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## MARKETING AND PROMOTIONAL PRODUCTS

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### REQUEST FOR PROPOSALS NUMBER 2020-346

**Request for Proposals Issued On:** May 4, 2020

**Proponent's Information & OTP Demonstration Session:** 2:00 pm on May 12, 2020

**Proponent's Deadline to Submit Questions:** 5:00 pm on May 14, 2020

**Proponent's Deadline to Submit Questions Related to  
Addenda & Question and Answer Documents:** 5:00 pm on May 21, 2020

**Closing Date:** 2:00:00 pm on June 4, 2020 local time in Toronto, Ontario, Canada

All times specified in this RFP timetable are local times in Toronto, Ontario, Canada.  
Please refer to Section 5.1.1 for the complete RFP timetable.

OECEM shall not be obligated in any manner to any Proponent whatsoever until a written Master Agreement has been duly executed with a Supplier.

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## PART 1 – INTRODUCTION

This non-binding Request for Proposals (“RFP”) is an invitation to obtain Proposals from qualified Proponents for Marketing and Promotional Products and related services as described in Part 2. OECM intends to award up to ten (10) Master Agreements, with an initial Term of the Master Agreement (“Term”) of three (3) years with an option in favour of OECM to extend the Term on the same terms and conditions for up to two (2) years. Refer to the details contained within the RFP for a full description of the requirements.

This RFP is issued by OECM.

### 1.1 Objective of this RFP

The objective of this RFP is to provide OECM Customers the ability to purchase Services to satisfy their requirements and to reduce the costs of competitive procurement processes associated with the Services on an ongoing basis (i.e. fewer competitive procurement documents issued by Customers).

The purpose of this RFP process is to:

- (a) Provide Customers with access to Suppliers that provide a wide range of promotional products from a variety of manufacturers;
- (b) Ensure the agreement evolves to accommodate emerging trends and market innovations;
- (c) Obtain quality service at the best overall value;
- (d) Enhance Customer satisfaction and improvements in service; and,
- (e) Reduce the costs of competitive procurement processes associated with the Products and Services on an ongoing basis (i.e. fewer competitive procurement documents issued by Customers).

The following are out of scope for the purposes of this RFP:

- (a) Apparel used for Staff uniforms, Official game uniforms and practice gear, and Spiritwear.

### 1.2 Project Advisory Committee

The following Customers were involved with the development of the requirements set out in this RFP:

- (a) City of Brampton;
- (b) Grand Erie District School Board;
- (c) Humber College;
- (d) Peel District School Board;
- (e) Ryerson University;
- (f) University of Toronto; and,
- (g) Waterloo Regional District School Board.

The above Customers are **not**, in any way, committed to participating in the Master Agreement resulting from this RFP.

### 1.3 Historical Spend

OECM's current Promotional Products RFP # 2015-246, that will expire on October 31, 2020, was awarded to three (3) Suppliers. Currently eighty-five (85) unique Customers are using those agreements:

- (a) Thirty-One (31) District School Boards,
- (b) Twenty (20) Colleges;

(c) Thirteen (13) Universities; and,

(d) Twenty-One (21) BPS.

Purchases through the existing agreements from July 2015 through February 2020 were approximately eleven million six hundred and thirty-six thousand dollars (\$11,636,000).

Purchases through the first iteration agreements from January 2013 through May 2015 were approximately one million three hundred and nine thousand dollars (\$1,309,000).

Customers using the current OECM Promotional Products agreements are not, in any way, obligated to participate in any Master Agreement resulting from this RFP.

#### **1.4 Overview of OECM**

OECM is a trusted not-for-profit partner for Ontario's educational entities (e.g. school boards or authorities, Provincial and Demonstration Schools Branch with Ministry of Education, , colleges, and universities), shared service organizations, not-for-profit organizations, municipalities, utilities and local boards, health and social service entities, provincially funded organizations ("PFO"), Crown corporations, First Nations federal agencies, and any other Ontario Public Sector and Broader Public Sector agencies, boards or commissions or similar entities not mentioned here. OECM offers a comprehensive choice of collaboratively sourced and competitively priced products and services through its Marketplace, the goal of which is to generate savings, choice and service for its Customers.

Recognizing the power of collaboration, OECM is committed to fostering strong relationships with both Customers and suppliers by:

- Actively sourcing products and services in an open, fair, transparent and competitive manner, compliant with BPS Procurement Directive and applicable trade agreements;
- Establishing, promoting and managing product and service agreements used throughout its Customer community;
- Supporting Customers' access and use of OECM agreements through analysis, reporting and the development of tools, guides, and other materials;
- Effectively managing supplier contract performance while harnessing expertise and innovative ideas, to drive continuous improvements through a Supplier Relationship Management program;
- Promoting OECM's Supplier Code of Conduct, based on its core values, to ensure that all supplier partners adhere to a set standard when conducting business with OECM and its Customers resulting in continuous, long-term success; and,
- Supporting supplier partners through a Supplier Recognition Program.

#### **1.5 Use of OECM Master Agreements**

As of March 31, 2020, nine hundred and twenty two (922) Customers were using one (1) or more OECM agreements with a cumulative spend of more than one point eight (1.8) billion dollars over the last ten (10) years. The annual spend for 2019 increased by twenty-four percent (24%) when compared to 2018.

More information about OECM is available on our website - <http://www.oecm.ca/>.

#### **The Ontario Broader Public Sector Procurement Directive**

OECM, and the Customers they service, follow the Ontario BPS Procurement Directive. The directive sets out rules for designated BPS entities on the purchase of goods and services using public funds. The Procurement Directive is available here <https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/English/bps-procurementdirective>.

## 1.6 Trade Agreements

OECM procurements are undertaken within the scope of Chapter 5 of the Canadian Free Trade Agreement ("CFTA"), Chapter 19 of the Comprehensive Economic and Trade Agreement ("CETA"), and within the scope of the Trade and Cooperation Agreement between Quebec and Ontario and are subject to such agreements, although the rights and obligations of the parties shall be governed by the specific terms of this RFP. For more information, refer to the Section 5.6.11.

## 1.7 Rules of Interpretation

This RFP shall be interpreted according to the following provisions, unless the context requires a different meaning:

- (a) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine and feminine includes the other gender;
- (b) Words in the RFP shall bear their natural meaning;
- (c) References containing terms such as "includes" and "including", whether or not used with the words "without limitation" or "but not limited to", shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean "includes without limitation" and "including without limitation";
- (d) In construing the RFP, general words introduced or followed by the word "other" or "including" or "in particular" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words;
- (e) Unless otherwise indicated, time periods will be strictly applied; and,
- (f) The following terminology applies in the RFP:
  - i. The terms "must" and "shall" relate to a requirement the Supplier will be obligated to fulfil. Whenever the terms "must" or "shall" are used in relation to OECM or the Supplier, such terms shall be construed and interpreted as synonymous and shall be construed to read "OECM shall" or the "Supplier shall", as the case may be;
  - ii. The term "should" relates to a requirement that OECM would like the Supplier to fulfil; and,
  - iii. The term "will" describes a procedure that is intended to be followed.

[End of Part 1]

## PART 2 – THE DELIVERABLES

This Part of the RFP describes the Deliverables of the Marketing and Promotional Products (“Products”) which will be incorporated into the final Master Agreement. The Supplier shall provide **all** RFP requirements.

### 2.1 Products

The Supplier shall provide a broad range of quality, new (not refurbished, not previously used, not re-manufactured) as applicable, on-trend Products from a vast network of suppliers for the product groups including, but not limited to, the following:

Group Number	Product Group	Example of Product, including but not limited to:	
1	Awards and Recognition	<ul style="list-style-type: none"> <li>• Award</li> <li>• Button</li> <li>• Lapel Pin</li> <li>• Medal</li> </ul>	<ul style="list-style-type: none"> <li>• Medallion</li> <li>• Plaque</li> <li>• Trophy</li> </ul>
2	Bags	<ul style="list-style-type: none"> <li>• Backpack / Knapsack</li> <li>• Bag Clip</li> <li>• Business Cases (Briefcase, Laptop, Travel)</li> <li>• Duffle Bag</li> <li>• Gym Bag</li> <li>• Library Book Bag (waterproof)</li> </ul>	<ul style="list-style-type: none"> <li>• Luggage</li> <li>• Luggage Tag</li> <li>• Messenger Bag</li> <li>• Pouch</li> <li>• Tote Bag</li> </ul>
3	Clothing & Accessories	<ul style="list-style-type: none"> <li>• Apron/ Smock</li> <li>• Bracelet / Wristband</li> <li>• Cap / Hat / Toque</li> <li>• Hoodie</li> <li>• Jacket</li> <li>• Packable Jacket</li> <li>• Polo Shirt</li> </ul>	<ul style="list-style-type: none"> <li>• Scrunchie</li> <li>• Short/ Pants</li> <li>• Shirts (Dress, Polo, Tee)</li> <li>• Socks</li> <li>• Sweatpants/ Sweatshirt</li> <li>• Ties</li> </ul>
4	Drinkware	<ul style="list-style-type: none"> <li>• Coffee Cup Wrap</li> <li>• Cup</li> <li>• Mug / Travel Mug</li> </ul>	<ul style="list-style-type: none"> <li>• Tumbler</li> <li>• Water Bottle</li> </ul>
5	Food	<ul style="list-style-type: none"> <li>• Candy</li> <li>• Chips</li> </ul>	<ul style="list-style-type: none"> <li>• Cookie</li> <li>• Gum</li> </ul>
6	Home & Tools	<ul style="list-style-type: none"> <li>• Auto Emergency Kit</li> <li>• Cleaner</li> <li>• Cutlery Set</li> <li>• Cutting Board</li> <li>• Flashlight</li> <li>• Hairbrush</li> <li>• Hand Sanitizer/ Holder</li> <li>• Key Chain</li> </ul>	<ul style="list-style-type: none"> <li>• Knife Set</li> <li>• Measuring Tape</li> <li>• Mirror</li> <li>• Openers (Bottle, Can, Jar)</li> <li>• Pet Bowl, Collar, and Leash</li> <li>• Tool (Mini Screwdriver, X-ACTO Knife )</li> <li>• Toothpick</li> <li>• Wet Wipes</li> </ul>

Group Number	Product Group	Example of Product, including but not limited to:	
7	Office and Stationery	<ul style="list-style-type: none"> <li>• Business Card Magnet</li> <li>• Calculator</li> <li>• Card Holder</li> <li>• Clip</li> <li>• Clock</li> <li>• Coin / Piggy Bank</li> <li>• Frame</li> <li>• Journal with and without Pen</li> </ul>	<ul style="list-style-type: none"> <li>• Letter Opener</li> <li>• Loop Pen Bin</li> <li>• Organizer</li> <li>• Padfolio</li> <li>• Paperweight</li> <li>• Pen and Pencil</li> <li>• Pin</li> <li>• Post-It</li> </ul>
8	Outdoor & Leisure	<ul style="list-style-type: none"> <li>• Balloons</li> <li>• Beach Ball</li> <li>• Cheering Stick</li> <li>• Cube Puzzle</li> <li>• Frisbee</li> <li>• Golf Accessories (Balls, Tees, Towel)</li> <li>• Lip Balm</li> <li>• Logo Crest</li> <li>• Pedometer</li> </ul>	<ul style="list-style-type: none"> <li>• Puzzle Set</li> <li>• Sports Watch</li> <li>• Stress Reliever</li> <li>• Sunglasses</li> <li>• Telescope</li> <li>• Towels (Beach, Cooling, Shammy)</li> <li>• Umbrella</li> <li>• Yoga Mat</li> </ul>
9	Show & Events	<ul style="list-style-type: none"> <li>• Badge Holder</li> <li>• Banner</li> <li>• Breakaway</li> <li>• Flag</li> <li>• Lanyard</li> </ul>	<ul style="list-style-type: none"> <li>• Name Badge</li> <li>• Tablecloth</li> <li>• Table Throw</li> <li>• Tent</li> </ul>
10	Technology	<ul style="list-style-type: none"> <li>• Bluetooth Tracker</li> <li>• Branded Cables</li> <li>• Cable/ Cord Organizer</li> <li>• Charger</li> <li>• Earbuds</li> <li>• Flash Drive</li> <li>• Mobile accessories</li> <li>• Mini Fan</li> <li>• Power Bank</li> </ul>	<ul style="list-style-type: none"> <li>• Privacy Camera Blocker</li> <li>• Speaker</li> <li>• Stylus</li> <li>• USB Car Charger</li> <li>• USB Cables</li> <li>• USB Flash Drive</li> <li>• USB Lights</li> <li>• Watch</li> <li>• Wireless Charger</li> </ul>
11	Eco Friendly	<ul style="list-style-type: none"> <li>• Bamboo Bento Lunch Box</li> <li>• Bamboo Pen</li> <li>• Bamboo Toothbrush</li> <li>• Beeswax Wraps (Coffee and Food)</li> <li>• Biodegradable Pen</li> <li>• Biodegradable Water Bottle</li> <li>• Journal (Bamboo and Cardboard with 100% recycled paper)</li> <li>• Organic Cotton T-shirt</li> </ul>	<ul style="list-style-type: none"> <li>• Tote Bag (made of recycled plastic bottles)</li> <li>• Recycled Glass Awards</li> <li>• Recycled Towels (Beach &amp; Golf)</li> <li>• Reusable Sandwich Wrap</li> <li>• Seed Packet</li> <li>• Straws (Metal, Paper, Silicone)</li> <li>• Upcycled Socks</li> <li>• Wheat Mug</li> </ul>

The Proponent is advised that OECM has separate agreements for some Products (e.g., apparels, office supplies and printing services). Please visit OECM marketplace at <http://oecm.ca/marketplace> for more information.

## **2.2 Corporate Capabilities**

The Supplier should possess the following expertise and capabilities:

- (a) Be fully cognizant of and have the demonstrated Products and Services knowledge;
- (b) Provide knowledgeable and professional personnel ensuring Customers' needs are met.
- (c) Support a diverse group of Customers with varying needs;
- (d) Possess and maintain applicable authorization(s) (i.e. reseller authorization, if applicable);
- (e) Facilitate Customer sales calls (e.g. in-person, virtual calls, and/ or showroom);
- (f) Provide Customers with professional and responsive customer support and account management; and
- (g) Have demonstrated experience in supply and delivery of proposed Products across Ontario;

### **2.2.1 Creative Solution**

Proponents must provide creative solutions for orders of all values, as required by Customers, that identifies the Customer's needs, address any challenges in relation to the products, quantities and Customer's needs.

## **2.3 Product Requirements**

### **2.3.1 Regulatory Requirements**

Products shall meet or exceed all applicable industry standards, including but not limited to the following:

- (a) Canadian Standards Association;
- (b) Health Canada;
- (c) Workplace Hazardous Material Information System (WHIMIS);
- (d) Ontario Food Premises Regulations (if applicable);
- (e) Ontario Food safety and Quality Act (if applicable);
- (f) Ontario's Occupational Health and Safety Act;
- (g) CCPSA (Canadian Consumer Product Safety Act);
- (h) Ethical Procurement regulations and standards: Legal Compliance, Ethical Principles and Employment / Fair Labour Standards as described below in Section 2.3.3.

### **2.3.2 Certifications**

Proponents shall submit copies of certifications they possess that are applicable to this RFP. Certifications of value to this procurement, but are not limited to include:

- (a) Advertising Specialties Institute (ASI);
- (b) BlueSign;
- (c) Canadian Food Inspection Agency (CFIA);
- (d) Environmental Choice Program (ECP);

- (e) Fair Labour Alliance (FLA);
- (f) Forest Stewardship Council certification (FSC);
- (g) GRS (Global Recycled Standard);
- (h) Hazard Analysis Critical Control Points (HACCP);
- (i) International Organization for Standardization (ISO) ISO 14001;
- (j) OEKO-TEX Standard 100.
- (k) Promotional Products Professionals of Canada (PPPC);
- (l) Promotional Products Association International (PPAI);
- (m) Safe Food for Canadians Regulations (SFCR);
- (n) Sustainable Forestry Initiative (SFI); and,
- (o) WRAP (Worldwide Responsible Accredited Production).

