



**A Model of Cooperation**

**Request for Proposals  
For  
Maintenance, Repair, and Operations (MRO)**

Request for Proposals Number: **2017- 003**

Issued: **June 15, 2017**

Submission Date: **July 15, 2017, 4:00 PM ADT**

**Registration is required with contact person as noted in 1.1  
You must register by providing your name, company name, telephone number, and email  
address**

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## **PART 1 – INTRODUCTION**

### **1.1 Invitation to Proponents**

This Request for Proposals (“RFP”) is an invitation by Interuniversity Services Inc. (“ISI”) to prospective Proponents to submit proposals for the provision of **MRO**, as further described in Part 2 – The Deliverables (the “Deliverables”).

Interuniversity Services Inc. (ISI) is a not-for-profit company incorporated in 1984 by four independent universities. ISI currently provides selected central administrative services to eighteen member institutions in Nova Scotia, New Brunswick, Prince Edward Island, and Newfoundland/Labrador, thus reducing their overall operating costs, improving services, and providing a framework for cooperation among the membership, while maintaining their independence.

In addition, ISI shares office resources with, and provides administrative support to Novanet Inc., Higher-Ed IT Shared Services (“HISS”) and Nova Scotia Council on Admission & Transfer (“NSCAT”).

For the purposes of this procurement process, the “ISI Contact” shall be: **David Davidson – Chief Executive Office** [david.davidson@interuniversity.ns.ca](mailto:david.davidson@interuniversity.ns.ca)

### **1.2 Type of Contract for Deliverables**

The term of the agreement is to be for a period of **three (3) years**, with an option of **two additional one - year periods at mutually agreeable terms and conditions**. It is anticipated that the agreement will commence on or **around January 4, 2018**.

Though the intent is to make a single award to one supplier per category, should a Proponent not be able to provide all listed products or substantial pricing gaps exist, ISI reserves the right to make **a partial / split award per category or my geographical region** in order to ensure appropriate product coverage is obtained.

The selected Proponent(s) will be requested to enter into negotiations for an agreement with ISI for the provision of the Deliverables in the form attached as Appendix E to the RFP. It is ISI’s intention to enter into the Form of Agreement based on that attached as Appendix A to the RFP with one (1) or more legal entitie(s).

### **1.3 No Guarantee of Volume of Work or Exclusivity of Contract**

ISI makes no guarantee of the value or volume of work to be assigned to the successful Proponent. The Agreement to be negotiated with the selected Proponent will not be an exclusive contract for the provision of the described Deliverables. ISI may contract with others for the same or similar Deliverables to those described in the RFP or may obtain the same or similar Deliverables internally.

### **1.4 Trade Agreements**

Proponents should note that procurements falling within the scope of Chapter 5 of the Agreement on Internal Trade and the Agreement on the Opening of Public Procurement for New Brunswick and Quebec are subject to those trade agreements, but that the rights and obligations of the parties shall be governed by the specific terms of each particular tender call. For further information on the Agreement on Internal Trade, please see the Internal Trade Secretariat website at [http://www.ait-aci.ca/index\\_en.htm](http://www.ait-aci.ca/index_en.htm).

## **PART 2 – THE DELIVERABLES**

### **2.1 Description of Deliverables**

The RFP is an invitation to submit offers for the provision of **MRO**, as further described in Appendix E – RFP Particulars – Section A. The Deliverables.

The electrical, lamp, plumbing, and building materials will be required on an “as and when needed basis” to the participating institutions. Orders will be shipped to and paid by each participating member institution.

The following is a list of ISI participating member institutions:

- Acadia University, Wolfville, NS
- Atlantic School of Theology, Halifax, NS
- Cape Breton University, Sydney, NS
- Dalhousie University, Halifax, NS and Faculty of Agriculture, Truro, NS
- Holland College, Charlottetown, PE
- Memorial University of Newfoundland, St. John’s, NL
- Mount Allison University, Sackville, NB
- Mount Saint Vincent University, Halifax, NS
- NSCAD University, Halifax, NS
- Nova Scotia Community College, Various locations throughout NS
- Saint Mary’s University, Halifax, NS
- St. Francis Xavier University, Antigonish, NS
- St. Thomas University, Fredericton, NB
- Université de Moncton, Moncton, NB
- Université Sainte-Anne, Church Point and Halifax, NS
- University of Kings College, Halifax, NS
- University of New Brunswick, Fredericton and Saint John, NB
- University of Prince Edward Island, Charlottetown, PE

Any one institution, any combination, or all of the above may be active participants in the ensuing agreement.

Member institutions may be added, or deleted, as requirements may change throughout the contract period.

Proponents are required to identify if they are prepared to extend the ensuing agreement to the MASH sector entities (meaning Municipal, Academic, School Boards and Hospitals) within the Atlantic Provinces. Proponents should be prepared to address a cost reduction as a result of the additional volume that could be attained by any additional participants.

### **2.2 Material Disclosures**

Proponents should refer to Appendix E – RFP Particulars – Section B. Material Disclosures.

Estimated 2016 purchase volume will be included in Appendix C – Price Bid Form.

These volumes are not guaranteed and may vary substantially due to changes in requirements.

Proponents should fully and properly address the requirements as outlined below in Section D – Rated Criteria.

The Proponents should be aware that the agreement that results from this RFP will be at the option of each member to take advantage of and an Adoption Agreement must be set up individually with each institution.

Award will be made to the Proponent whose proposal is deemed to be compliant and best meets the evaluation criteria and is determined to be the one most advantageous to the participating members. ISI reserves the right to select any part or the entire proposal submitted and reserves the right to reject any or all proposals and to negotiate with the successful supplier that best serves the interest of the participating members.

ISI reserves the right, in its sole discretion, to:

- Select the supplier best able to meet its requirements.
- Not necessarily select the supplier quoting the lowest price or the most favourable financial terms.
- Request clarification and / or further information, from one or more suppliers, after the closing date and time without incurring any obligation to offer the same opportunity to all suppliers.
- Enter into negotiations with one or more suppliers without being obligated to negotiate with or offer the same opportunity to all or any other suppliers.

#### **Volume Usage Reporting:**

The successful proponent will be responsible to provide volume reports reflecting the individual transactions of the institutions. These reports will be sent to ISI at six-month intervals: First the period January 1st through June 30th inclusive due August 15th and second the period of July 1st through December 31st due February 15th. The format shall be in an excel format transmitted electronically. Failure to do so may result in cancellation of the agreement.

#### **Sustainability:**

The proponent shall provide its company's stance in regards to sustainability. The Proponent should also advise its use of packaging and any recycling of same that is available.

#### **Key performance indicators:**

The ongoing measurement and reporting of key performance indicators are considered key success factors to the performance and ongoing evaluation of the contract management phase.

The Proponent shall define a sample semi-annual reporting process recommended for ISI members. The Proponent shall define the recommended key performance indicators that will be monitored to measure and to guide the ongoing success of the program. Proponents shall be aware that these reports will be provided to members at their request and may be tailored to their individual institution's needs.

The Proponent should provide information on their service related KPIs and their

performance management. The Proponent needs to specify which department/team is responsible for producing this type of KPI report and how they are going to deliver this report to ISI and participating members.

A comprehensive semi-annual report should include, but not limited to the following KPIs:

- 1.1 On-time delivery rate
- 1.2 Order fill rate (percentage of order filled complete on first shipment/total orders shipped)
- 1.3 Percentage of order accuracy
- 1.4 Invoice accuracy
- 1.5 Percentage of items on back order
- 1.6 Fill rate time for backordered items
- 1.7 Reported # of issues and the associated timelines to solve those issues
- 1.8 Sustainability initiatives

The Proponent can suggest other KPIs if not listed here.

## PART 3 – EVALUATION OF PROPOSALS

### 3.1. Timetable and Submission Instructions

Proponents should submit their proposals according to the following timetable and instructions.

#### 3.1.1 Timetable

Issue Date of RFP	<b>June 15<sup>th</sup>, 2017</b>
Deadline for Questions	<b>June 26<sup>nd</sup>, 2017 at 4:00 pm ADT</b>
Deadline for Issuing Addenda	<b>June 30<sup>th</sup>, 2017</b>
Submission Date	<b>July 15<sup>th</sup>, 2017 at 4:00 pm ADT</b>
Rectification Date	<b>July 25<sup>th</sup>, 2017 at 4:00 pm ADT</b>

The RFP timetable is tentative only, and may be changed by ISI at any time.

#### 3.1.2 Proposals Should Be Submitted in Prescribed Manner

Proponents must submit proposals to **Bonfire** (Online Tendering Portal) as described in Appendix F.

#### 3.1.3 Proposals Should Be Submitted on Time at Prescribed Location

Proposals should be submitted at the location set out above on or before the Submission Date. Proposals submitted after the Submission Date will be rejected.

In the case of unforeseen circumstances, a Proponent may contact the designated ISI Contact via email prior to the Submission Date with delivery details, including the anticipated arrival time of its proposal. In the event a proposal does not arrive as scheduled, ISI may provide those Proponents who have given such prior notice additional time to effect the delivery of their proposals. The Submission Date shall be deemed to be adjusted accordingly for the purpose of accepting those proposals.

#### 3.1.4 Withdrawing Proposals

At any time throughout the RFP process, a Proponent may withdraw a submitted proposal. To effect a withdrawal, a notice of withdrawal must be sent to the ISI Contact and must be signed by an authorized representative. ISI is under no obligation to return withdrawn proposals.

### 3.2 Stages of Proposal Evaluation

ISI will conduct the evaluation of proposals in the following three (3) stages:

#### 3.2.1 Stage I

Stage I will consist of a review to determine which proposals comply with all of the mandatory requirements. Proposals failing to satisfy the mandatory requirements as of the Submission Date will be provided an opportunity to rectify any deficiencies. Proposals failing to satisfy the mandatory requirements as of the Rectification Date will be excluded from further consideration.

#### 3.2.2 Stage II

Stage II will consist of a scoring by ISI of each qualified proposal on the basis of the rated criteria.

