



Her Majesty the Queen in right of Ontario as represented by the
Ministry of Education

Invitation to Quote (ITQ)
for
Grade 9 Science Curriculum Writers
ITQ # 160

1. INTRODUCTION

This Invitation to Quote ("Invitation") is an invitation to bidders to put forward a non-binding offer for the provision of deliverables to the Ministry of Education (the "Ministry"). Other bidders also may have been invited to put forward quotes for these deliverables.

This Invitation is subject to the Terms of Reference set out in Section 7 of this Invitation. This Invitation is not intended to create a formal legally binding procurement process and shall not give rise to the legal rights or duties applied to a formal legally binding procurement process. Without limiting the generality of the foregoing, this Invitation does not constitute a commitment by the Ministry to procure any deliverables.

1.1 Interpretation

"Quote" means the non-binding offer for the provision of deliverables to the Ministry submitted by the bidder in response to this Invitation and includes, for greater certainty, the information provided by the bidder using the form provided in Appendix B (Submission Form).

All references to 'days' in this Invitation are to Business Days, unless expressly set out otherwise. All references to 'days' in any Quote will be deemed to be to Business Days: "Business Day" means any working day, Monday to Friday inclusive, excluding statutory and other Ontario provincial government holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any day which the government of the Province of Ontario has elected to be closed for business.

1.2 The Deliverables

A description of the required deliverables for which submissions are being sought by way of this Invitation are set out in Appendix A (Ministry's Information and Requirements).

2. GENERAL INFORMATION AND INSTRUCTIONS

2.1 Timetable

The following is the schedule for this Invitation:

Issue Date of Invitation	August 11, 2021 – update August 16, 2021
Deadline for Inquiries	August 18, 2021 at 5:00 pm (Toronto Time)
Deadline for Addenda	August 20, 2021
Deadline for Submission	August 31, 2021 at 5:00 pm (Toronto Time)

This timetable is tentative and may be changed by the Ministry in its sole discretion.

2.2 Parties Shall Bear Their Own Costs

The Ministry shall not be liable for any expenses incurred, including the expenses associated with the cost of preparing responses to this Invitation. The parties shall bear their own costs associated with or incurred through this Invitation process, including any costs arising out of or incurred in: (a) the preparation and issuance of this Invitation; (b)

the preparation and submission of a Quote; or (c) any other activities related to this Invitation process.

2.3 Inquiries

All inquiries regarding this Invitation should be directed by e-mail to the Ministry representative identified in Appendix A by the specified deadline for inquiries.

3. SUBMISSIONS

3.1 Submissions Made Only in Prescribed Manner

To be eligible for consideration, you must be a bidder that has been invited to submit a Quote, and complete and submit the Submission Form. Other than inserting the information requested and signing the Submission Form, you should not make any changes to the format of the Submission Form or qualify in your Quote the acknowledgements contained in the Submission Form. Submissions containing any such qualifications, whether on the face of the Submission Form or elsewhere in the submission, will not be considered by the Ministry.

Quotes are to be directed only to the Ministry representative by e-mail. If you do not receive confirmation of receipt of your Submission Form, it is your responsibility to ensure that the Ministry representative has properly received your Submission Form. The Ministry shall not be responsible for any e-mail delivery issues or any other technical problems with regard to the submissions.

3.2 Acceptance, Revocation and Rejection of Quotes

If a bidder wishes to alter its Quote after submission, it must withdraw its original Quote and submit a new one prior to the specified deadline for submission.

4. EXECUTION OF CONTRACT

4.1 Selection of Vendor

The Ministry may, in its sole discretion, select a bidder to provide the deliverables described in this Invitation. Upon selecting a bidder, the Ministry representative will notify the bidder representative indicated in the Submission Form. The bidder will be expected to enter into a legally binding contract (Appendix C).

4.2 Failure to Execute Contract

If the preferred bidder fails to execute the contract within 15 days following the notice of selection, the Ministry may, in its sole discretion and without incurring any liability, rescind the selection of the bidder and proceed with the selection of another bidder.

If the information provided changes during the term of the contract, the vendor must immediately provide updated information to the Ministry. It is the intention of Ontario to publish this information on a public facing government website during the term of the contract.

5. CONFLICT OF INTEREST

If, at the sole discretion of the Ministry, a bidder is found to be in a Conflict of Interest, the Ministry may, in addition to any other remedies available at law or in equity, choose not to consider the Quote submitted by the bidder. In this Invitation "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- a) in relation to the this procurement process, the bidder has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including (i) having, or having access to, information in the preparation of its submission that is confidential to the Ministry and not available to other bidders; (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 or competitiveness of procurement process and render that process non-competitive and unfair; or
- b) in relation to the performance of its contractual obligations in a contract with Her Majesty the Queen in right of Ontario, the bidder'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.

6. FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY ACT

Information provided by a bidder/vendor may be released in accordance with the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31. Any information in a Quote or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by the Ministry should be identified. The confidentiality of such information will be maintained by the Ministry, except as otherwise required by law or by order of a court or tribunal. Invited bidders are advised that their Quotes will, as necessary, be disclosed on a confidential basis to the Minister's advisers retained for the purpose of evaluating or participating in the evaluation of this submission. A bidder that submits a Quote consents to the Ministry's collection of the information as described under this Invitation for the uses contemplated under this Invitation.

7. TERMS OF REFERENCE

The following terms and conditions apply to this Invitation:

- a) neither party shall have the right to make claims against the other with respect to this process, the selection of any bidder, the failure to be selected to execute a contract and provide the deliverables, or the failure to honour submissions prior to the execution of a contract;
- b) no legal relationship or obligation regarding the procurement of any goods or services shall be created between any bidder and the Ministry prior to the execution of a contract;
- c) the terms and conditions of the contract are non-negotiable;
- d) the scope and quantity of goods or services described in Appendix A represent the estimated requirements of the Ministry at the time this Invitation is issued, and the Ministry may, in its sole discretion, vary the scope and quantity of goods or services before executing a contract with the preferred bidder;

- e) the Ministry may make public the names of any or all bidders;
- f) the Ministry may elect not to consider a bidder whose submission contains misrepresentations or any inaccurate, misleading or incomplete information;
- g) the Ministry may cancel this process at any time;
- h) the Ministry may elect not to procure the services that are the subject of this Invitation;
- i) the Ministry may seek subsequent information or initiate discussions with any bidder, including bidders who did not respond to this Invitation;
- j) subject to obtaining all internal approvals that may be required, the Ministry may initiate direct negotiations for the procurement of any good or service with any bidder(s) regardless of whether the bidder(s) responded to this Invitation;
- k) the Ministry may elect to proceed by way of open tender call where all potential bidders, including those who did not respond to this Invitation, are eligible to compete for the award of a contract for the supply of any good or service; and
- l) the bidder agrees to all of the terms set out in this Invitation.

APPENDIX A – MINISTRY’S INFORMATION AND REQUIREMENTS

1. MINISTRY CONTACT INFORMATION

Ministry Name	Education
Ministry Branch Name	Curriculum, Assessment and Student Success Policy Branch
Ministry Representative Name	Paul Hoskin
Ministry Representative Title	Team Lead Procurement
Ministry Representative E-mail Address	Paul.Hoskin@ontario.ca

2. MINISTRY REQUIREMENTS

2.1 Deliverables

One team of 12 teacher contributors will contribute to the revision of Grade 9 Science curriculum content including the Overall and Specific Expectations, and pedagogical supports. The teams will consist of 6 English content contributors and 6 French content contributors.

Content Contribution: Ten days of asynchronous introductory curriculum writing and editing activities scheduled for weekends and evenings between September 25 and October 24 from 8:30am – 4:30 pm/3:00pm – 8:00pm

The Ministry is undertaking a competitive procurement process to obtain 12 contributors to undertake a revision of the Science, Grades 9 course(s). Experienced science educators and subject matter experts are to be engaged in an intensive writing process in order to produce high-quality curriculum content and support the educational priorities of the Ministry, while adding rigor and validity to the curriculum.

Criteria for qualified teacher contributors will include the following:

- Certified teachers who are currently in good standing or retired with the Ontario College of Teachers;
- Educators and leaders representing English-language/French-language Catholic or public school boards located in diverse urban and rural areas in all regions across the province;
- Demonstrated subject matter expertise in secondary science, experience with developing curriculum or curriculum related resources and/or expertise in assessment and evaluation;

- Demonstrated knowledge, skill and expertise in delivering high quality programs and developing effective resources to support Ministry of Education policies in schools and boards;
- Demonstrated knowledge and or experience in innovative or alternative models of Grade 9 programming including, de-streamed teaching, and culturally responsive equitable and anti-racist education practices and approaches.
- Educators and leaders representing the diversity of the student population and the population of the province, including Black, Indigenous and other under-represented communities;
- Educators and leaders bringing diverse perspectives including equity, diversity, inclusivity and/or Indigenous perspective, such as lived experiences with First Nations, Métis and/or Inuit communities;
- Demonstrated knowledge, skill and expertise in Special Education, French-language learning and/or English-language learning;
- Available for the 10 full days of writing.

