflict of interest, improper conduct or provision of inaccurate or misleading information by the Proponent.

2.10 *Procurement Process Non-Binding*

This procurement process is not intended to create and will not create a formal, legally binding bidding process and will instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:



- (a) this RFP will not give rise to any Contract A-based tendering law duties or any other legal obligations arising out of any process contract or collateral contract; and
- (b) neither the Proponent nor the Partnership will have the right to make any claims (in contract, tort, or otherwise) against the other with respect to the award of a contract, failure to award a contract or failure to honour a Proposal submitted in response to this RFP.

No legal relationship or obligation regarding the procurement of any good or service will be created between the Proponent and the Partnership by this RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

While the pricing information provided in Proposals will be non-binding prior to the execution of a written agreement, such information will be assessed during the evaluation of the Proposals and the ranking of the Proponents. Any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact any such evaluation or ranking or the decision of the Partnership to enter into an agreement for the Deliverables.

The Partnership may cancel or amend the RFP process without liability at any time.



SCHEDULE A - Services and Deliverables

Project Name: Employee Engagement (Survey) and Recognition Platform

Term of Agreement: July 8, 2024 - March 31, 2027

Scope of Work

Background

The Canadian Partnership Against Cancer (“the Partnership or CPAC”) is a non-profit organization, with a workforce of 150 employees across Canada. We work in a hybrid model, with most staff working remotely from home.

The Partnership is looking to secure an online employee engagement survey tool and implement a recognition platform.

Purpose/Objectives

In order to support healthy employee engagement, the Partnership needs tools that allow employees to provide feedback and recognize each other’s efforts, successes and milestones.

Employee Engagement Solutions (Surveys)

Since 2018, the Partnership has been using an Employee Survey Platform (WorkTango). In order to continue to provide employees with an avenue to voice their thoughts, the Partnership is looking for an employee engagement tool that offers the ability for:

- Measuring employee engagement levels. Evaluate employee satisfaction and emotional commitment to the organization across a number of factors including but not limited to enablement, leadership, culture, well-being, etc.
- Determine key engagement drivers and areas of improvement across the organization and divisions.
- Generate reports and dashboards that provide insights into the data collected via the platform and aid in strategic decision making. Analyze trends over time to determine areas of improvement and evaluate the effectiveness of initiatives deployed to improve engagement.
- Aid Diversity, Equity and Inclusion (DEI) work through the deployment and analysis of the Self-Id survey.

Recognition Platform

The Partnership is replacing an annual, in-person gala style recognition event with an online recognition tool that can be used by all employees across Canada in real time. The recognition platform should nurture a supportive, positive and inclusive work culture; boost employee morale; and reinforce CPAC’s values and desired employee behaviours.

**Scope of Work**

The successful Proponent will be required to carry out all the following:

Introductions and Information Gathering

- Familiarize self with the Partnership, its mandate, vision and organizational structure.
- Meet with the project team (People and Culture) to review previous employee engagement survey formats and current recognition activities.
- Discuss desired future state for survey tool and recognition platform.
- Evaluate gathered information and recommend options and solutions.

Solutions and Implementation

- Present a tailored plan that outlines recommended product solutions ensuring they are ready-to-use, have customizable functionality and incorporate the Partnership branding.
- Provide best practice recommendation to inform the development of an employee rollout plan that includes communication, launch and training.
- Outline resource and system requirements needed from the Partnership .
- Schedule and lead meetings as appropriate and needed for successful implementation.
- Provide support services to the Partnership project team.
- Provide project team with testing abilities for the tool and platform prior to launch.

Training

- Provide necessary training material and sessions for admins of the tool and platform.
- Provide recommended training approach with employees.
- Provide platform training tools/resources for ongoing employee use.

Ongoing Support

- Provide system updates and maintenance.
- User support including a help desk channel (e.g., phone, email, online chat, etc.) available during business hours (Monday to Friday, 9am - 5pm EST); user guides; FAQs and troubleshooting documents.

Return of Data

- Upon expiry or termination of agreement, the vendor must return all collected data (surveys, reports, employee information, etc.) and destroy any remaining employee information from its platform.

Deliverables

The Partnership is looking to hear from vendors what modern survey and recognition tools they have available. Below outlines our desired functionality.



Employee Engagement Solutions (Survey)

- A survey tool that is customizable (e.g., branding, question fields, reports, anonymous, etc.)
- Accessible online and mobile friendly
- Contains a database of questions with various types (e.g., multiple choice, Likert scale, open text)
- Able to track responses and show completion status
- Survey reminder function
- Best practice bench-marking functionality
- Data drill-down and analysis
- Dashboard for data visualization and comprehensive reporting
- Provides system-generated recommendations based on employee responses
- Ongoing service support

Recognition Platform

- User friendly, real time, fun online recognition platform
- Employee interactive/reaction abilities (like, comment, share, etc.)
- Integration with Microsoft Teams would be an asset (checking with IT)
- Uses both monetary and non-monetary recognition
- Supports multi-channel recognition: manager to employee; peer to peer; team to team, etc.
- Analytics, reporting and dashboards
- Implementation and employee training
- Ongoing service support

IT Requirements (Hosting, Privacy and Security)

- Provides fully managed cloud hosting of the platform. Including set up and implementation, hosting and support.
- The Partnership data must reside in Canada.
- Provides initial implementation and set up support (i.e., platform configuration, custom domain setup).
- Manages updates and patches, ensuring the platform is up to date with the latest software and patches. This includes security updates and bug fixes.
- Provides technical support for the platform, including troubleshooting and resolving issues related to its infrastructure and software functionalities.
- Provides data backup and recovery services in case of a disaster or data loss event.
- Provides Single Sign-On (SSO) capability with Azure Active Directory (Azure AD) and implementation support.
- Provides Multi Factor Authentication (MFA) capability on local accounts.