### **3.2.3 Stage III**

Stage III will consist of a scoring of the pricing submitted. The evaluation of price will be undertaken after the evaluation of mandatory requirements and any rated requirements has been completed.

## **3.3 Stage I – Mandatory Requirements, Submission and Rectification**

### **3.3.1 Submission and Rectification Date**

Other than inserting the information requested on the mandatory submission forms set out in the RFP, a Proponent may not make any changes to any of the forms. Proponents submitting proposals that do not meet the mandatory requirements will be provided an opportunity prior to the Rectification Date to rectify any deficiencies.

### **3.3.2 Submission Form (Appendix B)**

Each proposal must include a Submission Form (Appendix B) completed and signed by an authorized representative of the Proponent.

### **3.3.3 Price Bid Form (Appendix C)**

Each Proponent must include this form completed according to the instructions contained in the form as well as those instructions set out below:

- (a) rates shall be provided in Canadian funds, inclusive of all applicable duties and taxes except for sales taxes, which should be itemized separately; and
- (b) rates quoted by the Proponent shall be all-inclusive and shall include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery to ISI, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.

### **3.3.4 Reference Form (Appendix D)**

Each Proponent must complete the Reference Form (Appendix D) and include it with their proposal.

### **3.3.5 Rectification Date**

Proposals satisfying the mandatory requirements before the Rectification Date will proceed to Stage II. Proposals failing to satisfy the mandatory requirements will be excluded from further consideration.

## **3.4 Stage II – Evaluation of Rated Criteria**

Proponents should refer to Appendix E – RFP Particulars – Section D. Rated Criteria for a breakdown of the Rated Criteria.

## **3.5 Stage III – Evaluation of Pricing**

Proponents should refer to the Price Bid Form at Appendix C and Appendix E – RFP Particulars – Section E. Pricing.

## **3.6 Cumulative Score and Selection of Highest Scoring Proponent**

At the conclusion of Stage III, all scores from Stage II and Stage III will be added together and the highest ranked Proponent will be selected for negotiations in accordance with Part 4 – Terms and Conditions of the RFP process.



## **PART 4 – TERMS AND CONDITIONS OF THE RFP PROCESS**

### **4.1 General Information and Instructions**

#### **4.1.1 Proponents to Follow Instructions**

Proponents should structure their proposals in accordance with the instructions in the RFP. Where information is requested in the RFP, any response made in a proposal should reference the applicable section numbers of the RFP where that request was made.

#### **4.1.2 Proposals in English**

All proposals are to be in English.

#### **4.1.3 Institution's Information in RFP Only an Estimate**

ISI and its advisers make no representation, warranty or guarantee as to the accuracy of the information contained in the RFP or issued by way of addenda. Any quantities shown or data contained in the RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to Proponents the general size of the work. It is the Proponent's responsibility to avail itself of all the necessary information to prepare a proposal in response to the RFP.

#### **4.1.4 Proponents Shall Bear Their Own Costs**

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

### **4.2 Communication after Issuance of RFP**

#### **4.2.1 Proponents to Review RFP**

Proponents shall promptly examine all of the documents comprising the RFP, and

- (a) shall report any errors, omissions or ambiguities; and
- (b) may direct questions or seek additional information

in writing by email on or before the Proponent's Deadline for Questions to the ISI Contact. All questions submitted by Proponents by email to the ISI Contact shall be deemed to be received once the email has entered into the ISI Contact's email inbox. No such communications are to be directed to anyone other than the ISI Contact. ISI is under no obligation to provide additional information.

It is the responsibility of the Proponent to seek clarification from the ISI Contact on any matter it considers to be unclear. ISI shall not be responsible for any misunderstanding on the part of the Proponent concerning the RFP or its process.

#### **4.2.2 All New Information to Proponents by Way of Addenda**

The RFP may be amended only by an addendum in accordance with this section. If ISI, for any reason, determines that it is necessary to provide additional information relating to the RFP, such information will be communicated to all Proponents by addenda. Each addendum forms an integral part of the RFP.

Such addenda may contain important information, including significant changes to the RFP. Proponents are responsible for obtaining all addenda issued by ISI. It is the Proponent's

responsibility to check the ISI, NS or NB government websites for Addenda that may have been issued.

In the Submission Form (Appendix B), Proponents should confirm their receipt of all addenda by setting out the number of each addendum in the space provided.

#### **4.2.3 Post-Deadline Addenda and Extension of Submission Date**

If any addendum is issued after the Deadline for Issuing Addenda, ISI may at its discretion extend the Submission Date for a reasonable amount of time.

#### **4.2.4 Verify, Clarify and Supplement**

When evaluating responses, ISI may request further information from the Proponent or third parties in order to verify, clarify or supplement the information provided in the Proponent's proposal. ISI may revisit and re-evaluate the Proponent's response or ranking on the basis of any such information.

#### **4.2.5 No Incorporation by Reference**

The entire content of the Proponent's proposal should be submitted in a fixed form, and the content of websites or other external documents referred to in the Proponent's proposal will not be considered to form part of its proposal.

#### **4.2.6 Proposal to Be Retained by ISI**

ISI will not return the proposal or any accompanying documentation submitted by a Proponent.

### **4.3 Negotiations, Notification and Debriefing**

#### **4.3.1 Selection of Top-Ranked Proponent**

The top-ranked Proponent, as established under Part 3 – Evaluation of Proposals, will receive a written invitation to enter into direct contract negotiations with ISI.

#### **4.3.2 Timeframe for Negotiations**

ISI intends to conclude negotiations within thirty (30) days commencing from the date ISI invites the top-ranked Proponent to enter negotiations. A Proponent invited to enter into direct contract negotiations should therefore be prepared to provide requested information in a timely fashion and to conduct its negotiations expeditiously.

#### **4.3.3 Process Rules for Negotiations**

Any negotiations will be subject to the process rules contained in this Part 4 – Terms and Conditions of RFP Process and the Submission Form (Appendix B) and will not constitute a legally binding offer to enter into a contract on the part of ISI or the Proponent. Negotiations may include requests by ISI 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 ISI for improved pricing from the Proponent.

#### **4.3.4 Terms and Conditions**

The terms and conditions found in the *Form of Agreement (Appendix A)* are to form the starting point for negotiations between ISI and the selected Proponent(s).

In accordance with Appendix E Part C; *Other Mandatory Requirements*

*Each Proponent is required to outline their compliance with the Framework Agreement (Appendix A). Any modification or addition to the Terms and Conditions contained within Appendix A should be marked on the document and submitted with your response.*

#### **4.3.5 Failure to Enter Into Agreement**

Proponents should note that if the parties cannot execute a contract within the allotted thirty (30) days, ISI may invite the next-best-ranked Proponent to enter into negotiations. In accordance with the process rules in this Part 4 – Terms and Conditions of RFP Process and the Submission Form (Appendix B), there will be no legally binding relationship created with any Proponent prior to the execution of a written agreement. With a view to expediting contract formalization, at the midway point of the above-noted timeframe, ISI may elect to initiate concurrent negotiations with the next-best-ranked Proponent. Once the above-noted timeframe lapses, ISI may discontinue further negotiations with that particular Proponent. This process shall continue until a contract is formalized, until there are no more Proponents remaining that are eligible for negotiations or until ISI elects to cancel the RFP process.

#### **4.3.6 Notification to Other Proponents**

Other Proponents that may become eligible for contract negotiations will be so notified at the commencement of the negotiation process. Once a contract is executed between ISI and a Proponent, the other Proponents may be notified directly in writing and shall be notified by public posting in the same manner that the RFP was originally posted of the outcome of the procurement process and the award of the contract.

#### **4.3.7 Debriefing**

Proponents may request a debriefing after receipt of a notification of award. All requests must be in writing to the ISI Contact and must be made within thirty (30) days of notification of award. The intent of the debriefing information session is to aid the Proponent in presenting a better proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process or to discuss any of the other proposals submitted.

#### **4.3.8 Bid Protest Procedure**

If a Proponent wishes to challenge the outcome of the RFP process, it should provide written notice to ISI Contact within thirty (30) days of notification of award, and ISI will respond in accordance with its bid protest procedures.

### **4.4 Prohibited Communications and Confidential Information**

#### **4.4.1 Prohibited Proponent Communications**

The Proponent shall not engage in any Conflict of Interest communications and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix B). For the purposes of this Section, “Conflict of Interest” shall have the meaning ascribed to it in the Submission Form (Appendix B).

#### **4.4.2 Proponent Not to Communicate with Media**

A Proponent may not at any time directly or indirectly communicate with the media in relation to the RFP or any contract awarded pursuant to the RFP without first obtaining the written permission of the ISI Contact.

#### **4.4.3 Confidential Information of Institution**

All information provided by or obtained from ISI in any form in connection with the RFP either before or after the issuance of the RFP

- (a) is the sole property of ISI and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to the RFP and the performance of any subsequent Contract;
- (c) must not be disclosed without prior written authorization from ISI; and
- (d) shall be returned by the Proponents to ISI immediately upon the request of ISI.

#### **4.4.4 Confidential Information of Proponent**

A Proponent should identify any information in its proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by ISI. The confidentiality of such information will be maintained by ISI, except as otherwise required by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed on a confidential basis, to ISI's advisers retained for the purpose of evaluating or participating in the evaluation of their proposals. If a Proponent has any questions about the collection and use of personal information pursuant to the RFP, questions are to be submitted to the ISI Contact.

### **4.5 Procurement Process Non-binding**

#### **4.5.1 No Contract A and No Claims**

The procurement process is not intended to create and shall not create a formal legally binding bidding process and shall instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation: (a) the RFP shall 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 ISI shall have the right to make any breach of contract, tort or other claims against the other with respect to the award of a contract, failure to award a contract or failure to honour a response to the RFP.

#### **4.5.2 No Contract until Execution of Written Agreement**

The RFP process is intended to identify prospective vendors for the purposes of negotiating potential agreements. No legal relationship or obligation regarding the procurement of any good or service shall be created between the Proponent and ISI by the RFP process until the successful negotiation and execution of a written agreement for the acquisition of such goods and/or services.

