

REQUEST FOR PROPOSALS nnnnnn, OUTLINE AGREEMENT 46000nnnn

XXXX
FOR THE DEPARTMENT OF XXX

THIS AGREEMENT made this nnth day of mmm, yyyy
BETWEEN:

HER MAJESTY THE QUEEN in right of Her PROVINCE OF NOVA SCOTIA,
represented by the Minister of Economic and Rural Development
(hereinafter referred to as "the Minister")

OF THE FIRST PART

- and -

XXXXXX
(hereinafter referred to as "the Supplier")

OF THE SECOND PART

In consideration of the mutual promises contained in this Agreement, the parties covenant and agree as follows:

1. SERVICES

- 1.1 The Supplier shall, during the period commencing on the nnth day of mmm, yyyy, and ending on the nnst day of mmm, yyyy, provide the services to the Minister as outlined in Schedule "A" attached hereto.
- 1.2 The Supplier shall perform the work under the direction and always to the satisfaction of the Minister.
- 1.3 When anything is required to be done by the Minister, it may be done by anyone duly authorized to act on behalf of the Minister.

2. PAYMENT

- 2.1 Subject to article 2.3 the Minister, for the satisfactory performance of the services referred to in article 1.1, shall pay the Supplier in respect of the period during which services are performed in accordance with the fee structure and work estimate set out in Schedule "B" attached hereto.
- 2.2 The Minister shall remit to the Supplier the amount of any outstanding invoices due to the Supplier under article 2.1 after presentation by the Supplier to the Minister, on each instance, of a statement, certified correct and approved by the appropriate officer of the Minister, showing *inter alia*, that the Supplier performed the services during the period in respect of which the amount is to be paid.
- 2.3 Notwithstanding anything else contained in this Agreement, unless prior written approval of the Minister is obtained, the total amount payable to the Supplier under the Agreement shall not exceed AMOUNT dollars (\$nnnn.00) in Canadian funds (not including taxes) and no work in excess of this limitation shall be undertaken.
- 2.4 The Supplier shall maintain appropriate accounting records for the services provided under this Agreement and shall make available to the Minister such accounting records for audit purposes as the Minister may require.

3. TERM OF AGREEMENT

- 3.1 The term of this Agreement shall be as defined in article 1.1 of this Agreement.
- 3.2 Notwithstanding article 3.1, this Agreement may be terminated by the Minister upon giving at least thirty (30) days notice in writing to the Supplier.
- 3.3 Notwithstanding articles 3.1 and 3.2, this Agreement may be terminated by the Minister without further liability, damage or cost, if, in the opinion of the Minister, the Supplier has

breached or defaulted or failed to comply with any of the terms and conditions of this Agreement and has failed to remedy the same after being given five days notice in writing to remedy the breach, default or failure.

- 3.4 Completion by the Supplier of the services outlined in article 1 or termination of the Agreement by the Minister in accordance with article 3.2 or 3.3 shall in no way relieve or be deemed to relieve the Supplier from any ongoing duties, obligations or liabilities which may arise from this Agreement, including but not restricted to those set out in articles headed Confidentiality, Rights in Data, and Liability and Indemnity.
- 3.5 In the event of termination, in accordance with article 3.2, the Minister will pay the Supplier an amount calculated under the terms of payment for all work performed and accepted together with such further amount as will in the opinion of the Minister compensate the Supplier for reasonable expenses continuing after the date of termination, less any amounts that have been previously paid to the Supplier under article 2.
- 3.6 The parties may by mutual consent extend this Agreement by giving written notice of an intent to do so on or before the termination date defined in article 1.1 of this Agreement.

4. COPIES

- 4.1 In the event of termination of this Agreement or of the completion by the Supplier of the services outlined in article 1, the Supplier shall deliver to the Minister all materials including, but not restricted to, all research, reports, papers, tapes, slides, films, photographs, audio-visual material, and all input data or other information submitted to the Supplier or developed by the Supplier in the performance of this Agreement, whether in draft or completed form.