- Provides ability to query (API) or export user records from Production database for data analysis and reporting with a third-party tool such as Microsoft Power BI. Setting up a read-only, secondary replica database for the Production environment can also meet this requirement.
- Provides knowledge transfer and supporting documentation to the project team, if deemed necessary.
- Implements and documents governance of hosting services (i.e., SOC reports).
- Provides detailed audit logs to track user activities and system events for accountability and forensic purposes.
- The Partnership retains all intellectual property rights and ownership over content stored in the managed service.
- Service conforms with all applicable federal and provincial privacy laws in Canada (e.g., Privacy Act, PIPEDA, PIPA).

Service Levels

Proponent will provide the Partnership with their service level objectives for software support, maintenance and upgrades.

Bait and Switch

The successful Proponent will provide for the duration of the contract, the full complement of staff required to perform the work of the contract, including the specific individuals identified in its Proposal.

These key personnel shall remain assigned for the duration of the contract, unless otherwise agreed to in writing by the Partnership. In the event the Proponent wishes to substitute any of the key personnel, the individual(s) proposed should demonstrate similar qualifications and experience as required to successfully perform such duties. The Partnership shall have the sole right to determine whether key personnel proposed as substitutes are qualified to work on the contract. The Partnership shall not unreasonably withhold approval of staff changes.



SCHEDULE B - Submission Form

The Proponent must not amend this Form in any way other than by providing the requested information. This form must be completed, signed and submitted as part of the Proponent's Proposal.

To the Canadian Partnership Against Cancer:

1. Proponent Information

- (a) The full legal name of the Proponent is:

- (b) Any other relevant name under which the Proponent carries on business is:

- (c) The jurisdiction under which the Proponent is governed is:

- (d) The name, address, telephone, facsimile number and e-mail address of the contact person for the Proponent is:

- (e) The Proponent is:

Proponents must select one of the following choices.

- an individual {Provide HST/GST #}
- a sole proprietorship {Provide HST/GST #}
- a corporation {Provide HST/GST #}
- a partnership {Provide HST/GST #}
- a joint venture {Provide HST/GST #}
- an incorporated consortium {Provide HST/GST #}
- a consortium that is a partnership {Provide HST/GST #}
- other legally recognized entity: {Specify type, provide HST/GST # or state "N/A".}

2. Acknowledgment of Non-Binding Procurement Process

The Proponent acknowledges that the RFP process will be governed by the terms and conditions of the RFP, and that, among other things, such terms and conditions confirm that this procurement process does not constitute a formal, legally binding bidding process (and



for greater certainty, does not give rise to a Contract A bidding process contract), and that no legal relationship or obligation regarding the procurement of any good or service will be created between the Partnership and the Proponent unless and until the Partnership and the Proponent execute a written agreement for the Deliverables.

3. Ability to Provide Deliverables

The Proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required. The Proponent represents and warrants its ability to provide the Deliverables in accordance with the requirements of the RFP for the rates set out in its Proposal.

4. Price

The Proponent has submitted its price in accordance with the instructions in the RFP and in the form set out at Schedule C.

5. Addenda

The Proponent is deemed to have read and accepted all Addenda issued by the Partnership prior to the Deadline for Issuing Addenda. The onus remains on the Proponent to make any necessary amendments to the Proposal based on the Addenda. The Proponent confirms that it has received the following Addenda:

{List Addenda numbers or, if no Addenda were issued, state “None”.}

6. Conflict of Interest

The Proponent, by submitting the Proposal, confirms that to its best knowledge and belief no actual or potential Conflict of Interest exists with respect to the submission of the Proposal or performance of the contemplated Agreement other than those disclosed in this Submission Form. Where the Partnership discovers a Proponent’s failure to disclose all actual or potential Conflicts of Interest, the Partnership may disqualify the Proponent or terminate any Agreement awarded to that Proponent as a result of this procurement process.

Conflict of Interest includes, but is not limited to, any situation or circumstance where:

- a) in relation to the RFP process, the Proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to
 - i. having or having access to information in the preparation of its Proposal that is confidential to the Partnership and not available to other Proponents;



- ii. communicating with any person with a view to influencing preferred treatment in the RFP process; or
 - iii. engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and render that process non-competitive and unfair; or
- b) in relation to the performance of its contractual obligations under the Agreement, the supplier's other commitments, relationships or financial interests
- i. could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or
 - ii. could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations;

Proponents must choose one of the following two options.

