
Section 5

K - General Conditions - Modifications

K - General Conditions - Modifications

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in bid solicitations and contracts in conjunction with clauses A0000C and A0000T, OR with M0000C, M0000T and M0100D, as appropriate.

K0000D (16/12/05) Conditions

[Insert the date of the applicable general conditions and supplemental general conditions. Delete those conditions that do not apply.**]**

General conditions

1026A (____), Supplies - Firm Price
1026B (____), Supplies - Cost Reimbursement
1031-2 (____), Contract Cost Principles
1034 (____), Construction - Fixed Price and Unit Prices
2010 (____), General Conditions - Goods or Services (Medium Complexity)
2029 (____), General Conditions - Goods or Services (Low Dollar Value)
9601 (____), General Conditions - Long Form
9624 (____), General Conditions - Research & Development
9676 (____), General Conditions - Services
CCC-50 (____), Canadian Commercial Corporation
TRA-95 (____), Translation

Supplemental general conditions

1028 (____), Ship Construction - Firm Price
1029 (____), Ship Repairs
1033 (____), Shipbuilding - Cost Reimbursement
1036 (____), Research and Development
9601-1 (____), Hardware Purchase or Lease
9601-2 (____), Software Development/Modification Services
9601-3 (____), Systems Integration
9601-4 (____), Licensed Software
9601-5 (____), Support Services for Licensed Software
9601-6 (____), Contractor to Own Intellectual Property Rights in Foreground Information
9601-7 (____), Canada to Own Intellectual Property Rights in Foreground Information
LAB-180 (____), Labour Conditions - Fair Wages and Hours of Labour
LAB-180B (____), Labour Conditions

K0000D (10/06/05) Conditions

Effective 16/12/05, this clause is superseded by K0000D.

Remarks: Use the following clause in degaussing contracts.

K0005C (10/12/04) Supplemental General Conditions 1029

Supplemental general conditions 1029 shall form part of this Contract, except:

1. Delete paragraph (g) of Section 09 and substitute the following
"9. (g) Canada shall not be liable for any loss or damage to the vessel, the Work of any part thereof. Canada shall not be liable for any injury, including injuries resulting in death, to

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any person(s). Canada shall not be liable for damage to any property. The Contractor shall indemnify and save harmless Canada against and from all loss, cost, damages, and expenses arising from claims for such loss, damages or injuries."

2. Delete Section 10.

K0005C (01/06/91) Supplemental General Conditions, DSS-MAS 1029

Effective 10/12/04, this clause is superseded by K0005C.

K0012C (31/03/95) Order of Precedence

Effective 15/12/95, this clause is superseded by B4025D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in conjunction with general conditions 9624 or supplemental general conditions 9601-6 or 9601-7, when the Contractor must provide a certification of disclosure.

When used in conjunction with general conditions 9624, insert: "section 22 of general conditions 9624".

When used in conjunction with supplemental general conditions 9601-6 or 9601-7, insert: "section 02 of supplemental general conditions 9601-6 or 9601-7".

K0013C (10/12/04) Disclosure Certification

1. On completion of the Work under this Contract, the Contractor shall submit a certification to the Technical Authority and to the Contracting Authority stating that all applicable disclosures were submitted or that there were no disclosures to submit under Section _____ of _____.
2. A copy of a Disclosure Certification is attached as Annex "_____."

K0013C (14/05/04) Disclosure Certification

Effective 10/12/04, this clause is superseded by K0013C.

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K0014C **(01/06/91)** **Disclosures Certification**

K0015C **(01/06/91)** **General Conditions, DSS-MAS 1053**

This clause is cancelled effective 21/06/99.

K0016C **(15/09/97)** **Modifications to DSS-MAS 1053**

This clause is cancelled effective 14/05/04.

K0016C **(01/06/91)** **Modifications to DSS-MAS 1053**

Effective 15/09/97, this clause is superseded by K0016C.

K0017C **(21/06/99)** **General Conditions, DSS-MAS 9624**

This clause is cancelled effective 10/12/04.

K0017C **(04/01/94)** **General Conditions, DSS-MAS 9624**

Effective 21/06/99, this clause is superseded by K0017C.

K0018C **(01/06/91)** **General Conditions, DSS-MAS 9076**

This clause is cancelled effective 04/01/94.

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K0019C (01/06/91) Taxes, Provincial Gallonage

This clause is cancelled effective 03/02/97.

K0020D (01/08/92) Air Charter Conditions

This clause is cancelled effective 03/02/97.

K0020D (31/01/92) Air Charter Conditions

Effective 01/08/92, this clause is superseded by K0020D.

K0021D (01/08/92) Air Charter Conditions

Effective 01/12/92, this clause is superseded by M8011D.

K0022C (10/12/04) Cancellation of Flights

Add the following subsection to section 24 of general conditions 9676, General Conditions - Services:

"24 Termination for Convenience

9. If the Carrier has submitted to Canada a cancellation policy that is acceptable to Canada, the foregoing of subsection 2. shall not apply and the Carrier, as a result of a notice mentioned in subsection 1., shall be paid cancellation cost in accordance with the provisions of the said cancellation policy".
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K0022C (04/01/94) Cancellation of Flights

Effective 10/12/04, this clause is superseded by K0022C.

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Remarks: Use the following clause if none of the general conditions 9601, 9624, 9676 and TRA-95 are being used, to make clear that Canada is only responsible for damage done to the Contractor or its employees if Canada caused that damage.

K0023C (10/06/05) Liability

Without restricting the terms and conditions of the Contract, it is hereby understood and agreed that, except to the extent caused by or due to Canada, Canada shall not be liable for any losses, claims, damages, or expenses relating to any injury, disease, illness, disability or death of the Contractor or any employee, agent or representative of the Contractor caused or alleged to be caused as a result of performing the Contract. The Contractor agrees to fully protect and indemnify Canada and not to make any claims or demands against Canada in respect of any of the foregoing contingencies.

K0023C (10/12/04) Liability

Effective 10/06/05, this clause is superseded by K0023C.

K0023D (01/06/91) Vessels in Commission - Gen. Cond.

Effective 15/09/97, this clause is superseded by K0032D.