5. CONFIDENTIALITY

- 5.1 The Supplier shall keep private, treat as being confidential, and not make public or divulge during as well as after the term on this Agreement, any information or material to which the Supplier or staff becomes privy as a result of acting under this Agreement without having first obtained the Minister's consent in writing. Such information shall be provided strictly and solely to those people who are assigned to the performance of the services outlined in Schedule "A".
- 5.2 The Supplier shall comply with the requirements set out in Schedule "C" (Personal Information ("P/I") Protection Schedule).

6. RIGHTS IN DATA

- 6.1 All research, reports, papers, material, audio-visual material and information forming part of or produced in the performance of this Agreement and all copyrights, patents, trademarks, industrial designs and other property rights arising therefrom, are the sole property of the Minister, and are hereby assigned by the Supplier to the Minister, provided that the pre-existing intellectual property rights in materials and information belonging to the Supplier shall remain with the Supplier. The Supplier also waives all claims to moral rights in respect of that which is assigned.
- 6.2 The Supplier shall not divulge, release or publish any such research, reports, papers, material, audio-visual material or information, in whole or in part, without first having obtained written permission from the Minister. The Minister reserves the right to publish or release in whole or in part, to publish an amended version and not to publish or release at all, or to use or not use as the Minister may deem fit, any research, reports, material, audio-visual materials, or information produced in the performance of this Agreement.
- 6.3 The Supplier shall ensure that the Minister has all licenses required for any software that may be used pursuant to this Agreement.
- 6.4 The Supplier hereby grants to the Minister a non-exclusive license in perpetuity to use any computer software, designs or similar materials of a generic nature to which the Supplier holds copyright, and that may be included in any work product delivered to the Minister under this Agreement.
- 6.5 Notwithstanding the above, the copyright to any computer software, designs or similar

materials of a generic nature bearing the copyright of the Supplier that may be used in the performance of the Supplier's services under this Agreement, or that may be included in any work product delivered to the Minister, shall remain with the Supplier. The Supplier shall not claim a copyright to any material which is not legitimately the Supplier's work, and shall not claim a copyright to any work developed using the Minister's funds or to any work which is unique to this Agreement. The Minister may modify any such materials as required, so long as the Supplier's original copyright notification is not deleted or changed. The Minister shall not permit any party other than the Province of Nova Scotia to make use of such material without the permission of the Supplier.

7. INDEPENDENT CONTRACTOR

7.1 It is understood and agreed that this Agreement is a contract for the performance of a service and that the Supplier is engaged as an independent contractor and is not nor shall be deemed to be an employee, servant or agent of the Minister.

8. COMPLIANCE WITH LAWS

8.1 The Supplier shall give all the notices and obtain all the licenses and permits required to perform the work. The Supplier will comply with all laws applicable to the work or performance of the Agreement.

9. WORKERS' COMPENSATION

9.1 The Supplier shall comply with the Nova Scotia *Workers' Compensation Act*. Prior to receiving payment under this Agreement, the Minister may require the Supplier to submit a Workers' Compensation Board (WCB) Clearance Letter indicating that all WCB assessments have been paid.

10. LIABILITY AND INDEMNITY

10.1 The Minister shall not be liable for any injury or damage (including death) to the person or for the loss of damage to the property of the Supplier in any manner based upon, occasioned by or in any way attributable to the Supplier's services under this Agreement unless such injury, loss, or damage is caused solely and directly by the negligence of an officer or servant of the Minister while acting within the scope of his or her employment.

10.2 The Supplier shall use due care in processing the Minister's work. The Supplier shall not be liable for any indirect or consequential damages related to the services performed under this Agreement unless caused by the Supplier's negligence.

10.3 The Supplier agrees that it shall at all times indemnify and save harmless the Province, its Ministers, officers, employees and agents from and against all claims, demands, losses, costs, damages, actions, suits or other proceedings of any kind based upon injury, including death, to any person, or damage to or loss of property arising from any wilful or negligent act, omission or delay on the part of the Supplier, its servants or agents in carrying out this Agreement.

11. PERFORMANCE

11.1 The Supplier shall faithfully, honestly, and diligently service the Minister during the period of this Agreement.

11.2 It is understood that the Supplier shall provide office space equipped with such furniture, together with such staff and other services and equipment as may be necessary for the carrying out of the services required under this Agreement. The Minister may provide at his discretion and for such time period as the Minister deems appropriate, office space and facilities to the Supplier as may be necessary for the carrying out of all or part of the services required under this Agreement.