The Proponent declares that: (1) there was no Conflict of Interest in preparing its Proposal; and (2) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

OR

The Proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its Proposal, and/or the Proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP. The details of the actual or potential Conflict of Interest are as follows:

7. Disclosure of Information

The Proponent hereby agrees that any information provided in this Proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of a court or tribunal. The Proponent hereby consents to the disclosure, on a confidential basis, of this Proposal by the Partnership to its advisers retained for the purpose of evaluating or participating in the evaluation of this Proposal. The Proponent acknowledges that the Partnership may make public the name of any and all Proponents.



I confirm that this Submission Form has been completed with no changes to the text provided in the RFP.

Signature of Witness:	Signature of Proponent representative:
Name of Witness:	Name and Title of Proponent representative:
	Date: I have authority to bind the Proponent.



SCHEDULE C - Pricing Sheet

Proponent agrees to the following:

- (a) all prices shall be provided in Canadian funds exclusive of applicable taxes. Taxes, if applicable, should be stated separately.
- (b) all prices quoted, unless otherwise instructed in this RFP, shall remain firm for the period set out in the RFP.
- (c) The Partnership reserves the right to change the contract ceiling during the period set out in the RFP depending on the volume of service required.

Discounts:

The Proponent should indicate any additional volume discount while quoting the final price including special rates for non-for-profit organizations.

The Proponent should indicate any additional volume discount that will be provided for increases in volume from the Partnership during the period of the Agreement.

In addition, the Proponent shall indicate any further price reductions that will be provided should the Partnership enter into Additional Agreements subsequent to the award.

Proponent will describe their pricing model and complete the pricing grid below.

SUBSCRIPTION FEE # OF USERS	ANNUAL FEE	% DISCOUNT APPLIED

Other Fees	Price	% DISCOUNT APPLIED
Annual Maintenance Fee and upgrades		
One time implementation cost		
Customization hourly rate		

Proponent agrees to hold their proposed costs for the first 3 years with increase capped at CPI or 2.5% whichever is less for subsequent years (4 & 5).



Proponent will complete the yearly pricing grid below and provide their year over year price increase.

Pricing Grid

	Year 1	Year 2	Year 3	Year 4	Year 5
Subscription					
Maintenance					
Upgrades					

Proponent will provide information and cost for any additional modules available.

Additional Services

Proponent will provide a list of any additional services and include pricing, that may bring value to the Partnership throughout the term of the contract.

ADDITIONAL SERVICE	FEE



SCHEDULE D - Reference Form

Each Proponent should provide references from three (3) different clients (excluding the Partnership) who have obtained services similar to those required in this RFP from the Proponent within the last three (3) years.

The Partnership is not required to contact all references provided by the Proponent. In addition, references other than those provided by the Proponent (including but not limited to Partnership staff) may be contacted to obtain additional information that will be used in evaluating the Proponent's past performance.

Proponent: _____

Reference #1

Company Name:	
Company Address:	
Contact Name:	
Contact Title:	
Contact Telephone Number & Email Address:	
Date Work Undertaken:	
Nature of Assignment:	

Reference #2

Company Name:	
Company Address:	
Contact Name:	
Contact Title:	
Contact Telephone Number & Email Address:	
Date Work Undertaken:	
Nature of Assignment:	

Reference #3

Company Name:	
Company Address:	
Contact Name:	
Contact Title:	
Contact Telephone Number & Email Address:	
Date Work Undertaken:	
Nature of Assignment:	

SCHEDULE F - Additional Terms and Conditions For Agreements

Background:

The funding for this Agreement provided by the Partnership is, in whole or in part, obtained pursuant to a funding agreement ("Health Canada Contribution Agreement") between the Partnership and Her Majesty the Queen in Right of Canada as represented by the Minister of Health ("Minister");

The Health Canada Contribution Agreement requires the Partnership to require certain minimum terms and conditions in agreements.

The Contractor acknowledges the source of the funding and recognizes the need to ensure that there is a high level of accountability and transparency in the receipt and expenditure of the funding.

The Parties agree that the following terms and conditions are included in addition to any other terms of the Agreement:

1. Definitions:

In this Agreement:

- a) "Agreement" means this agreement and all schedules and any amendments made to this agreement in accordance with its terms;
- b) "Amount" means the amount expressed in the Agreement to be payable to the Contractor for the Work;
- c) Confidential Information means any confidential and/or proprietary information disclosed by the Partnership to the Contractor, either directly or indirectly, in writing, orally or by inspection of tangible objects which is or ought reasonably to be considered as confidential from its nature or from the circumstances surrounding its disclosure or which is identified by the Partnership, as confidential which may include, but is not limited to, the following:
 - i) trade secrets;
 - ii) agreements with funders and suppliers and information about dealings with funders and suppliers;
 - iii) financial information;
 - iv) business plans, forecasts and market strategies;
 - v) human resource plans and information, including employee salary and benefits information; and
 - vi) plans, processes, technology, software and formulas, methods, technical and product bulletins, surveys, research and development programs, correspondence, reports, algorithms, data structures, source code, scripts, APIs, interfaces, computer system designs, information on performance and performance limitations, computer passwords, backdoors and trapdoors; provided.