K0024D (10/12/04) Vessel Unmanned Refits

1. This requirement is considered "defence supplies"; accordingly, the provisions of general conditions 1026A shall form part of the Contract.
 2. In addition to general conditions 1026A, supplemental general conditions 1029 (excluding section 8 and paragraphs (c), (d), and (f) of section 09), will form part of the Contract.
 3. Fire Fighting Equipment will be readily accessible and made available should a fire emergency arise, and adequate precautions will be taken when burning or welding is carried out in compartments or other confined areas of the vessel.
 4. Responsibility for planning and scheduling of the work will rest with the Contractor, who may be required by the Contracting Authority to present periodic Production Schedules.
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K0024D (15/09/97) Vessel Unmanned Refits

Effective 10/12/04, this clause is superseded by K0024D.

K0025T (01/08/92) Contractual Obligation

Effective 01/12/92, this clause is superseded by M8012D.

K0026C (10/12/04) Priority of Documents

This clause is cancelled effective 10/06/05.

K0026C (04/01/94) Priority of Documents

Effective 10/12/04, this clause is superseded by K0026C.

Remarks: Use the following clause in Marine refit and repair contracts only. It is not intended to be used in Marine new construction contracts. The contracting officer may adjust number of days and/or conditions as required.

K0027D (12/12/03) Vessel Warranty - Refit and Repair

General conditions 1026A, Supplies - Firm Price, are hereby amended by replacing section 08, Warranty, by the following:

“08 Warranty

1. At the discretion of the Minister, the Contractor will replace or make good at its own expense any finished work, excluding Government Issue incorporated therein, which becomes defective or which fails to conform to contract requirements as a result of faulty or inefficient manufacture, material or workmanship.
2. Notwithstanding prior acceptance of the finished work, and without restricting any other term of the Contract or any condition, warranty or provision implied or imposed by law, the Contractor hereby warrants that the following shall be free from all defects and shall conform with the requirements of the contract:
 - (a) The painting of the underwater portion of the hull for a period of seven hundred and twenty (720) days commencing from the date of undocking, except that the

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Contractor will only be liable to repair and/or replace to a value to be determined as follows:

Original cost to Canada of the underwater painting Work, divided by 720 days and multiplied by the number of days remaining in the warranty period. The resultant would represent the "Dollar Credit" due to Canada from the Contractor.

- (b) All other painting Work for a period of three hundred and sixty-five (365) days commencing from the date of acceptance of the Work;
 - (c) All other items of Work for a period of ninety (90) days commencing from the date of acceptance of the Work, except that:
 - (i) the warranty on the Work related to any system or equipment not immediately placed in continuous use or service shall extend for a period of ninety (90) days from the date of acceptance of the vessel;
 - (ii) for all outstanding defects, deviations, and Work items listed on the Acceptance Document at Delivery, the Warranty will be ninety (90) days from the subsequent date of acceptance for each item.
3. The Contractor agrees to pass to Canada, and exercise on behalf of Canada, all warranties on the Materials supplied or held by the Contractor which exceed the periods indicated above."

K0027D (01/12/92) Warranty (Vessel) - DND

Effective 12/12/03, this clause is superseded by K0027D.

K0028D (31/03/95) Default

This clause is cancelled effective 21/06/99.

K0029D (01/05/96) Warranty

For the purpose of the Warranty section of the General Conditions forming part of the Contract, the warranty period shall be 36 months in lieu of 12 months. All other provisions of the Warranty section apply without change.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in conjunction with supplemental general conditions 1036.

K0030D (10/12/04) Conduct of the Work - Supplemental General Conditions 1036

The supplemental general conditions 1036, Research and Development, are amended by replacing section 02 in its entirety with the following:

"02 Conduct of the Work

The Contractor shall

- a) carry out the Work to the satisfaction of the Project Officer and shall comply with all instructions and directions which may, from time to time, be given by the Minister or the Project Officer with respect to the Work or the conduct or progress thereof.
- b) ensure the safety of its workers and carry out the Work in a diligent and efficient manner in accordance with established industry practice and laws for the health and safety of workers related to the performance of the Work."

K0030D (16/02/98) Revision of DSS-MAS 1036

Effective 10/12/04, this clause is superseded by K0030D.

K0031D (16/02/98) Revision of DSS-MAS 1053

This clause is cancelled effective 14/05/04.

K0032D (10/12/04) Vessel Manned Refits

1. This requirement is considered "defence supplies"; accordingly, the provisions of general conditions 1026A, Supplies - Firm Price, shall form part of the Contract.
2. In addition to general conditions 1026A, supplemental general conditions 1029, Ship Repairs (excluding section 09), will form part of the Contract.
3. Fire fighting equipment will be readily accessible and made available should a fire emergency arise, and adequate precautions will be taken when burning or welding is carried out in compartments or other confined areas of the vessel.
4. Responsibility for planning and scheduling of the work will rest with the Contractor, who may be required by the Contracting Authority to present periodic Production Schedules.

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K0032D (15/09/97) Vessel Manned Refits

Effective 10/12/04, this clause is superseded by K0032D.

K0033D (16/02/98) Health and Labour Conditions

This clause is cancelled effective 01/12/00.

K0034D (16/02/98) Revision of DSS-MAS 1034

This clause is cancelled effective 01/12/00.

K0035D (16/02/98) Conduct of Work - Revision of

This clause is cancelled effective 01/12/00.

K0039D (15/06/98) Y2000 Warranty - Goods

This clause is cancelled effective 10/06/05.

K0040D (15/06/98) Y2000 Warranty - Facility Management or Outsourcing

This clause is cancelled effective 10/06/05.

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K0041D (15/06/98) Y2000 Warranty - System Integration

This clause is cancelled effective 10/06/05.

K0042D (15/06/98) Y2000 Warranty - Service

This clause is cancelled effective 10/06/05.

K0043D (12/05/00) Y2000 Warranty - Goods Not Directly Related to IT Procurements

This clause is cancelled effective 10/06/05.

K0043D (23/11/98) Y2000 Warranty - Goods Not Directly Related to IT Procurements

Effective 12/05/00, this clause is superseded by K0043D.

K0044D (23/11/98) Y2000 Warranty - Services Not Directly Related to IT Procurements

This clause is cancelled effective 10/06/05.