11.3 The Minister reserves the right to demand that the Supplier replace any individual who is working on the project and who is found to be unsuitable in the Minister's sole discretion.

12. TITLE AND ACCEPTANCE

12.1 Except as otherwise provided in this Agreement, title to the product defined in Schedule "A" attached hereto or any part thereof shall vest in the Minister upon delivery to and acceptance by the Minister. Upon any payment being made on account of materials, parts, work in process, or finished work, title to the goods and services so paid for shall vest and remain in the Minister, and the Supplier shall be responsible therefor, it being understood and agreed that such vesting of title in the Minister shall not constitute acceptance and shall not relieve the Supplier of its obligations to perform the work in conformity with the requirements of this Agreement.

13. PRODUCTS TO BE DELIVERED

13.1 Under this Agreement the Supplier will deliver the items as referred to in the Schedule "A" attached hereto to the Minister, and these items shall conform to the format and standards established by the Minister during the course of the Agreement and conveyed to the Supplier by notice.

13.2 No work shall be considered complete until it has been accepted and approved in writing by the Minister.

14. FORCE MAJEURE

14.1 The Supplier shall not be liable for failure to provide the services outlined in Schedule "A" if such failure is due to causes beyond its reasonable control if and only if the Minister is notified within five (5) days in writing of the existence of such a failure, its causes and the reasons for its being beyond the reasonable control of the Supplier.

15. FUNDING

15.1 Notwithstanding anything else contained in this Agreement, this Agreement is subject to:
(i) there being sufficient monies available in the appropriation to enable the Minister to make payment;
(ii) Department of Finance, not having controlled or limited expenditure under any appropriation referred to in (i)

16. ASSIGNMENT

16.1 The Supplier shall not assign or sublet this Agreement, in whole or in part, without the written permission of the Minister.

17. NOTICES

17.1 All notices under this Agreement shall be deemed duly given; upon delivery, if delivered by hand; or three days after posting if sent by registered mail, receipt requested; to a party at the address set out in this Agreement or to such other address as designated by a party by notice in accordance with this Agreement. Nothing in this section shall prevent notice from being given by any other means.

The Minister c/o Contract Administrator Nova Scotia Procurement 6176 Young Street PO Box 787 Halifax, Nova Scotia B3J 2V2	The Supplier SUPPLIER'S CONTACT & ADDRESS
-------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------

18. TIME SHALL BE OF THE ESSENCE

18.1 Time shall be of the essence of this Agreement, provided that the time for completing any of the work that has been or is likely to be delayed by reason of Force Majeure may be extended at the Minister's discretion if the other terms of this Agreement are satisfied.

19. ENTIRE AGREEMENT

19.1 This Agreement and the Schedules attached or referred to constitute the whole Agreement between the parties unless duly modified in writing and signed by both parties. No representation or statement not expressly contained in this Agreement shall be binding upon either party.

19.2 The Schedules attached to this Agreement form an essential part of this Agreement and should there be any conflict between the general terms and conditions of the Agreement and the Schedules then the Schedules govern the Agreement interpretation.

20. GOVERNING LAWS

20.1 This Agreement shall be construed and interpreted in accordance with the laws of the Province of Nova Scotia.

21. CONSENT TO BREACH NOT WAIVER

21.1 No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, shall not constitute a consent to, a waiver of, or excuse for any different or subsequent or a continuation of the same breach unless expressly stated.

22. PARTIAL INVALIDITY

22.1 If any term or provision of this Agreement shall be found to be illegal or unenforceable, notwithstanding, this Agreement may, at the Minister's option, remain in full force and effect and such term or provision shall be deemed removed from the Agreement.

23. DEFINITION OF SUPPLIER

23.1 References to the Supplier shall include employees, servants and agents of the Supplier, independent contractors to the Supplier and employees, servants, agents and independent contractors of assignees if the Agreement or its performance is assigned.

24. SECURITY AND PRIVACY

24.1 The Supplier shall comply with all security and privacy procedures and policies of the Minister as they may be, from time to time, forwarded to the Supplier.