Suppliers MUST provide proof of certifications required by law (e.g. If Proponent submits Food Products the Proponent must submit (CFIA) certification).

OECM will evaluate certifications submitted by Proponents as part of the RFP evaluation process. Customers may evaluate Supplier certifications during the term of their Customer Supplier Agreement.

The certifications provided by Proponents/Suppliers to OECM and their Customers are subject to verification at all times. Unless specified otherwise, OECM or the Customer may declare an arrangement non-responsive, or will declare a Proponent/ Supplier in default if any certification made by the Proponent/Supplier is found to be untrue whether made knowingly or unknowingly during the evaluation period, or during the term of any agreement resulting from this RFP.

Customers will have the right to ask for additional information to verify any certifications submitted by the Supplier. Failure to comply and to cooperate with any request or requirement will render the arrangement non-responsive or constitute a default under the Customer Supplier Agreement.

### **2.3.3 Ethical Procurement Requirements**

During the Term, the Supplier should meet or exceed the Ethical Procurement Requirements for **ALL** Products supplied under the resulting agreement as set out in the following documents:

- (a) Ethical Apparel Procurement Requirements published by Ontario Supply Chain, [https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/EthicalApparelRequirementsNotice-QAs/\\$FILE/EthicalApparelRequirementsNotice-QAs-eng.pdf](https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/Attachments/EthicalApparelRequirementsNotice-QAs/$FILE/EthicalApparelRequirementsNotice-QAs-eng.pdf); and,
- (b) Ethical Procurement Certification as published by the Public Works and Government Services Canada, <https://buyandsell.gc.ca/policy-and-guidelines/standard-acquisition-clauses-and-conditions-manual/5/A/A3006T/1>.

The Supplier is required to provide OECM on or before MA execution with its Responsible Manufacturers Information ("RMI"), including the name, and address of all factories and production facilities used in the manufacture and assembly of the Products and to the Customer on or before CSA execution.

When submitting RMI, the supplier will confirm that, to the best of their knowledge, the manufacturer and any subcontractors for the Products offered comply with all local laws governing labour and working conditions and will continue to do so throughout the Term of the Agreement resulting from this RFP.

If during the term of the agreement the Supplier's RMI changes, the Supplier shall notify OECM and the Customer of the change within fifteen (15) Business Days of the change occurring.

#### **2.3.4 Fair Labour Practices**

OECM requires the Supplier and its subcontractors to comply with the local and international laws and regulations in terms of Product manufacturing especially clothing manufacturing. Each Proponent, as part of their RFP response, shall outline their ethical business best practices, including but not limited to:

- (a) Upholding local labour laws and international standards;
- (b) Independent monitoring;
- (c) Provide full public disclosure; and
- (d) Produce goods without the use of child labour.

The Supplier shall take all reasonable measures to ensure its Products are produced under safe and fair working conditions.

#### **2.3.5 Food Container Safety**

All Products that will come in contact with food (e.g., water bottles, Bento boxes) should be Bisphenol A (BPA) free and compliant with related regulations. Products that are made with black plastics will not be accepted by the Customer.

#### **2.3.6 Environmental Considerations**

OECM and its Customers are committed to reducing the carbon footprint of our plant by acquiring Products and Services that have a lower impact on the environment than those traditionally acquired.

The Supplier should keep Customers informed about any environment-friendly Products, decoration methods, processes, new technologies and/or green initiatives. The Supplier should, in consultation with OECM, make any environment-friendly Products and/or Services, new technologies and/or green initiatives available to Customers as they become available.

##### **2.3.6.1 Environmentally Friendly Practices**

As part of their proposal Proponents should describe their activities related to greening their own supply chain and operations. These practices could include, but are not be limited to:

- i. Reduce packaging/consumption;
- ii. Minimize environmental impact at all stages of design, production, packaging, shipping and distribution;
- iii. Have environmental management policies and practices that are geared towards continuous improvement;
- iv. Have a waste disposal program; and,
- v. Have a disposal program of defective products for the products that are considered defective or damaged.

##### **2.3.6.2 Eco-Friendly Products**

In an effort to promote the longevity and future of the planet OECM and our Customers are seeking Products that promote sustainability and are environmentally friendly by creating a

new product group seeking Eco-Friendly Products. These Products could be made with, but not limited to:

- i. Biodegradable or compostable items (e.g., pens and cups made of wheat or corn starch);
- ii. Re-useable and/or recyclable items (e.g., clothing, cloth bags, USB drives, mugs, water bottles, office supplies);
- iii. Items made using Alternative Energy sources (e.g., solar) or uses alternative energy sources in operation (i.e. not a plug or battery);
- iv. Recycled Content for plastic items and clothing;
- v. Use of bio-based materials (e.g., bamboo clothing and bags, wood instead of plastic);
- vi. Organic Content (e.g., cotton);
- vii. Items made using renewable and sustainable resources (e.g. wood or paper products originating from a certified sustainable managed forest and/or certified as processed chlorine free);
- viii. Products that are "living" such as seed packets, tree seedlings, edibles;
- ix. Packaging of products that is minimal, re-usable and/or recyclable; and end product components (e.g. - Paper and materials) that are recyclable and/or reusable;
- x. Reduced quantities of volatile organic compounds (VOCs) and solvents (e.g. highlighters, markers, etc.); and,
- xi. Use of vegetable-based inks.

### **2.3.7 Electrical Products Safety**

All electrical Products being supplied shall be authorized and approved for sale in Canada and labelled according to the applicable Law. Upon request, the Supplier shall provide satisfactory evidence of compliance to the applicable Laws.

## **2.4 Customer Designate**

The Customer shall detail the process for approvals relating to the services as described in Section 2.5 - Related Services within the CSA.

Customers may have one (1) or multiple Customer Designates within their organization. The Customer Designate process will be identified by the Customer within the CSA.

## **2.5 Related Services**

The Supplier shall provide Customers related Services including but not limited to:

- (h) Recommendation on Products and decoration methods;
- (i) Product Decoration
- (j) Artwork/ Pre-Production;
- (k) Layout and Modifications;
- (l) Proofs;

- (m) Pre-Production Sample or Prototype; and,
- (n) Artwork, Plates, and Dies.

#### **2.5.1 Recommendation on Products and Decoration Methods**

When requested, the Supplier shall provide Customers support in selecting the most appropriate and suitable Products including decoration methods (e.g., embroidery, silk-screening) that can achieve Customer's promotional needs and budget.

#### **2.5.2 Decoration Methods**

The Supplier shall provide Product decoration methods including but not limited to:

- (a) Embossing and Debossing;
- (b) Embroidery;
- (c) Etching;
- (d) Image Transfer (e.g., heat transfer);
- (e) Laser engraving;
- (f) Laser printing;
- (g) Silk – screening; and
- (h) Any other commercially available decoration methods as required.

#### **2.5.3 Artwork/ Pre-Production Material**

Customers will supply artwork in electronic or an acceptable format to the Supplier. The Supplier shall adapt the artwork for production (e.g., convert jpeg file to DST format for embroidery) at no extra charge to Customer. In situations where Customer cannot provide complete artwork or the artwork is outdated, the Supplier shall create and/or revise the artwork for Customer, where costs may apply.

Original artwork / pre-production material supplied to the Supplier must not be altered in any way and must be returned upon completion of the work to the Customer and/or Customer Designate in the same condition that it was supplied to the Supplier.

The Supplier must notify the Customer and/or Customer Designate within one (1) business day after the Supplier becomes aware of the existence of the following:

- (a) That the supplied media varies from the description of the materials as stated in the specifications;
- (b) There are problems accessing or processing or outputting from the supplied media; and,
- (c) The supplied images do not conform to usage for the specified item.

#### **2.5.4 Layout and Modifications**

Should revisions to the artwork / pre-production material supplied to the Supplier be required to meet the imprint specifications of the specific Product the Supplier must advise the Customer and/or Customer Designate of what is required and create a separate revised file for approval by the Customer and/or Customer Designate .

There may be occasions when the Supplier will be required to create the final artwork (format text and layout logos or supplied images) from raw text and images supplied to them by the Customer and/or Customer Designate .

### **2.5.5 Proofs**

The Customer and/or Customer Designate may require proofs of Products requested prior to production. Proofs must be sent to the Customer and/or Customer Designate at no additional cost.

Proofs will be approved by the Customer and/or Customer Designate in writing by facsimile or e-mail and returned to the Supplier within the time frame specified by the Customer and/or Customer Designate at time for order. Proofs must be accounted for within the schedule and must not modify the originally specified delivery schedule.

### **2.5.6 Pre-Production Sample or Prototype**

The Customer and/or Customer Designate may require a blank (Product without required imprint or sample of the identical Product from a previous production) of all Products requested prior to production.

The Customer and/or Customer Designate may also request to review/approve a pre-production proof (actual prototype with required imprint) prior to production.

The pre-production sample or prototype must be sent to the Customer and/or Customer Designate for approval as specified at time of order.

Orders without pre-production approval may be rejected by the Customer at no cost to the Customer.

All Product samples or prototypes should be provided at no additional cost to the Customer.

### **2.5.7 Artwork, Plates and Dies**

The Supplier will work with Customers to minimize the costs associated with artwork. Any costs associated with artwork design shall be communicated and approved by the Customer and/or Customer Designate prior to any production.

The Supplier shall supply all plates and dies as well as any other production tools required to complete Customer orders.

There shall not be plates, dies and other tool charges for re-production if there is no artwork change, unless the cost is pre-approved by the Customer and/or Customer Designate

#### **2.5.7.1 Ownership of Artwork, Plates and Dies**

Customers own the artwork, plates and dies used for production. The Supplier shall return any artwork, plates and dies to Customer any time during the Term or upon agreement termination, upon request.

### **2.6 OEM and Reseller Status**

The Proponent must be an OEM or an authorized reseller for proposed OEM Products and/or Services.

During the Term, if the Supplier is a reseller, it must maintain OEM authorized reseller status and provide proof of its status upon OEM's request. The Supplier must advise OEM of any changes to its reseller status within thirty (30) days of such change.

### **2.7 Product Catalogue**

The Supplier is expected to provide Customers the following Product lists with Product details, minimum order quantity and images:

- (a) Online Product catalogues that allow Customers to preview full Product offerings before executing a CSA;

- (b) Standard Product catalogues in printed or electronic format (e.g., PDF); and,
- (c) The Supplier shall provide French Product information such as Product description and packaging information upon Customer requests.

#### **2.7.1 Customized Electronic Catalogue**

Customers may require a customized electronic catalogue, Suppliers should provide design, implementation, and account setup for the customized catalogue.

Proponents should identify their ability to provide an electronic catalogue in both French and English within their proposal.

### **2.8 Order Management**

The Supplier shall provide a variety of ways for Customers to order Products and/or Services including, but not limited to the following:

- (a) Via purchase order through the Customer's system;
- (b) Electronic Data Interchange ("EDI");
- (c) Email;
- (d) Fax;
- (e) Toll free phone; and/or,
- (f) Supplier's online ordering process.

#### **2.8.1 Electronic Commerce**

Customers currently use a variety of Enterprise Resource Planning ("ERP"), E-Procurement (e.g. PeopleSoft, Jaggaer) for processing orders and payments. To support these processes, the Supplier will provide reasonable technology and implementation support, at any time during the Term, at no additional cost to the Customer.

#### **2.8.2 Online Ordering**

Customers may use the Supplier's website to place orders where available. The Supplier's online ordering website is expected to meet the following requirements at the minimum:

- (d) Be secure and user friendly;
- (e) Be accessible from a standard web browser;
- (f) Allows individual or custom user login ID and password;
- (g) Contains Product offerings;
- (h) Features search function to allow easy Product lookup by category and description;
- (i) Allows for Customer internal approval for purchases as required;
- (j) Allows for order customization and approval of design before check out;
- (k) Allows for Customer payment at order check out using P-Card or budget codes (G/Ls); and,
- (l) Does not store Customer payment related (e.g. P-card) information without Customer's consent.

### **2.8.2.1 Website Testing**

Customers may need to perform integration testing on the Supplier's online ordering system to ensure it is compatible with the Customers' systems, policies and procedures before executing a CSA to ensure the website meets Customer's specific requirements.

Suppliers will be expected to provide Customers with the following for a test account, at no additional cost:

- xii. URL/Website address;
- xiii. Login ID;
- xiv. Password; and
- xv. Confirmation Orders can go to;

Customers may test from beginning to end of the order process including submitting the order. Customers will not be responsible for any live orders that go through during the testing period.

### **2.8.2.2 Customer Online Portal (optional)**

Some Customers may require the option for a Customer Site or link that could be posted on Customer's website, that provides the ability for End User (e.g. Customer employee, students, parents, grandparents) to order from a specific gallery of predesigned, custom, and branded swag (e.g. branded mugs, branded notebooks) that have already been approved by the Customer. This option should also provide the ability for the End User to pay for the Product and have the Products shipped to their home or an alternate address.

Proponents should identify which methods of payment are accepted (e.g. credit card, pin-less debit card, e-wallet).

The Supplier and the Customer shall mutually agree to any costs associated with the Customer Online Portal when executing a Customer-Supplier Agreement ("CSA").

### **2.8.2.3 Website Security**

The proponent should describe their website security features and their process for protecting Customer data, purchases and confidential information such as credit card information.

All Customer's data shall be encrypted when it is moved across the Supplier's network and/or between the Supplier's data centre locations.

The Supplier shall support Customer's established information security policies and controls for protecting sensitive data.

The Supplier and the Customer shall mutually agree to website security requirements when executing a Customer-Supplier Agreement ("CSA").

The supplier will support the Customers federal and provincial compliance requirements on an ongoing basis and stay current on those requirements.

### **2.8.3 Minimum Order**

The Supplier shall use the lowest quantity published on the catalogue as the minimum order quantity.

#### **2.8.4 Order Confirmation**

The Supplier shall acknowledge the receipt of an order by Customer immediately or within one (1) Business Day upon order receipt, in addition, the Supplier shall confirm all relevant ordering information with Customer prior to the production of any order, including but not limited to the following:

- (a) Product information (e.g., catalogue number, image, material, quality level);
- (b) Colour availability;
- (c) Sizing information for clothing and accessories;
- (d) Decoration location, method, and size;
- (e) Itemized cost including set up charges and any ancillary charges that may be applicable as outlined in the Agreement; and
- (f) Shipping weight and associated costs as a separate line item, if applicable.

#### **2.8.5 Change Policy or Cancellation of Orders**

The Supplier shall accept new orders, order changes and/or cancellation as may be required, within timelines mutually agreed upon between the Customer and the Supplier, at no additional cost to the Customer.

##### **2.8.5.1 Back Orders**

Back orders, if any, should be confirmed at the time of the order confirmation with an estimated delivery date. The Customer, at its sole discretion and at no additional cost to the Customer, will have the option to:

- i. Cancel some or the entire order;
- ii. Ask the Supplier to ship only available Products and cancel any backorders; and/or,
- iii. Agree to an alternative delivery schedule based on anticipated Product and/or Service availability.

##### **2.8.5.2 Product Substitution**

The Supplier should only substitute Products with approval from the Customer. The Supplier shall substitute Products with equivalent or greater Products at no additional cost to the Customer.

#### **2.8.6 Order Quantity Overrun / Underrun**

The Supplier shall ensure order quantity overrun and underrun is within five percent (5%). The Supplier shall work with Customer to minimize the order quantity overrun and underrun.

### **2.9 Product Delivery**

#### **2.9.1 Delivery**

The Successful Proponent is responsible for clearing the Products through customs in Canada, including both paying the duties and taxes, and obtaining the necessary authorizations and registrations from the authorities in Canada.

The Supplier should deliver orders with correct Products and quantities within the agreed upon lead time.

All Products will be delivered inside the door of a Customer's locations (e.g. office reception). Customers may have more than one (1) delivery location within their organization. Where bulky or heavy Products are delivered, the Supplier shall make appropriate delivery arrangements to ensure Products are delivered to Customer's specified location.