K0045D (10/12/04) Subcontracting

1. Notwithstanding the provisions of the general conditions 1026A or 1026B, as the case may be, covering subcontracting, the Contractor may, without the prior written consent of the Minister,
 - (a) purchase "off-the-shelf" items and such standard articles and materials as are ordinarily manufactured or produced by mills and manufacturers in the normal course of business;
 - (b) subcontract for the provision of services as are ordinarily performed by suppliers of such services in their normal course of business;
 - (c) subcontract any of the work to any one subcontractor up to a value in the aggregate of \$100,000;
 - (d) authorize its first and subsequent tier subcontractors to make purchases or subcontract as permitted in paragraphs (a) through (c).

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2. The foregoing provisions shall not apply to assignments of contracts.
3. Except as provided in subsection 1., the Contractor shall not subcontract any portion of the work without obtaining the prior written consent of the Minister.
4. Except as modified by these supplemental general conditions or by other provisions of the Contract, the general conditions 1026A or 1026B, as the case may be, including the provisions therein covering assigning and subcontracting, shall remain in full force and effect.
5. No subcontracting or assignment shall relieve the Contractor from any of its obligations under the Contract or impose any liability upon the Minister to a subcontractor or an assignee.

K0045D (16/02/98) Subcontracting

Effective 10/12/04, this clause is superseded by K0045D.

K1000T (05/08/91) Statement of Eligible Goods

This clause is cancelled effective 01/12/92.

K1000T (01/06/91) Statement of Eligible Goods

Effective 05/08/91, this clause is superseded by K1000T.

K1001T (01/04/92) Statement of Eligible Goods

This clause is cancelled effective 01/06/94.

K1002T (01/04/92) Statement of Eligible Goods

This clause is cancelled effective 01/06/94.

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K1100C (01/04/92) Statement of Eligible Goods

This clause is cancelled effective 01/06/94.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in bid solicitations which are estimated at \$200,000 or more (including all applicable taxes), except requirements excluded under paragraphs 5.129 (d), (e) and (f) of the *Supply Manual*. (Refer also to procedure 7A.127.)

K2000T (10/12/04) Federal Contractors Program for Employment Equity - \$200,000 or more

1. The Federal Contractors Program for Employment Equity (FCP-EE) requires that some organizations bidding for federal government contracts, valued at \$200,000 or more (including all applicable taxes), make a formal commitment to implement employment equity, as a condition precedent to the contract award. If the bidder is subject to the Program, evidence of its commitment must be provided prior to the award of any contract.

Contractors that have been declared "Ineligible Contractors" by the Department of Human Resources and Skills Development (HRSD) are no longer eligible to receive government contracts over the threshold for solicitation of bids as set out in the *Government Contract Regulations* (currently at \$25,000, including all applicable taxes), either as a result of a finding of non-compliance by the Department of HRSD, or following their voluntary withdrawal from the Program for a reason other than the reduction in their workforce. Any bid from ineligible contractors will not be considered for award.

2. The Bidder certifies its status with FCP-EE, as follows:

The Bidder

- (a) is not subject to FCP-EE, having a workforce of less than 100 permanent full or part-time employees in Canada,
 - (b) is not subject to FCP-EE, being a regulated employer under the *Employment Equity Act*,
 - (c) is subject to the requirements of FCP-EE, having a workforce of 100 or more permanent full or part-time employees in Canada, but has not previously obtained a certificate number from the Department of HRSD, (having not bid on requirements of \$200,000 or more), in which case a duly signed certificate of commitment is provided herewith (attached);
 - (d) is subject to FCP-EE, and has a valid certification number as follows: _____ (e.g. has not been declared "Ineligible Contractor" by the Department of HRSD).
3. If the Bidder does not fall within the exceptions enumerated in 2. (a) or (b), the Program requirements do apply, and as such, the Bidder is required to submit to the Department of HRSD form LAB 1168, Certificate of Commitment to Implement Employment Equity, DULY SIGNED or a valid Certificate number confirming its adherence to the FCP-EE.
 4. The Bidder acknowledges that the Minister shall rely on this certification to award the Contract. Should a verification by the Minister disclose a misrepresentation on the part of the Bidder, the Minister shall have the right to treat any contract resulting from this bid as being in default, and to terminate it pursuant to the Default provisions of the Contract.
 5. In all cases, the Bidder is required to produce evidence or supporting information on demand prior to contract award, if such evidence is not included with its bid.

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Signature of authorized representative: _____.

NOTE: Information on the FCP-EE and the Certificate of Commitment (LAB 1168) are available on the following Department of HRSD Website: <http://www.hrfdc.gc.ca/en/gateways/topics/wzp-gxr.shtml> and <http://www100.hrfdc.gc.ca/labswenm1e.shtml>, respectively.

K2000T (14/05/04) Federal Contractors Program for Employment Equity - \$200,000 or more

Effective 10/12/04, this clause is superseded by K2000T.

K2001T (31/01/92) Employment Equity Program

This clause is cancelled effective 01/12/92.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in bid solicitations which are estimated over \$25,000 and below \$200,000 (including all applicable taxes), except requirements excluded under paragraphs 5.129 (d), (e) and (f) of *Supply Manual*.

K2002T (14/05/04) Federal Contractors Program for Employment Equity - over \$25,000 and below \$200,000

Organizations that are subject to the Federal Contractors Program for Employment Equity (FCP-EE) but that have been declared ineligible to receive government contracts of goods and services over the threshold for solicitation of bids as set out in the *Government Contract Regulations* (GCRs) (currently \$25,000, including all applicable taxes) by the Department of Human Resources and Skills Development (HRSD), either as a result of a finding of non-compliance by HRSD, or following their voluntary withdrawal from the FCP-EE for a reason other than a reduction in their workforce, have been advised by HRSD that as a consequence of this action they are no longer eligible to receive any government contract over this threshold. Consequently, their certificate numbers have been cancelled and their names have been placed on HRSD's List of Ineligible Contractors. Bids from such organizations will be considered non-responsive.

The Bidder certifies that it has not been declared "ineligible" by HRSD to receive government contracts over the GCRs threshold for solicitation of bids (currently \$25,000, including all applicable taxes) as a result of a finding of non-compliance, or as a result of having voluntarily withdrawn from the FCP-EE for a reason other than a reduction in their workforce.