25. AUTHORITY

25.1 The signatories of this Agreement personally warrant that they have the full power and authority to enter into this Agreement on behalf of their respective principals and that the person signing this Agreement on behalf of each has been properly authorized and empowered. Each party further acknowledges that it has read the Agreement, understands it, and agrees to be bound by it.

26. OFFERS OF EMPLOYMENT

26.1 Each party to this Agreement, throughout the term of the Agreement and for a period of six months thereafter, undertakes that, without the prior written approval of the other party, it shall not induce any employee(s) of the other party to terminate his or her employment with the other party.

27. EFFECTIVE DATE

27.1 This Agreement shall take effect as if it has been executed by both parties on the **nnth** day of **xxx, yyyy**.

IN WITNESS WHEREOF the Minister and the Supplier have caused this Agreement to be executed by their respective officers duly authorized in that behalf on the dates hereinafter set forth.

WITNESSED BY:

DATED AT Halifax, Nova Scotia,
this day of _____, 2010.
NAME OF COMPANY

Witness

for the Supplier

DATED AT Halifax, Nova Scotia,
this day of _____, 2010.
HER MAJESTY THE QUEEN in right of Her
Province of Nova Scotia

Witness

for the Minister

SCHEDULE A

This schedule of the Agreement describes the services to be carried out and products to be delivered by the Supplier, and supplementary conditions relating thereto.

This schedule incorporates the following:

A.1 Request for Proposals

Request for Proposals issued by the Minister in , 2009 is incorporated herein by reference and describes the services to be performed and products to be delivered.

A.2 Supplier's Proposal

The Proposal submitted by the Supplier dated and submitted as bid on tender closing date July 17 2007, is incorporated herein by reference.

The Supplier proposes to provide services, as bid.

Supplier Initial: _____

ED Initial: _____

SCHEDULE B

This schedule to the Agreement describes the payment terms for **each phase of the project and planned delivery dates.**

B.1 Payment

The total amount payable under this Agreement is defined in article 2.3 of this Agreement. It shall be invoiced as follows:

A single invoice to be submitted upon completion of this Agreement. Payment will be released upon approval of the user Department.

Payment will be made under the provisions of article 2. of this Agreement.

B.2 Work Plan

The project work plan submitted by the Supplier is included in this Schedule by reference.

Supplier Initial: _____

ED Initial: _____

SCHEDULE C
PERSONAL INFORMATION INTERNATIONAL DISCLOSURE PROTECTION ACT

The Supplier acknowledges and confirms that it is a "service provider" as defined in the *Personal Information International Disclosure Protection Act*, SNS 2006 c. 3 ("PIIDPA"), that it has read and understands its obligations as a service provider thereunder and that as a service provider it is legally bound by the obligations imposed on it by PIIDPA. It is a condition precedent to the Minister entering into the Agreement with the Supplier that the Supplier irrevocably undertakes, covenants and agrees to be bound by and comply with the obligations imposed on it as a service provider under PIIDPA.

The Supplier further covenants, warrants and represents to the Minister that it will not at any time provide or allow the release of personal information to which it has access in its capacity as a service provider to the Minister in response to any "foreign demand for disclosure" or permit or allow the "unauthorized disclosure of personal information" as each of those terms are defined in PIIDPA.

The Supplier shall implement and strictly enforce security arrangements that will ensure that all personal information that it collects or uses on behalf of the Minister is protected at all times from unauthorized access or disclosure and shall confirm in writing to the Minister, upon request, the details of such security arrangements. The Supplier also agrees to implement and enforce any additional security procedures as may be required by the Minister from time to time to protect the personal information that the Supplier collects or uses on behalf of the Minister. The Minister shall be authorized, upon giving prior written notice to the Supplier, to enter the premises of the Supplier during normal business hours for the purpose of conducting an audit of the security arrangements referenced herein.

All personal information that the Supplier obtains or becomes aware of while providing services to the Minister is not and shall not be or be deemed to be the property of the Supplier. The Supplier acknowledges and agrees that it will not, either directly or indirectly, acquire any rights to use or own any such personal information other than the right to use it for the sole purpose of fulfilling its obligations to the Minister under the Agreement.

Supplier Initial: _____

ED Initial: _____