Confidential Information shall not, include any information which the Contractor can establish:

- i. was publicly known prior to the time of disclosure by the Partnership or became publicly known after disclosure by the Partnership through no action or inaction of the Contractor;
 - ii. is already known by the Contractor at the time of disclosure by the Partnership or is received by the Contractor after disclosure by the Partnership from a third party without breach of any obligation of confidentiality;
 - iii. is developed independently by the Contractor without recourse to the Confidential Information;
 - iv. or is required by law to be disclosed by the Contractor.
- d) "Material" means anything that is created or developed by the Contractor with funding under this Agreement including but not limited to designs, reports, photographs, drawings, plans, specifications, documents, tools, resources, computer software, surveys, databases and Web sites, as well as furnished to Contractor by the Partnership and includes all equipment, tools, personal computers, diskettes, facsimile machines, portable telephones, automobiles, credit cards, keys, books, records, reports, files, manuals, notes, data, tapes, reference items, sketches, drawings, memoranda and other materials in any way relating to any of the Confidential Information.
 - e) "Party" means the Partnership or the Contractor or any other signatory to the Agreement and "Parties" means all of them.

2. Accounts and Audit

- a) The Contractor shall keep proper and accurate Work-related accounts and records of the cost to the Contractor of the Work and of all expenditures or commitments made by the Contractor in connection therewith, and shall keep all invoices, receipts and vouchers relating thereto. The Contractor shall not, without the prior written consent of the Partnership, dispose of any such accounts and records, including invoices, receipts or vouchers, until the expiration of six (6) years after final payment under this Agreement, or until the settlement of all outstanding claims and disputes, whichever is later.
- b) All such accounts and records shall at all times during the retention period referred to in subsection a) be open to audit, inspection and examination by the authorized representatives of the Partnership, the Minister or the Auditor General of Canada to confirm compliance with this Agreement and the appropriate use of funds, who may make extracts from and/or make copies thereof. The

Contractor shall provide access to its premises and reasonable facilities for such audits, inspections and examinations and shall furnish all such information as the representatives may from time to time require with respect to such accounts and records. The Partnership shall be entitled to monitor and review the Work through site visits or other means.

3. Appropriation

Each payment to be made under the Agreement at any given time is subject to the Partnership having been provided sufficient funding from the Minister for the fiscal year in which the payment is due.

4. Assignment

- a) The Contractor shall not assign this Agreement or any payment, right or obligation hereunder without the prior written consent of the Partnership. Any assignment made without that prior written consent is void and of no effect.
- b) No assignment of this Agreement shall relieve the Contractor from any obligation under this Agreement or impose any liability upon the Partnership unless otherwise agreed to in writing by the Partnership. This Agreement binds the Parties and their respective successors and permitted assigns.

5. Changes

- a) If, on the basis of progress reports provided to the Partnership or for any other reason, the Parties decide that modifications to the Work or to line items within the budget are needed, the appropriate changes may be made by the administrative contact for the Parties, provided that no increase shall be made to the maximum Amount payable hereunder and further provided that no other term of this Agreement may be altered in this fashion.
- b) If the change is greater than 15% or \$50,000 of the maximum Amount payable, whichever is lesser, or if the maximum Amount payable changes, the formal amendment process, signed by the approved delegated authority, shall apply.
- c) If the Partnership, acting reasonably, determines that modifications to the Work are needed (including substituting deliverables), the Contractor shall use commercially reasonable efforts to accommodate the Partnership's request for modifications in a manner that avoids changing the maximum Amount payable.

6. Communications

- a) If this Agreement requires work with members of the public, the Contractor shall take the necessary measures to respect the spirit and intent of the *Official Languages Act* to communicate with the public in the official language (i.e., English or French) of their choice;

- b) Any person related to the Contractor shall, where appropriate, ensure that: (i) communication, announcements or documents for the general public concerning services, programs, projects or activities are provided in both official languages; (ii) any services, programs, projects or activities to be delivered by the Contractor to the general public are delivered in both official languages; (iii) any services provided to official language minority communities are provided in a manner that they may participate in these services on a basis comparable to the majority language community; and (iv) consultations with stakeholders on services, programs, projects or activities encourage participation in both official languages, as well as representatives from official language minority communities.

7. Compliance with Applicable Laws

The Contractor shall comply with all applicable laws, regulations and policies relating to the performance of the Work including, without limitation, those concerning privacy and confidentiality, health and labour conditions and the protection of the environment, and shall require compliance therewith by all of its subcontractors. Evidence of compliance with such laws shall be furnished by the Contractor to the Partnership at such times as the Partnership may reasonably request.