Deliveries must be made by a reputable transportation company or the Supplier's own fleet and allow for the tracking of the shipments. When required by Customers, the Supplier shall use Customer's own delivery service providers, details shall be outlined in the CSA.

The Supplier shall charge Customer only the actual delivery costs charged by all delivery service providers, there shall not be mark up on the delivery costs.

From time to time Customers may require rush delivery to meet certain deadlines, the Supplier will identify and communicate all applicable costs and obtain prior approval from Customers before shipping out the Products.

Products will be packaged and labelled appropriately to ensure safe delivery. All deliveries must include a packing slip specifying the Customer's required information (e.g. name of the employee who placed the order, purchase order number, Products and quantities ordered and shipped, back ordered Products and quantities, if any).

## **2.9.2 Delivery Lead Times**

### **2.9.2.1 Branded Stocked Product**

The Supplier should deliver branded stocked Products within four (4) weeks. In situations where the lead time is more than four (4) weeks such as due to fabric availability, the Supplier shall provide estimated lead time to the Customer and/or Customer Designate at order confirmation.

### **2.9.2.2 Custom Product**

When Customers order custom made Products, the Supplier should provide the estimated lead time when quoting Rates or prior to order confirmation, as appropriate, for Customer's approval. Once the lead time is mutually agreed upon between the Customer and the Supplier at order confirmation, the expectation is that the Supplier will deliver Products within the quoted lead time.

The Supplier shall co-ordinate directly with the Customer regarding the status of orders, and delivery.

## **2.9.3 Order Tracking**

The Proponent shall have a process for keeping Customers up to date on their order status (e.g. email, real-time tracking system).

## **2.9.4 Damaged or Defective Shipment**

The Customer may not accept the delivery of the Products if they are:

- (a) Damaged (or the packaging is damaged);
- (b) Not delivered as agreed; or,
- (c) Substituted without prior approval of the Customer.

The Supplier shall be responsible for all shipping costs related to the return and replacement (e.g. immediately if required by Customer for an imminently scheduled ceremony/event) of any damaged or defective Products from the Customer's location. Customers will not be responsible for any costs, or re-stocking fees due to soiled/wrinkled, damaged, defective, or expired Food Products received.

### **2.9.5 Returns**

The Supplier will accept returns for any Products shipped to the Customer by Supplier's error at no cost to the Customer.

The Supplier will accept the return of Products without defect and in original packaging with proper notification to Supplier by Customer within one hundred and twenty (120) calendar days of receipt of shipment. Restocking fees may apply and vary by Customer.

Return policies will be written into the Customer Supplier Agreements as return policies vary by Manufacturer. The agreement will include, restocking fees in accordance with the Original Manufacturer's Warranty and Return policy.

As required, the Supplier will provide credit or replace the returned Product Resources to the Customer within fifteen (15) days, as agreed to by the Customer.

### **2.9.6 Discontinued Products**

The Supplier shall not arbitrarily discontinue Products and shall provide the Customer and OEMC written notification of discontinuation within sixty (60) days of discontinuation.

### **2.9.7 Warehousing (optional)**

From time to time Customers may require the Proponent to store/ warehouse previously purchased orders on their behalf for periods no longer than three (3) months.

As warehousing requirements will vary by Customer details of the warehousing including any associated cost based on Customer's specific requirements shall be mutually agreed to by the Supplier and the Customer and detailed in the CSA.

## **2.10 Product Warranty & Recall**

### **2.10.1 Product Warranty**

The Supplier shall warrant purchased Products from the date of acceptance at Customer's location for a minimum of one (1) year against, but not limited to the following conditions:

- (a) Design deficiencies;
- (b) Faulty material;
- (c) Manufacturing defects (e.g., incorrectly applied artwork, poor print quality); and,
- (d) Poor workmanship (e.g., damaged Products).

Where a manufacturer's warranty applies to a Product, the Supplier shall be responsible for arranging Product exchange and repair. All shipping costs, labour costs, and additional costs (including travel time) as they relate to the approved warranty exchanges and repairs, shall be executed at no cost to the Customer.

The Proponent should detail the method for determining manufacturing defects versus negligence, misuse or abuse; and explain how the manufacturer handles replacements of defective or damaged products.

### **2.10.2 Product Recall**

The Supplier shall ensure all Products meet current safety standards and regulations and advise OEMC and Customers of any changes with regulatory agencies related to the Products, which may impact the future availability of Products and Service.

The Supplier shall communicate all Product recalls to OEMC and Customers who purchased the specific Products being recalled immediately of such recall, advising Product details including but not limited to:

- (a) Product including description;
- (b) Hazard identified;
- (c) Model and/or Supplier's part number;
- (d) Serial, lot number and/or manufacturing date;
- (e) Corrective measurements (e.g., repair, replace);
- (f) Quantities sold; and
- (g) Affected Customers.

Where a Product recall applies, the Supplier shall be responsible for arranging Product exchange. All shipping costs, labour costs, and additional costs (including travel time) as they relate to the product recall and replacement product, shall be executed at no cost to the Customer.

## **2.11 Sell-offs and End-of-Life Items**

The Supplier shall make any sell-offs and/or end-of-life ("EOL") Products available to Customers. In addition, the Supplier shall communicate discontinued Products to Customers who purchase these Products on a regular basis before discontinuation. The Supplier shall provide manufacturer's supporting letter, where applicable, to OEMC and Customer a minimum of thirty (30) calendar days prior to the discontinuation.

Further, the Supplier will ensure that in the event a proposed Product and/or Product requested for a Second Stage become unavailable, a replacement Product will be proposed.

Replacement Products will be product of equal or greater functional capabilities/specifications than those of the EOL Product.

## **2.12 Invoicing**

Flexibility in invoicing processes is required. The Customer and Supplier can mutually agree to invoicing details when executing a Customer-Supplier Agreement ("CSA").

The Supplier shall, for Customers using Jaggaer, support cXML and/or portal invoicing functionality.

The invoices, in either paper or electronic format, as detailed in the Customer's CSA shall be itemized and contain, at a minimum, the following information:

- (a) Invoice number;
- (b) Customer name and location;
- (c) Customer purchase order number (if applicable) and order date;
- (d) Description of Products and/or Services provided, quantities and Rates; and,
  - (a) Freight charge if applicable; and,
  - (b) HST and total cost.

The Customer may request to be invoiced by school, campus or department.

### **2.12.1 Payment Terms and Methods**

The Customer's common payment terms are net thirty (30) days, some Customers may have longer payment terms such as net forty-five (45) days. Different payment terms may be agreed to when executing CSAs.

The Supplier shall accept payment from Customers by cheque, Purchasing Card, Visa Payables Automation (via ghost card) or Electronic Funds Transfer ("EFT") at no additional cost to the Customer.

Different payment terms may be agreed to when executing a CSA (e.g. 2%/10 early payment discount for Customers).

Note – Customer’s payment terms will not be in effect until the Supplier provides an accurate invoice.

### **2.12.2 Electronic Fund Transfer**

The Supplier shall provide the Customer with the necessary banking information to enable EFT, at no additional cost to the Customer, for any related invoice payments including, but not limited to:

- (a) A void cheque;
- (b) Financial institution’s name;
- (c) Financial institution’s transit number;
- (d) Financial institution’s account number; and,
- (e) Email address for notification purposes.

### **2.13 Customer Support to Customer**

The Supplier shall provide effective support to Customers including, but not limited to:

- (a) Providing a responsive account executive (with applicable back-up) assigned to the Customer to support their needs by providing day-to-day and ongoing administrative support, and operational support;
- (b) Managing issue resolution in a timely manner;
- (c) Complying with agreed upon escalation processes to resolve outstanding issues;
- (a) Responding to Customer’s inquiries (e.g. to day-to-day activities) within one (1) Business Day;
- (b) Ensuring minimal disruption to the Customer;
- (c) Providing easy access to the Supplier (e.g. online, toll free telephone number, email, voicemail, chat or fax);
- (d) Establishing an ongoing communications program with the Customer (e.g. new initiatives, innovation, sustainability);
- (e) Adhering to the Customer’s confidentiality and privacy policies (e.g. related to student’s private information);
- (f) Providing written notice to Customers on any scheduled shut down that would impact services (e.g. inventory count, relocation of warehouse, website maintenance);
- (g) Provide Customer reporting;
- (h) Attending meetings with Customers, as requested; and,
- (a) Establishing an ongoing communications program with the Customer (e.g. proofing process, new Products and Services available);

### **2.13.1 Knowledge Sharing and Customer Education**

Customers may request the Supplier to support its internal users on learning the Products, Services and industry trends. This Supplier should support Customers by:

- (a) Exhibiting at the Customer location to allow for users within the organization to learn on Product and Service offerings;
- (b) Providing passes to Industry trade shows (e.g., TOPS, PROMOCAN); and

- (c) Meeting other Customer specific requirements.

### **2.13.2 Transition**

The Supplier should, at no additional cost, provide Customers transition support (e.g. setting up a Supplier's account from the Customer's current agreement/purchasing arrangement) with minimal service disruption.

The Supplier shall provide support to ensure seamless transition to and from a different vendor (e.g. setting up accounts) with no service interruption and at no additional cost to Customers.

### **2.13.3 Financial Incentive to Customers**

Where feasible, the Supplier should offer financial incentives to Customers to promote additional cost savings resulting from better operational efficiencies that may include, but not limited to:

- (a) Increased online ordering including electronic commerce;
- (b) Use of Purchasing Card ("P-Card") for immediate payment;
- (c) Early payment discount for Customers;
- (d) Higher volumes; and,
- (e) Overall growth.

In consultation with OEMC, the Customer may negotiate specific details related to one (1) or more financial incentives.

The financial incentives the Supplier and Customer agree to shall be incorporated into the CSA and reviewed and adjusted (e.g. annually) as required and reported to OEMC as part of the sales reporting.

## **2.14 Social Procurement**

OEMC and its Customers are committed to social procurement. The Supplier should keep OEMC and Customers informed about social procurement processes.

## **2.15 Disaster Recovery and Business Continuity**

The Supplier shall possess and provide to OEMC and/or Customers upon request, information about disaster recovery and business continuity programs including processes, policies, and procedures related to safety standards, preparing for recovery or continuation of Product and Service availability critical to Customers.

## **2.16 Licences, Right to Use and Approvals**

The Supplier shall obtain all licences, right to use and approvals required in connection with the supply of the Products and Services and provide them at Customer and OEMC request. The costs of obtaining such licences, right to use and approvals shall be the responsibility of, and shall be paid for by, the Supplier.

Where a Supplier is required by Applicable Law to hold or obtain any such licence, right to use and approval to carry on an activity contemplated in its Proposal or in the Master Agreement, neither acceptance of the Proposal nor execution of the Master Agreement by OEMC shall be considered an approval by OEMC for the Supplier to carry on such activity without the requisite licence, right to use or approval.

## **2.17 Accessibility for Ontarians with Disabilities Act**

OEMC and its Customers are committed to the highest possible standards for accessibility. The Supplier must be capable to recommend and deliver, as appropriate for each Deliverable, accessible and inclusive Products and Services consistent with the Ontario Human Rights Code (OHRC), the *Ontarians with Disabilities Act, 2001* (ODA) and *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and its regulations in order to achieve accessibility for Ontarians with disabilities.

In accordance with Ontario Regulation 429-07 made under the *Accessibility for Ontarians with Disabilities Act, 2005* (Accessibility Standards for Customer Service), Customers have established policies, practices and procedures governing the provision of its services to persons with disabilities.

The AODA may be found at [http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_05a11\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_05a11_e.htm).

[End of Part 2]

## PART 3 – EVALUATION OF PROPOSALS

### 3.1 Stages of Proposal Evaluation

OECM will conduct the evaluation of Proposals in the following stages:

The subpoint allocation for each stage is independent of the other stages. Once both stages have been scored, the Technical Response sub points will be calculated to equal 60% of the total RFP weighting and the Commercial Response sub points will be calculated to equal 40% of the total RFP weighting.

Stage	Type of Evaluation	Refer to RFP Section	Scoring Methodology and Maximum Sub Points (if applicable)	Minimum Sub Points Threshold Requirement (if any)	RFP Total Weighting
Stage I	Qualification Response	3.2	Pass/Fail	Pass	Pass
Stage II	Technical Response	3.3	78	47	60 %
Stage III	Commercial Response	3.4	97	Not Applicable	40 %
Stage IV	Cumulative Score	3.5	Not Applicable	Not Applicable	100 %
Stage V	Tie Break Process	3.6	No Point Allocation	Not Applicable	Not Applicable
Stage VI	Negotiations	3.7	No Point Allocation	Not Applicable	Not Applicable
Stage VII	Master Agreement Finalization	3.8	No Point Allocation	Not Applicable	Not Applicable

### 3.2 Stage I – Review of Qualification Responses (Pass/Fail)

Stage I will consist of a review to determine which Proposals comply with all qualification requirements.

The Proponent **must** complete the following forms in (“Ontario’s Tenders Portal (“OTP”) to qualify and proceed to the next stage of evaluation.

Title	OTP Envelope
Form of Offer	Qualification
Compliance with Form of Master Agreement	Qualification
OEM Undertaking	Qualification
Commercial Response	Commercial

If the Proponent fails to insert information contained in the above forms, OECM may provide an opportunity to rectify such deficiency within a period of two (2) Business Days from notification thereof. Only Proponents satisfying the identified deficiencies within allotted time will proceed to Stage II.

### 3.3 Stage II – Technical Response

Stage II will consist of an evaluation and scoring of the Technical Response of each Eligible Proposal.

The Technical Response includes a series of questions the Proponent is required to respond to in order to demonstrate the Proponent’s ability to fulfill the RFP Deliverables. Only information contained within the Technical Response will be evaluated in Stage II.

Only Proposals that meet or exceed the minimum thresholds of forty seven (47) sub points will receive a **pass** in this stage and proceed to Stage III of the evaluation process.

Point allocations for the Technical Response sections are as follows:

Technical Response Sections	Available Sub Points	Minimum Threshold, if any
- Proponent's Overview, Experience, and Logistic Capabilities	15	Not Applicable
- Product Offering	17	Not Applicable
- Environmental Considerations	10	Not Applicable
- Related Services	11	Not Applicable
- Product Catalogue, Order Management, and Delivery	20	Not Applicable
- Customer Support and Account Management	5	Not Applicable
<b>TOTAL POINTS:</b>	<b>78</b>	<b>47</b>

Detailed sub-point allocations are set out in the Technical Response on OTP.

In the case that contradictory information or information that contains conditional statements is provided, OECM will, in its sole and absolute discretion, determine whether the response complies with the requirements, and may seek clarification from the Proponent.

A Proposal that does not respond to a particular question (e.g. is left blank) or contains a response of N/A or not applicable will receive a zero (0) score.

Stage II resulting scores per Proposal will be used when determining the cumulative score as described below in Section 3.5.

### 3.4 Stage III – Commercial Response

The Proponent **must** complete and upload Appendix C – Commercial Response into the OTP Commercial Envelope for this stage of evaluation.

Upon the completion of Stage II of the evaluation, the Commercial Response will be opened for all Eligible Proposals.

Point allocations for the Commercial Response sections are as follows:

Commercial Response Sections	Available Sub Points
- Minimum % Off EQP & Ancillary	46
- Product Examples	35
- Shipping Scenarios	15
- Warehousing	1
<b>TOTAL POINTS:</b>	<b>97</b>

Detailed sub-point allocations are set out in the Appendix C – Commercial Response on OTP.

The Proponent should insert sub Product group name and list Rate for each sample Product proposed in Appendix C, tab Sample Product Evaluation.

The proposed Product shall meet or exceed the minimum specification stated in the Appendix C – Rate Bid Form.

Net Product Rate for each sample Product will be calculated by multiplying the list Rate based on catalogue end column quantity pricing and minimum percentage discount off the catalogue end quantity pricing. The net Rates are used in the evaluation and scoring using a relative formula (i.e., by dividing that Proponent's Rate into the lowest net Rate bid) for proposed net Rates on the Rate Bid Form.