#### **4.5.3 Non-binding Price Estimates**

While the pricing information provided in responses will be non-binding prior to the execution of a written agreement, such information will be assessed during the evaluation of the responses and the ranking of the Proponents. Any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact any such evaluation, ranking or contract award.

#### **4.5.4 Disqualification for Misrepresentation**

ISI may disqualify the Proponent or rescind a contract subsequently entered if the Proponent's response contains misrepresentations or any other inaccurate, misleading or incomplete information.

#### **4.5.5 References and Past Performance**

ISI's evaluation may include information provided by the Proponent's references and may also consider the Proponent's past performance on previous contracts with ISI or other institutions.

#### **4.5.6. Inappropriate Conduct**

ISI may prohibit a supplier from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process, and such inappropriate conduct shall include but not be limited to the following: (a) the submission of quotations containing misrepresentations or any other inaccurate, misleading or incomplete information; (b) the refusal of the supplier to honour its pricing or other commitments made in its proposal; or (c) any other conduct, situation or circumstance, as solely determined by ISI, which constitutes a Conflict of Interest. For the purposes of this Section, "Conflict of Interest" shall have the meaning ascribed to it in the Submission Form (Appendix B).

#### **4.5.7 Cancellation**

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

### **4.6 Governing Law and Interpretation**

#### **4.6.1 Governing Law**

The terms and conditions in this Part 4 – Terms and Conditions of RFP Process (a) are included for greater certainty and are intended to be interpreted broadly and separately (with no particular provision intended to limit the scope of any other provision); (b) are non-exhaustive (and shall not be construed as intending to limit the pre-existing rights of the parties to engage in pre-contractual discussions in accordance with the common law governing direct commercial negotiations); and (c) are to be governed by and construed in accordance with the laws of the province of Nova Scotia and the federal laws of Canada applicable therein.

# APPENDIX A – FORM OF AGREEMENT

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## FRAMEWORK AGREEMENT

**THIS FRAMEWORK AGREEMENT** (the "Agreement"), made in duplicate, for **[insert name of Deliverables]** is effective as of the **[\*\*insert start date for the Term\*\*]**

**BETWEEN:**

**INTERUNIVERSITY SERVICES INC.**  
(referred to as the "Coordinating Entity")

**on behalf of the purchasing institutions in its purchasing group**  
(each referred to in the singular as the "Purchaser")

**AND:**

**[\*LEGAL NAME OF SUPPLIER\*]**

(referred to as the "Supplier")

Whereas the Coordinating Entity has selected the Supplier to provide the Deliverables to Purchasers pursuant to Adoption Agreements that will set out the particulars of each specific assignment between each specific Purchaser and the Supplier, in consideration of their respective agreements set out below, the parties covenant and agree as follows:

### ARTICLE 1 – INTERPRETATION

#### 1.01 Defined Terms

When used in the Agreement, the following words or expressions have the following meanings:

**"Adoption Agreement"** is a sub-agreement entered into between the Supplier and each separate Purchaser for the provisions of Deliverables under the Contract;

**"Authority"** means any government authority, agency, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Contract; and **"Authorities"** means all such authorities, agencies, bodies and departments;

**"Coordinating Entity Address"** and **"Coordinating Entity Representative"** mean:

**Interuniversity Services Inc.**  
**84 Chain Lake Drive, Suite 402**  
**Halifax NS**  
**B3S 1A2**

**David Davidson**  
**Chief Executive Officer**

**"Business Day"** means any working day, Monday to Friday inclusive, but excluding statutory holidays and other days on which the Coordinating Entity or Purchaser has elected to be closed for business;

**"Conflict of Interest"** includes, but is not limited to, any situation or circumstance where (a) in relation to the procurement 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 the Supplier's Submission that is confidential to the Coordinating Entity or Purchaser and

not available to other Proponents; (ii) communicating with any person with a view to influencing preferred treatment in the procurement process; or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the open and competitive procurement process and render that process non-competitive and unfair; or (b) in relation to the performance of its contractual obligations, 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;

**“Contract”** means the aggregate of: (a) the Agreement, including Schedule 1 (Schedule of Deliverables, Rates and Supplementary Provisions) and Schedule 2 (Form of Adoption Agreement), and any other schedule attached at the time of execution; (b) the Solicitation Document under which the Supplier was selected by the Coordinating Entity, including any addenda; (c) the Supplier's Submission; (d) the Adoption Agreement entered into between the Purchaser and Supplier for each discrete assignment under the Contract; and (e) any amendments executed in accordance with the terms of the Contract;

**“Deliverables”** means everything developed for or provided to the Purchaser in the course of performing under the Contract or agreed to be provided to the Purchaser under the Contract by the Supplier or its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors, as further defined, but not limited by Schedule 1, including but not limited to any goods or services or any and all Intellectual Property and any and all concepts, techniques, ideas, information, documentation and other materials, however recorded, developed or provided;

**“Expiry Date”** means [\*insert date] or, if the original term is extended, the final date of the extended term;

**“FOIP”** means the access to information and protection of privacy statutes in effect in the provinces to which the Supplier provides the Deliverables to the Purchasers;

**“Indemnified Parties”** means the Purchaser and the Purchaser's directors, officers, agents, employees and volunteers as well as the Coordinating Entity and its directors, officers, agents, employees and volunteers;

**“Industry Standards”** include, but are not limited to (a) the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Contract or customarily furnished by Persons providing Deliverables of the type provided hereunder in similar situations in Canada and; (b) adherence to commonly accepted norms of ethical business practices, which shall include the Supplier establishing, and ensuring adherence to, precautions to prevent its employees or agents from providing or offering gifts or hospitality of greater than nominal value to any person acting on behalf of or employed by the Purchaser;

**“Intellectual Property”** means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including, without limitation, any intellectual, industrial or proprietary rights protected or protectable by legislation, by common law or at equity;

**“Newly Created Intellectual Property”** means any Intellectual Property created by the Supplier in the course of performance of its obligations under the Contract;

**“Person”** if the context allows, includes any individuals, persons, firms, partnerships or corporations or any combination thereof;

**“Personal Information”** means recorded information about an identifiable individual or that may identify an individual;

**“Purchaser Confidential Information”** means all information of the Purchaser that is of a confidential nature, including all confidential information in the custody or control of the Purchaser, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Supplier in connection with the Contract. For greater certainty, Purchaser Confidential Information shall: (a) include: (i) all new information derived at any time from any such information whether created by the Purchaser, the Supplier or any third-



party; (ii) all information (including Personal Information) that the Purchaser is obliged, or has the discretion, not to disclose under provincial or federal legislation or otherwise at law; but (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to the Purchaser or to any third-party; (ii) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (iii) the Supplier can demonstrate to have been rightfully known to or in the possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the Supplier; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law; and for greater certainty, Purchaser Confidential Information shall also include any confidential information of the Coordinating Entity;

**“Proceeding”** means any action, claim, demand, lawsuit, or other proceeding;

**“Rates”** means the applicable price, in Canadian funds, to be charged for the applicable Deliverables, as set out in the Contract, representing the full amount chargeable by the Supplier for the provision of the Deliverables, including but not limited to: (a) all applicable duties and taxes (except applicable sales tax, which should be itemized separately);, (b) all labour and material costs; (c) all travel and carriage costs; (d) all insurance costs; and (e) all other overhead including any fees or other charges required by law;

**“Record”**, for the purposes of the Contract, means any recorded information, including any Personal Information, in any form: (a) provided by the Purchaser or Coordinating Entity to the Supplier, or provided by the Supplier to the Purchaser, for the purposes of the Contract; or (b) created by the Supplier in the performance of the Contract;

**“Requirements of Law”** mean all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licenses, authorizations, directions, and agreements with all Authorities that now or at any time hereafter may be applicable to either the Contract or the Deliverables or any part of them;

**“Solicitation Document”** means the solicitation document dated [\*insert date\*] for [\*insert name of Solicitation Document\*], reference number [\*insert reference number\*] issued by the Purchaser for the Deliverables and any addenda to it;

**“Supplier Address”** and **“Supplier Representative”** mean:

**[\*\*insert Supplier’s mailing address \*\*]**  
**[\*\*insert name and title, telephone and email for Supplier representative, as well as same information for back-up person if available\*\*]**

**“Supplier’s Intellectual Property”** means Intellectual Property owned by the Supplier prior to its performance under the Contract or created by the Supplier during the Term of the Contract independently of the performance of its obligations under the Contract;

**“Supplier’s Submission”** means all the documentation submitted by the Supplier in response to the Solicitation Document;

**“Term”** means the period of time from the effective date first above written up to and including the earlier of: (i) the Expiry Date or (ii) the date of termination of the Contract in accordance with its terms;

**“Third-Party Intellectual Property”** means any Intellectual Property owned by a party other than the Purchaser or the Supplier;

## **ARTICLE 2 – GENERAL TERMS**

### **2.01 No Indemnities from the Purchaser or Coordinating Entity**

Notwithstanding anything else in the Contract, any express or implied reference to the Purchaser or Coordinating Entity providing an indemnity or any other form of indebtedness or contingent liability that would

directly or indirectly increase the indebtedness or contingent liabilities of the Purchaser or Coordinating Entity, whether at the time of execution of the Agreement or at any time during the Term, shall be void and of no legal effect.

**2.02 Entire Contract**

The Contract embodies the entire agreement between the parties with regard to the provision of Deliverables and supersedes any prior understanding or agreement, collateral, oral or otherwise with respect to the provision of the Deliverables, existing between the parties at the date of execution of the Agreement.

**2.03 Severability**

If any term or condition of the Contract, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the Contract, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

**2.04 Interpretive Value of Contract Documents**

In the event of a conflict or inconsistency in any provisions in the Contract: (a) the main body of the Agreement shall govern over the Schedules to the Agreement; (b) the Agreement (including its Schedules) shall govern over the Solicitation Document and the Supplier's Submission; (c) the Solicitation Document shall govern over the Supplier's Submission; and (d) the Adoption Agreement shall govern over all other documents.