The Bidder acknowledges that the Minister shall rely on this certification to award the Contract. Should a verification by the Minister disclose a misrepresentation on the part of the Bidder, the Minister shall have the right to treat any contract resulting from this bid as being in default, and to terminate it pursuant to the Default provisions of the Contract.

Signature of authorized representative: _____.

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K2002T (12/12/03) **Federal Contractors Program for Employment Equity - over \$25,000 and Under \$200,000**

Effective 14/05/04, this clause is superseded by K2002T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause when K2000T or K2002T was used to obtain certification of eligibility of the bidder under the Federal Contractors Program for Employment Equity.

K2003C (12/12/03) **Federal Contractors Program for Employment Equity - Certification**

The Contractor has certified in its proposal its status with the Federal Contractors Program for Employment Equity

The Contractor acknowledges that the Minister has relied upon such certification to enter into this Contract. Such certification may be verified in such manner as the Minister may reasonably require. The Contractor acknowledges that in the event of a misrepresentation, the Minister shall have the right, pursuant to the Default provisions of the Contract, to terminate the Contract for default.

K2100D (11/12/91) **South African/Haitian Conditions**

This clause is cancelled effective 29/10/93.

K2100D (01/06/91) **South African Condition**

Effective 11/12/91, this clause is superseded by K2100D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all contractual documents. At the bid solicitation stage, the sanctions are provided to bidders for information purposes only.

K2105D (24/05/02) **International Sanctions**

1. Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, the Government of Canada cannot accept delivery of goods or services that originate, either directly or indirectly, from the countries or persons subject to economic sanctions.

Details on existing sanctions can be found at:
<http://www.dfait-maeci.gc.ca/trade/sanctions-e.asp>

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2. It is a condition of this Contract that the Contractor not supply to the Government of Canada any goods or services which are subject to economic sanctions.
3. By law, the Contractor must comply with changes to the regulations imposed during the life of the Contract. During the performance of the Contract, should the imposition of sanctions against a country or person or the addition of a good or service to the list of sanctioned goods or services cause an impossibility of performance for the Contractor, the situation will be treated by the Parties as a force majeure. The Contractor shall forthwith inform Canada of the situation; the procedures applicable to force majeure shall then apply.

K2105D (25/05/01) International Sanctions

Effective 24/05/02, this clause is superseded by K2105D.

K2200D (12/12/03) Conflict of Interest

This clause is cancelled effective 14/05/04.

K2200D (01/05/96) Conflict of Interest

Effective 12/12/03, this clause is superseded by K2200D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause when the Contractor must design and write up specifications on behalf of Canada that are to be used for a bid solicitation, or when the Contractor must manage and amend the documentation and technical data that belong to Canada and that could be used in the repair or construction of its equipment, the refit or construction of a vessel owned by Canada, or when the Contractor is acting as Canada's representative in the management of any repair, refit or construction/manufacturing contract.

Insert the name of the Contractor who will carry out the work, if it is known, or the Bidder selected to carry out the work.

K2205D (30/05/03) Conflict of Interest

1. In order to avoid any real or apparent conflicts of interest, the Contractor hereby agrees that it will not, during the term of the contract, undertake or perform services on behalf of, or contract with _____ **(Insert the name of the Contractor(s)).**
2. The Contractor further agrees that it will ensure that personnel provided, pursuant to the Contract, shall devote their full time and attention to the performance of the services to be provided hereunder and will not, therefore, be in a position of any possible conflict of interest during the term hereof.

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3. It shall be a term of the Contract:
- (a) that no former public office holder who is not in compliance with the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office Holders shall derive a direct benefit from the Contract; and
 - (b) that during the term of the Contract any persons engaged in the course of carrying out this Contract shall conduct themselves in compliance with the principles of the Conflict of Interest and Post-Employment Code for Public Office Holders. Should an interest be acquired during the life of the Contract that would cause a conflict of interest or seem to cause a departure from the principles, the Contractor shall declare it immediately to the departmental representative.
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K2205D (21/06/99) Conflict of Interest

Effective 30/05/03, this clause is superseded by K2205D.

Remarks: Use this clause in bid solicitations where Canada has employed the assistance of private sector contractors in the preparation of a solicitation or statement of work.

K2210T (31/03/95) Conflict of Interest

Canada has employed the assistance of private sector contractors in the preparation of this solicitation. Responses to this solicitation from any such contractor or with respect to which such contractor is in any manner directly or indirectly involved will be deemed to be in conflict of interest (real or perceived) and will not be considered. By submitting a bid, the Bidder represents that there is no conflict of interest as stated above.

K3000D (01/12/92) Intellectual Property Rights

This clause is cancelled effective 04/01/94.

K3000D (19/12/91) Intellectual Property Rights

Effective 01/12/92, this clause is superseded by K3000D.

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K3001D (01/12/92) Intellectual Property Rights

This clause is cancelled effective 04/01/94.

K3001D (19/12/91) Intellectual Property Rights

Effective 01/12/92, this clause is superseded by K3001D.

Remarks: Use the following clause in conjunction with general conditions 9676 or 9601, in a contract which does not involve any research and development, where it is anticipated that the intellectual property arising from the Work under the Contract, if any, will be minimal, where the client department has specified that the intellectual property rights are to vest in the Contractor, and where Canada does not wish to have any license to use any intellectual property that may arise in the Contractor's performance of the Contract.

Do not use this clause in conjunction with general conditions 9624. Clause K3030D may be used in conjunction with this clause where material subject to copyright protection will be created in the performance of the Contract and the client department wishes to ensure that it obtains a license to exercise all rights comprised in the copyright in that material, but does not require a license to exercise any other intellectual property rights arising from the Work under the Contract.

K3002D (10/12/04) Contractor to own IP: No Explicit License Rights for Canada

The general conditions are amended by deleting in its entirety the section entitled "Copyright", which is replaced by the following:

“Without affecting any intellectual property rights or interests therein that have come into being prior to the Contract or that relate to information or data supplied by Canada for purposes of the Contract, all intellectual property rights in anything conceived, developed, reduced to practice or produced as part of the Work under the Contract shall immediately, as soon as they come into existence, vest in and remain the property of the Contractor.”

K3002D (25/05/01) Contractor to own IP: No Explicit License Rights for Canada

Effective 10/12/04, this clause is superseded by K3002D.

Remarks: Use the following clause only where the Contractor is to own the foreground information and where either supplemental general conditions 9601-6 or general conditions 9624 form part of the Contract.