8. Confidentiality

- a) The Contractor shall keep confidential all information provided to the Contractor by or on behalf of the Partnership in connection with this Agreement, or acquired by the Contractor in the course of performing the Work. The Contractor shall not disclose the information to any person without the written permission of the Partnership, except that the Contractor may disclose to a subcontractor and/or employees, authorized in accordance with this Agreement, on a need-to-know basis. The Contractor shall treat as confidential and cause those with whom it shares such information, during as well as after the performance of any Work under this Agreement, any information to which the Contractor becomes privy as a result of acting under the Agreement.
- b) If the Contractor is required, by law or by a court or other lawful authority, to disclose the Partnership's confidential information, the Contractor shall: promptly notify the Partnership before making any such disclosure, if such notification is not prohibited by law, the court or other lawful authority; cooperate with the Partnership on the proposed form and nature of the disclosure; and ensure that any disclosure is made in accordance with the requirements of applicable law and within the parameters of the specific requirements of the court or other lawful authority.
- c) The Contractor shall take all reasonable measures to protect the secrecy of the Confidential Information and

shall take at least those measures that it takes to protect its own highly confidential information.

- d) Within five (5) business days upon request or at termination of this Agreement, the Contractor shall return to the Partnership all information provided to the Contractor by or on behalf of the Partnership or acquired by the Contractor in connection with the Work and any copies of the information, in any form whatsoever.
- e) The Contractor agrees that any violation or threatened violation of this Section 8 may cause irreparable injury to the Partnership, for which monetary damages alone would be inadequate. The Partnership shall be entitled to seek injunctive or other form of equitable relief in addition to all other remedies available at law or in equity without proof of actual damages and without posting any bond or other security.
- f) The obligations of the Contractor hereunder Section 8 shall survive indefinitely after any termination or expiration of this Agreement.

9. Conflict of Interest and Government Contracting

- a) The Contractor represents and warrants that the Contractor has no interest in the business of any third party that would cause a conflict of interest or seem to cause a conflict of interest in carrying out the Work. Should such an interest be acquired during the Term, the Contractor shall declare it immediately to the Partnership.
- b) It is a term of this Agreement that no individual who is subject to the provisions of the *Conflict of Interest Act*, the *Conflict of Interest Code for Members of the House of Commons*, the *Conflict of Interest Code for Senators*, the *Conflict of Interest and Post-Employment Code for Public Office Holders*, the *Values and Ethics Code for Health Canada*, the *Values and Ethics Code for the Public Sector* or any other values and ethics codes applicable within provincial or territorial governments or specific organizations shall derive a direct benefit resulting from this Agreement unless the provision or receipt of such benefit is in compliance with such legislation and codes.
- c) The Contractor represents and warrants that the Contractor, and the Contractor's officers, agents and employees, are not prohibited under subsection 750(3) of the Criminal Code from benefiting from a government contract.
- d) The Contractor represents, warrants and covenants 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 the Partnership or to a member of the family of such a person with a view to influencing the entry into this Agreement or the administration of this Agreement.
- e) The Contractor acknowledges and agrees that the Partnership will provide the Minister with access to this Agreement.

10. Relationship of the Parties

Nothing contained in this Agreement creates or shall be construed to create a relationship of principal-agent, employer-employee, partnership or joint venture between the Parties. The Contractor shall not represent itself (including in any agreement with any third party) as the agent, employee or partner of the Partnership or in a manner that could lead a member of the public to believe that the Contractor is an agent, employee or partner of the Partnership. The Contractor shall be solely responsible for any and all deductions and payments required to be made from or to employees, including those required for Canada or Quebec pension plans, employment insurance, worker's compensation and income tax.

11. Dispute Resolution

If the Parties have a dispute relating to any matter subject to this Agreement, the Parties shall deal with that dispute through court action.

12. Entire Agreement

The Agreement, including its schedules, constitutes the entire Agreement between the Parties with respect to its subject matter and supersedes all previous agreements, understandings, negotiations and discussions, both oral and written, between the Parties unless they are incorporated by reference in this Agreement. All amendments to this Agreement are to be made in writing and signed by the Parties.

13. Further Assurances

The Contractor shall do, execute and deliver, or cause to be done, executed and delivered, all such further assignments, documents, instruments, transfers, acts, deeds, matters, assurances and things as, from time to time, may be reasonably necessary or desirable to give effect to this Agreement.

14. Indemnification

- a) The Contractor shall indemnify and save harmless the Partnership and its directors, officers, employees, agents, successors and assigns from and against all claims, losses, damages, costs, expenses, including solicitor/client fees, administrative fees and disbursements, causes of action, actions and other proceedings ("Claims"), made, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner based upon, occasioned by, or attributable to, any environmental effect, injury to or death of a person or damage to or loss of property, arising directly or indirectly from any act, omission or delay on the part of the Contractor or the Contractor's employees or agents in performing the Work or as a result of the Work, and any liens, attachments, charges or other encumbrances or claims upon or in respect of any materials, parts, work-in-process or finished work

furnished to, or in respect of which any payment has been made by the Partnership and for the use of an invention claimed in a patent, or infringement or alleged infringement of any patent or any registered industrial design or any copyright or trade secret resulting from the performance of the Contractor's obligations under this Agreement, and in respect of the use of or disposal by the Partnership of anything furnished pursuant to this Agreement, except that the Partnership will not claim indemnification under this section to the extent that the injury, loss or damage has been caused by the Partnership or its employees or agents.