**2.05 Force Majeure**

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

**2.06 Notices by Prescribed Means**

Notices relating to the Agreement shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery or email and shall be addressed to, respectively, the Coordinating Entity to the attention of the Coordinating Entity Representative and to the Supplier Address to the attention of the Supplier Representative. Notices shall be deemed to have been given: (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or (b) in the case of personal delivery or email one (1) Business Day after such notice is received by the other party. In the event of a postal disruption, notices must be given by personal delivery or email. Unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this paragraph. Notices pertaining to a discrete Adoption Agreement shall be made by the above-noted means and shall be communicated between the Supplier Representative and Purchaser Representative with a copy to the Coordinating Entity Representative.

**2.07 Governing Law**

The Contract shall be governed by and construed in accordance with the laws of the Province where the Deliverables are provided to the Purchaser and the federal laws of Canada applicable therein.

## ARTICLE 3 – NATURE OF RELATIONSHIP BETWEEN PURCHASER AND SUPPLIER

### 3.01 **Supplier's Power to Contract – Coordinating Entity Not the Purchaser**

The Supplier represents and warrants that it has the full right and power to enter into the Contract and there is no agreement with any other Person which would in any way interfere with the rights of the Coordinating Entity or Purchaser under this Contract. While the Coordinating Entity is entering into this Framework Agreement to facilitate a group purchasing arrangement, the execution of this Framework Agreement shall not in any way create any legal duties, obligations or liabilities on the part of the Coordinating Entity. Any contract for the sale of any Deliverables shall be between the Supplier and each discrete Purchaser in accordance with the terms of each specific Adoption Agreement. The Supplier and Purchaser acknowledge that the Coordinating Entity shall not be responsible for the payment of any Deliverables or for any liability arising out of the provision of the Deliverables or failure to provide any Deliverables. Purchasers using the Framework Agreement to purchase any Deliverables are responsible for performing their own due diligence to ensure the adequacy of the Deliverables and the suitability of the Supplier for their specific purposes.

### 3.02 **Representatives May Bind the Parties**

The parties represent that their respective representatives have the authority to legally bind them to the extent permissible by the Requirements of Law.

### 3.03 **Supplier Not a Partner, Agent or Employee**

The Supplier shall have no power or authority to bind the Coordinating Entity or Purchaser or to assume or create any obligation or responsibility, express or implied, on behalf of the Coordinating Entity or Purchaser. The Supplier shall not hold itself out as an agent, partner or employee of the Coordinating Entity or Purchaser. Nothing in the Contract shall have the effect of creating an employment, partnership or agency relationship between the Coordinating Entity or Purchaser and the Supplier (or any of the Supplier's directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors).

### 3.04 **Responsibility of Supplier**

The Supplier agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors. This paragraph is in addition to any and all of the Supplier's liabilities under the Contract and under the general application of law. The Supplier shall advise these individuals and entities of their obligations under the Contract and shall ensure their compliance with the applicable terms of the Contract. In addition to any other liabilities of the Supplier pursuant to the Contract or otherwise at law or in equity, the Supplier shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Contract resulting from the actions of the above mentioned individuals and entities. This paragraph shall survive the termination or expiry of this Contract.

### 3.05 **No Subcontracting or Assignment**

The Supplier shall not subcontract or assign the whole or any part of the Contract (or any particular Adoption Agreement) or any monies due under it without the prior written consent of the Coordinating Entity and of each Purchaser that has entered into an Adoption Agreement that may be impacted by any such subcontract or assignment. Such consent shall be in the sole discretion of the Coordinating Entity and Purchaser and subject to the terms and conditions that may be imposed by the Coordinating Entity and Purchaser. Without limiting the generality of the conditions which the Coordinating Entity and Purchaser may require prior to consenting to the Supplier's use of a subcontractor, every contract entered into by the Supplier with a subcontractor shall adopt all of the terms and conditions of this Contract as far as applicable to those parts of the Deliverables provided by the subcontractor. Nothing contained in the Contract shall create a contractual relationship between any subcontractor or its directors, officers, employees, agents, partners, affiliates or volunteers and the Coordinating Entity or any Purchaser.

### 3.06 **Duty to Disclose Change of Control**

In the event that the Supplier undergoes a change in control the Supplier shall immediately disclose such change in control to the Coordinating Entity and Purchaser and shall comply with any terms and conditions subsequently prescribed by the Coordinating Entity and Purchaser resulting from the disclosure.

### 3.07 **Conflict of Interest**

The Supplier shall: (a) avoid any Conflict of Interest in the performance of its contractual obligations; (b) disclose to the Coordinating Entity and Purchaser without delay any actual or potential Conflict of Interest

that arises during the performance of its contractual obligations; and (c) comply with any requirements prescribed by the Coordinating Entity and Purchaser to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, the Coordinating Entity and Purchaser may immediately terminate the Contract upon giving notice to the Supplier where: (a) the Supplier fails to disclose an actual or potential Conflict of Interest; (b) the Supplier fails to comply with any requirements prescribed by the Coordinating Entity and Purchaser to resolve a Conflict of Interest; or (c) the Supplier's Conflict of Interest cannot be resolved. This paragraph shall survive the termination or expiry of the Contract.

**3.08 Contract Binding**

The Contract can be enforced by and is binding upon the parties and their successors, executors, administrators and their permitted assigns.

**ARTICLE 4 – PERFORMANCE BY SUPPLIER**

**4.01 Commencement of Performance**

The Supplier shall commence performance upon receipt of written instructions from the Purchaser pursuant to the terms set out in each specific Adoption Agreement.

**4.02 Deliverables Warranty**

The Supplier hereby represents and warrants that the Deliverables (i) shall be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations; and (ii) shall be free from defects in material, workmanship and design, suitable for the purposes intended, in compliance with all applicable specifications and free from liens or encumbrance on title; and furthermore that all Deliverables shall be provided in accordance with: (a) the Contract; (b) Industry Standards; and (c) Requirements of Law. If any of the Deliverables, in the opinion of the Purchaser, are inadequately provided or require corrections, the Supplier shall forthwith make the necessary corrections at its own expense as specified by the Purchaser in a rectification notice.

**4.03 Use and Access Restrictions**

The Supplier acknowledges that unless it obtains specific written preauthorization from the Purchaser, any access to or use of the Purchaser property, technology or information that is not necessary for the performance of its contractual obligations with the Purchaser is strictly prohibited. The Supplier further acknowledges that the Purchaser may monitor the Supplier to ensure compliance with this paragraph. This paragraph is in addition to and shall not limit any other obligation or restriction placed upon the Supplier.

**4.04 Notification by Supplier to the Purchaser**

During the Term, the Supplier shall advise the Coordinating Entity and Purchaser promptly of: (a) any contradictions, discrepancies or errors found or noted in the Contract; (b) supplementary details, instructions or directions that do not correspond with those contained in the Contract; and (c) any omissions or other faults that become evident and should be corrected in order to provide the Deliverables in accordance with the Contract and Requirements of Law.

**4.05 Failure to Enforce Not a Waiver**

Any failure by the Coordinating Entity and Purchaser to insist in one or more instances upon strict performance by the Supplier of any of the terms or conditions of the Contract shall not be construed as a waiver by the Coordinating Entity or Purchaser of the right to require strict performance of any such terms or conditions, and the obligations of the Supplier with respect to such performance shall continue in full force and effect.

**4.06 Changes By Written Amendment Only**

Any changes to the Contract shall be by written amendment signed by the parties. No changes shall be effective or shall be carried out in the absence of such an amendment. Any such written changes shall be included in the definition of Contract. For greater certainty, any changes pertaining to the Agreement shall be between the Coordinating Entity and the Supplier and any changes pertaining to a discrete Adoption Agreement shall be as between the specific Purchaser and the Supplier.

4.07 **Supplier to Comply With Reasonable Change Requests**

The Coordinating Entity or Purchaser may, in writing, request changes to the Contract, which may include altering, adding to, or deleting any of the Deliverables. The Supplier shall comply with all reasonable Coordinating Entity or Purchaser change requests and the performance of such request shall be in accordance with the terms and conditions of the Contract. If the Supplier is unable to comply with the change request, it shall promptly notify the Coordinating Entity or Purchaser and provide reasons for such non-compliance. In any event, any such change request shall not be effective until a written amendment reflecting the change has been executed by the parties.

4.08 **Pricing for Requested Changes**

Where a Purchaser change request includes an increase in the scope of the previously contemplated Deliverables under a particular Adoption Agreement, the Purchaser shall set out, in its change request, the proposed prices for the contemplated changes. Where the Rates in effect at the time of the change request (a) include pricing for the particular type of goods or services contemplated in the change request, the Supplier shall not unreasonably refuse to provide those goods or services at prices consistent with those Rates; or (b) are silent to the applicable price for the particular goods or services contemplated in the change request, the price shall be negotiated between the Purchaser and the Supplier within a reasonable period of time and in any event, such change request shall not become effective until a written amendment reflecting the change has been executed by the parties.

4.09 **Non-Exclusive Contract, Work Volumes**

The Supplier acknowledges that it is providing the Deliverables to each Purchaser on a non-exclusive basis. The Coordinating Entity and Purchaser makes no representation regarding the volume of goods and services required under the Contract. The Coordinating Entity and Purchaser reserve the right to contract with other parties for the same or similar goods and services as those provided by the Supplier and reserve the right to obtain the same or similar goods and services internally.

4.10 **Performance by Specified Individuals Only**

The Supplier agrees that to the extent that specific individuals are named in the Contract as being responsible for the provision of the Deliverables, only those individuals shall provide the Deliverables under the Contract. The Supplier shall not replace or substitute any of the individuals named in the Contract without the prior written approval of the Coordinating Entity (to the extent that the individuals are named in the Agreement or its Schedules) or of the Purchaser (where the individuals are named only in the discrete Adoption Agreement), which may not arbitrarily or unreasonably be withheld. Should the Supplier require the substitution or replacement of any of the individuals named in the Contract, it is understood and agreed that any proposed replacement must possess similar or greater qualifications than the individual named in the Contract. The Supplier shall not claim fees for any replacement individual greater than the Rates established under the Contract.