Each Rate has a specific sub-point allocation as set out in the Rate Bid Form. The example below illustrates how points will be calculated for proposed maximum Rates:

<b>EXAMPLE OF COMMERCIAL RESPONSE EVALUATION FOR Product Sample Item #1 Vertical Glass Award)</b>		
<b>Proposed Rates</b>	<b>Calculation</b>	<b>Resulting Points</b>
If Proponent 1 proposes the lowest net Rate of \$10.00 per unit, it will receive 100% of the 1 point allocated.	$\$10 \div \$10 \times 1$ Points	1
If Proponent 2 proposes the second lowest net Rate of \$12.50 per unit, it will receive 80% of the 0.35 point allocated.	$\$10 \div \$12.50 \times 1$ Points	0.8
If Proponent 3 proposes the highest net Rate of \$20.00, it will receive 50% of the 1 point allocated.	$\$10 \div \$20 \times 1$ Points	0.5

Where \$0.00 is entered in any Rate cell, it is deemed to mean that the particular Product/Service **will be provided to Customers at no additional cost**. Therefore, when evaluating and scoring the Rates, a Proposal specifying \$0.00 in a Rate cell in the Commercial Response shall receive the maximum point allocation for that particular Product/Service. The remaining Proposals will be evaluated using a relative formula based on the remaining percentage of available points regardless of the Proposals of \$0.00 Rate as per below example.

<b>EXAMPLE – WHERE FIVE (5) PROPOSALS WERE RECEIVED WITH \$0.00 RATE PROPOSED</b>		
Number of Proposals with a proposed Rate of \$0.00 for a particular Product or Service	The number of remaining Proposals	The percentage (%) of the sub-point allocation for the remaining Proposals will be:
1	4	80%
2	3	60%
3	2	40%
4	1	20%

Where N/A or not applicable is entered in a Commercial Response cell or a Commercial Response cell is left blank for the Product or Service, it is deemed to mean that the Product or Service will **not be provided** to Customers. Therefore, when evaluating and scoring the Rates, a Proposal specifying N/A or not applicable, or left blank in Appendix C – Commercial Response will receive a zero (0) point allocation for that particular pricing section.

Stage III resulting scores per Proposal will be used when determining the cumulative score as described below in Section 3.5.

### 3.5 Stage IV – Cumulative Score

At this stage, the scores from Stages II and III will be combined for each Proposal.

Subject to the express and implied rights of OEM; the Proponents with the highest scoring Proposals or all Proponents may become the Preferred Proponents, and be invited to negotiations, as further described below.

Reference checks will be performed to confirm or clarify information provided within the Proposal. The reference checks themselves will not be scored, however, OEM may adjust Technical Response scores related to the information obtained during the reference check.

### 3.6 Stage V – Tie Break Process

At this stage, where two (2) or more of the highest scoring Proposals achieve a tie score on completion of the Stage V, OEM may invite all Proponents to negotiations or break the tie by selecting the Proposal with the highest score in Stage II– Technical Response.

### **3.7 Stage VI – Negotiations**

Concurrent negotiations, with the Preferred Proponents, will be based on the RFP requirements, and the Proposals, understanding that OECM is seeking the best overall solution and value for money for Customers.

The negotiations may include:

- (a) Products/Services;
- (b) Master Agreement management (e.g. performance, KPIs, penalties, reporting);
- (c) Master Agreement terms and conditions;
- (d) Additional references, if required;
- (e) Rates; and,
- (f) Best and Final Offer.

OECM may also request supplementary information from a Preferred Proponent to verify, clarify or supplement the information provided in its Proposal or confirm the conclusions reached in the evaluation and may include requests by OECM for improved Rates.

OECM intends to complete negotiations within fifteen (15) calendar days after notification. If, for any reason, OECM and a Preferred Proponent fail to reach an agreement within the aforementioned timeframe, OECM may at its sole and absolute discretion (a) request the Preferred Proponent to submit its Best and Final Offer; (b) terminate negotiations with that particular Preferred Proponent; (c) extend the negotiation timeline; or (d) publish one (1) or some of the Suppliers, who have executed Master Agreements, within our promotional marketing launch. Other Master Agreements, if successfully negotiated with other Preferred Proponents would be added to OECM's website at a later date.

Upon successful negotiations, the Preferred Proponent will be invited to execute a Master Agreement.

### **3.8 Stage VII – Master Agreement Finalization**

The Preferred Proponent will be given five (5) Business Days to execute the Master Agreement, unless otherwise specified by OECM. Once the Master Agreement has been executed, Customers may execute a CSA.

OECM shall at all times be entitled to exercise its rights under Section 5.6.

[End of Part 3]

## PART 4 – MASTER AGREEMENT STRUCTURE AND MANAGEMENT

### 4.1 Master Agreement Structure

OECM may, through this RFP process, enter into Master Agreements with up to ten (10) Suppliers for the provision of the Products and Services to offer a range of Suppliers for our Customers.

The Term is intended to be for three (3) years, with an option in favour of OECM to extend the Term on the same terms and conditions for up to two (2) additional years. Performance as set out in Appendix G – Performance Management Scorecard and/or Supplier Recognition Program evaluation results will be considered when contemplating a Master Agreement extension

Customers participating in the Master Agreements will execute a CSA with a Supplier as attached in Appendix B – Form of Master Agreement.

The Master Agreement must be fully executed before the provision of any Deliverables commences.

#### 4.1.1 No Contract until Execution of Written Master Agreement

This RFP process is intended to identify Proponents for the purpose of negotiation of potential Master Agreements. The negotiation process is further described in Part 3 – Evaluation of Proposals, and in Section 3.7 of this RFP.

**No** legal relationship or obligation regarding the procurement of any Products shall be created between the Proponent and OECM by this RFP process until the successful completion of negotiation and execution of a written Master Agreement for the provision of the Products has occurred.

#### 4.1.2 Customer's Usage of Master Agreements

The establishment and use of the Master Agreement consists of a two (2) part process.

**Part One**, which is managed by OECM, is the creation of the Master Agreement through the issuance of this RFP, the evaluation of Proposals submitted in response to it and the negotiation and execution of the Master Agreement.

**Part Two**, which is managed by the Customer and is focused on the Customer's specific needs. Depending on the Client's internal policies, and potential dollar value of the Products and/or Services a Customer may:

- (a) Sign a CSA with a Supplier and then immediately obtain Products and/or Services based on the Master Agreement terms, conditions, and Rates (which are maximum Rates); or,
- (b) Obtain Rates through the optional Second Stage Selection Process ("Second Stage") which is managed by the Customer or by OECM on the Customer's behalf. The Second Stage is a request (e.g. a non-binding request via a Second Stage tool (e.g. Quick Quote ("QQ"), or Customer's process (e.g. directly or via an online e.tendering platform)) to the Supplier from the Customer for their specific Products and/or Services requirements. If selected by the Customer, the Supplier shall provide the Products and/or Services in accordance with the specifications stated in the Master Agreement and in the Customer's CSA including Rates (which may be lower than the Master Agreement maximum Rates).

When a Second Stage request is issued, which does not constitute a contract A, contract B situation, it will identify the required Products and/or Services or it may request the Supplier to propose appropriate Products and/or Services to fulfill the Customer's requirements and any other applicable information. The Customer may negotiate their unique requirements with the Supplier and mutually agree to additional terms and conditions (e.g. reporting, Rates, payment terms) ensuring the additional terms and conditions are not in any way inconsistent with the Master Agreement.

The Supplier must respond to a Second Stage Selection Process request and, at minimum, the response should set out the following:

- (a) Proposed Products and Decoration Methods;

- (b) Expected timelines (e.g. delivery date);
- (a) Additional information as necessary; and,
- (b) Final, net Rates. The Rates should be valid for a period of not less than ninety (90) days. Limited time offer Rates and/or promotional Rates must be specified by the Supplier, if applicable to the specific Second Stage request.

Customers are not obligated to sign a CSA to obtain specific Services Rates. However, a CSA must be signed before the provision of any Services commences.

#### **4.1.3 No Guarantee of Volume of Work or Exclusivity of Master Agreement**

The spend information contained in this RFP constitutes an estimate and is supplied solely as a guideline to the Proponent. Such information is not guaranteed, represented, or warranted to be accurate, nor is it necessarily comprehensive or exhaustive.

Nothing in this RFP is intended to relieve the Proponent from forming its own opinions and conclusions with respect to the matters addressed in this RFP. Volumes are an estimate only and may not be relied on by the Proponent.

OECM makes no guarantee of the value or volume of work to be assigned to the Supplier.

The Master Agreement executed with the Supplier may not be an exclusive Master Agreement for the provision of the Deliverables. Customers may contract with others for the same or similar Deliverables to those described in this RFP.

## **4.2 Rates**

The proposed Product Rates shall be firm Rates for the first year of the Master Agreement and shall be:

- (a) Minimum percentage discount off End Quantity Pricing (“EQP”);
- (b) Maximum, fixed, net Rates for Ancillary and Options; and,
- (c) In Canadian funds and shall include all applicable costs, including, but not limited to overhead, materials, fuel, fuel surcharge, duties, tariffs, delivery, office support, profit, permits, licences, labour, insurance, and Workplace Safety Insurance Board costs; and,
- (d) Exclusive of the HST, or other similar taxes.

The Supplier may, however, lower its Rates and/or increase the minimum percentage discount off MSRP for specific Products when the Customer and Supplier mutually agree without affecting the Rates in the Master Agreement.

In extenuating circumstances, OECM may consider a Rate adjustment substantially effecting the provision of Products resulting from new or changed municipal, provincial, or federal regulations, by-laws and fluctuations in foreign exchange rates as published by the Bank of Canada, tariffs, or ordinances. Any such request from the Supplier must be accompanied and supported by documentation deemed appropriate by OECM. OECM may use a third-party index (e.g. Consumer Price Index (“CPI”)) in its Rates review. The Supplier must submit documentation (i.e. Rate impact analysis) demonstrating how the request affects the delivery of Products in this Master Agreement. OECM will not consider any fixed costs or overhead adjustments in its review of the Supplier’s documentation.

#### **4.2.1 Optional Rate Refresh**

OECM’s goal is to keep Rates as low as possible for Customers. However, the Supplier may request a Rate refresh on the anniversary date of the Master Agreement (e.g. in September 2021) and every anniversary thereafter.

The Supplier shall provide a written notice with supporting documentation to OECM at one-hundred-and-twenty (120) days prior to the Master Agreements’ anniversary date annually if requesting a Rate refresh.

As part of any review OECM will consider Rate adjustments that reflect changes in operation, adjustments due to new or changed municipal, provincial, or federal regulations, by-laws, and fluctuations in foreign exchange rates as published by the Bank of Canada, tariffs, or ordinances. Any Rate refresh request from a Supplier must be accompanied by supporting documentation (e.g. detailed calculations and individual Customer impact analysis) to support any Rate adjustment. OECM may use a third-party index (e.g. Consumer Price Index) in its Rates review. OECM will not consider any fixed costs or overhead adjustments in its review.

Volumes and Supplier performance (i.e. Supplier's Performance Management Scorecard and/or Supplier Recognition Program evaluation results) will be considered when contemplating a Rate refresh.

If a proposed Rate refresh was agreed upon between OECM and the Supplier, the new Rates would only be applicable to Products ordered after the effective date of the new Rates. The effective date of the Rate change must allow Customers a minimum of thirty (30) days' prior notice from OECM. If, however, a proposed Rate increase is not accepted by OECM the Master Agreement may be terminated within one-hundred and twenty (120) days unless the Supplier agrees to withdraw its request for a Rate increase and continue the provision of the Products at the existing agreed upon Rates.

If a Rate refresh is not requested, the existing Rates shall remain in effect until the next Rate refresh opportunity.

Decreases to the Rates shall be accepted at any time during the Term.

Based on above, the Master Agreement will be amended, if needed.

#### **4.2.2 Optional Process to Add Other Products**

During the Term, if mutually agreed by OECM and the Supplier, other Products (e.g. newly available Products, new technology) may be added to the Master Agreement at Master Agreement anniversary date to align with Customer needs.

The Supplier shall provide written notice to OECM of at least one hundred and twenty (120) days if requesting a Product and/or Service refresh.

Additional Product and Service requests from the Supplier must be accompanied by appropriate documentation (e.g. Product description, and rationale for the addition).

Volumes and Supplier's performance (i.e. as described in Appendix G – Performance Management Scorecard and/or Supplier Recognition Program evaluation results) will be considered when contemplating adding Products, and Services. In the event the Supplier's performance is poor and/or unacceptable, OECM may not agree to the Supplier's Product refresh request. All other Products shall remain unchanged.

Rates, for newly added Products, will be negotiated at the time ensuring Rate alignment with similar Products currently available on the Master Agreement.

Based on above, the Master Agreement will be amended, if needed.

#### **4.2.3 OECM Geographical Zones**

OECM Customers are located in five (5) geographical Zones (as set out below and detailed in Appendix D – OECM Geographical Zones) throughout the Province of Ontario.

- (a) Central Zone;
- (b) East Zone;
- (c) North East Zone;
- (d) North West Zone; and,
- (e) West Zone.

Also refer to Appendix E – OECM School Board, University and College Customers in Ontario illustrating OECM’s educational Customers by Zone.

**4.2.4 OECM Cost Recovery Fee**

As a not-for-profit/non-share capital corporation, OECM recovers its operating costs from its agreements through a Cost Recovery Fee (“CRF”). CRFs from the resulting Master Agreement from this RFP and other OECM agreements are structured to support OECM’s financial model, while providing savings to Customers.

The Supplier shall pay to OECM a CRF of two-point seven five percent (2.75%) on all Products invoiced by the Supplier to the Customers through the Term.

The CRF shall be paid to OECM, via EFT, on a quarterly basis based on the calendar year by the tenth (10) Business Day of the applicable quarter.

CRF payment dates, for the first year of the Master Agreement, will be as follows:

CRF Payments	Payment Date
The first CRF, including any Customer purchases made between the Master Agreement execution date and December 31, 2020 shall be paid to OECM by:	January 11, 2021
The next CRF, including any Customer purchases made between January 1, 2021 to March 31,2021 shall be paid to OECM by:	April 12, 2021
Subsequent CRF payments shall be paid to OECM on the tenth (10) Business Day following each calendar quarter.	July, October, January, April

HST is applicable to the CRF payments made to OECM.

The CRF will be reviewed (e.g. annually) and may, at OECM’s sole discretion, be adjusted downwards.

During the Term, OECM may implement other CRF methodologies. Should this take place, the maximum CRF noted above shall not increase.

The Supplier shall be responsible for paying interest, as specified in Article 4.09 of the Master Agreement, for late CRF payments.

Upon termination or expiry of the Master Agreement, the Supplier will submit all outstanding CRF payments within thirty (30) days of the Master Agreement termination or expiry date.

**4.2.5 Financial Administration Act (“the FAA”) Section 28**

In accordance with the requirements of the FAA, notwithstanding anything else in the CSA, or in any other agreement between the Customer and the Supplier executed to carry out the Services provided for herein, the remedies, recourse or rights of the Supplier shall be limited to the Customer and to the right, title and interest owned by the Customer in and to all of its real or personal property, whether now existing or hereinafter arising or acquired from time to time. The Supplier unconditionally and irrevocably waives and releases all other claims, remedies, recourse or rights against the Crown in right of Ontario in respect of the CSA, and agrees that it shall have no remedies, recourse or rights in respect of the CSA against the Crown in right of Ontario, any Ontario Ministry, Minister, agent, agency, servant, employee or representative of the Crown or any director, officer, servant, agent, employee or representative of a Crown agency or a corporation in which the Crown holds a majority

of the shares or appoints a majority of the directors or members, other than against the Customer and its assets.

If the Supplier and the Customer agree that a CSA is exempt from the application of subsection 28(1) of the *Financial Administration Act* pursuant to Ontario Regulation 376/18: Section 28 Exemptions – Colleges, the Customer represents and warrants that the CSA (i) complies with all applicable policies of the Customer; (ii) complies with all applicable laws and Ontario government directives applicable to it; and, (iii) relates to activities of the Customer that are permitted under its objects and that are undertaken within Canada. The Supplier represents and warrants that the CSA complies with all Applicable Laws and Ontario government directives applicable to it.