All writing work will take place virtually. Contributors are required to have access to a reliable internet connection and a computer in order to undertake this work. An on-boarding session at the beginning of the writing process will ensure that the content produced will align with government priorities, be informed by research evidence, and have a consistent voice across all strands and all grades.

2.2 Timeframe

The Ministry requires the deliverables to be provided in accordance with the following timeline, which may be revised by the Ministry in its sole discretion:

The time requirement for the work is a maximum total of 10 days per contributor. The Ministry will conduct an on-boarding session over a period of ½ day to communicate the Ministry's objectives and expectations at the start of the writing process, followed by the commencement of writing. Work is to be undertaken at each contributor's office or home at a schedule to be determined in consultation with the Ministry. It is expected that all work will be completed by March 31, 2022.

2.3 Fixed Rates

The following Rates shall remain fixed during the Term of this Contract:

Vendors will be remunerated \$300 (plus HST if applicable) per day of completed work, up to 10 days in total.

2.4 Evaluation of Submissions

The preferred bidder(s) that reach the highest technical score on the criteria shared below.

Weighting Summary

Evaluation Criteria	Weight (%)
Technical Submission	32 Points = 61.5%
Written Response	20 Points = 38.5%
Pricing will not be Scored	0
Total	52 points or 100%

Evaluation of Technical Criteria

The following is a list of the criteria that will be evaluated by the Ministry and the number of available points corresponding to each criterion.

Please check boxes as applicable:

Available to contribute between September and March

☐ Yes ☐ No **(Only Yes answers will be evaluated)**

Willing to work at \$300/diem for up to ten (10) days,
to be negotiated with the Ministry:

☐ Yes ☐ No **(Only Yes answers will be evaluated)**

Please include copy of resume in your response to the Ministry.

☐ Resume attached to email (Only quotes with a resume attached will be evaluated)

Applying to work on English language curriculum ☐ Yes ☐ No

Applying to work on French language curriculum ☐ Yes ☐ No

Access to a technical device (e.g., computer, laptop, etc.) and internet ☐ Yes ☐ No

Technical Response Evaluation	Points	Weighting (Maximum Points)
<p>Teacher Content Contributors' Professional Profile</p> <p>Teacher curriculum content contributors should represent a range of school boards or school authorities located in diverse urban, rural, remote, or First Nations communities in all regions in the province. They should also include representation from both English-language, French-language, Catholic and public school boards, as well as other publicly funded schools, and First Nation schools.</p> <p>Teacher curriculum content contributors:</p> <ul style="list-style-type: none"> • must be certified by the Ontario College of Teachers and currently in good standing, • must have a Science Teaching Qualification in the Intermediate division • Further consideration will be given to those who have Additional Qualifications in Science or related subject areas (i.e., Biology, Chemistry, Environmental Science, Physics) 		5 points
<p>Teacher curriculum content contributors should bring lived experiences (e.g., urban, rural, remote; social, community, and/or cultural engagement) with First Nations, Métis, and/or Inuit communities and nations.</p>		5 points
<p>Demonstrated expertise with teaching secondary sciences curriculum content in the areas of Biology, Physics, Chemistry, Environment/ Geology/ Astronomy/ Climatology for example:</p> <ul style="list-style-type: none"> • # of years teaching these grades • expertise related to the content/topics of the curriculum 		10 Points

<p>Leadership experiences related to the Ontario science curriculum, for example:</p> <ul style="list-style-type: none"> • Previous experience in writing curriculum or instructional supports • Previous experience developing resources and professional learning opportunities that are culturally relevant and responsive • Other related leadership experiences: <ul style="list-style-type: none"> ○ School and board science leadership (e.g., coach, coordinator, leading Professional Development) ○ Conference facilitator or speaker ○ Author or contributor to published facilitation guides, professional journals, or other educational publications ○ Leadership experience in science curriculum, including leading professional learning and conference sessions ○ Been a science program lead (for example, a consultant, facilitator, coach, or department head) ○ Previous experience teaching and/or facilitating Additional Qualification courses in Science 		5 Points
<p>Demonstrated expertise in other related instructional and assessment areas, for example:</p> <ul style="list-style-type: none"> • Human rights, equity, and inclusive education • Supporting English language and French language learners • Supporting students with Special Education needs Assessment and evaluation • Other areas of expertise 		5 points
<p>Self-identification as a member of the Black, First Nation, Métis or Inuit or other racialized community(s).</p>		2 points
<p>Total Points</p>		32 Points

Writing Sample – 20 points

In a maximum of 500 words, identify a potential new concept or skill that should be included in a revised Grade 9 Science course. Describe why it would be beneficial to students to include this concept or skill.