4.11 **Volume Usage Reporting**

The Supplier will be responsible for providing volume reports to the Coordinating Entity reflecting the individual transactions of the Purchasers. These reports should be sent to the Coordinating Entity at six-month intervals. Reports for the period January 1st through June 30th will be due August 15th of the same year and reports for the period of July 1st through December 31st will be due February 15th of the following year. The information shall be provided in an Excel format and shall be transmitted electronically. The failure to provide these reports shall constitute a substantial failure of performance and may result in the immediate termination of the Contract.

4.12 **Performance Reporting**

The Supplier will be responsible for providing Key Performance Indicator reports to the Coordinating Entity reflecting the Key Performance measures requested by the Coordinating Entity and agreed to by the Supplier. These reports should be sent to the Coordinating Entity at six-month intervals. Reports for the period January 1st through June 30th will be due August 15th of the same year and reports for the period of July 1st through December 31st will be due February 15th of the following year. More frequent reporting may be required during the implementation period or to address a specific performance objective. The failure to provide these reports shall constitute a substantial failure of performance and may result in the immediate termination of the Contract.

4.13 **Document Retention and Audit**

For seven (7) years after the Expiry Date or any date of termination of the Contract, the Supplier shall maintain all necessary records to substantiate (a) all charges and payments under the Contract and (b) that the Deliverables were provided in accordance with the Contract and with Requirements of Law. During the Term, and for seven (7) years after the Term, the Supplier shall permit and assist the Coordinating Entity and Purchaser in conducting audits of the operations of the Supplier to verify (a) and (b) above. The Coordinating Entity and Purchaser shall provide the Supplier with at least ten (10) Business Days prior notice of its requirement for such audit. The Supplier's obligations under this paragraph shall survive any termination or expiry of the Contract.

4.14 **Purchaser Rights and Remedies and Supplier Obligations Not Limited to Contract**

The express rights and remedies of the Coordinating Entity and Purchaser and obligations of the Supplier set out in the Contract are in addition to and shall not limit any other rights and remedies available to the Coordinating Entity and Purchaser or any other obligations of the Supplier at law or in equity.

**ARTICLE 5 – PAYMENT FOR PERFORMANCE**

5.01 **Payment According to Contract Rates**

The Purchaser shall, subject to the Supplier's compliance with the provisions of the Contract, pay the Supplier for the Deliverables provided at the Rates established under the Contract. For greater certainty, the Coordinating Entity shall not be responsible for the payment of any Deliverables under the Contract.

5.02 **Hold Back or Set Off**

The Purchaser may hold back payment or set off against payment if, in the opinion of the Purchaser acting reasonably, the Supplier has failed to comply with any requirements of the Contract under any Adoption Agreement.

5.03 **No Expenses or Additional Charges**

There shall be no other charges payable by the Purchaser under the Contract to the Supplier other than the Rates established under the Contract.

5.04 **Payment of Taxes and Duties**

Unless otherwise stated, the Supplier shall pay all applicable taxes, including excise taxes incurred by or on the Supplier's behalf with respect to the Contract.

5.05 **Withholding Tax**

The Purchaser shall withhold any applicable withholding tax from amounts due and owing to the Supplier under the Contract and shall remit it to the appropriate government in accordance with applicable tax laws. This paragraph shall survive any termination or expiry of the Contract.

5.06 **Interest on Late Payment**

If a payment is in arrears through no fault of the Supplier, the interest charged by the Supplier, if any, for any late payment shall not exceed the Bank of Canada's prime rate, in effect on the date that the payment went into arrears.

**ARTICLE 6 – CONFIDENTIALITY**

6.01 **Confidentiality and Promotion Restrictions**

Any publicity or publications related to the Contract shall be at the sole discretion of the Coordinating Entity and, to the extent that any such communication pertains to a particular Adoption Agreement, or to a specific Purchaser, the approval of the Purchasing Institution is required. The Coordinating Entity and the Purchasers may, at their sole discretion, acknowledge the Deliverables provided by the Supplier in any such publicity or publication. The Supplier shall not make use of its association with the Coordinating Entity or Purchasers without the prior written consent of those parties. Without limiting the generality of this paragraph, the Supplier shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has first obtained the express written authorization to do so by the Coordinating Entity and Purchasers.

6.02 **Purchaser Confidential Information**

During and following the Term, the Supplier shall: (a) keep all Purchaser Confidential Information confidential and secure; (b) limit the disclosure of Purchaser Confidential Information to only those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the Deliverables and who have been specifically authorized to have such disclosure; (c) not directly or indirectly disclose, destroy, exploit or use any Purchaser Confidential Information (except for the purpose of providing the Deliverables, or except if required by order of a court or tribunal), without first obtaining: (i) the written consent of the Purchaser and (ii) in respect of any Purchaser Confidential Information about any third-party, the written consent of such third-party; (d) provide Purchaser Confidential Information to the Purchaser on demand; and (e) return all Purchaser Confidential Information to the Purchaser before the end of the Term, with no copy or portion kept by the Supplier. For greater certainty, Purchaser Confidential Information is defined herein to include any confidential information of the Coordinating Entity that may come into the possession of the Supplier in its performance of the Contract.

6.03 **Restrictions on Copying**

The Supplier shall not copy any Purchaser Confidential Information, in whole or in part, unless copying is essential for the provision of the Deliverables. On each copy made by the Supplier, the Supplier must reproduce all notices which appear on the original.

6.04 **Injunctive and Other Relief**

The Supplier acknowledges that the breach of any provisions of this Article may cause irreparable harm to the Coordinating Entity and Purchasers or to any third-party to whom the Coordinating Entity and Purchasers owe a duty of confidence, and that the injury to the Coordinating Entity and Purchaser or to any third-party may be difficult to calculate and inadequately compensable in damages. The Supplier agrees that the Coordinating Entity and Purchasers are entitled to obtain injunctive relief (without proving any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this Article.

6.05 **Notice and Protective Order**

If the Supplier or any of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors become legally compelled to disclose any Purchaser Confidential Information, the Supplier will provide the Purchaser with prompt notice to that effect in order to allow the Purchaser to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall cooperate with the Purchaser and its legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Supplier will disclose only that portion of Purchaser Confidential Information which the Supplier is legally compelled to disclose, only to such person or persons to which the Supplier is legally compelled to disclose, and the Supplier shall provide notice to each such recipient (in co-operation with legal counsel for the Purchaser) that such Purchaser Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in the Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such Purchaser Confidential Information subject to those terms and conditions. For greater certainty, this protocol shall also apply to any confidential information of the Coordinating Entity, which shall be understood to fall within the meaning of Purchaser for the purposes of this paragraph and Article.

6.06 **FOIP Records and Compliance**

The Supplier and the Coordinating Entity and Purchaser acknowledge and agree that FOIP applies to and governs all Records and may require the disclosure of such Records to third parties. Furthermore, the Supplier agrees (a) to keep Records secure; (b) to provide Records to the Coordinating Entity or Purchaser within seven (7) calendar days of being directed to do so by the Coordinating Entity and Purchaser for any reason including an access request or privacy issue; (c) not to access any Personal Information unless the Coordinating Entity or Purchaser determines, in its sole discretion, that access is permitted under FOIP and is necessary in order to provide the Deliverables; (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the Coordinating Entity or Purchaser; (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the most appropriate products, tools, measures and procedures to do so; (f) to restrict access to Personal Information to those of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors who have a need to know it for the purpose of providing the

Deliverables and who have been specifically authorized by a Coordinating Entity or Purchaser representative to have such access for the purpose of providing the Deliverables; (g) to implement other specific security measures that in the reasonable opinion of the Coordinating Entity or Purchaser would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and (h) that any confidential information supplied to the Coordinating Entity or Purchaser may be disclosed by the Purchaser where it is obligated to do so under FOIP, by an order of a court or tribunal or pursuant to a legal proceeding and the provisions of this paragraph shall prevail over any inconsistent provisions in the Contract. For greater certainty, neither the Coordinating Entity nor the Purchasers may provide any authorizations under this paragraph for any information that is outside of their scope of control and responsibility. The Supplier shall ensure that it is obtaining all necessary permissions from the Coordinating Entity and from each Purchaser as may be required in each particular situation.

**6.07 Survival**

The provisions of this Article shall survive any termination or expiry of the Contract.

**ARTICLE 7 – INTELLECTUAL PROPERTY**

**7.01 Purchaser Intellectual Property**

The Supplier agrees that all Intellectual Property and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by the Coordinating Entity or Purchaser to the Supplier shall remain the sole property of the Coordinating Entity or Purchaser at all times.

**7.02 No Use of the Purchaser Insignia**

The Supplier shall not use any insignia or logo of the Coordinating Entity or Purchaser except where required to provide the Deliverables, and only if it has received the prior written permission of the Coordinating Entity or Purchaser to do so.

**7.03 Ownership of Intellectual Property**

The Purchaser shall be the sole owner of any Newly Created Intellectual Property. The Supplier irrevocably assigns to and in favour of the Purchaser and the Purchaser accepts every right, title and interest in and to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time and irrevocably waives in favour of the Purchaser all rights of integrity and other moral rights to all Newly Created Intellectual Property in the Deliverables, immediately following the creation thereof, for all time. To the extent that any of the Deliverables include, in whole or in part, the Supplier's Intellectual Property, the Supplier grants to the Purchaser a license to use that Supplier Intellectual Property in the manner contemplated in this Article, the total consideration for which shall be payment of the Rates to the Supplier by the Purchaser.

**7.04 Supplier's Grant of License**

For those parts of the Deliverables that are Supplier Intellectual Property, the Supplier grants to the Purchaser a perpetual, world-wide, non-exclusive, irrevocable, transferable, royalty free, fully paid up right and license: (a) to use, modify, reproduce and distribute, in any form, those Deliverables; and (b) to authorize other Persons, including agents, contractors or sub-contractors, to do any of the former on behalf of the Purchaser.