#### **4.2.6 Saving Calculation**

OECM tracks, validates, and reports on savings on all of its agreements. Collaborative procurement processes enables several types of savings including direct and indirect savings (e.g. process improvement, lead time reduction, standardization, economies of scale, cost avoidance).

The Supplier shall report Customer savings Master Agreement Rate versus Rate invoiced to Customer and other savings.

### **4.3 Master Agreement Management Support to OECM**

OECM will oversee the Master Agreement, and the Supplier shall provide appropriate Master Agreement management support including, but not limited to:

- (a) Assigning to OECM a Supplier Account Executive and team responsible for supporting and overseeing all aspects of the Master Agreement;
- (b) Working and acting in an ethical manner demonstrating integrity, professionalism, accountability, transparency and continuous improvement;
- (c) Promoting the Master Agreement within the Customer community;
- (d) Maintaining OECM's and Customer's confidentiality by not disclosing Confidential Information without the prior written consent of OECM and/or the Customer, as the case may be, as further described in Appendix B – Form of Master Agreement;
- (e) Attending business review meetings with OECM to review such information as:
  - i. CSAs and upcoming opportunities; and,
  - ii. Review and monitor performance management compliance;
- (f) Complying with Appendix H – Code of Conduct requirements as described on the OECM website at <https://oecm.ca/oecm-advantage/our-supplier-partners/supplier-code-of-conduct>;
- (g) Managing issue resolution in a timely manner;
- (h) Complying with agreed upon escalation processes to resolve outstanding issues;
- (i) Timely submission of reports as described in Appendix F – Reporting Requirements; and,
- (j) Complying with Master Agreement close out processes (e.g. ensuring all Master Agreement obligations have been fulfilled, such as submission of final reporting and CRF payments to OECM).

#### **4.3.1 Master Agreement Launch**

Once the Master Agreement is awarded, the Supplier will meet with OECM to discuss an effective launch strategy, and shall provide:

- (a) Supplier profile and logo;
- (b) Supplier contact information;
- (c) Customer engagement strategy;

- (d) Access to knowledge sharing materials (e.g. webinars);
- (e) Marketing materials, and,
- (f) Other relevant materials.

#### **4.3.2 Promoting OEM Master Agreements**

To support Customers, OEM and the Supplier will work together to encourage the use of the Master Agreement resulting from this RFP.

The Supplier will actively promote the Master Agreement to Customers by:

- (a) Conducting sales and marketing activities directly to onboard Customers;
- (b) Executing CSAs with interested Customers;
- (c) Providing excellent and responsive Customer support;
- (d) Gathering and maintaining Customer and market intelligence, including contact information;
- (e) Identifying Customer savings; and,
- (f) Identifying improvement opportunities (e.g. new Products).

OEM will promote the use of the Master Agreement with Customers by:

- (a) Using online communication tools to inform and educate;
- (b) Holding information sessions and webinars, as required;
- (c) Attending, where appropriate, Customer and Supplier events;
- (d) Facilitating CSA execution, where appropriate;
- (e) Facilitating Second Stage requests, as required;
- (f) Providing effective business relationship management;
- (g) Managing and monitoring Supplier performance;
- (h) Facilitating issue resolution; and,
- (i) Marketing Supplier promotions.

#### **4.3.3 Supplier's Performance Management Scorecard**

To ensure Master Agreement requirements are met, the Supplier's performance will be measured and tracked by OEM as described in Appendix G – Performance Management Scorecard.

#### **4.3.4 OEM's Supplier Recognition Program**

OEM's suppliers play a fundamental role in ensuring Customers' needs are met with consistent and exceptional service. As part of OEM's efforts to provide greater value to Customers and support their Supplier selection process across OEM agreements, OEM has implemented a Supplier Recognition Program ("SRP"). Through the SRP, OEM will objectively assess supplier's performance using an open, fair and transparent framework to recognize and reward top-performing Suppliers on an annual basis.

The following four (4) key areas of focus that suppliers will be measured upon include:

- (a) Supplier performance;
- (b) Master Agreement performance (see Section 4.3.3 – Supplier's Performance Management Scorecard and Appendix G – Performance Management Scorecard);

- (c) Generated savings and value; and,
- (d) Technical Response scores from the Supplier's Proposal for this RFP.

Further details will be provided to the Suppliers.

#### **4.3.5 Reporting to OEM**

The Supplier shall be responsible for providing reports as further described in Appendix F – Reporting Requirements.

Report details will be discussed and established at the Master Agreement finalization stage between OEM and the Preferred Proponent. Other reports may be added, throughout the Term, if mutually agreed upon between OEM and the Supplier, and/or the Customer and Supplier.

[End of Part 4]

## PART 5 – TERMS AND CONDITIONS OF THE RFP PROCESS

### 5.1 General Information and Instructions

#### Procurement Process Non-Binding

This RFP process is non-binding, and it does not intend to create, and shall not 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. This procurement process shall instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation:

- (a) This 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 OECCM shall have the right to make any breach of contract, tort or other claims against the other with respect to the award of a Master Agreement, failure to award a Master Agreement or failure to honour a response to this RFP.

#### Non-Binding Rates

While the Proposal Rates will be non-binding prior to the execution of a written Master Agreement, such information will be assessed during the evaluation and ranking of the Proposals, as further described in Part 3 – Evaluation of Proposals. Any inaccurate, misleading, or incomplete information, including withdrawn or altered Rates, could adversely impact any such evaluation, ranking, or Master Agreement award.

#### 5.1.1 RFP Timetable

The following is a summary of the key dates for this RFP process:

RFP Timetable	
Event	Time/Date
OECCM's Issue Date of RFP:	May 4, 2020
Proponent's Information and OTP Demonstration Session:	2:00 pm on May 12, 2020
Proponent's Deadline to Submit Questions:	5:00 pm on May 14, 2020
OECCM's Deadline for Issuing Answers:	May 19, 2020
Proponent's Deadline to Submit Questions Related to Addenda & Question and Answer Documents:	5:00 pm on May 21, 2020
OECCM's Deadline for Issuing Final Documents:	May 26, 2020
Closing Date:	2:00:00 pm on June 4, 2020
Anticipated Master Agreement Start Date:	September 2020

Note – all times specified in this RFP timetable are local times in Toronto, Ontario, Canada.

OECCM may amend any timeline, including the Closing Date, without liability, cost, or penalty, and within its sole discretion.

In the event of any change in the Closing Date, the Proponent may thereafter be subject to the extended timeline.

### **5.1.2 Proponent's Information and OTP Demonstration Session**

The Proponent may, but is not required to, participate in the Proponent's Information and OTP Demonstration Session, which will take place at the time set out in Section 5.1.1.

Prior to the Proponent's Information and OTP Demonstration Session, OECM will send a **Message** via OTP with the teleconference and webinar information to the Proponents who expressed interest on OTP.

The Proponent's Information and OTP Demonstration Session may provide an opportunity for the Proponent to enhance its understanding of this RFP and to learn how to use OTP to submit its Proposal.

Any changes to the Proponent's Information and OTP Demonstration Session meeting date will be issued in an addendum on OTP.

Information provided during this session will be posted on OTP.

In the event of a conflict or inconsistency between the Proponent's Information and OTP Demonstration Session and the RFP, the RFP shall prevail.

The Proponent can contact OTP technical support directly for further assistance, using the contact details set out in Section 5.3.1.

### **5.1.3 Proponent to Follow Instructions**

The Proponent should structure its Proposal in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in the Proposal should reference the applicable section numbers of this RFP where that request was made.

### **5.1.4 OECM's Information in RFP Only an Estimate**

OECM makes no representation, warranty or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any data contained in this 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 this RFP.

### **5.1.5 Proponent's Costs**

The Proponent will bear all costs and expenses incurred relating to any aspect of its participation in this RFP process, including all costs and expenses relating to the Proponent's participation in:

- (a) The preparation, presentation and submission of its Proposal;
- (b) The Proponent's attendance at any meeting in relation to the RFP process, including any presentation and/or interview;
- (c) The conduct of any due diligence on its part, including any information gathering activity;
- (d) The preparation of the Proponent's own questions; and,
- (e) Any discussion and/or finalization, if any, in respect of the Form of Master Agreement.

## **5.2 Communication after RFP Issuance**

### **5.2.1 Communication with OECM**

All communications regarding any aspect of this RFP must be sent to OECM as a **Message** in OTP.

If the Proponent fails to comply with the requirement to direct all communications to OECM through OTP, it may be disqualified from this RFP process. Without limiting the generality of this provision,

Proponents shall not communicate with or attempt to communicate with the following as it relates to this RFP:

- (a) Any employee or agent of OECM;
- (b) Any member or advisor of the Project Advisory Committee;
- (c) Any member of OECM's governing body (such as Board of Directors, or advisors);
- (d) Any employee, consultant or agent of OECM's Customers; and,
- (e) Any elected official of any level of government, including any advisor to any elected official.

### **5.2.2 Proponent to Review RFP**

The Proponent shall promptly examine this RFP and all Appendices, including the Form of Master Agreement and:

- (a) Shall report any errors, omissions or ambiguities; and,
- (b) May direct questions or seek additional information on or before the Proponent's Deadline to Submit Questions to OECM.

All questions submitted by Proponents shall be deemed to be received once the **Message** has entered into OECM's OTP inbox.

In answering a Proponent's questions, OECM will set out the question, without identifying the Proponent that submitted the question and OECM may, in its sole discretion:

- (a) Edit the question for clarity;
- (b) Exclude questions that are either unclear or inappropriate; and,
- (c) Answer similar questions from various Proponents only once.

Where an answer results in any change to the RFP, such answer will be formally evidenced through the issue of a separate addendum for this purpose.

To ensure the Proponent clearly understand issued addenda, OECM allows Proponents to ask questions related to addenda, and question and answer documents. Refer to Section 5.1.1 for timelines.

OECM is under no obligation to provide additional information but may do so at its sole discretion.

It is the responsibility of the Proponent to seek clarification, by submitting questions to OECM through OTP, on any matter it considers to be unclear. OECM shall not be responsible for any misunderstanding on the part of the Proponent concerning this RFP or its process.

### **5.2.3 Proponent to Notify**

In the event the Proponent has any reason to believe that an error, omission, uncertainty or ambiguity, as set out in Section 5.2.2 exists, the Proponent must notify OECM through OTP prior to submitting a Proposal.

If appropriate, OECM will then clarify the matter for the benefit of all Proponents.

The Proponent shall not:

- (a) After submission of a Proposal, claim that there was any misunderstanding or that any of the circumstances set out in Section 5.2.2 were present with respect to the RFP; and,
- (b) Claim that OECM is responsible for any of the circumstances listed in Section 5.2.2 of this RFP.

### **5.2.4 All New Information to Proponents by way of Addenda**

This RFP may only be amended by an addendum in accordance with this section.

If OECM, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all Proponents by addenda on OTP. Each addendum shall form an integral part of this RFP.

Any amendment or supplement to this RFP made in any other manner will not be binding on OECM.

Such addenda may contain important information including significant changes to this RFP. The Proponent is responsible for obtaining all addenda issued by OECM.

The Proponent who intends to respond to this RFP is requested not to cancel the receipt of addenda or amendments option provided by OTP, since it must obtain all information and documents that are issued on OTP.

In the event that a Proponent chooses to cancel the receipt of addenda or amendments, its Proposal may be rejected.

### 5.3 Proposal Submission Requirements

#### 5.3.1 General

The Proponent shall submit its Proposal through OTP at <https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/login.html>.

The Proponent should contact OTP technical support if it experiences technical difficulties or to seek support about the use of OTP via:

- (a) Email at [etenderhelp\\_CA@jaggaer.com](mailto:etenderhelp_CA@jaggaer.com);
- (b) By phone at 866-722-7390; or,
- (c) Accessing website information at [https://ontariotenders.app.jaggaer.com/esop/nac-host/public/attach/eTendering\\_responding\\_to\\_tender\\_guide.pdf](https://ontariotenders.app.jaggaer.com/esop/nac-host/public/attach/eTendering_responding_to_tender_guide.pdf).

To be considered in the RFP process, a Proposal must be submitted and received **before** the Closing Date as set out in Section 5.1.1 and on OTP.

**The Proponent is strongly encouraged to become familiar with the use of OTP well in advance of the Closing Date.**

The Proponent will not be able to submit a Proposal after the Closing Date, as OTP will close the access to the RFP on the Closing Date.

A Proposal sent by, email, facsimile, mail and/or any other means other than stated in this RFP shall **not** be considered. Notwithstanding anything to the contrary contained in any applicable statute relating to electronic documents transactions, including the *Electronic Commerce Act, 2000, S.O. 2000, c. 17*, any notice, submission, statement, or other instrument provided in respect of the RFP may not be validly delivered by way of electronic communication, unless otherwise provided for in this RFP.

#### 5.3.2 Proposal in English

All Proposal submissions are to be in English only. Any Proposal received by OECM that is not entirely in the English language may be disqualified.

#### 5.3.3 Proposal Submission Requirements

The Proponent is solely responsible for submitting its Proposal on OTP prior to the Closing Date.

The Proposal should be submitted in accordance with the instructions set out on OTP and in this RFP as set out below.

Appendix/Form Title	OTP Envelope	Complete Form within OTP	Complete Appendix and Upload to OTP
Form of Offer	Qualification	√	
Compliance with Form of Master Agreement	Qualification	√	
OEM Undertaking	Qualification		√
Technical Response	Technical	√	
Appendix C – Commercial Response	Commercial		√

#### 5.3.4 Other Proposal Considerations

In preparing its Proposal, the Proponent should adhere to the following:

- (a) Information contained in any embedded link will not be considered part of a Proposal, and will not be evaluated or scored;
- (b) Completely address, on a point-by-point basis, each Technical Response question in Technical Response. Technical Responses left blank and/or unanswered will receive a score of zero (0). Refer to Section 3.3;
- (c) Information attached as part of the Commercial Envelope in OTP will not be considered as part of the evaluation of Stage II - Technical Response. Refer to Section 3.3; and,
- (d) The Proposal should be complete in all respects. Proposal evaluation and scoring applies only to the information contained in the Proposal, or accepted clarifications as set out in Section 5.3.13 Clarification of Proposals.

#### 5.3.5 Proposal Receipt by OECM

Every Proposal received will be date/time stamped by OTP.

A Proponent should allow sufficient time in the preparation of its Proposal to ensure its Proposal is received **on** or **before** the Closing Date.

#### 5.3.6 Withdrawal of Proposal

A Proponent may withdraw its Proposal by deleting its submission on OTP **before** the Closing Date or at any time throughout the RFP process until the execution of a Master Agreement. To withdraw a Proposal after the Closing Date, the Proponent should send a **Message** to OECM through OTP.

#### 5.3.7 Amendment of Proposal on OTP

A Proponent may amend its Proposal after submission through OTP, but only if the Proposal is amended and resubmitted **before** the Closing Date.

#### 5.3.8 Completeness of Proposal

By submitting a Proposal, the Proponent confirms that all components required to use and/or manage the Products have been identified in its Proposal or will be provided to OECM or its Customers at no additional cost. Any requirement that may be identified by the Proponent after the Closing Date or subsequent to signing the Master Agreement shall be provided at the Proponent's expense.

#### 5.3.9 Proposals Retained by OECM

All Proposals submitted by the Closing Date shall become the property of OECM and will not be returned to the Proponent.

#### **5.3.10 Acceptance of RFP**

By submitting a Proposal, a Proponent agrees to accept the terms and conditions contained in this RFP, and all representations, terms, and conditions contained in its Proposal.

#### **5.3.11 Amendments to RFP**

Subject to Section 5.1.1 and Section 5.2.4, OECM shall have the right to amend or supplement this RFP in writing prior to the Closing Date. No other statement, whether written or oral, shall amend this RFP. The Proponent is responsible to ensure it has received all addenda.

#### **5.3.12 Proposals will not be Opened Publicly**

The Proponent is advised that there will not be a public opening of this RFP. OECM will open Proposals at a time subsequent to the Closing Date.