Criteria and Description	Available Points
Content <ul style="list-style-type: none">- Identifies and prioritizes key ideas- Summarizes themes and content- Extends the learning with facilitative prompts	10 points
Communication <ul style="list-style-type: none">- Style: Creative and engaging- Voice: Tailored towards target audience- Structure: Focused, clear, and well organized	10 points
Total	20 points

APPENDIX B – SUBMISSION FORM

Invitation to Quote (ITQ) # 160

To: HER MAJESTY THE QUEEN in right of Ontario as represented by the Ministry of Education

1. BIDDER CONTACT INFORMATION

Legal Name of Bidder	
Bidder Representative Name (If same as above leave blank)	
Bidder Representative E-mail Address	
Bidder Representative Mailing Address	
Bidder Representative Phone Number	

Interested candidates should submit documentation demonstrating their skills, qualifications and expertise, as requested under the Technical Response Evaluation. Documentation could include a cover letter, resume and/or other documents to ensure all the points in the evaluation can be addressed.

2. ACCURACY OF INFORMATION

The bidder accepts the terms as set out in this Invitation. While the Quote in this Submission Form is provided for evaluation purposes only and is not legally binding, the bidder hereby confirms that the information provided is accurate.

Insert full legal name of bidder

I acknowledge that providing my name on the line below in electronic form will constitute a signature for the purposes of the *Electronic Commerce Act, 2000*, S.O. 2000, c. 17.

I have authority to bind the bidder.

Name:

Title:

Date:

APPENDIX C – AGREEMENT

THIS AGREEMENT (the “**Agreement**”), for the development of secondary Science curriculum content is effective as of [insert start date of the Term] (the “**Effective Date**”),

BETWEEN:

HER MAJESTY THE QUEEN in right of Ontario
*as represented by **Minister of Education***

(hereinafter referred to as the “**Ministry**”)

- and -

[Insert legal name of vendor]

(hereinafter referred to as the “**Vendor**”)

In consideration of their respective obligations set out below, the parties agree as follows:

1.0 Contract and Term

- 1.1 The contract between the Ministry and the Vendor incorporates all of the following:
- (i) this Agreement including Schedule A and such other Schedules as required; and
 - (ii) any amendments executed in accordance with the terms of this Agreement (the “**Contract**”).
- 1.2 This Agreement shall commence on the Effective Date and remain in full force and effect up to and including [insert expiry date] or the expiry date of any extension to the Contract (the “**Term**”).

2.0 Vendor’s Deliverables and Rates

2.1 Description of Deliverables

One team of 12 contributors will develop Science curriculum content, including mandatory learning expectations and pedagogical supports to revise the secondary Science curriculum.

The time requirement for the work is a maximum total of 10 days per contributor. It is expected that all work will be completed by March 21, 2022. The Ministry will conduct an on-boarding session (virtual) over a period of ½ day to communicate the Ministry’s objectives and expectations at the start of the writing process, followed by the commencement of writing. Travel will not be required for contributors.

2.2 Rates and Disbursements

2.2.1 Total Amount Payable

Despite anything else in the Contract, the total amount payable by the Ministry to the Vendor under the Contract shall not exceed \$3,600 (plus HST if applicable). The total amount payable by the Ministry to the Vendor includes all fees, disbursements (including travel and accommodation expenses, if applicable) and applicable taxes. No additional charges will be accepted by the Ministry.

The expenses incurred and payable under this Contract are to be billed separately and reimbursed, upon submission of receipts, in accordance with applicable directives and guidelines, including the Management Board of Cabinet Travel, Meal and Hospitality Expenses Directive.

2.2.2 Fixed Rates

The following Rates shall remain fixed during the Term of this Contract:

- (a) Vendors will be remunerated \$300 (plus HST if applicable) per day of completed work, up to 10 days in total.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the Effective Date.

HER MAJESTY THE QUEEN in right of Ontario,
as represented by the **Ministry of Education**:

Signature: _____

Name: _____

Title: _____

Date of Signature: _____

Pursuant to delegated authority

[Insert legal name of Vendor]

Signature: _____

Name: _____

Title: _____

Date of Signature: _____

I have authority to bind the Vendor.