**7.05 No Restrictive Material in Deliverables**

The Supplier shall not incorporate into any Deliverables anything that would restrict the right of the Purchaser to modify, further develop or otherwise use the Deliverables in any way that the Purchaser deems necessary, or that would prevent the Purchaser from entering into any contract with any contractor other than the Supplier for the modification, further development of or other use of the Deliverables.

**7.06 Supplier Representation and Warranty Regarding Third-Party Intellectual Property**

The Supplier represents and warrants that the provision of the Deliverables shall not infringe or induce the infringement of any Third-Party Intellectual Property rights. The Supplier further represents and warrants that it has obtained assurances with respect to any Supplier Intellectual Property and Third-Party Intellectual Property that any rights of integrity or any other moral rights associated therewith have been waived.

**7.07 Survival**



The obligations contained in this Article shall survive the termination or expiry of the Contract.

## ARTICLE 8 – INDEMNITIES AND INSURANCE

### 8.01 Supplier Indemnity

The Supplier hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Supplier, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract. The Supplier further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization claimed or resulting from such Claims. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

### 8.02 Insurance

The Supplier hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Supplier would maintain including, but not limited to, the following:

- (a) commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than **\$5,000,000** per occurrence and including products and completed operations liability The policy is to include the following:
- the Purchaser and Coordinating Entity as additional named insureds with respect to liability arising in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract
  - contractual liability coverage
  - cross-liability and severability of interests clause
  - employers liability coverage
  - 30 day written notice of cancellation, termination or material change
  - tenants legal liability coverage (if applicable and with suitable sub-limits)
  - non-owned automobile coverage with blanket contractual coverage for hired automobiles

**[\*\*Note: Insert (b) only if warranted based on the type of work being performed\*\*]**

- (b) errors & omissions liability insurance, insuring liability for errors and omissions in the performance or failure to perform the services contemplated in the Contract, in the amount of not less than **[\*Insert amount\*]** per claim and in the annual aggregate.

### 8.03 Proof of Insurance

The Supplier shall, on request, provide the Coordinating Entity with proof of the insurance required by this Agreement in the form of valid certificates of insurance that reference this Agreement and confirm the required coverage, before the execution of the Agreement by the Coordinating Entity, and renewal replacements on or before the expiry of any such insurance. Upon the request of the Coordinating Entity or Purchaser, a copy of each insurance policy shall be made available to it. The Supplier shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Coordinating Entity, Purchasers and Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Deliverables.

## **ARTICLE 9 – TERMINATION, EXPIRY AND EXTENSION**

### **9.01 Immediate Termination of Contract**

The Coordinating Entity may immediately terminate the Contract upon giving notice to the Supplier where (a) the Supplier is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Supplier's insolvency; (b) the Supplier breaches any provision in Article 6 (Confidentiality) of the Agreement; (c) the Supplier breaches the Conflict of Interest paragraph in Article 3 (Nature of Relationship Between Purchaser and Supplier) of the Agreement; (d) the Supplier, prior to or after executing the Agreement, makes a material misrepresentation or omission or provides materially inaccurate information to the Coordinating Entity; (e) the Supplier undergoes a change in control which adversely affects the Supplier's ability to satisfy some or all of its obligations under the Contract; (f) the Supplier subcontracts for the provision of part or all of the Deliverables or assigns the Contract without first obtaining the written approval required under the Contract; or (g) the Supplier's acts or omissions constitute a substantial failure of performance and the above rights of termination are in addition to all other rights of termination available at law, or events of termination by operation of law. For greater certainty, the immediate termination rights shall be exercisable by the Coordinating Entity. Each Purchaser shall have the same immediate termination rights in relation to any Adoption Agreement entered into between that Purchaser and the Supplier.

### **9.02 Dispute Resolution by Rectification Notice**

Subject to the above paragraph, where the Supplier fails to comply with any of its obligations under the Contract, the Coordinating Entity or Purchaser (depending on the nature of the breach and whether it pertains to the main Agreement or a discrete Adoption Agreement) may issue a rectification notice to the Supplier setting out the manner and time-frame for rectification. Within seven (7) Business Days of receipt of that notice, the Supplier shall either: (a) comply with that rectification notice; or (b) provide a rectification plan satisfactory to the Coordinating Entity or specific Purchaser. If the Supplier fails to either comply with that rectification notice or provide a satisfactory rectification plan, the Coordinating Entity may immediately terminate the Contract or the specific Purchaser may immediately terminate the specific Adoption Agreement. Where the Supplier has been given a prior rectification notice, the same subsequent type of non-compliance by the Supplier shall allow for immediate termination of the Contract or Adoption Agreement.

### **9.03 Termination on Notice**

The Coordinating Entity may terminate the Contract, without cause, upon thirty (30) calendar days prior notice to the Supplier and a Purchaser may also terminate any Adoption Agreement upon thirty (30) calendar days prior notice to the Supplier.

### **9.04 Supplier's Obligations on Termination**

On termination of the Contract, the Supplier shall, in addition to its other obligations under the Contract and at law: (a) provide the Purchaser with any completed or partially completed Deliverables; (b) provide the Purchaser with a report detailing (i) the current state of the provision of Deliverables by the Supplier at the date of termination, and (ii) any other information requested by the Purchaser pertaining to the provision of the Deliverables and performance of the Contract; (c) execute such documentation as may be required by the Purchaser to give effect to the termination of the Contract; and (d) comply with any other instructions provided by the Purchaser or Coordinating Entity, including but not limited to instructions for facilitating the transfer of its obligations to another Person. This paragraph shall survive the termination of the Contract.

### **9.05 Supplier's Payment Upon Termination**

On termination of the Contract, the Purchaser shall only be responsible for the payment of the Deliverables provided under the Contract up to and including the effective date of any termination. Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Deliverables performed or money paid. In addition to its other rights of hold back or set off, the Purchaser may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

### **9.06 Termination in Addition to Other Rights**

The express rights of termination in the Contract are in addition to and shall in no way limit any rights or remedies of the Coordinating Entity or Purchaser under the Contract, at law or in equity.

9.07 **Expiry and Extension of Contract**

The Contract shall expire on the original Expiry Date, unless the Coordinating Entity exercises its option to extend the Contract, such extension to be upon the same terms (including the Rates in effect at the time of extension), conditions and covenants contained in the Contract, excepting the option to renew. The option shall be exercisable by the Coordinating Entity giving notice to the Supplier not less than thirty (30) days prior to the original Expiry Date. The notice shall set forth the precise duration of the extension.

**IN WITNESS WHEREOF** the parties hereto have executed the Agreement effective as of the date first above written.

**[Coordinating Entity's Full Legal Name]**

Signature:

Name:

Title:

Date of Signature:

**[Supplier]**

Signature:

Name:

Title:

Date of Signature:

I have authority to bind the Supplier.

**Schedule 1 - Schedule of Deliverables, Rates and Supplementary Provisions**

*[To be completed after selection of the successful respondent]*

**A. Description of Deliverables**

**B. Rates and Disbursements**

## Schedule 2 – Form of Adoption Agreement

### ADOPTION AGREEMENT

**THIS ADOPTION AGREEMENT** (the “Adoption Agreement”), made in duplicate, for **[insert name of Deliverables]** effective as of the **[\*\*insert start date for the Term\*\*]** is entered into pursuant to the **[\*\*insert details regarding specific Framework Agreement\*\*]** (“the Framework Agreement”)

#### **BETWEEN:**

**[INSERT FULL LEGAL NAME OF THE PURCHASING INSTITUTION]**

(referred to as the “Purchaser”)

#### **AND:**

**[\*LEGAL NAME OF SUPPLIER\*]**

(referred to as the “Supplier”)

#### **Article 1 – Performance and Payment**

The Supplier shall provide the Purchaser with the Deliverables defined under the Framework Agreement for the Rates established under the Framework Agreement, in accordance with the terms of the Contract, as further particularized below in Schedule 1 to the Adoption Agreement. The Supplier and Purchaser acknowledge that the Coordinating Entity, as defined in the Framework Agreement, shall not be responsible for the payment of any Deliverables or for any liability arising out of the provision of the Deliverables or failure to provide any Deliverables. Purchasers using the Framework Agreement to purchase any Deliverables are responsible for performing their own due diligence to ensure the adequacy of the Deliverables and suitability of the Supplier for their specific purposes.

#### **Article 2 – Representatives**

The Supplier Representative and Purchaser Representative, as defined below, shall represent the respective parties for the purposes of the Adoption Agreement:

“**Purchaser Address**” and “**Purchaser Representative**” mean:

**[\*\*insert Purchaser’s mailing address \*\*]**

**[\*\*insert name and title, telephone and facsimile number for Purchaser representative, as well as same information for back-up person if available\*\*]**

“**Supplier Address**” and “**Supplier Representative**” mean:

**[\*\*insert Supplier’s mailing address \*\*]**

**[\*\*insert name and title, telephone and facsimile number for Supplier representative, as well as same information for back-up person if available\*\*]**

#### **Article 3 – Other Provisions**

Unless otherwise set out by the parties below in Schedule 1 to the Adoption Agreement, all other terms and conditions shall be as established under the Framework Agreement and under the Contract as defined therein.

**[Purchasing Institution's Full Legal Name]**

Signature:

Name:

Title:

Date of Signature:

**[Supplier's Full Legal Name]**

Signature:

Name:

Title:

Date of Signature:

I have authority to bind the Supplier.

**Schedule 1 to the Adoption Agreement**

*[To be completed at the time of execution of each Adoption Agreement]*

- A. Description of Deliverables**
  
- B. Rates and Disbursements**

## APPENDIX B – SUBMISSION FORM

### 1. Proponent Information

Please fill out the following form, and name one person to be the contact for the RFP response and for any clarifications or amendments that might be necessary.	
Full Legal Name of Proponent:	<i>[enter your response here]</i>
Any Other Relevant Name under Which the Proponent Carries on Business:	<i>[enter your response here]</i>
Street Address:	<i>[enter your response here]</i>
City, Province/State:	<i>[enter your response here]</i>
Postal Code:	<i>[enter your response here]</i>
Phone Number:	<i>[enter your response here]</i>
Fax Number:	<i>[enter your response here]</i>
Company Website (If Any):	<i>[enter your response here]</i>
RFP Contact Person and Title:	<i>[enter your response here]</i>
RFP Contact Phone:	<i>[enter your response here]</i>
RFP Contact Facsimile:	<i>[enter your response here]</i>
RFP Contact E-mail:	<i>[enter your response here]</i>

### 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 that there will be no legal relationship or obligations created until ISI and the selected Proponent have executed a written contract.