#### **5.3.13 Clarification of Proposals**

OECM shall have the right at any time after the Closing Date to seek clarification from any Proponent in respect of the Proposal, without contacting any other Proponent.

OECM will exercise this right in a similar manner for all Proponents.

Any clarification sought shall not be an opportunity for the Proponent to either correct errors or to change its Proposal in any substantive manner. Subject to the qualification in this provision, any written information received by OECM from a Proponent in response to a request for clarification from OECM may be considered, if accepted, to form an integral part of the Proposal, at OECM's sole and absolute discretion.

OECM shall not be obliged to seek clarification of any aspect of any Proposal.

#### **5.3.14 Verification of Information**

OECM shall have the right, in its sole discretion, to:

- (a) Verify any Proponent's statement or claim made in its Proposal or made subsequently in a clarification, interview, site visit, oral presentation, demonstration, or discussion by whatever means OECM may deem appropriate, including contacting persons in addition to those offered as references, and to reject any Proponent statement or claim, if such statement or claim or its Proposal is patently unwarranted or is questionable, which may result in changes to the scores for the Proponent's Technical Response; and,
- (b) Access the Proponent's premises where any part of the work is to be carried out to confirm Proposal information, quality of processes, and to obtain assurances of viability, provided that, prior to providing such access, the Proponent and OECM shall have agreed on access terms including pre-notification, extent of access, security and confidentiality. OECM and the Proponent shall each bear its own costs in connection with access to each other's premises.

The Proponent shall co-operate in the verification of information and is deemed to consent to OECM verifying such information, including references.

#### **5.3.15 Proposal Acceptance**

The lowest price Proposal or any Proposal shall not necessarily be accepted. While price is an evaluation criterion, other evaluation criteria as set out in Part 3 will form a part of the evaluation process.

#### **5.3.16 RFP Incorporated into Proposal**

All provisions of this RFP are deemed to be accepted by each Proponent and incorporated into each Proposal.

#### **5.3.17 Exclusivity of Contract**

The Master Agreement, if any, with the Preferred Proponent will not be an exclusive agreement for the provision of the described Deliverables.

#### **5.3.18 Substantial Compliance**

OECM shall be required to reject Proposals, which are not substantially compliant with this RFP.

#### **5.3.19 No Publicity or Promotion**

No Proponent, including the Preferred Proponent, shall make any public announcement or distribute any literature regarding this RFP or otherwise promote itself in connection with this RFP or any arrangement entered into under this RFP without the prior written approval of OECM.

In the event that a Proponent, including the Preferred Proponent, makes a public statement either in the media or otherwise in breach of this requirement, in addition to any other legal remedy it may have in law, in equity or within the context of this RFP, OECM shall be entitled to take all reasonable steps as may be deemed necessary by OECM, including disclosing any information about a Proposal, to provide accurate information and/or to rectify any false impression which may have been created.

### **5.4 Negotiations, Timelines, Notification and Debriefing**

#### **5.4.1 Negotiations with Preferred Proponent**

OECM reserves the right to accept or reject any Proposals in whole or in part; to waive irregularities and omissions, if doing so is in the best interests of OECM and its Customers.

The Preferred Proponent shall execute the Master Agreement in the form attached to this RFP with negotiated changes, if any, and satisfy any other applicable conditions of this RFP within twenty (20) days of invitation to enter into negotiations. This provision is solely to the benefit of OECM and may be waived by OECM at its sole discretion.

If the Preferred Proponent and OECM cannot execute the Master Agreement within the allotted twenty (20) days, OECM will, as described in Section 3.7 and 3.8, be at liberty to extend the timeline, request the Preferred Proponent to submit its Best and Final Offer, terminate discussions/negotiations with the Preferred Proponent, or publish one (1) or some of the Suppliers, who have executed Master Agreements within OECM's promotional marketing launch. Other Master Agreements, if successfully negotiated with other Preferred Proponents would be added to OECM's website at a later date.

#### **5.4.2 Failure to Execute a Master Agreement**

When the Preferred Proponent successfully reaches an agreement with OECM at the end of the negotiation process in accordance with the evaluation set out in this RFP, the Preferred Proponent will be allotted five (5) Business Days to execute the Master Agreement unless otherwise specified by OECM.

If the Preferred Proponent cannot execute the Master Agreement within the allotted timeframe, OECM may rescind the invitation to execute a Master Agreement or publish one (1) or some of the Suppliers, who have executed Master Agreements within OECM's promotional marketing launch. Other Master Agreements, if successfully negotiated with other Preferred Proponents would be added to OECM's website at a later date.

In accordance with the process rules in this Part 5 – Terms and Conditions of the RFP Process, there will be no legally binding relationship created with any Proponent prior to the execution of a written agreement.

#### **5.4.3 Master Agreement**

If a Master Agreement is subsequently negotiated and awarded to a Preferred Proponent as a result of this RFP process:

- (a) Any such Master Agreement will commence upon signature by the duly authorized representatives of OECM and the Preferred Proponent; and,

- (b) May include, but not be limited to, the general Master Agreement terms contained in Appendix B – Form of Master Agreement.

#### **5.4.4 Notification to Other Proponents**

Once the Master Agreement is executed, other Proponents will 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.

#### **5.4.5 Debriefing**

Any Proponent may request a debriefing after receipt of a notification of award. All requests must be in writing to OECM and should be made within sixty (60) 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.

#### **5.4.6 Bid Dispute Resolution**

In the event that the Proponent wishes to review the decision of OECM in respect of any material aspect of the RFP process, and subject to having attended a debriefing, the Proponent shall submit a protest in writing to OECM within ten (10) days from such a debriefing.

Any request that is not timely received will not be considered and the Proponent will be notified in writing.

A protest in writing should include the following:

- (a) A specific identification of the provision and/or procurement procedure that is alleged to have been breached;
- (b) A specific description of each act alleged to have breached the procurement process;
- (c) A precise statement of the relevant facts;
- (d) An identification of the issues to be resolved;
- (e) The Proponent's arguments and supporting documentation; and,
- (f) The Proponent's requested remedy.

For the purpose of a protest, OECM will review and address any protest in a timely and appropriate manner. OECM will engage an independent and impartial third party should the need arise.

### **5.5 Prohibited Communications, and Confidential Information**

#### **5.5.1 Confidential Information of OECM**

All correspondence, documentation, and information of any kind provided to any Proponent in connection with or arising out of this RFP or the acceptance of any Proposal:

- (a) Remains the property of OECM and shall be removed from OECM's premises only with the prior written consent of OECM;
- (b) Must be treated as confidential and shall not be disclosed except with the prior written consent of OECM;
- (c) Must not be used for any purpose other than for replying to this RFP and for the fulfillment of any related subsequent agreement; and,
- (d) Must be returned to OECM upon request.

#### **5.5.2 Confidential Information of the Proponent**

Except as provided for otherwise in this RFP, or as may be required by Applicable Laws, OECM shall treat the Proposal and any information gathered in any related process as confidential, provided that such obligation shall not include any information that is or becomes generally available to the public other than as a result of disclosure by OECM.

During any part of this RFP process, OECM or any of its representatives or agents shall be under no obligation to execute a confidentiality agreement.

In the event that a Proponent refuses to participate in any required stage of the RFP because OECM has refused to execute any such confidentiality agreement, the Proponent shall receive no points for that particular stage of the evaluation process.

### **5.5.3 Proponent's Submission**

All correspondence, documentation, and information provided in response to or because of this RFP may be reproduced for the purposes of evaluating the Proposal.

If a portion of a Proposal is to be held confidential, such provisions must be clearly identified in the Proposal.

### **5.5.4 Personal Information**

Personal Information shall be treated as follows:

- (a) Submission of information – The Proponent should not submit as part of its Proposal any information related to the qualifications or experience of persons who will be assigned to provide Products unless specifically requested. OECM shall maintain the information for a period of seven (7) years from the time of collection. Should OECM request such information, OECM will treat this information in accordance with the provisions of this section;
- (b) Use – Any personal information as defined in the *Personal Information Protection and Electronic Documents Act, S.C. 2005, c.5* that is requested from a Proponent by OECM shall only be used to select the qualified individuals to undertake the Products and to confirm that the work performed is consistent with these qualifications; and,
- (c) Consent – It is the responsibility of the Proponent to obtain the consent of such individuals prior to providing the information to OECM. OECM will consider that the appropriate consents have been obtained for the disclosure to and use by OECM of the requested information for the purposes described.

### **5.5.5 Non-Disclosure Agreement**

OECM reserves the right to require any Proponent to enter into a non-disclosure agreement satisfactory to OECM.

### **5.5.6 Freedom of Information and Protection of Privacy Act**

The *Freedom of Information and Protection of Privacy Act (Ontario)*, applies to information provided by the 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 OECM and its Customers. The confidentiality of such information will be maintained by OECM, except as otherwise required by law or by order of a court, tribunal, or the Ontario Privacy Commissioner.

By submitting a Proposal, including any Personal Information requested in this RFP, the Proponent agrees to the use of such information for the evaluation process, for any audit of this procurement process, and for contract management purposes.

### **5.5.7 Intellectual Property**

The Proponent shall not use any intellectual property of OECM or Customers including, but not limited to, logos, registered trademarks, or trade names of OECM or Customers, at any time without the prior written approval of OECM and the respective Customer.

## 5.6 Reserved Rights and Governing Law of OECM

### 5.6.1 General

In addition to any other express rights or any other rights, which may be, implied in the circumstances, OECM reserves the right to:

- (a) Make public the names of any or all Proponents;
- (b) Request written clarification or the submission of supplementary written information from any Proponent and incorporate such clarification or supplementary written information, if accepted, into the Proposal, at OECM's discretion, provided that any clarification or submission of supplementary written information shall not be an opportunity for the Proponent to correct errors in its Proposal or to change or enhance the Proposal in any material manner;
- (c) Waive formalities and accept Proposals that substantially comply with the requirements of this RFP, in OECM's sole and absolute discretion;
- (d) Verify with any Proponent or with a third party any information set out in a Proposal;
- (e) Check references other than those provided by Proponents;
- (f) With supporting evidence, disqualify any Proponent on grounds such as:
  - i. Bankruptcy or insolvency;
  - ii. False declarations;
  - iii. Significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior agreement or agreements;
  - iv. Final judgments in respect of serious crimes or other serious offence; or,
  - v. Professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the Proponent;
- (g) Disqualify any Proponent whose Proposal contains misrepresentations or any other inaccurate or misleading information;
- (h) Disqualify any Proponent whose Proposal is determined by OECM to be non-compliant with the requirements of this RFP;
- (i) Disqualify a Proposal based upon the past performance or on inappropriate conduct in a prior procurement process, or where the Proponent has or the principals of a Proponent have previously breached an agreement with OECM, or has otherwise failed to perform such agreement to the reasonable satisfaction of OECM (i.e. has not submitted required reporting and/or cost recovery fees to OECM);
- (j) Disqualify any Proponent, who, in relation to this RFP or the evaluation and selection process, has engaged directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the Supplier.
- (k) Disqualify the Proponent who has been charged or convicted of an offence in respect of an agreement with OECM, or who has, in the opinion of OECM, engaged in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion or collusion, unethical conduct, including lobbying as described above or other forms of deceitfulness, or other inappropriate communications offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of OECM, or where the Proponent reveals a Conflict of Interest or Unfair Advantage in its Proposal or a Conflict of Interest or evidence of any Unfair Advantage is brought to the attention of OECM;
- (l) Disqualify any Proposal of any Proponent who has breached any Applicable Laws or who has engaged in conduct prohibited by this RFP, including where there is any evidence that the Proponent or any of its employees or agents colluded with any other Proponent, its employees or agents in the preparation of the Proposal;

- (m) Make changes, including substantial changes, to this RFP provided that those changes are issued by way of addenda in the manner set out in this RFP;
- (n) Accept or reject a Proposal if only one (1) Proposal is submitted;
- (o) Reject a Subcontractor proposed by a Proponent within a Consortium;
- (p) Select any Proponent other than the Proponent whose Proposal reflects the lowest cost to OECM;
- (q) Cancel this RFP process at any stage and issue a new RFP for the same or similar requirements, including where:
  - i. OECM determines it would be in the best interest of OECM not to award a Master Agreement,
  - ii. the Proposal prices exceed the bid prices received by OECM for Products acquired of a similar nature and previously done work,
  - iii. the Proposal prices exceed the costs OECM or its Customers would incur by doing the work, or most of the work, with its own resources,
  - iv. the Proposal prices exceed the funds available for the Products, or,
  - v. the funding for the acquisition of the proposed Products has been revoked, modified, or has not been approved,

and where OECM cancels this RFP, OECM may do so without providing reasons, and OECM may thereafter issue a new request for proposals, request for qualifications, sole source, or do nothing;
- (r) Discuss with any Proponent different or additional terms to those contained in this RFP or in any Proposal;
- (s) Accept any Proposal in whole or in part;
- (t) If OECM receives a Proposal from a Proponent with Rates that are abnormally lower than the Rates in other Proposals, OECM may verify with the Proponent that the Proponent satisfies the conditions for participation and is capable of fulfilling the Master Agreement; or,
- (u) Reject any or all Proposals in its absolute discretion, including where a Proponent has launched legal proceedings against OECM and/or its Customers or is otherwise engaged in a dispute with OECM and/or its Customers;

and these reserved rights are in addition to any other express rights or any other rights which may be implied in the circumstances and OECM shall not be liable for any expenses, costs, losses or any direct or indirect damages incurred or suffered by any Proponent or any third party resulting from OECM exercising any of its express or implied rights under this RFP.

By submitting a Proposal, the Proponent authorizes the collection by OECM of the information set out under (d) and (e) in the manner contemplated in those subparagraphs.

## **5.6.2 Rights of OECM – Proponent**

In the event that the Preferred Proponent fails or refuses to execute the Master Agreement within allotted time from being notified, OECM may, in its sole discretion:

- (a) Extend the period for concluding the Master Agreement, provided that if substantial progress towards executing the Master Agreement is not achieved within a reasonable period of time from such extension, OECM may, in its sole discretion, terminate the discussions;
- (b) Exclude the Preferred Proponent from further consideration and begin discussions with the next highest scoring Proponent without becoming obligated to offer to negotiate with all Proponents; or,

- (c) Exercise any other applicable right set out in this RFP including, but not limited to, cancelling the RFP and issuing a new RFP for the same or similar Products.

OECM may also cancel this RFP in the event the Preferred Proponent fails to obtain any of the permits, licences, and approvals required pursuant to this RFP.

### **5.6.3 No Liability**

The Proponent agrees that:

- (a) Any action or proceeding relating to this RFP process shall be brought in any court of competent jurisdiction in the Province of Ontario and for that purpose the Proponent irrevocably and unconditionally attorns and submits to the jurisdiction of that Ontario court;
- (b) It irrevocably waives any right to and shall not oppose any Ontario action or proceeding relating to this RFP process on any jurisdictional basis; and,
- (c) It shall not oppose the enforcement against it, in any other jurisdiction, of any judgement or order duly obtained from an Ontario court as contemplated by this RFP.

The Proponent further agrees that if OECM commits a material breach of OECM's obligations pursuant to this RFP, OECM's liability to the Proponent, and the aggregate amount of damages recoverable against OECM for any matter relating to or arising from that material breach, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct, or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of OECM, shall be no greater than the Proposal preparation costs that the Proponent seeking damages from OECM can demonstrate. In no event shall OECM be liable to the Proponent for any breach of OECM's obligations pursuant to this RFP, which does not constitute a material breach thereof. The Proponent acknowledges and agrees that the provisions of the *Broader Public Sector Accountability Act, 2010* shall apply notwithstanding anything contained herein.

### **5.6.4 Assignment**

The Proponent shall not assign any of its rights or obligations hereunder during this RFP process without the prior written consent of OECM. Any act in derogation of the foregoing shall be null and void.

### **5.6.5 Entire RFP**

This RFP and all Appendices form an integral part of this RFP.

### **5.6.6 Priority of Documents**

In the event of any inconsistencies between the terms, conditions, and provisions of the main part of the RFP and the Appendices, the RFP shall prevail over the Appendices during this RFP process.