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Add the following clause if the Contractor is to be required to protect its or Canada's interest in the intellectual property (usually where there is also a requirement to exploit the intellectual property in Canada).

K3005D (10/12/04) Protection of Intellectual Property

The Contractor shall take reasonable measures to protect the Intellectual Property Rights in the Foreground Information, and in any case shall take at least the same measures as it takes in relation to other similar intellectual property owned by the Contractor.

K3005D (25/05/01) Protection of Intellectual Property

Effective 10/12/04, this clause is superseded by K3005D.

Remarks: Use the following clause for procurement of any items where design is property of Canada.

K3006D (15/12/95) Design - Property of Canada

The Contractor acknowledges that the design of the goods to be produced including all markings, writings and inscriptions is the property of Canada and agrees that it will not manufacture, sell or offer for sale, goods of the same design including such markings, writings and inscriptions to any person or corporation other than Canada without the Minister's prior written authorization.

K3010D (01/12/92) Disclosure to Other Governments

This clause is cancelled effective 04/01/94.

K3010D (19/12/91) Disclosure to Other Governments

Effective 01/12/92, this clause is superseded by K3010D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause only where the Contractor is to own the foreground information and where either supplemental general conditions 9601-6 or general conditions 9624 form part of the Contract.

Add the following clause where the Contractor is to be required to keep foreground information confidential for a specific period of time following completion of the Contract. This clause would be

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suitable where the client department wishes to give the intellectual property rights to the Contractor but wishes to prevent publishing and to restrict disclosure of that information for a period of time for security or other reasons.

K3015D (10/12/04) Foreground Information - Confidentiality

The Contractor, during the performance of the Contract and for a period of _____ months thereafter, shall keep confidential and shall not publish or otherwise disclose to any person any Foreground Information, except as may be necessary to carry out the Work under the Contract in which case the Contractor shall impose the same obligation of confidentiality on any person to whom the information is disclosed. The foregoing obligation does not apply to any Foreground Information where the same information is publicly available from a source other than Canada.

K3015D (10/12/01) Foreground Information - Confidentiality

Effective 10/12/04, this clause is superseded by K3015D.

Remarks: Use the following clause only where the Contractor is to own the foreground information and where either supplemental general conditions 9601-6 or general conditions 9624 form part of the Contract.

Add the following clause where the client department is willing to give the Contractor access to information over and above any Canada-owned technical information disclosed to the Contractor for purposes of carrying out the Contract. If appropriate, replace "certain Canada-owned information" by a list of specific items.

K3020D (10/12/04) Licence to Canada's Information

If commercial exploitation or further development of the Foreground Information, the Intellectual Property Rights in which vest in the Contractor pursuant to section 23 of general conditions 9624 or section 03 of supplemental general conditions 9601-6, whichever forms part of the Contract, reasonably requires the use of certain Canada-owned information other than that supplied to the Contractor for purposes of the Contract, Canada may provide the Contractor with a license for that purpose, on terms and conditions to be negotiated between the Contractor and the minister for whose department or agency the Work is being or was carried out and which terms and conditions may include the payment of compensation. The Contractor must set out its request for such a license in writing, with an explanation as to why the license is required. The minister for whose department or agency the Work is being or was carried out shall respond in writing to the request within a reasonable period of time. If the Contractor's request is refused, the said minister's reply shall provide an explanation for the refusal.

K3020D (25/05/01) Licence to Canada's Information

Effective 10/12/04, this clause is superseded by K3020D.

K - General Conditions - Modifications

Remarks: Use the following clause only where the Contractor is to own the foreground information and where supplemental general conditions 9601-6 form part of the Contract.

This clause is intended for use where the Contractor is engaged to, essentially, produce a new product and where the client department has determined that it wishes to have a broader license to the Contractor's Background Information to allow for further development of that product, including, possibly, production of it for Canada's use.

K3025D (10/12/04) License to Intellectual Property Rights in Background Information (Contractor Owns)

1. Section 05 of supplemental general conditions 9601-6 is deleted and replaced by the following:

"05 License to Intellectual Property Rights in Background Information

1. Without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the Contractor hereby grants to Canada a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required in order for Canada to exercise its license in the Intellectual Property Rights in the Foreground Information. The Contractor agrees, subject to subsection 4, to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.
 2. The Contractor acknowledges that Canada may wish to award contracts for a purpose contemplated in subsection 1 and that such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in Background Information includes the right to disclose the Background Information to bidders for such contracts, and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require bidders and the contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.
 3. Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsections 1 and 2 or arrange for the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Background Information.
 4. Notwithstanding subsection 1, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada for a purpose set out in subsection 1 shall apply only to source code that is within the control of or can be obtained by the Contractor or any Subcontractor, and in that event the Contractor shall, if requested by Canada, make the source code available to Canada within reasonable delivery times and on reasonable other commercial terms."
2. Subsection 1 of section 10 of supplemental general conditions 9601-6 is deleted and replaced by the following:

"10. Waiver of Moral Rights

 1. The Contractor shall provide to Canada, at the completion of the Work or at such other time as the Minister may require, a written permanent waiver of moral rights (as this term is defined in the *Copyright Act*, R.S. 1985, c. C-42), in a form acceptable to the Minister, from every author that contributed to any Foreground Information which is subject to copyright protection and which is deliverable to Canada under the terms of the Contract."

K - General Conditions - Modifications

**K3025D (10/12/01) License to Intellectual Property Rights in Background Information
(Contractor Owns)**

Effective 10/12/04, this clause is superseded by K3025D.

Remarks: Use the following clause in combination with general conditions 9676 or 9601, and clause K3002D, in a Contract which does not involve any research and development, where it is anticipated that the intellectual property arising from the Work under the Contract, if any, will be negligible.

The following clause may be used in combination with K3002D where the client department wishes to ensure that it obtains a license to exercise all rights comprised in the copyright, if any, in a protected Work arising in the Contractor's performance of the Contract, but does not require a license to exercise any other intellectual property rights arising from the Work under the Contract.

Do not use this clause in conjunction with general conditions 9624.