- b) The Contractor's obligation of indemnity or reimbursement of the Partnership under this Agreement shall not affect or prejudice the Partnership from exercising any other rights it has under law.
- c) To the extent that any third party, in reliance upon representations made by the Contractor, considers the Contractor to be an agent or employee of the Partnership, the Contractor shall indemnify and save harmless the Partnership for any Claims occasioned thereby by such third party.
- d) The Contractor shall protect itself, through an appropriate policy of insurance, against any liability resulting from anything done or omitted to be done by the Contractor in carrying out the Work under this Agreement, for such coverage limits as a reasonably prudent party carrying out the same or similar activities might obtain.

15. Injury on Duty

The Partnership shall assume no liability for injury on duty while the Contractor is performing tasks related to this Agreement except to the extent caused by or due to the Partnership. It is the Contractor's responsibility to ensure that proper insurance coverage is in place prior to the commencement of the Work.

16. Inspection of the Work

- a) The Work and any and all parts thereof shall be subject to such inspection as the Partnership determines to be appropriate, consistent with the relevant provisions of this Agreement, if any, prior to acceptance. The Partnership or its representatives, shall have access to the Work at any time during working hours at any site where any part of the Work is being carried out and may make examinations and such tests of the Work as they may think fit. Should the Work or any part thereof not be in accordance with the requirements of the Agreement, the Partnership shall have the right to reject the Work and require its correction or replacement at the Contractor's expense. The Partnership shall inform the Contractor of the reasons for any such rejection.
- b) The Contractor shall provide all assistance and facilities, test pieces, samples and documentation that the Partnership may reasonably require for the carrying out of

any such inspection, and the Contractor shall forward such test pieces and samples to such person or location as the Partnership may direct. Inspection by the Partnership shall not relieve the Contractor from responsibility to meet the requirements of this Agreement.

- c) No part of the Work shall be submitted for acceptance or delivery until it has been inspected and approved by the Contractor and, wherever practicable, marked with an approval stamp satisfactory to the Partnership. The Contractor shall keep accurate and complete inspection records which shall, upon request, be made available to the Partnership, which may make copies thereof and take extracts therefrom during the performance of this Agreement and for any period of time thereafter provided for in this Agreement.

17. Intellectual Property

- a) Contractor acknowledges and agrees that the Materials belong exclusively to the Partnership. Contractor agrees to deliver the Materials, plus any copies, extracts and summaries thereof, within five (5) business days to the Partnership upon the termination of this Agreement for any reason whatsoever, or upon request by the Partnership.
- b) The Contractor shall ensure that materials submitted to the Partnership under this Agreement do not infringe on any third-party intellectual property rights and bear the appropriate copyright notice and attribution to the author(s).
- c) Intellectual property developed for this Agreement shall vest in and be owned by the Partnership.
- d) The Partnership shall have a nonexclusive royalty-free sub-licensable right to use any other intellectual property of the Contractor required to use the intellectual property developed for this Agreement.

18. Invoicing

- a) The Contractor shall submit invoice(s) on its own forms to the Partnership, which shall include the following information:
 - i. Contractor name and address;
 - ii. Number assigned by the Partnership, if any, to this Agreement;
 - iii. Contractor's Invoice Number and Date;
 - iv. Name of the individual at the Partnership supervising this Agreement;
 - v. Period in which services were rendered;
 - vi. Deliverables and/or milestones completed and attached (when applicable); and
 - vii. Total amount for services rendered, HST shown separately.
- b) The invoice submitted by the Contractor should include a description of the Work performed, and the time worked. The Contractor will submit invoices on a monthly basis or any other basis as indicated in this Agreement.

19. Policy Compliance

The Contractor shall cause its staff and subcontractors to comply with the Partnership's Privacy and Security policies when dealing with confidential or personal information residing or transiting through the Partnership's systems or facilities. The Partnership's Privacy and Security Framework can be found at the following link:
<https://www.partnershipagainstcancer.ca/wp-content/uploads/2020/10/5.-Privacy-and-Security-Framework-EN.pdf>

20. Language

The parties confirm it is their wish that this Agreement be drawn up in the English Language. Les parties confirment qu'ils souhaitent que le présent accord soit rédigé en anglais.

21. Governing Laws

The Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein. The Parties shall submit to the jurisdiction of the courts sitting in Toronto, Ontario.

22. Minimum Information in this Agreement

This Agreement shall include the following minimum information:

- a) a description of the Work, a budget, the Amount to be paid and clear expectations as to the results expected through carrying out the Work;
- b) the effective date, the date of signing and the term of this Agreement;
- c) conditions that must be met before payment is made and the schedule and basis of payment; and
- d) the maximum amount payable.

If at any time it is discovered that this Agreement does not contain all or any part of the minimum information required, the Parties shall use their best efforts in good faith to amend this Agreement to include the information that is missing.

23. Notices

Where in this Agreement any notice, demand, request, direction or other communication is required to be given or made by a Party, it shall be in writing and is effective if sent by any means, including electronic means, addressed to the Party for whom it is intended at the address mentioned in this Agreement, and any such communication shall be deemed to have been received if by registered mail, when the postal receipt is acknowledged by the Party, if by electronic means, one business day after having been sent and if by mail, five

business days after being mailed. The address of a Party may be changed by notice in the manner set out in this provision.