### 3. Ability to Provide Deliverables

The Proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required under the RFP. The Proponent represents and warrants its ability to provide the Deliverables required under the RFP in accordance with the requirements of the RFP for the Rates set out in the Rate Bid Form and has provided a list of any subcontractors to be used to complete the proposed contract. The Proponent encloses herewith as part of the proposal the mandatory forms set out below:

Form	Initial to Acknowledge
Submission Form	
Rate Bid Form	
Reference Form	

Notice to Proponents: There may be forms required in the RFP other than those set out above. See the Mandatory Requirements section of the RFP for a complete listing of mandatory forms.

### 4. Non-binding Price Estimates

The Proponent has submitted its Rates in accordance with the instructions in the RFP and in the Rate Bid Form set out in Appendix C. The Proponent confirms that the pricing information provided is accurate. The

Proponent acknowledges that any inaccurate, misleading or incomplete information, including withdrawn or altered pricing, could adversely impact the acceptance of its quotation or its eligibility for future work.

**5. Addenda**

The Proponent is deemed to have read and accepted all addenda issued by ISI prior to the Deadline for Issuing Addenda. The onus remains on Proponents to make any necessary amendments to their proposal based on the addenda. The Proponent is requested to confirm that it has received all addenda by listing the addenda numbers or, if no addenda were issued, by writing the word “None” on the following line: \_\_\_\_\_ . Proponents who fail to complete this section will be deemed to have received all posted addenda.

It is the Proponent’s responsibility to check the ISI, NS or NB government websites for Addenda that may have been issued.

**6. Conflict of Interest**

For the purposes of this section, the term “Conflict of Interest” means

(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, confidential information of ISI in the preparation of its proposal that is not available to other Proponents, (ii) communicating with any person with a view to influencing preferred treatment in the RFP process (including but not limited to the lobbying of decision makers involved in the RFP process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the RFP process; or

(b) in relation to the performance of its contractual obligations contemplated in the contract that is the subject of this procurement, the Proponent’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 judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

If the box below is left blank, the Proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- 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.

If the Proponent declares an actual or potential Conflict of Interest by marking the box above, the Proponent must set out below details of the actual or potential Conflict of Interest:

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The following individuals, as employees, advisers, or in any other capacity (a) participated in the preparation of our proposal; **AND** (b) were employees of ISI and have ceased that employment within twelve (12) months prior to the Submission Date:

<b>Name of Individual:</b>
<b>Job Classification:</b>
<b>Department:</b>
<b>Last Date of Employment with ISI:</b>
<b>Name of Last Supervisor:</b>
<b>Brief Description of Individual's Job Functions:</b>
<b>Brief Description of Nature of Individual's Participation in the Preparation of the Proposal:</b>

**(Repeat above for each identified individual)**

The Proponent agrees that, upon request, the Proponent shall provide ISI with additional information from each individual identified above in the form prescribed by ISI.

**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 ISI to ISI's advisers retained for the purpose of evaluating or participating in the evaluation of this proposal.

_____ Signature of Witness	_____ Signature of Proponent Representative
_____ Name of Witness	_____ Name and Title
	Date:
	I have authority to bind the Proponent



## **APPENDIX C – PRICE BID FORM**

Please complete Appendix C as instructed below and refer to 3.3.3 on Page 8 for further instructions.

APPENDIX C includes the following specific requests for Proponents to complete:

A Proponent must complete this Price Bid Form (Appendix C) and include in its Proposal submission.

The Proponent should enter its name in the required cell and insert rates and information for the services being proposed.

Please refer to Appendix E – RFP Particulars Pricing Section (Page 39) for detailed explanation.

## APPENDIX D – REFERENCE FORM

Each Proponent is requested to provide **three (3)** references from clients who have obtained similar goods or services to those requested in the RFP from the Proponent in the last **five (5) years**. Please note that references should not include ISI member institutions.

### Reference #1

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

### Reference #2

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

### Reference #3

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

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Signature of Proponent Representative

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Name and Title

Date:

I have authority to bind the Proponent

## APPENDIX E – RFP PARTICULARS

### A. THE DELIVERABLES

#### Scope of RFP

Interuniversity Services Inc. (ISI), on behalf of its member institutions, is issuing this Request for Proposal (RFP) to submit proposals for the provision of **MRO**.

This RFP is to procure **MRO** for ISI participating members. A comprehensive list is included in Appendix C – Price Bid Form.

Though ISI's intent is to make a single award to one provider, should a service provider not be able to provide all listed products or substantial pricing gaps exist, ISI reserves the right to make a **partial / split award** to ensure appropriate coverage is obtained.

ISI is committed to forging stronger links with the supplier community. We believe these relationships will result in improved service and communication, enhanced opportunities for standardization, faster delivery, better inventory management, more efficient resource management, and more competitive pricing. The goal is to ensure appropriateness and quality while reducing operating costs for the participating members.

### B. MATERIAL DISCLOSURES

ISI members' 2016 annual volume is noted in **Appendix C – Price Bid Form**. These volumes are not guaranteed and may vary substantially due to changes in requirements.

Proponents should fully and properly address the requirements as outlined below in Appendix E – Rated Criteria.

The proponents should be aware that the agreement that results from the RFP will be at the option of each member to take advantage of and an Adoption Agreement must be set up individually with each institution.

Award will be made to the Proponent whose proposal is deemed to be compliant and best meets the evaluation criteria and is determined to be the one most advantageous to the participating members. ISI reserves the right to select any part or the entire proposal submitted and reserves the right to reject any or all proposals and to negotiate with the successful supplier that best serves the interest of the participating members.

ISI reserves the right, in its sole discretion, to:

- Select the supplier best able to meet its requirements.
- Not necessarily select the supplier quoting the lowest price or the most favourable financial terms.
- Request clarification and / or further information, from one or more suppliers, after the closing date and time without incurring any obligation to offer the same opportunity to all suppliers.
- Enter into negotiations with one or more suppliers without being obligated to negotiate with or offer the same opportunity to all or any other suppliers.

### C. OTHER MANDATORY REQUIREMENTS

1. Proposals must be submitted on time and in the prescribed manner as noted in 3.1.1 and 3.1.2, page 5.
2. Each Proponent must provide the following Mandatory Documents:
  - a. Each Proponent is required to outline their compliance with the Framework Agreement - **Appendix A** (must be in a **Word** format).

Any modification or addition to the Terms and Conditions contained within Appendix A should be marked on the document directly and submitted with your response.

If the Proponent agrees with the Framework Agreement, simply state at the top of Appendix A: "Read, understood, and have no additional comments."

ISI requests Proponents submit all legal documents which would require participating members' sign off for review. All other documents need to be binding to the Framework Agreement and any contradictory terms are not permitted. **If there are any legal documents which would require members' sign off, please attach them at the end of Appendix A.**

- b. A completed and signed **Appendix B** – Submission Form (must be in **PDF** format)
- c. A completed **Appendix C** – Price Bid Form (must be in **Excel** format).
- d. A completed and signed **Appendix D** – Reference Form (must be in **PDF** format)
- e. A complete, concise and detailed **Appendix E** – RFP Particulars (must be in **Word** format and not exceed the maximum pages specified in each section) **following the same structure and numbering system as outlined** in this RFP document. Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated.

## D. RATED CRITERIA

The following is an overview of the categories and weighting for the rated criteria of the RFP.

Rated Criteria Category	Weighting (Points)	Minimum
Section 1: Corporate Profile and Account Management	15	10
Section 2: Customer Service and Support	20	15
Section 3: Logistics	15	10
Section 4: Sustainability	10	5
Section 5: Implementation Plan	5	-
Section 6: Value Adds	5	-
Section 7 a): Price (Fixed Structure)	15	-
Section 7 b): Price (Discount Structure)	15	-
<b>Total Points</b>	<b>100</b>	<b>-</b>

### RFP Evaluation Criteria

1. **Corporate Profile and Account Management** (Please limit your response to **three** pages in font size 10; if the Proponent attaches any sample reports they will be counted as part of the page limitation. If your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee.)
  - 1.1. Detail the corporate qualifications and experience which will enable the Proponent to successfully provide the services and supplies defined in Appendix C – Price Bid Form. Provide a description of the goods and services the Proponent has previously and/or is currently delivering, with an emphasis on experience relevant to the Deliverables. Provide background information about your organization including office locations, activity volumes and capacity, and length of time your company has been in business.
  - 1.2. Define the proposed invoice management and billing programs available to participating members.
  - 1.3. Provide a detailed description of the Proponents' electronic capabilities, including email addresses, website information, on-line ordering, on-line catalogues, electronic invoicing, the ability to accept electronic payments, and any other electronic business capabilities.
  - 1.4. Define any third-party business partnerships that will be utilized to support this contract. Including call centres, logistics organizations, and service organizations, etc.
2. **Customer Service and Support** (Please limit your response to **three** pages in font size 10; if your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee.)
  - 2.1. Outline the proposed customer service support infrastructure for each participating member, including the identification of the key contact(s), regional manager and any sub-contractors. Define the roles and responsibilities of each member of the customer service team. Proponents shall provide an organization chart detailing this.
  - 2.2. Describe how your customer service representatives are qualified/trained to respond to questions regarding the contracted products.
  - 2.3. Members will have varying needs with regards to their relationship with Proponents' representatives. Propose the means and frequency with which you will interact with members, with the understanding this will be further defined during the implementation phase.