K3030D (10/12/04) License to Material Subject to Copyright

1. In this clause, "Material" means anything that is created or developed by the Contractor as part of the Work under the Contract, and in which copyright subsists.
 2. The Contractor hereby grants to Canada a non-exclusive, perpetual, irrevocable, world-wide, fully-paid and royalty-free license to exercise all rights comprised in the copyright in the Material, for any public purpose.
 3. Copyright in any translation of the Material made by or for Canada shall vest in Canada.
 4. Canada may use independent contractors in the exercise of Canada's license pursuant to this clause.
 5. Canada shall reproduce the Contractor's copyright notice, if any, on all copies of the Material, and Canada shall acknowledge the Contractor's title to the copyright in the original work on all copies of translations of the Material effected by or for Canada.
 6. No restrictions other than those set out in this section shall apply to Canada's use of copies of the Material or of translated versions of the Material.
 7. At the request of the Minister, the Contractor shall provide to Canada, at the completion of the Work or at such other time as the Minister may require, a written permanent waiver of Moral Rights, in a form acceptable to the Minister, from every author that contributed to the Material.
 8. If the Contractor is an author of the Material, the Contractor hereby permanently waives the Contractor's Moral Rights in respect of the Material.
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K3030D (25/05/01) License to Material Subject to Copyright

Effective 10/12/04, this clause is superseded by K3030D.

K - General Conditions - Modifications

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in contracts if publication rights are requested by the Contractor, and providing the Technical Authority is in agreement.

Use the following clause when Canada is not going to grant any broader right, but is prepared to grant a licence to the Contractor (with the right to sub-license to the author) to publish or have published the "copyright work". This clause is not required if the Contractor will own the intellectual property rights.

K3053C (14/05/04) Publication Rights

1. In this section,
 - (a) "copyright work" means any work in which a copyright may subsist, produced in or as a result of performing the Contract;
 - (b) "publication" or "publish" do not include disclosure to an academic supervisor or appraiser, for the sole purpose of academic evaluation.
2. The Contractor shall have a royalty-free non-exclusive license, including the right to sublicense to the author, to publish or have published any copyright work in the course of the normal dissemination of knowledge in the subject field, but they shall not publish or have published any copyright work during the performance of the contract or for a period of ____ () ____ thereafter without the prior written consent of the Minister.
3. Any copyright work published by or on behalf of the Contractor or the author shall acknowledge that the Work was performed under the Contract with Canada, unless the Minister gives notice to the contrary.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in all bid solicitations in which the client department has determined that Canada will own any intellectual property arising from the work under the Contract. The contracting officer will insert the name of the client department or agency and one or more of the following grounds for Canada ownership, as supplied by the client department or agency (do not include the exception number):

- (6.1) national security;
- (6.2) statutes, regulations or prior obligations of Canada to a third party or parties preclude Contractor ownership of the Intellectual Property Rights in Foreground Information;
- (6.3) the Contractor has declared in writing that the Contractor is not interested in owning the Intellectual Property Rights in Foreground Information;
- (6.4.1) the main purpose of the Contract, or of the deliverables contracted for, is to generate knowledge and information for public dissemination;
- (6.4.2) the main purpose of the Contract, or of the deliverables contracted for, is to augment an existing body of Canada's background information rights as a prerequisite to their planned transfer to the private sector, through licensing or assignment of ownership to another person, for the purposes of commercial exploitation;
- (6.4.3) the main purpose of the Contract, or of the deliverables contracted for, is to deliver a component or subsystem that will be incorporated into a complete system at a later date, as a prerequisite to the planned transfer of the complete system to the private sector, through licensing or assignment of ownership, for purposes of commercial exploitation;

K - General Conditions - Modifications

(6.5) Canada has opted to own the intellectual property rights in any material subject to copyright that is created or developed as part of the Work, with the exception of computer software or any documentation pertaining to such software.

K3200T (30/05/03) Basis for Canada's Ownership of Intellectual Property

The _____ has determined that any intellectual property arising from the performance of the Work under the Contract will vest in Canada, on the following grounds: _____.

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K3200T (25/05/01) Basis for Canada's Ownership of Intellectual Property

Effective 30/05/03, this clause is superseded by K3200T.

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K3300D (01/12/92) Intellectual Property Rights

This clause is cancelled effective 04/01/94.

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K3300D (19/12/91) Intellectual Property Rights

Effective 01/12/92, this clause is superseded by K3300D.

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K3301D (01/12/92) Intellectual Property Rights

This clause is cancelled effective 04/01/94.

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K3301D (19/12/91) Intellectual Property Rights

Effective 01/12/92, this clause is superseded by K3301D.

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K - General Conditions - Modifications

K3302D (01/12/92) Intellectual Property Rights

This clause is cancelled effective 04/01/94.

Remarks: Use the following clause where Canada is to own the foreground information and where supplemental general conditions 9601-7 form part of the Contract, if Canada is prepared, at the time of Contract, to consider granting the Contractor a license to exercise the Intellectual Property Rights in the Foreground Information owned by Canada.

Article 9.1 of the Intellectual Property (IP) Policy states that Canada should not unreasonably refuse to grant a license to the Contractor for the Contractor's use of the Foreground Information.

Article 9.2 of the IP Policy states that where the reason which was invoked for Canada's ownership of the Intellectual Property Rights in the Foreground Information was either:

1. that the main purpose of the Contract, or of the deliverables contracted for, is to augment an existing body of Canada's background information rights as a prerequisite to their planned transfer to the private sector at a later date, through licensing or assignment of ownership to another person, for the purposes of commercial exploitation; or
2. that the main purpose of the Contract, or of the deliverables contracted for, is to deliver a component or subsystem that will be incorporated into a complete system at a later date, as a prerequisite to the planned transfer of the complete system to the private sector, through licensing or assignment of ownership, for purposes of commercial exploitation,

then when Canada grants a license for the Foreground Information, the license must be royalty-free. The following clause applies in those circumstances.