24. Payment

- a) Payments under this Agreement shall be conditional upon performance, completion and delivery of the Work, or any part of the Work, to the satisfaction of the Partnership, and upon submission of an invoice satisfactory to the Partnership.
- b) Subject to the section "Invoicing", payment by the Partnership for the Work shall be made within sixty (60) days of receipt of an invoice requesting payment.
- c) If the Partnership has any reasonable objection whatsoever to an invoice, the supporting documentation or the performance of this Agreement by the Contractor, then the Partnership shall, within fifteen (15) days of receipt of the invoice or as quickly as reasonably possible, notify the Contractor of the nature of the objection.
- d) Notwithstanding any other provision of this Agreement, no payment shall be made to the Contractor unless and until, with respect to all parts of the Work in respect of which payment is claimed, the Contractor, where required to do so, establishes to the satisfaction of the Partnership that such parts of the Work will be free from all claims, liens, attachments, charges or encumbrances.

25. Powers of the Partnership

Every right, remedy, power and discretion vested in or acquired by the Partnership under this Agreement or by law shall be cumulative and non-exclusive.

26. Compliance with AODA legislation

The Contractor shall cause its staff to strictly observe any disabled person's right to accessibility as outlined in the Accessibility for Ontarians with Disabilities Act, 2005 ("AODA") and shall comply with all applicable accessibility standards under the AODA and its regulations while carrying out its obligations under this Agreement. If requested by the Partnership, the Contractor shall provide evidence of the policies, procedures and training practices that it has implemented in order to comply with the requirements of the AODA and its regulations.

27. Proactive Disclosure

- a) Information contained in this Agreement in relation to the following data elements: Contractor name, reference number, Agreement date, description of Work, Agreement period or delivery date, and Agreement value, may be posted on the Partnership's website. Information that would normally be withheld under the *Access to Information Act* and *Privacy Act* will not appear on the website.
- b) This "public disclosure" is intended to ensure that Agreement information is collected and presented

consistently in a manner that promotes transparency and facilitates public access.

28. Severability

If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the remaining terms or provisions of this Agreement.

29. Status and Replacement of Personnel

- a) If at any time during the Term the Contractor is unable to provide the services of any person who was to perform the Work, it shall immediately advise the Partnership and provide a replacement person with similar qualifications and experience.
- b) The Partnership may reject any such replacement person and the Contractor shall immediately remove the person from the Work and shall secure a further replacement.
- c) The fact that the Partnership does not order the removal of a replacement person from the Work shall not relieve the Contractor from its responsibility to meet the requirements of the Agreement.

30. Subcontracting

- a) Unless otherwise provided in this Agreement, the Contractor shall obtain the consent of the Partnership in writing prior to subcontracting or permitting the subcontracting of any portion of the Work at any time. The Partnership shall not unreasonably withhold consent.
- b) The Contractor is not obliged to seek consent to subcontracts specifically authorized in this Agreement.
- c) Any consent to a subcontract shall not relieve the Contractor from its obligations under this Agreement or be construed as authorizing any liability on the part of the Partnership to a subcontractor.

31. Survival

All obligations of the Contractor shall expressly, or by their nature, survive expiry or termination of this Agreement until, and unless, they are fulfilled, or by their nature expire.

32. Termination Due to Default

- a) The Partnership may, by notice to the Contractor, terminate this Agreement if:
 - i. the Contractor becomes insolvent or commits an act of bankruptcy, makes an assignment for the benefit of creditors or takes the benefit of any statute relating to bankrupt or insolvent debtors, goes into receivership or bankruptcy, ceases to carry on business, or is wound up or dissolved;
 - ii. the Contract has made materially false or misleading representations or statements, or provided materially false or misleading information to the Partnership on any matter related to this Agreement, other than in

good faith (the Contractor shall demonstrate good faith);

- iii. the Contractor fails to perform or comply with any term, condition or obligation under this Agreement; or
 - iv. in the opinion of the Partnership, the Contractor fails to proceed diligently with the Work so as to jeopardize performance of this Agreement in accordance with its terms.
- b) If the Partnership terminates this Agreement under subsection a), the Partnership may arrange, upon such terms and conditions and in such manner as the Partnership deems appropriate, for the Work to be completed that was so terminated, and the Contractor shall be liable to the Partnership for any excess costs relating to the completion of the Work.
 - c) Upon termination of this Agreement under subsection a), the Partnership may require the Contractor to deliver and transfer title to the Partnership, in the manner and to the extent directed by the Partnership, any finished work that has not been delivered and accepted prior to such termination and any materials or work-in-process that the Contractor has specifically acquired or produced for the fulfillment of the Agreement. The Partnership shall pay the Contractor for all finished work delivered pursuant to such direction and accepted by the Partnership, the cost to the Contractor of such finished work plus the proportionate part of any fee fixed by this Agreement and shall pay or reimburse the Contractor the fair and reasonable cost to the Contractor of all materials or work-in-process delivered to the Partnership pursuant to such direction. The Partnership may withhold from the amounts due to the Contractor such sums as the Partnership determines to be necessary to protect the Partnership against excess costs for the completion of the Work. Such termination shall not impact the intellectual property rights available from Contractor under section 17 as in existence to the date of termination.
 - d) The Contractor shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the Contractor under this Agreement, exceeds the Amount applicable to the Work or the particular part thereof.
 - e) If, after the Partnership issues a notice of termination under subsection a), it is determined by the Partnership that the default of the Contractor is due to causes beyond the control of the Contractor, such notice of termination shall be deemed to have been issued pursuant to the section entitled "termination or Suspension Without Cause" and the rights and obligations of the Parties shall be governed by that section.