SCHEDULE A
to the Agreement between the Minister of Education
and [insert legal name of Vendor] dated [insert Effective Date]

OTHER TERMS AND CONDITIONS

1.0 Extension and Expiry of the Contract

- 1.1 The Ministry shall have the option to extend the Contract for one term up to the duration of the original term, such extension to be upon the same terms, including the rates, conditions and agreements contained in the Contract. The option shall be exercisable by the Ministry upon giving fifteen (15) calendar days prior written notice to the Vendor, setting forth the precise duration of the extension of the Agreement.
- 1.2 The Contract shall expire at the end of the Term of this Agreement.

2.0 Entire Agreement

- 2.1 The Contract represents the entire agreement between the parties regarding the deliverables and supersedes any prior understanding or agreement, collateral, oral or otherwise, with respect to the deliverables, existing between the parties at the Effective Date of this Agreement.
- 2.2 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.
- 2.3 Despite anything else in the Contract, any express or implied reference to the Ministry 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 Ministry, whether at the time of execution of this Agreement or at any time during the Term of the Contract, shall be void and of no legal effect unless the Ministry has obtained the written approval of the Minister of Finance.

3.0 The Deliverables

- 3.1 The nature and scope of the work to which the Contract pertains and the respective duties and obligations of the Vendor and the Ministry are as set out in the Contract and as more particularly described in the main body of the Agreement in Section 2 (Vendor's Deliverables and Rates) (the "**Deliverables**").
- 3.2 The Vendor represents and warrants that it has the full right and power to enter into the Contract and there is no agreement with any other individuals, firms, partnerships or corporations which would in any way interfere with the rights of the Ministry under the Contract.

- 3.3 The Vendor acknowledges that it is performing the Deliverables for the Ministry on a non-exclusive basis. The Ministry makes no representation regarding the volume of work to be performed under the Contract. The Ministry reserves the right to contract with other parties for the same or similar Deliverables as those provided by the Vendor and reserves the right to obtain the same or similar Deliverables internally within the Ontario Public Service.
- 3.4 The Vendor agrees and covenants that the Deliverables shall be provided fully and diligently in a professional and competent manner by persons qualified and skilled in their occupations and furthermore that all Deliverables shall be provided in accordance with (a) the Contract; (b) industry standards and practices; and (c) requirements of applicable law. The Vendor agrees that it is liable for the acts and omissions of its officers, directors, employees, partners, affiliates, agents, volunteers and subcontractors.
- 3.5 Any failure by the Ministry to insist in one or more instances upon strict performance by the Vendor of any of the terms or conditions of the Contract shall not be construed as a waiver by the Ministry of its right to require strict performance of any such terms or conditions, and the obligations of the Vendor with respect to such performance shall continue in full force and effect.

4.0 Change Order

- 4.1 The Ministry may request changes to the Contract, which may include altering, adding to, or deleting any part of the Deliverables by issuing a change order. The change order shall set out the changes requested by the Ministry with the corresponding Rates as outlined in Section 2 of the body of this Agreement. No changes shall be effective or carried out in the absence of a written amendment signed by the parties.
- 4.2 The Vendor shall comply with all reasonable Ministry change requests and the performance of such request shall be in accordance with the terms and conditions of the Contract. If the Vendor is unable to comply with the change request, it shall promptly notify the Ministry and provide reasons for such non-compliance. Where the Rates in effect at the time of the change order are silent to the applicable price for the Deliverables contemplated in the change order, the price shall be negotiated between the Ministry and the Vendor within a reasonable period of time.

5.0 Payment for Performance

- 5.1 The Ministry shall, subject to the Vendor's compliance with the provisions of the Contract, pay the Vendor for the Deliverables provided at the rates established in Section 2 of the body of this Agreement (the "**Rates**") up to a maximum of the total amount payable. The parties acknowledge that this is a fixed price agreement and there shall be no further charges due and owing by the Ministry to the Vendor other

than as set out in that section without a written change order pursuant to Article 4 of this Schedule.

- 5.2 The Vendor shall provide the Ministry with invoices for work completed at the times and in the form and substance specified in this Schedule, or as otherwise agreed to by the Ministry.
- 5.3 The Ministry may hold back payment or set-off against payment if, in the opinion of the Ministry acting reasonably, the Vendor has failed to comply with any requirements of the Contract.
- 5.4 The Vendor shall invoice and collect harmonized sales tax (HST) from the Ministry for the Deliverables in accordance with the provisions of the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended or replaced from time to time.
- 5.5 For two (2) years after the expiration of this Agreement, the Vendor 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 the requirements of applicable law. During the Term, and for two (2) years after the Term, the Vendor shall permit and assist the Ministry in conducting audits of the operations of the Vendor to verify (a) and (b) above, if requested by the Ministry. The Ministry Representative shall provide the Vendor Representative with at least ten (10) business days' notice prior to such audit.
- 5.6 If a payment is in arrears through no fault of the Vendor, the interest charged by the Vendor, if any and subject to required approvals, for any late payment shall not exceed the pre-judgment interest rate established under Section 127(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C43, in effect on the date that the payment went into arrears.