K3305D (10/12/04) License to Intellectual Property Rights in Foreground Information
(Royalty Free)

1. Subject to subsection 2, if the Contractor wishes to make use of the Foreground Information for purposes of its commercial exploitation or further development, then the Contractor may make a written request for a license to the minister for whose department or agency the Work is being or was carried out. Such a request should be made within thirty (30) working days following completion of the Work. The Contractor shall give that minister an explanation as to why such a license is required. That minister shall respond in writing to any request for such a license within a reasonable period of time. If the request is refused the response shall provide an explanation for the refusal. Should the minister for whose department the work is being or was carried out agree to grant such a license, it shall be on terms and conditions to be negotiated between the Contractor and that minister.
 2. Where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada, or personal information (as this term is defined in the *Privacy Act* (R.S.C., c. P-21)) collected by the Contractor as part of the Work, then the license referred to in subsection 1 shall be restricted to the Intellectual Property Rights in Foreground Information that are capable of being exploited without the use of such information or data or personal information.
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K - General Conditions - Modifications

K3305D (25/05/01) **License to Intellectual Property Rights in Foreground Information (Royalty Free)**

Effective 10/12/04, this clause is superseded by K3305D.

Remarks: Use the following clause where Canada is to own the Foreground Information, if the Crown is prepared, at the time of the Contract, to consider granting the Contractor a license to exercise the Intellectual Property Rights in the Foreground Information owned by Canada, on terms and conditions that could include the payment of a royalty by the Contractor.

Article 9.1 of the Intellectual Property (IP) Policy states that the Crown should not unreasonably refuse to grant a license to the Contractor for the Contractor's use of the Foreground Information. Where the client department is relying on any exception in the IP Policy for Canada's ownership of the Intellectual Property Rights in the Foreground Information other than those exceptions set out in 6.4.2 or 6.4.3 of the IP Policy, or in the event that 6.4.2 or 6.4.3 of the IP Policy was invoked by the Crown but a license is to be granted to the Contractor as part of the transfer of the final product or complete system to the private sector, then the following clause may be used.

K3306D (25/05/01) **License to Intellectual Property Rights in Foreground Information (Possible Royalty)**

1. Subject to subsection 2, if the Contractor wishes to make use of the Foreground Information for purposes of its commercial exploitation or further development, then the Contractor may make a written request for a license to the minister for whose department or agency the Work is being or was carried out. Such a request should be made within thirty (30) working days following completion of the Work. The Contractor shall give that minister an explanation as to why such a license is required. That minister shall respond in writing to any request for such a license within a reasonable period of time. If the request is refused the response shall provide an explanation for the refusal. Should the minister for whose department the work is being or was carried out agree to grant such a license, it shall be on terms and conditions to be negotiated between the Contractor and that minister. It is understood that those terms may include payment of compensation to Canada.
 2. Where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada, or personal information (as this term is defined in the *Privacy Act* (R.S.C., c. P-21)) collected by the Contractor as part of the Work, then the license referred to in subsection 1 shall be restricted to the Intellectual Property Rights in Foreground Information that are capable of being exploited without the use of such information or data or such personal information.
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Remarks: Use the following clause only where Canada is to own the Intellectual Property Rights in the Foreground Information pursuant to the terms of the Contract

The following clause may be used where Canada is to own the Intellectual Property Rights in the Foreground Information but Canada is prepared to license the Contractor to exercise same.

Add the following clause if the Contractor is not to be permitted to sub-license the use of the Foreground Information.

K3310D (25/05/01) **No Right for Contractor to Sub-license**

The Contractor shall not have the right to sub-license or otherwise authorize any party to exercise any of the Intellectual Property Rights in the Foreground Information.

K - General Conditions - Modifications

K3310D (01/12/00) No Right for Contractor to Sub-license

Effective 25/05/01, this clause is superseded by K3310D.

Remarks: Use the following clause where Canada will own the foreground information pursuant to supplemental general conditions 9601-7 or clause K3410D, where K3305D or K3306D will be used and where the client department is, at the time of the Contract, prepared to grant the Contractor access to Canada-owned information for purposes of Contractor's further development or commercial exploitation of the foreground information, where such development and commercial exploitation is permitted under license from Canada. Such a license to Canada-owned information would be negotiated separately between Canada and the Contractor, for purposes of the commercial exploitation of the foreground information.

If appropriate, replace "certain Canada-owned information" by a list of specific items Canada may be willing to licence to the Contractor.

K3315D (10/12/04) License to Intellectual Property Rights in Canada-owned Information

If the Contractor wishes to make use of certain Canada-owned information for purposes of the commercial exploitation or further development of the Foreground Information, and where Canada has granted or grants a license to the Intellectual Property Rights in the Foreground Information for such purposes, then the Contractor may make a written request for a license to exercise the required Intellectual Property Rights in such Canada-owned information, to the minister for whose department or agency the Work is being or was carried out. The Contractor shall give that minister an explanation as to why such a license is required. That minister shall respond in writing to any request for such a license within a reasonable period of time. Should the minister for whose department the Work is being or was carried out agree to grant such a license, it shall be on terms and conditions to be negotiated between the Contractor and that minister. It is understood that those terms may include payment of compensation to Canada.

K3315D (25/05/01) License to Intellectual Property Rights in Canada-owned Information

Effective 10/12/04, this clause is superseded by K3315D.

Remarks: Use this clause where the Contractor is engaged to, essentially, produce a new product and where the Responsible Department has determined that it wishes to have a broader license to the Contractor's Background Information to allow for further development of that product, including, possibly, production of it for Canada's use.

K3320D (10/12/04) License to Intellectual Property Rights in Background Information

Section 04 of supplemental general conditions 9601-7 is deleted and replaced by the following:

"04 License to Intellectual Property Rights in Background Information

K - General Conditions - Modifications

1. Without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the Contractor hereby grants to Canada a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required in order for Canada to exercise its Intellectual Property Rights in the Foreground Information. The Contractor agrees, subject to subsection 4, to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.
2. The Contractor acknowledges that Canada may wish to award contracts for a purpose contemplated in subsection 1 and that such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in the Background Information includes the right to disclose the Background Information to bidders for such contracts and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require bidders and the Contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.
3. Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsections 1 and 2 or arrange for the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Background Information.
4. Notwithstanding subsection 1, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada for a purpose set out in subsection 1 shall apply only to source code that is within the control of or can be obtained by the Contractor or any subcontractor, and in that event the Contractor shall, if requested by Canada, make the source code available to Canada within reasonable delivery times and on reasonable other commercial terms."

K3320D (10/12/01) License to Intellectual Property Rights in Background Information

Effective 10/12/04, this clause is superseded by K3320D.

K3400D (01/12/00) Intellectual Propriety Condition Substitutions

This clause is cancelled effective 10/12/04.