- 2.4. Outline work place training capabilities in using best products for best results. Indicate if these trainings are available at no extra charge and recommended frequency.
- 2.5. In addition to the Volume Reporting requirements as outlined in section 4.11 of the RFP document, the proponent shall define a sample semi-annual reporting process recommended for each participating member. The proponent shall define the recommended key performance indicators that will be monitored to measure and to guide the ongoing success of the program.

A comprehensive semi-annual report should include, but not limited to the following points:

- On-time delivery rate
- Order fill rate (percentage of orders filled complete on first shipment/total orders shipped)
- Percentage of order accuracy
- Invoice accuracy
- Percentage of items on back order
- Days required to fill back orders
- Reported # of issues and the associated timelines to solve those issues
- Sustainability initiatives

- 2.6. Provide a description of the Proponent's escalation processes demonstrating its capability to resolve issues in a timely manner. Issues include but not limited to the following:

- Failure to deliver the correct products;
- Failure to deliver according to agreed upon lead times;
- Failure to provide accurate invoicing;
- Failure to provide requested information; and
- Failure to respond to client requests.

Provide contact information for ordering, billing, credit, service and other complaints/issues

- 2.7. Outline return policy and policy on damaged and / or lost goods; specify supplier and customer's responsibility related to return charges.
- 2.8. Outline whether Proponents' customer service department is bilingual.
- 2.9. Outline the method by which new items and innovations are made available to members.
- 2.10. Proponents are to include information regarding their warranty on product purchases.
- 2.11. The successful Proponent shall work through ISI and the Member Institutions' Procurement Contact when there may be potential changes to the agreement that will impact the contract terms. Please confirm this requirement.

**3. Logistics** (Please limit your response to **2** pages in font size 10; if your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee.):

- 3.1. Outline how the proponent will provide the Deliverables, whether it will be via Company owned trucks or 3<sup>rd</sup> party. If by 3<sup>rd</sup> party, please name the Company and your relationship including length of time affiliated with them.
- 3.2. Specify if there are minimum order quantities. If there are minimum order quantities, please indicate shipping charges that may apply for orders below the minimum threshold.
- 3.3. The Proponents are expected to take financial responsibility for any additional costs associated with multiple shipments for a single order. If any additional costs apply, please identify them.
- 3.4. No fuel surcharges will be allowed.

- 4. Sustainability** (Please limit your response to **2** pages in font size 10; if your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee.)
- 4.1. The proponent shall provide its company's stance in regards to sustainability. Proponent shall also advise its use of packaging and any recycling of same that is available.
  - 4.2. The proponent shall outline any sustainability policies they have in place (scent free, recycling, etc.)
  - 4.3. The proponent shall outline programs currently in place that participants may access to enhance all sustainability attributes of the relationship.
  - 4.4. The proponent shall outline how the programs will be promoted to participants and how progress is monitored and reported.
- 5. Implementation Plan** (Please limit your response to **1** pages in font size 10; if your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee.)
- 5.1. Outline the proposed implementation plan. Please use specific details; it is encouraged that Proponents provide a sample implementation plan.
  - 5.2. Outline a recommended communication plan to support successful implementation.
  - 5.3. Outline the timeframe required to set up contract pricing and customer account information in the Proponent's system. The Proponent must establish unique customer/account identification numbers for use by each participating member.
- 6. Value Adds** (Please limit your response to **1** pages in font size 10; if your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee.)
- 6.1. Outline any proposed value adds or alternate services that may bring solutions and cost savings to members. Include any potential costs to members who may want to utilize such programs. Examples of such programs are Vendor Managed inventory, product vending machines, etc.
- 7. Price** (Please limit your response to **two** pages in font size 10; if your response is beyond the requested page limitation, the rest of the content may not be read / evaluated by the Evaluation Committee. **Note:** All prices should be quoted in Canadian dollars; F.O.B. destination; taxes are excluded.)
- 7.1. Proponents are asked to submit fixed pricing for the items identified in Appendix C. It is acceptable that products defined as commodities may have a shorted fixed pricing term. Proponents are asked to define the period that the pricing will remain firm. This assessment will constitute 15 points of the 30 points assigned to the pricing criterion. Please note that under the Plumbing category, all 30 points will be awarded to the price discount structure.
  - 7.2. Proponents are asked to submit a price discount structure that will apply to other products frequently acquired within this category. It is acceptable that this response may take the form of a discount off current list or published price. Proponents are asked to define where customers can access the current list or published (pre-discounted) price. It is acceptable that discounts may vary by manufacturer or sub-category as defined by the proponent. Proponents are asked to define the period that the proposed price structure (discount structure, if applicable) will remain in effect. ISI will assess the price competitiveness of this portion of the proponent's submission utilizing an "unknown" basket of goods. This assessment will constitute 15 points of

the 30 points assigned to the pricing criterion. Please note that under the Plumbing category, all 30 points will be awarded to the price discount structure.

**7.3. Foreign Currency Exchange Rate** - During the initial contract term (three years), and during any option periods that are exercised, and only for those products that are affected, the following provision shall be utilized. The parties agree that neither party should receive a benefit from differences arising from variations between foreign currency exchange rates for the currencies used for this Agreement starting from Effective Date (“Original Baseline Exchange Rate”). Any proposed price adjustments during the option periods shall be separate and distinct from any price changes due to currency exchange rates pursuant to this provision. Items that are affected by fluctuations in the exchange rate shall be indicated on Appendix C – Price Bid Form (column “Impacted by Foreign Exchange? (Y/N)”). The Bank of Canada Monthly average rate shall be the accepted data source. A price refresh will be requested by either party if the Federal Exchange close rate monthly average exceeds + or – 3% for a period of two (2) consecutive months as compared to the Base Rate. Any new pricing will be implemented with a new revised Base Rate and will not be applied retroactively. **Please confirm if the Proponents is in agreement with this request.**

**7.4. Optional Pricing Refresh** – after the initial contract term (three years) ISI or the Supplier may request a pricing review on all deliverables for the predetermined option period (three 1-year options) by providing a written notice a minimum of one hundred and twenty (120) days prior to the anniversary date of the Agreement. For the sake of clarity, this Section shall not apply to foreign currency exchange rate fluctuations which are addressed above. Any such request from a Supplier for a pricing refresh must be accompanied by appropriate documentation (e.g., market analysis, manufacturer’s letter of increases). As part of any review ISI will consider pricing adjustments that reflect changes in operations due to new or changed municipal, provincial, or federal regulations, by-laws, or ordinances. ISI will not consider any fixed costs or overhead adjustments in its review. Supplier performance (e.g., client retention, satisfaction, ethical business practices, marketing efforts and any commitments made during this RFP submission for which the Proponent was evaluated) received under the Agreement will be considered when contemplating a pricing refresh and exercising of option periods. If a pricing refresh is accepted by ISI, the Rates shall be in effect for the option period. If, however, the proposed prices are not accepted by ISI, the Agreement option period will not be exercised. Please confirm if the Proponent is in agreement with this request.

**7.5.** The successful Proponent will be expected to reduce their overall rates with increased participation and volume of services purchased. Proponent shall propose a discount structure based on participation and volume increases.

Though the intent is to make a single award to one supplier, should a Proponent not be able to provide all listed products or substantial pricing or service gaps exist, ISI reserves the right to make a **partial / split award** in order to ensure appropriate product coverage is obtained.

## **E. PRICING**



Proponents should review and complete the Price Bid Form at Appendix C.

**Pricing**

**Total Points**

**[\*\*X points\*\*]**

Pricing will be scored based on a relative pricing formula using the Prices set out in the Price Bid Form.

Each Proponent will receive a percentage of the total possible points allocated to price for the particular category it has bid on by dividing that Proponent's price for that category into the lowest bid price in that category. For example, if a Proponent bids \$120.00 for a particular category and that is the lowest bid price in that category, that Proponent receives 100% of the possible points for that category ( $120/120 = 100\%$ ). A Proponent who bids \$150.00 receives 80% of the possible points for that category ( $120/150 = 80\%$ ), and a Proponent who bids \$240.00 receives 50% of the possible points for that category ( $120/240 = 50\%$ ).

Lowest rate  
----- x Total available points = Score for proposal with second-lowest rate  
Second-lowest rate

Lowest rate  
----- x Total available points = Score for proposal with third-lowest rate  
Third-lowest rate

And so on, for each proposal

## APPENDIX F – BONFIRE SUBMISSIONS INSTRUCTIONS FOR SUPPLIERS

Please follow these instructions to submit via our Public Portal.

### 1. Prepare your submission materials:

#### Requested Information

Name	Type	# Files	Requirement
Appendix A	File Type: Word (.doc, .docx)	1	Required
Appendix B	File Type: PDF (.pdf)	1	Required
Appendix C	File Type: Excel (.xls, .xlsx)	1	Required
Appendix D	File Type: PDF (.pdf)	1	Required
Appendix E	File Type: Word (.doc, .docx)	1	Required

#### Requested Documents:

Please note the type and number of files allowed. The maximum upload file size is 100 MB.

Please do not embed any documents within your uploaded files, as they will not be accessible or evaluated.

### 2. Upload your submission at:

<https://interuniversity.bonfirehub.ca/opportunities/private/b3a8d68795bd4aa08478c5a4fc966ae2>

Your submission must be uploaded, submitted, and finalized prior to the Closing Time of **Jul 15, 2017 4:00 PM ADT**. We strongly recommend that you give yourself sufficient time and **at least ONE (1) day** before Closing Time to begin the uploading process and to finalize your submission.

#### Important Notes:

Each item of Requested Information will only be visible after the Closing Time.

Uploading large documents may take significant time, depending on the size of the file(s) and your Internet connection speed.

You will receive an email confirmation receipt with a unique confirmation number once you finalize your submission.

Minimum system requirements: Internet Explorer 8/9/10+, Google Chrome, or Mozilla Firefox. Javascript must be enabled. Browser cookies must be enabled.

### **Need Help?**

Interuniversity Services Inc uses a Bonfire portal for accepting and evaluating proposals digitally. Please contact Bonfire at [Support@GoBonfire.com](mailto:Support@GoBonfire.com) for technical questions related to your submission. You can also visit their help forum at <https://bonfirehub.zendesk.com/hc>