6.0 Indemnity and Insurance

- 6.1 The Vendor agrees to indemnify, defend and hold harmless Her Majesty the Queen in right of Ontario, her ministers, directors, officers, employees, volunteers, agents and contractors from and against any and all actions, causes of action, claims, demands, proceedings, losses, judgments, costs and expenses (including, without limitation, reasonable legal fees) and for any and all liability for damages to property and injury to persons (including death), of whatever kind and nature, by whomsoever made, sustained, brought or prosecuted in any manner based upon, occasioned by or attributable to the operations described in the Contract.
- 6.2 The Vendor is responsible for its own insurance and should carry all the necessary and appropriate insurance that a prudent person in the business of the Vendor would maintain, including, but not limited to commercial general liability insurance. The Vendor is not covered by the Government of Ontario's insurance program and

no protection will be afforded to the Vendor by the Government of Ontario for any claims that may arise out of the Contract.

7.0 Termination

- 7.1 The Ministry reserves the right to terminate this Contract without cause with fourteen (14) days' notice to the Vendor representative. In the event of termination, the parties agree that the Ministry shall only be responsible for the payment of those parts of the Deliverables that have been completed up to and including the effective date of termination.
- 7.2 The following provisions and any supporting or cross-referenced provisions of this Schedule shall survive the termination or expiry of this Contract and shall not merge and shall continue in full force and effect in accordance with the terms of this Contract: Section 2.3, Section 3.4, Section 5.5, Section 6.1, Section 7.2, Section 8.1, Section 9, Section 10 and Section 11.

8.0 Independent Vendor

- 8.1 The Vendor shall have no power or authority to bind the Ministry or to assume or create any obligation or responsibility, express or implied, on the Ministry's behalf. The Vendor shall not hold itself out as an agent, partner or employee of the Ministry. Nothing in the Contract shall have the effect of creating an employment, partnership, or agency relationship between the Ministry and the Vendor (or any of the Vendor's officers, directors, employees, partners, affiliates, agents, volunteers or subcontractors) or constitute an appointment under the *Public Service of Ontario Act*, 2006, S.O. 2006, c. 35, as amended.
- 8.2 The Vendor shall not enter into a subcontract with a subcontractor for the provision of the Deliverables unless the Vendor obtains the Ministry's prior written permission.
- 8.3 Every subcontract entered into by the Vendor shall adopt all of the terms and conditions of the Contract as far as applicable to the subcontractor's deliverables.

9.0 Intellectual Property

- 9.1 The Vendor agrees and covenants that the Deliverables shall not infringe upon, induce infringement or violate 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 (collectively "**Intellectual Property**") of any third party.
- 9.2 The Ministry shall be the owner of all Intellectual Property conceived of, produced or performed pursuant to this Agreement that is original and specifically developed by the Vendor for the fulfilment of this Agreement. The Vendor irrevocably assigns to and in favour of the Ministry and the Ministry accepts every right, title and interest in

and to such Intellectual Property for all time. However, each party retains all rights of ownership of Intellectual Property that the party possessed before performing the applicable Deliverables. The Vendor shall place a copyright notice on all recorded Deliverables it provides to the Ministry under the Contract in the following form: © Queen's Printer for Ontario, 2020.

- 9.3 The Vendor shall not incorporate into the Deliverables anything that would restrict the right of the Ministry to modify, further develop or otherwise use the Deliverables in any way that the Ministry deems necessary.
- 9.4 At the request of the Ministry, the Vendor agrees (i) to waive all moral rights, (ii) to obtain waivers of all rights of integrity and all other moral rights from its officers, directors, employees, partners, affiliates, agents, volunteers and subcontractors and from any other party in the position to assert such rights in relation to the Deliverables, which waivers may be invoked without restriction by any person authorized by the Ministry and (iii) to execute and to cause anyone in the position to assert rights of integrity or any other moral right including its officers, directors, employees, partners, affiliates, agents, volunteers and subcontractors to execute a written assignment of copyright in the applicable Deliverables in the form provided by the Ministry. The Vendor shall obtain or execute any other document reasonably required by the Ministry to protect the Intellectual Property of the Ministry.
- 9.5 The Vendor 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 Ministry to the Vendor shall remain the sole property of Her Majesty the Queen in right of Ontario at all times. The Vendor shall not use any insignia or logo of Her Majesty the Queen in right of Ontario except where required to provide the Deliverables and only if it has received the prior written permission of the Ministry to do so.