33. Termination or Suspension Without Cause

- a) The Partnership may, by giving notice to the Contractor, terminate or suspend the Work with respect to all or any part or parts of the Work not completed. The Contractor

shall proceed to complete parts of the Work not affected by the termination notice. Additional notices for different parts of the Agreement may be given subsequently.

- b) All Work completed by the Contractor to the satisfaction of the Partnership based on the provisions of this Agreement before the giving of such notice shall be paid for by the Partnership in accordance with the provisions of this Agreement.
- c) All Work not completed by the Contractor to the satisfaction of the Partnership based on the provisions of this Agreement before the giving of such notice shall be paid for by the Partnership to the Contractor on the following terms:
 - i. the amount of any capital expenditures actually incurred only if they were specifically authorized under the Agreement or approved in writing by the Partnership for the purpose of the Agreement, less any depreciation in respect thereof already taken into account in determining cost, to the extent that the capital expenditures are properly apportionable to the performance of this Agreement;
 - ii. all costs of and incidental to the termination of this Agreement, including the cost of cancellation of obligations incurred by the Contractor with respect to the terminated Work or part thereof; but not including the cost of severance payments or damages to employees whose services are no longer required by reason of the termination.
- d) Payment and reimbursement under the provisions of this section shall be made only to the extent that it is established to the satisfaction of the Partnership that the costs and expenses were actually incurred by the Contractor and that the same are fair and reasonable and are properly attributable to the termination or suspension of the Work or the part thereof so terminated.
- e) The Contractor shall not be entitled to be reimbursed any amount which, taken together with any Amounts paid or becoming due to the Contractor under this Agreement, exceeds the Amount applicable to the Work or the particular part thereof.
- f) The Contractor shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of or directly or indirectly arising out of any action taken or notice given by the Partnership under the provisions of this section except as expressly provided therein.

34. Time of the Essence

- a) Time is of the essence of this Agreement.
- b) Any delay by the Contractor in performing the Contractor's obligations under this Agreement which is caused by an event beyond the control of the Contractor, and which could not have been foreseen and could not have been avoided by the Contractor by means reasonably available to the Contractor, constitutes an

excusable delay. Events may include, but are not restricted to: acts of God, acts of Her Majesty, acts of local or provincial governments, fires, floods, epidemics, quarantine restrictions, strikes or labour unrest, freight embargoes and unusually severe weather.

- c) The Contractor shall give notice to the Partnership immediately after the occurrence of the event that causes the excusable delay. When requested to do so by the Partnership, the Contractor shall deliver a description in a form satisfactory to the Partnership, of work-around plans including alternative sources and any other means that the Contractor will utilize to overcome the delay and endeavour to prevent any further delay. Upon approval in writing by the Partnership of the work-around plans, the Contractor shall implement the work-around plans and use all reasonable means to recover any time lost as a result of the excusable delay. Any additional costs caused by the delay shall be supported by the Contractor.
- d) Notwithstanding that the Contractor has complied with the requirements of this section, the Partnership may exercise any right of termination contained in the section entitled "Termination or Suspension Without Cause".

35. Waivers

The fact that the Partnership refrains from exercising a remedy or right that it is entitled to exercise under this Agreement shall not be considered to be a waiver of such remedy or right and, furthermore, partial or limited exercise of a remedy or right conferred on the Partnership shall not prevent it in any way from later exercising any other remedy or right under this Agreement or applicable law, unless the Partnership waives such remedy or right in writing.

36. Warranty

- a) Notwithstanding inspection and acceptance of the Work by or on behalf of the Partnership and without restricting any other provision of this Agreement or any condition, warranty or provision implied or imposed by law, the Contractor warrants that, for a period of 12 months from the date of delivery, or if acceptance takes place on a later date, the date of acceptance, the Work shall be free from all defects in design, materials or workmanship, and shall conform with the requirements of this Agreement, provided that with respect to property provided by the Partnership, the Contractor's warranty shall extend only to its proper incorporation into the Work. In addition, the Contractor has the obligation to respect any other warranty provided for by law.
- b) In the event of a defect or non-conformance in any part of the Work during the warranty period defined in subsection a) the Contractor, at the request of the Partnership to do so, shall as soon as possible repair, replace or otherwise make good at its own option and

expense the part of the Work found to be defective or not in conformance with the requirements of this Agreement.

37. Counterparts

This Agreement may be signed in counterparts and each counterpart shall constitute an original document and all counterparts taken together shall constitute one and the same Agreement.