### **5.6.7 Disqualification for Misrepresentation**

OECM may disqualify the Proponent or rescind a Master Agreement subsequently entered if the Proponent's Proposal contains misrepresentations or any other inaccurate, misleading or incomplete information.

### **5.6.8 References and Past Performance**

The evaluation may include information provided by the Proponent's references and may also consider the Proponent's past performance with OECM and/or its Customers.

### **5.6.9 Cancellation**

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

### **5.6.10 Competition Act**

Under Canadian law, a Proposal must be prepared without conspiracy, collusion, or fraud. For more information, refer to the Competition Bureau website at <http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/home>, and in particular, part VI of the *Competition Act*, R.S.C. 1985, c. C-34.

#### **5.6.11 Trade Agreements**

The Proponent should note that procurements coming within the scope of either Chapter 5 of the Canadian Free Trade Agreement, Chapter 19 of the Comprehensive Economic and Trade Agreement ("CETA") or within the scope of the Trade and Cooperation Agreement between Quebec and Ontario are subject to such agreements, although the rights and obligations of the parties shall be governed by the specific terms of this RFP.

For more information, refer to the following:

- (a) Canadian Free Trade Agreement website at <https://www.cfta-alec.ca/>;
- (b) Trade and Cooperation Agreement between Quebec and Ontario at <https://www.cfta-alec.ca/wp-content/uploads/2017/07/OQTC-Consolidated-Jan-24-2017.pdf>; and,
- (c) Comprehensive Economic and Trade Agreement at <http://www.international.gc.ca/gac-amc/campaign-campagne/ceta-aecg/index.aspx?lang=eng>.

#### **5.6.12 Governing Law**

The terms and conditions in this Part 5:

- (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 or territory within which the Customer is located and the federal laws of Canada applicable therein.

[End of Part 5]

## APPENDIX A – DEFINITIONS

### Definitions

Unless otherwise specified in this RFP, capitalized words and phrases have the meaning set out in Appendix B – Form of Master Agreement attached to this RFP.

**Accredited College**” means a college of applied arts and technology established under the *Ontario Colleges of Applied Arts and Technology Act, 2002* or a subsidiary of such a college;

**“Applicable Law”** means any common law requirement and all applicable and enforceable statutes, regulations, directives, policies, administrative interpretations, orders, by-laws, rules, guidelines, approvals and other legal requirements of any government and/or regulatory authority in effect from time to time;

**“Best and Final Offer”** or **“BAFO”** means a process during the negotiation stage in which a Preferred Proponent may be invited by OECM to submit a best and final offer on a process or section of the RFP to improve on their original Proposal submission. BAFO cannot be requested by a Proponent;

**“Broader Public Sector”** or **“BPS”** means:

- (a) Select classified, non-classified and hydro entities (referred to as Other Included Entities in the Management Board of Cabinet Procurement Directive);
- (b) The Legislative Assembly;
- (c) Every municipality in Ontario as defined in the *Municipal Affairs Act and the Municipal Act*;
- (d) Every regional municipality in Ontario as defined in the *Regional Municipalities Act*;
- (e) The District Municipality of Muskoka as described in the *District Municipality of Muskoka Act*;
- (f) Every local board in Ontario as defined in the *Municipal Affairs Act and the Municipal Act*;
- (g) Every university in Ontario;
- (h) Every college of applied art and technology in Ontario;
- (i) Every post-secondary institution in Ontario, the enrollments of which are used to calculate annual operating grant entitlement;
- (j) Every school board in Ontario as defined in the *Education Act*;
- (k) Every hospital listed in the Schedule to the Classification of Hospitals Regulations made under the *Public Hospitals Act*; and,
- (l) Every private hospital operated under the authority of a licence issued under the *Private Hospitals Act* including:
  - i. Community Health Centres; and,
  - ii. Community Care Access Locations;

See <https://www.ontario.ca/page/broader-public-sector-accountability>;

**“Business Day”** or **“Day”** means Monday to Friday between the hours of 8:00 a.m. to 5:00 p.m., except when such a day is a public holiday, as defined in the *Employment Standards Act (Ontario)*, or as otherwise agreed to by the parties in writing;

**“Closing Date”** means the Proposal submission date and time as set out in OTP and in Section 5.1.1 and may be amended from time to time in accordance with the terms of this RFP;

**“Commercial Envelope”** means an area in OTP where the Proponent would upload its completed Commercial Response;

**“Commercial Response”** means the Rates the Proponent uploads to OTP within Appendix C – Commercial Response as part of the Commercial Envelope;

**“Confidential Information”** means confidential information of OECEM and/or any Customer (other than confidential information which is disclosed to the Preferred Proponent in the normal course of the RFP) where the confidential information is relevant to the Deliverables required by the RFP, its pricing or the RFP evaluation process, and includes all information concerning the business or affairs of the party or its directors, governors, trustees, officers or employees that is of a confidential nature, which information if in written or other tangible form, is clearly designated as confidential, or if disclosed orally, is designated as confidential in a written memorandum delivered by the disclosing party promptly following such disclosure. For the purposes of greater certainty, Confidential Information shall:

- (a) Include: (i) all new information derived at any time from any such Confidential Information whether created by OECEM, the Customer, the Proponent or any third-party; (ii) all information (including Personal Information) that OECEM or the Customer is obliged, or has the discretion, not to disclose under provincial or federal legislation; and, (iii) pricing under this RFP;
- (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the disclosing party of any duty of confidentiality owed by it hereunder; (ii) the disclosing party can demonstrate to have been rightfully obtained it, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the disclosing party free of any obligation of confidence; (iii) the disclosing party can demonstrate to have been rightfully known to or in the possession of it at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the disclosing party; 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;

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

- (a) in relation to the RFP process, the Proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to (i) having or having access to information in the preparation of its Proposal that is confidential to OECEM and not available to other respondents; (ii) communicating with any person with a view to influencing preferred treatment in the RFP process; or (iii) engaging in conduct that compromises or could reasonably be seen to compromise the integrity of the open and competitive RFP process and render that process non-competitive and unfair; or,
- (b) in relation to the performance of its contractual obligations in an OECEM contract, the Proponent's other commitments, relationships or financial interests (i) could or could reasonably be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or (ii) could or could reasonably be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations;

**“Consortium”** means when more than one (1) business entities (i.e. Consortium members) agree to work together and submit one (1) Proposal to satisfy the requirements of the RFP. One (1) of the Consortium members shall identify itself as the Proponent and assume full responsibility and liability for the work and actions of all Consortium members;

**“Cost Recovery Fee”** or **“CRF”** means a fee, which contributes to the recovery of OECEM's operating costs as a not-for-profit/non share capital corporation, which is based on the before tax amount invoiced by the Supplier to Customers for Deliverables acquired through OECEM's competitively sourced agreements. Once Customer-Supplier Agreements have been executed, this fee is remitted by the Supplier to OECEM on a quarterly basis;

**“Customer”** is an organization such as educational entities (e.g. school boards or authorities, Provincial and Demonstration Schools Branch with Ministry of Education, colleges, and universities), shared service organizations, not-for-profit organizations, municipalities, utilities and local boards, health and social service entities, provincially funded organizations (“PFO”), Crown corporations, First Nations federal agencies, and any other Ontario Public Sector and Broader Public Sector agencies, boards or commissions or similar entities not mentioned here.

**“Customer Designate”** is an individual within the Customers organization that has the authority to place Product orders and approve art work, proofs and prototypes. Customers may have one (1) or multiple Customer Designates within their organization.;

**“Customer-Supplier Agreement”** or **“CSA”** means a schedule attached to the Master Agreement, which is executed between Customers and a Supplier for the provision of the Deliverables in the RFP;

**“Deliverable”** means all Products to be provided or performed by the Supplier, under the Master Agreement, and includes everything that is necessary to be supplied, provided or delivered by the Supplier within scope of the resulting Master Agreement;

**“Eligible Proposal”** means a Proposal that meets or exceeds the prescribed requirement, proceeding to the next stage of evaluation;

**“End User”** means an individual (e.g. parent, student, grandparent, etc.), other than the Customer that places an online order.

**“Master Agreement”** or **“Agreement”** means the agreement to be made between the Preferred Proponent and OECCM based on the template attached as Appendix B – Form of Master Agreement with negotiated changes, together with all schedules and appendices attached thereto and all other documents incorporated by reference therein, as amended from time to time by agreement between OECCM and the Supplier;

**“OECCM”** means the Ontario Education Collaborative Marketplace;

**“OECCM’s Deadline for Issuing Final Addenda”** means the date and time as set out in Section 5.1.1 of this RFP and may be amended from time to time in accordance with the terms of this RFP;

**“Ontario Tenders Portal”** or **“OTP”** means the electronic tendering platform <https://ontariotenders.app.jaggaer.com/esop/nac-host/public/web/login.html> through which a Proponent’s Proposal must be submitted by the Closing Date;

**“PFO”** means a provincially funded organization;

**“Personal Information”** has the same definition as in subsection 2(1) of FIPPA and in subsection 2(1) of MFIPPA, that is, recorded information about an identifiable individual or that may identify an individual and includes all such information obtained by the Proponent from OECCM or the Customer or created by the Proponent pursuant to the RFP;

**“Preferred Proponent”** means the Proponent that is invited into negotiations in accordance with the evaluation process set out in this RFP;

**“Product”** means all Marketing and Promotion Products to be provided by the Supplier, under the Master Agreement, and includes everything that is necessary to be supplied, provided or delivered by the Supplier;

**“Project Advisory Committee”** or **“PAC”** means the individuals providing input into the development of this RFP, and may also evaluate Proposals received in response to this RFP;

**“Proponent”** means an entity that submits a Proposal in response to this RFP and, as the context suggest, refers to a potential Proponent;

**“Proposal”** means all documentation and information submitted by a Proponent in response to the RFP;

**“Purchasing Card”** or **“P-Card”** means the corporate charge cards used by the Customer, as may be changed from time to time;

**“Rates”** means the Minimum percentage discount off End Quantity Pricing (“EQP”) and the Maximum, fixed, net Rates for Ancillary and Warehousing Charges; in Canadian funds, for the Products as set out in the Proponent’s submitted Appendix C - Commercial Response;

**“Request for Proposals”** or **“RFP”** means this Request for Proposals #2020-346 issued by OECCM, including all appendices and addenda thereto;

**“Second Stage Selection Process”** or **“Second Stage”** means a request from one (1) or more Suppliers via a Second Stage tool (e.g. Request for Services (“RFS”), Quick Quote (“QQ”), or Customer’s process (e.g. directly or via an online e.tendering platform) from a Customer or from OECCM on behalf of a Customer, seeking Rates and relevant Products specific to a Customer’s organization;

**“Subcontractor”** includes the Supplier’s subcontractors or third-party providers or their respective directors, officers, agents, employees or independent contractors, who shall fall within the meaning of Supplier for the purposes of the Master Agreement as mutually agreed upon by the Customer;

**“Supplier”** means a Preferred Proponent who has fully executed a Master Agreement with OEMC and has assumed full liability and responsibility for the provision of Deliverables pursuant to the Master Agreement either as a single Supplier or a lead Supplier engaging other suppliers or Subcontractors;

**“Technical Envelope”** means an area in OTP where the Proponent would complete Technical Response;

**“Technical Response”** means the information, which will be evaluated and scored, the Proponent submits within OTP as part of the Technical Envelope;

**“Term”** has the meaning set out in Section 4.1 of this RFP; and,

**“Unfair Advantage”** means any conduct, direct or indirect, by a Proponent that may result in gaining an unfair advantage over other Proponents, including, but not limited to (i) possessing, or having access to, information in the preparation of its Proposal that is confidential to OEMC and which is not available to other Proponents, (ii) communicating with any person with a view to influencing, or being conferred preferred treatment in, the RFP process, or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and result in any unfairness.

## **APPENDIX B – FORM OF MASTER AGREEMENT**

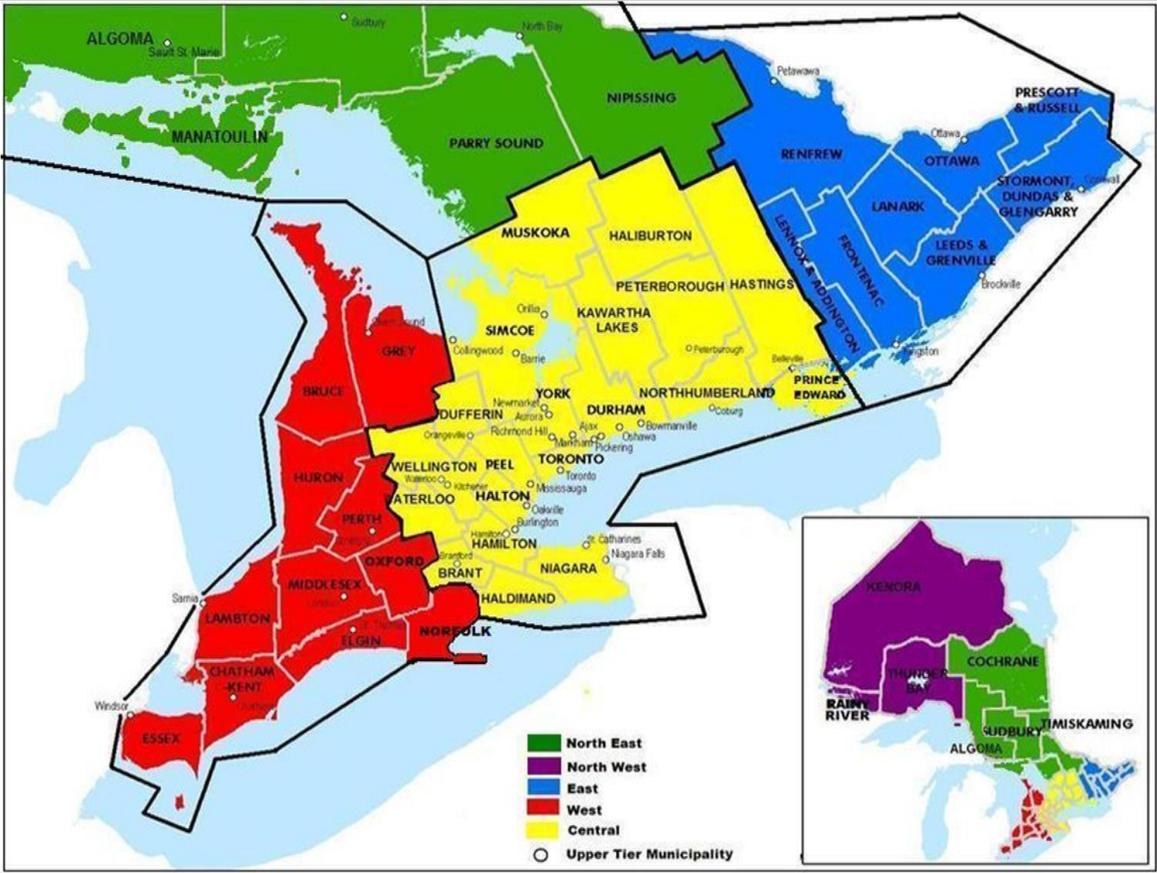
This appendix is posted as a separate PDF document.

## **APPENDIX C – COMMERCIAL RESPONSE**

The Proponent should complete this appendix, posted as a separate Microsoft Excel document, and upload it into OTP.

**APPENDIX D – OEM GEOGRAPHICAL ZONES**

Customers in the Province of Ontario supported by OEM agreements are located in one (1) or more of the following five (5) geographical Zones.