10.0 Confidentiality

- 10.1 During and following the Term of the Contract, the Vendor agrees, and agrees to cause its officers, directors, partners, employees, affiliates, agents, volunteers and subcontractors, to keep all information it receives from the Ministry confidential. The Vendor agrees to keep all confidential information secure and shall only copy confidential information if essential for the provision of the Deliverables.
- 10.2 The Vendor acknowledges and agrees that the Contract and all information submitted pursuant to the Contract are governed by the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended ("**FIPPA**"). Any materials created by the Vendor in the course of providing the Deliverables and information provided to the Vendor by the Ministry may be subject to disclosure under FIPPA. The Vendor agrees to provide all such materials and information to the Ministry on demand for the purposes of an access request or if a privacy issue arises.

- 10.3 The Vendor shall return all personal information as defined by FIPPA and confidential information of the Ministry to the Ministry, and shall ensure that all copies of such information and any portions thereof are also returned or destroyed with no copy kept by the Vendor or its officers, directors, employees, partners, affiliates, agents, volunteers and subcontractors, at the request of the Ministry, and in any event, prior to the termination or expiry of this Agreement. The Vendor shall, at the Ministry's request, provide the Ministry with written confirmation that all such information has been so returned or destroyed.
- 10.4 The Vendor agrees to implement other specific security measures that in the reasonable opinion of the Ministry would improve the adequacy and effectiveness of the Vendor's measures to ensure the security and integrity of personal information and records generally.

11.0 Conflict of Interest

- 11.1 The Vendor shall: (a) avoid any conflict of interest in the performance of its contractual obligations; (b) disclose to the Ministry 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 Ministry to resolve any conflict of interest. In addition to all other contractual rights or rights available at law or in equity, the Ministry may immediately terminate the Contract upon giving notice to the Vendor where: (a) the Vendor fails to disclose an actual or potential conflict of interest; (b) the Vendor fails to comply with any requirements prescribed by the Ministry to resolve a conflict of interest; or (c) the Vendor's conflict of interest cannot be resolved. The Vendor acknowledges and agrees that it shall be a conflict of interest for it to use confidential information of the Ministry relevant to the Deliverables where the Ministry has not specifically authorized such use.

12.0 Contract Binding and Ministry Approval for Subcontracting, Assignment

- 12.1 The Contract shall ensure to the benefit of and be binding upon the parties and their successors, executors, administrators and their permitted assigns. The Vendor shall not subcontract or assign any part of the Contract or any monies due under it without the prior written consent of the Ministry, which consent shall be in the Ministry's sole discretion and subject to the terms and conditions that may be imposed by the Ministry.

13.0 Governing Law

- 13.1 The Contract shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and the parties hereby agree that any dispute arising out of or in relation to the Contract shall be determined in Ontario.

14.0 Force Majeure

- 14.1 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 force majeure events shall include, without limitation, 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 obligation under the Contract due to a force majeure event, the 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. A delay in performance, or non-performance, by either party of its obligations under this Agreement due to force majeure shall extend the period of performance of such obligation by such number of days as the Vendor and the Ministry may mutually agree.

15.0 Conflict in Documents

- 15.1 Where any conflict or inconsistency appears between a provision of any of the documents listed below which form part of the Contract and a provision in another of the documents listed below, the provision in the first mentioned document shall govern:
- a) the body of this Agreement excluding the Schedules;
 - b) Schedule A to this Agreement; and
 - c) all other Schedules, if applicable.

16.0 Promotion Restrictions

- 16.1 Any publicity or publications related to the Contract shall be at the sole discretion of the Ministry. The Ministry may, in its sole discretion, acknowledge the Deliverables performed by the Vendor in any such publicity or publication. The Vendor shall not make use of its association with the Ministry without the prior written consent of the Ministry. Without limiting the generality of the foregoing, the Vendor shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has obtained the express written authorization of the Ministry to do so.

17.0 Notice

- 17.1 Notices shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery, facsimile or e-mail and shall be addressed to, respectively, the Ministry address to the attention of the Ministry Representative and to the Vendor address to the attention of the Vendor 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, facsimile or e-mail one (1) business day after such notice is received by the other party. In the event of a postal disruption, notice must be given by personal delivery, facsimile or e-mail and all notices mailed within one (1) week prior to the postal disruption must be confirmed by facsimile or e-mail to be effective.