## APPENDIX E – OECM SCHOOL BOARD, COLLEGE AND UNIVERSITY CUSTOMERS IN ONTARIO

Zones	School Board Clients			College Clients	University Clients
Central	Brant Haldimand Norfolk Catholic DSB	Hamilton-Wentworth DSB	Waterloo Catholic DSB	Centennial College	Brock University
	CSD catholique Centre-Sud	Hastings and Prince Edward DSB	Waterloo Region DSB	Conestoga College Institute of Technology and Advanced Learning	University of Guelph
	CSD du Centre Sud-Ouest	Kawartha Pine Ridge DSB	Wellington Catholic DSB	Durham College of Applied Arts and Technology	McMaster University
	DSB of Niagara	Niagara Catholic DSB	York Catholic DSB	George Brown College of Applied Arts & Technology	OCAD University
	Dufferin-Peel Catholic DSB	Peel DSB	York Region DSB	Georgian College of Applied Arts and Technology	Ryerson University
	Durham Catholic DSB	Peterborough Victoria Northumberland and Clarington Catholic DSB		Humber College Institute of Technology & Advanced Learning	University of Toronto
	Durham DSB	Simcoe County DSB			Trent University
	Grand Erie DSB	Simcoe Muskoka Catholic DSB		Loyalist College of Applied Arts and Technology	University of Ontario Institute of Technology
	Halton Catholic DSB	Toronto Catholic DSB		Mohawk College of Applied Arts and Technology	University of Waterloo
	Halton DSB	Toronto DSB		Niagara College of Applied Arts and Technology	University of Western Ontario
	Hamilton-Wentworth Catholic DSB	Trillium Lakelands DSB		Seneca College of Applied Arts and Technology	Wilfrid Laurier University
		Upper Grand DSB		Sheridan Institute of Technology and Advanced Learning Fleming College	York University
East	Algonquin and Lakeshore Catholic DSB	Limestone DSB	Upper Canada DSB	The Algonquin College of Applied Arts and Technology	Carleton University
	Catholic DSB of Eastern Ontario	Ottawa Catholic DSB		Canadore College of Applied Arts and Technology	University of Ottawa
	CSD catholique de l'Est Ontarien	Ottawa-Carleton DSB			Queen's University
	CSD catholique du Centre-Est de l'Ontario	Renfrew County Catholic DSB		La Cité collégiale	
CSD des écoles publiques de l'Est de l'Ontario	Renfrew County DSB		St. Lawrence College of Applied Arts and Technology		
North East	Algoma DSB	CSD du Nord-Est de l'Ontario	Nipissing-Parry Sound Catholic DSB	Cambrian College of Applied Arts and Technology	Algoma University
	CSD catholique des Grandes Rivières	DSB Ontario North East	Northeastern Catholic DSB	Collège Boréal	Laurentian University
	CSD catholique du Nouvel-Ontario	Huron-Superior Catholic DSB	Rainbow DSB	Sault College	Nipissing University
	CSD catholique Franco-Nord	Near North DSB	Sudbury Catholic DSB		
CSD du Grand Nord de l'Ontario					
North West	CSD catholique des Aurores Boréales	Lakehead DSB	Superior North Catholic DSB	Confederation College of Applied Arts and Technology	Lakehead University
	Keewatin-Patricia DSB	Northwest Catholic DSB	Superior-Greenstone DSB	Northern College of Applied Arts and Technology	
	Kenora Catholic DSB	Rainy River DSB	Thunder Bay Catholic DSB		
West	Avon Maitland DSB	Lambton Kent DSB		Fanshawe College of Applied Arts and Technology	University of Windsor
	Bluewater DSB	London District Catholic SB		Lambton College of Applied Arts and Technology	
	Bruce-Grey Catholic DSB	St. Clair Catholic DSB		St. Clair College of Applied Arts and Technology	
	CSD des écoles catholiques du Sud-Ouest	Thames Valley DSB			
	Greater Essex County DSB	Windsor-Essex Catholic DSB			
Huron-Perth Catholic DSB					

Please note: DSB means District School Board; and CDSB means Catholic District School Board.

## APPENDIX F – REPORTING REQUIREMENTS

Once CSAs have been executed, the Supplier must provide the following reports to OECM for the Term. Reports shall be submitted via email in Microsoft Excel format according to the frequency set out below.

<b>Supplier Reporting Requirements</b>		
<b>Reports</b>	<b>Frequency</b>	<b>Due Date</b>
<b><u>Integrated Reporting Template</u></b>		
<ol style="list-style-type: none"> <li>1. <b>Sales Report</b> including, but not limited to:               <ol style="list-style-type: none"> <li>(a) Customer's name;</li> <li>(b) Invoice number and date;</li> <li>(c) Manufacturer's Product number;</li> <li>(d) Supplier's Product number;</li> <li>(e) Product description;</li> <li>(f) Unit of measure;</li> <li>(g) Quantity shipped per unit of measure;</li> <li>(h) Rate per Unit;</li> <li>(i) Total per Product;</li> <li>(j) Savings (i.e. list Rate minus discount, financial incentives); and,</li> <li>(k) Cost Recovery Fees.</li> </ol> </li> <li>2. <b>CSA Status Report</b> including, but not limited to:               <ol style="list-style-type: none"> <li>(a) The number of executed CSAs; and,</li> <li>(b) CSAs pending execution.</li> </ol> </li> <li>3. <b>Second Stage Report</b> including, but not limited to:               <ol style="list-style-type: none"> <li>(a) Customer's name;</li> <li>(b) Reference number;</li> <li>(c) Number of requests received and submitted;</li> <li>(d) Product requirement (e.g. type, committed volume);</li> <li>(e) Resulting savings; and,</li> <li>(f) Status (e.g. complete, due date to return to Customer).</li> </ol> </li> </ol>	Monthly	8th Business Day
<b><u>Performance Reporting</u></b>		
<ol style="list-style-type: none"> <li>1. Key Performance Indicators ("KPIs") Report - As set out in Appendix G – Performance Management Scorecard</li> </ol>	Quarterly (calendar)	8th Business Day following each quarter
<b><u>Other Reports:</u></b>		
Specific Customer Reports - As requested (e.g. spend, back order, delivery)	As requested	As requested
OECM Ad Hoc Reports - As requested and mutually agreed upon	As requested	As requested

Final reporting requirements will be determined during negotiations.

## APPENDIX G – PERFORMANCE MANAGEMENT SCORECARD

Master Agreement performance means that the Supplier aligns with OECEM's three (3) pillars of Savings, Choice and Service, supporting the growth of the Master Agreement among Customers, and providing quality Products at competitive Rates.

Supplier performance means that the Supplier meets or exceeds the performance requirements described below or as mutually agreed upon during negotiations and adheres to all the other contractual requirements.

To ensure Master Agreement requirements are met, the Supplier's performance will be measured and tracked by OECEM to ensure:

- (a) On-time delivery of high-quality Products and/or Services at the Master Agreement Rates or lower;
- (b) Customer satisfaction;
- (c) On-time Master Agreement activity reporting to OECEM;
- (d) On-time Cost Recovery Fee remittance; and,
- (e) Continuous improvement.

Reporting, as described in Appendix F – Reporting Requirements is mandatory for the Supplier to submit as they provide evidence and justification of adherence to the Master Agreement. Through consolidation of reporting information, OECEM provides Customers a thorough understanding of the Master Agreement aiding the adoption of the Master Agreement.

By providing the reports, OECEM is able to analyze and maintain the integrity of the Master Agreement and ensure that our core principles of Savings, Choice and Service are communicated to the Customer community.

Failure to provide accurate reports by the deadline may be deemed as poor performance and will reflect on the Suppliers Performance Management Scorecard.

During the Term, the Supplier shall collect and report the agreed upon performance measures as requested by OECEM. The Performance Management Scorecard and other performance indicators will be used to measure the Supplier's performance throughout the Term, ensuring Customers receive Products deemed acceptable and delivered on time. The Supplier's performance score will be considered when OECEM contemplates Master Agreement decisions such as:

- (a) The approval or rejection, in whole or in part, of the Supplier's Rate refresh requests;
- (b) The approval or rejection of the Supplier's request to add other related Products to the Master Agreement;
- (c) Master Agreement extensions; and,
- (d) Master Agreement termination.

The Supplier shall maintain accurate records to facilitate the required performance management reporting requirements.

The key performance indicators ("KPIs") include but are not limited to the following:

<b>Supplier Provided Customer Performance Measures</b>			
<b>Key Performance Indicator</b>	<b>Performance Measurement</b>	<b>Performance Goal</b>	<b>Penalties</b>
Customer Issues – Number of Customer complaints	Total of Customer complaints annually out of total Customer requests	Less than 2% of total Customer requests	Possible non-extension of MA or refusal of Price and/or Product refresh
On-time deliveries	Actual lead time vs. lead time agreed upon	Better than or equal to 98% of the time	

<b>Supplier Provided Customer Performance Measures</b>			
<b>Key Performance Indicator</b>	<b>Performance Measurement</b>	<b>Performance Goal</b>	<b>Penalties</b>
Quality of Products and Services	Percentage of rework requested by Customer	Less than 2% of total orders	As mutually agreed upon between Customer and Supplier
Quality of Products	Percentage of warranty returns by Customer	Less than 2% of total orders	
Accurate Invoicing	Number of Invoicing errors annually	Less than 2% annually	

<b>OECM Evaluation of Supplier's Performance</b>		
<b>Key Performance Indicator</b>	<b>Performance Measurement</b>	<b>Performance Goal</b>
On time executed CSA submissions	Within 30 days of execution	98% of the time
On time and completed KPI Report submissions	8th Business Day following each quarter	98% of the time
On time Rate Refresh submissions	At least one-hundred-and-twenty (120) days prior to the Master Agreement's anniversary date	98% of the time
On time and completed Integrated Reporting Template submission, including: - Sales Report; - CSA Status Report; and, - Second Stage Report	8th Business Day of each month	98% of the time
On time Cost Recovery Fee Payment Remittance	Tenth (10 <sup>th</sup> ) Business Day of each calendar quarter	98% of the time
Response Time to OECM Inquiries	One (1) Business Day	98% of the time

During the business review meetings, OECM will review the KPIs and Supplier Recognition Program results with the Supplier.

Other KPIs, and penalties, as mutually agreed upon between the Supplier and OECM, may be added during the Term.

A Customer may, when executing a CSA, seek other KPIs.

## APPENDIX H – CODE OF CONDUCT

The Supplier will take every measure to comply with OECEM's Supplier Code of Conduct ("SCC") principles set out below and to adopt behaviours and practices that are in alignment with these principles or those of OECEM's Customers as mutually agreed upon between the Customer and Supplier. OECEM's core values are in alignment with and entrenched within the key principles of the SCC. The SCC applies to the Supplier's owners, employees, agents, partners and subcontractors who provide Products to OECEM and/or Customers.

The Supplier will manage their operations according to the most stringent standards of ethical business, integrity and equity. The Supplier must therefore:

- (a) Refrain from engaging in any form of non-competitive or corrupt practice, including collusion, unethical bidding practices, extortion, bribery and fraud;
- (b) Ensure that responsible business practices are used, including ensuring that business continuity and disaster recovery plans are developed, maintained and tested in accordance with applicable regulatory, contractual and service level requirements, and that healthy and safe workplaces that comply with relevant health and safety laws are provided;
- (c) Ensure the protection of the confidential and personal information they receive from OECEM, and only use this information as part of their business relations with OECEM;
- (d) Comply with intellectual property rights relating to the Products provided to OECEM and its Customers;
- (e) Never place an OECEM employee in a situation that could compromise his/her ethical behaviour or integrity or create a conflict of interest;
- (f) Divulge all actual and potential conflicts of interest to OECEM; and,
- (g) Disclose to OECEM any behaviour deemed unethical on the part of an OECEM employee.

Also, the Supplier shall:

- (a) Comply with all foreign and domestic applicable federal/provincial/municipal laws and regulations including, but not limited to the environment, health and safety, labour and employment, human rights and Product safety and anti-corruption laws, trade agreements, conventions, standards, and guidelines, where the Products are provided to OECEM Customers. Fair competition is to be practised in accordance with applicable laws. All business activities and commercial decisions that restrict competition or may be deemed to be uncompetitive are to be avoided;
- (b) Not try to gain improper advantage or engage in preferential treatment with OECEM employees and Customers. The Supplier must avoid situations that may adversely influence their business relationship with OECEM or can be directly or indirectly perceived as a conflict of interest and interfere with the provision of the Products to OECEM or its Customers. The Supplier must disclose any actual or potential conflicts of interest promptly to OECEM;
- (c) Never offer to OECEM staff bribes, payments, gifts of entertainment or any type of transactions, inducements, services, discounts and/or benefits that may compromise or appear to compromise an OECEM's employees' ability to make business decisions in the best interest of OECEM and its Customers. If a Supplier is unsure whether a gift or entertainment offer to an OECEM employee complies with OECEM's SCC, the Supplier should consult with the intended recipient's manager;
- (d) Not engage in any improper conduct to gain influence or competitive advantage especially that which would put OECEM or its Customers at risk of violating anti-bribery and/or anti-corruption laws. The Supplier must ensure that the requirements of all these applicable laws are met, and not engage in any form of corrupt practices including extortion, fraud or bribery;
- (e) Ensure that any outsourcing and/or subcontracting used to fulfill Products are identified and approved by the Customer and monitored to ensure compliancy with contractual obligations and adherence to OECEM's SCC. Supplier's employees, subcontractors and other service providers must adhere to the requirements of the SCC, which must be made available as necessary. The Supplier must also ensure that its subcontractors and other service providers are paid properly and promptly to avoid any disruption in the provision of Products by the Supplier to OECEM or its Customers;

- (f) Maintain workplace professionalism and respect for the dignity of all employees, Customers, and individuals. The Supplier must never exercise, tolerate or condone harassment, discrimination, violence, retaliation and any other inappropriate behaviour;
- (g) Abide by applicable employment standards, labour, non-discrimination and human rights legislation. Where laws do not prohibit discrimination, or where they allow for differential treatment, the expectation of the Supplier is to be committed to non-discrimination principles and not to operate in an unfair manner. The Supplier must be able to demonstrate that their workplaces operate under the following principles:
  - i. Child labour is not accepted;
  - ii. Discrimination and harassment are prohibited, including discrimination or harassment based on any characteristic protected by law;
  - iii. Employees are free to raise concerns and speak up without fear of reprisal;
  - iv. Appropriate and reasonable background screenings, including investigations for prior criminal activity, have been completed to ensure integrity and character of the Supplier's employees; and,
  - v. Clear and uniformly applied employment standards are used that meet or exceed legal and regulatory requirements;
- (h) Provide healthy and safe workplaces for their employees. These workplaces must comply with applicable health and safety laws, statutes and regulations to ensure a safe and healthy work environment. Employers must also ensure that their employees are properly trained and that they have easy access to information and instructions pertaining to health and safety practices; and,
- (i) Give high priority to environmental issues and implement initiatives to foster sound environmental management through practices that prevent pollution and preserve resources. The Supplier must conduct business in an environmentally responsible and sustainable manner. The Supplier must comply with all applicable environmental laws, statutes and regulations, including, but not limited to, waste disposal (proper handling of toxic and hazardous waste), air emissions and pollution, to ensure that they meet all legal requirements and strive to prevent or mitigate adverse effects on the environment with a long-term objective of continual improvement.

The Supplier is expected to:

- (a) Abide by OECM's SCC;
- (b) Report violations of the SCC or identify any Customer requests that might constitute violations; and,
- (c) Cooperate and collaborate with OECM and bring about the resolution of SCC compliance issues.

Compliance with SCC principles is a criterion that is taken into consideration in OECM's supplier selection process and ongoing performance and relationship management.

The practices adopted by the Supplier must be verifiable. Such verification may be conducted by way of a Supplier's self-evaluation and/or an audit completed by OECM at its discretion. The Supplier must provide, upon request, OECM with documents attesting to their compliance with the SCC.

In addition, OECM may elect to visit the Suppliers' facilities if OECM so chooses. Appropriate notice will be provided to the Supplier. Whenever a situation of non-compliance is identified, OECM will endeavor to work with the Supplier in order to develop a corrective plan to resolve the non-compliant issues in a timely manner.

Failure to comply with OECM's SCC may result in termination of this Master Agreement.

For more information, visit OECM's website at <https://oecm.ca/oecm-advantage/our-Supplier-partners/Supplier-code-of-conduct>.

## **APPENDIX I – OEM UNDERTAKING**

The Proponent should complete this Appendix I, posted as a separate word document, and upload it into OTP.