18.0 Number, Gender and Headings

- 18.1 In this Agreement, words in the singular include the plural and visa-versa and words in one gender include all genders. The headings in the Contract are for convenience of reference only and in no manner modify, interpret or construe the Contract.

19.0 Business Continuity

- 19.1 At the request of the Ministry, the Vendor agrees to have a Business Continuity Plan in place to ensure its own continuity of operations and ability to continue to provide the Ministry with the Deliverables under this Agreement during an event of *force majeure* or other emergency, disaster or disruption. The Business Continuity Plan shall be in writing and specifically address the absence or reduction of staff, facilities and information technology and how these will be managed so as to ensure that the Deliverables are not disrupted.

20.0 Statutory Obligations Under Ontario Legislation

- 20.1 The Vendor's provision of the Deliverables shall comply with all applicable requirements, specifications and standards for accessibility established in

accordance with the *Accessibility for Ontarians with Disabilities Act*, 2005, S.O. 2005, c. 11, any regulations made thereto and any direction from the Ministry.

- 20.2 The Vendor agrees to allow the Ministry to specify what needs the Ministry may require from the Vendor in order to meet the Ministry's statutory obligations under Ontario legislation, including the *French Language Services Act*, R.S.O. 1990, c. F.32. The Vendor agrees to provide such needs and to allow the Ministry to evaluate the Vendor's capability in this regard.

21.0 Invoices

- 21.1 The Vendor shall provide the Ministry with one (1) invoice no later than ten (10) business days following the successful completion and acceptance by the Ministry of all of the Deliverables set out in the Contract. The invoice shall include (i) the Purchase Order number assigned to the Contract by the Ministry, if applicable; (ii) a brief description of the Deliverables provided; (iii) the fee for the Deliverables performed; (iv) all disbursements; and (v) taxes, if payable by the Ministry, identified as separate items.
- 21.2 The Ministry shall approve or reject the invoice within fifteen (15) business days. In the event that the Ministry rejects the invoice, it shall so advise the Vendor promptly in writing and the Vendor shall provide additional information as required by the Ministry to substantiate the invoice.
- 21.3 The invoice must be approved by the Ministry before any payment is released to the Vendor and payment shall be made within forty five (45) business days of such approval.
- 21.4 The Vendor shall invoice the Ministry for the actual number of hours worked by each individual for each day. Regardless of the number of hours worked by an individual in any one day, the Vendor shall not invoice the Ministry for more than the per diem rate for that individual for that day. The Vendor shall not invoice the Ministry using an individual's per diem rate unless that individual has worked a minimum of seven and a quarter (7.25) hours in that day. An individual's per diem rate shall be prorated for any day in which the individual works less than seven and a quarter (7.25) hours.

22.0 Contractor Security Clearance

- 22.1 If requested by the Ministry, the Vendor agrees to require any of its employees, agents or subcontractors engaged in the performance of Deliverables under this Agreement to undergo a Contractor Security Clearance Check in the manner specified by the Ministry of Government and Consumer Services.

23.0 Compliance with the Occupational Health and Safety Act

- 23.1 The Vendor must ensure that any subcontractor hired by the Vendor works in accordance with the Occupational Health and Safety Act R.S.O. 1990, CHAPTER O.1 (OHSA) and its regulations and any applicable Ontario Public Service (OPS) and site-specific health and safety requirements. The Vendor acknowledges that it is the employer of the subcontractor. The Vendor shall include in any of its agreements with its subcontractors, the ability to terminate the subcontractor for non-compliance with OHSA or its regulations, with the rules and policies of the Vendor or for failing to protect the safety of its workers.

The Ministry may stop the work where the Vendor fails to comply with OHSA or its regulations and an immediate danger to worker health and safety is observed. Failure or refusal by the Vendor to correct the observed violation, or willful or repeated non-compliance may, subject to Article 7, result in termination of the Contract.

24.0 Open Data

24.1 Publication of Data

It is Ontario's intention, in accordance with the [Open Data Directive](#) and as part of its commitment to open data, to publish and allow the public to use:

- (i) procurement contract data, including the name of the Vendor and total contract value; and,
- (ii) data created or collected as an output of a contract, except where Ontario chooses not to publish the data in accordance with the Open Data Directive, such as for privacy, confidentiality, security, legal or commercially-sensitive reasons.

~ END OF AGREEMENT ~