K - General Conditions - Modifications

K3400D (04/01/94) Intellectual Propriety Condition Substitutions

Effective 01/12/00, this clause is superseded by K3400D.

K3405D (25/05/01) Foreground Information License Amendment

This clause is cancelled effective 14/05/04.

K3405D (01/12/00) Foreground Information Licence Amendment

Effective 25/05/01, this clause is superseded by K3405D.

Remarks: Use the following clause in conjunction with general conditions 9624, General Conditions - Research & Development, where Canada is to own the foreground information.

K3410D (30/05/03) Canada to Own Intellectual Property Rights in Foreground Information

1. The general conditions 9624, General Conditions - Research & Development, are amended by deleting the sections entitled "Contractor to Own Intellectual Property Rights in Foreground Information"; "License to Intellectual Property Rights in Foreground Information"; "License to Intellectual Property Rights in Background Information"; "Right to License"; "Transfer of Intellectual Property Rights in Foreground Information"; "Sale, Assignment, Transfer or Licensing of Intellectual Property Rights in Foreground Information"; "Access to Information; Exception to Contractor Rights" and subsection 22(2) of "Disclosure of Foreground Information" in their entirety. This section applies in lieu of those sections.

[Canada to Own Intellectual Property Rights in Foreground Information]

2. Without affecting any Intellectual Property Rights or interests therein that have come into being prior to the Contract, all Intellectual Property Rights in the Foreground Information shall immediately, as soon as they come into existence, vest in and remain the property of Canada. The Contractor shall have no right in or to any such Intellectual Property Rights in the Foreground Information except any right that may be granted in writing by Canada.
3. The Contractor shall incorporate the copyright symbol and either of the following copyright notices, as appropriate, into all Foreground Information that is subject to copyright, regardless of the form in or medium upon which it is recorded:

© HER MAJESTY THE QUEEN IN RIGHT OF CANADA (year)
or
© SA MAJESTÉ LA REINE DU CHEF DU CANADA (year)
4. (a) For greater certainty, the Contractor agrees that where the Work under the Contract involves the preparation of a database or other compilation using information or data supplied by Canada or personal information referred to in paragraph (b), then the

K - General Conditions - Modifications

Contractor shall not use or disclose any such information or data or personal information for any purpose other than completing the Work under the Contract. The Contractor shall not dispose of such information or data or personal information except by returning it to Canada. The Contractor shall comply with the General Conditions of the Contract in regard to maintaining the confidentiality of such information, data, or personal information. Unless the Contract otherwise expressly provides, the Contractor shall deliver to Canada all such information, data, or personal information, together with every copy, draft, working paper and note thereof that contains such information, data, or personal information upon completion or termination of the Contract or at such earlier time as the Minister may require.

- (b) For greater certainty and without limiting paragraph 4.(a), if the Work under the Contract involves the collection of personal information as that term is defined in the *Privacy Act* (R.S., c. P-21), then all Intellectual Property Rights in and title to that personal information shall, immediately upon the collection of it by the Contractor, vest in Canada, and the Contractor shall have no right or interest in it.
5. The Contractor shall execute such conveyances or other documents relating to the Intellectual Property Rights in the Foreground Information as the minister for whose department or agency the Work is being or was carried out may require, and the Contractor shall, at Canada's expense, afford that minister all reasonable assistance in the preparation of applications and in the prosecution of any applications for registration of any Intellectual Property Right in any jurisdiction, including without limitation the assistance of the inventor in the case of Inventions.

[License to Intellectual Property Rights in Background Information]

6. Without restricting the scope of any license or other right in the Background Information that Canada may otherwise hold, the Contractor hereby grants to Canada a non-exclusive, perpetual, irrevocable, worldwide, fully-paid and royalty-free license to exercise such of the Intellectual Property Rights in any Background Information incorporated into the Work or necessary for the performance of the Work as may be required in order for Canada to exercise its Intellectual Property Rights in the Foreground Information. The Contractor agrees, subject to subsection 9, to make any such Background Information (including, in the case of Software, source code) promptly available to Canada for any such purpose.
7. The Contractor acknowledges that Canada may wish to award contracts for a purpose contemplated in subsection 6 and that such contract awards may follow a competitive process. The Contractor agrees that Canada's license in relation to the Intellectual Property Rights in the Background Information includes the right to disclose the Background Information to bidders for such contracts and to sublicense or otherwise authorize the use of that information by any contractor engaged by Canada solely for the purpose of carrying out such a contract. Canada shall require bidders and the contractor not to use or disclose any Background Information except as may be necessary to bid for or to carry out that contract.
8. Where the Intellectual Property Rights in any Background Information are owned by a Subcontractor at any tier, the Contractor shall either obtain a license from that Subcontractor that permits compliance with subsections 6 and 7 or arrange for the Subcontractor to convey directly to Canada the same rights by execution of the form provided for that purpose by the Minister, in which case the Contractor shall deliver that form to the Minister, duly completed and executed by the Subcontractor, no later than the time of disclosure to Canada of that Background Information.
9. Notwithstanding subsection 6, the license set out therein shall not apply to any Software that is subject to detailed license conditions that are set out elsewhere in the Contract. Furthermore, in the case of commercial off-the-shelf software, the Contractor's obligation to make the source code promptly available to Canada for a purpose set out in subsection 6 shall apply only to source code that is within the control of or can be obtained by the Contractor or any Subcontractor, and in that event the Contractor shall, if requested by Canada, make the source code available to Canada within reasonable delivery times and on reasonable other commercial terms.

[Right to License]

10. The Contractor represents and warrants that the Contractor has, or the Contractor shall obtain, without delay, the right to grant to Canada the license to exercise the Intellectual Property Rights in the Background Information as required by the Contract.

K - General Conditions - Modifications

[Access to Information; Exception to Contractor Rights]

11. Subject to the *Access to Information Act*, (R.S., c. A-1) and to any right of Canada under the Contract to release or disclose, Canada shall not release or disclose outside the Government of Canada any Background Information delivered to Canada under the Contract that is confidential information or a trade secret of the Contractor or a Subcontractor.
12. Nothing in these terms and conditions shall be construed as limiting Canada's right to exercise the Intellectual Property Rights in any Background Information, or to disclose any Background Information, to the extent that such information:
 - (a) is or becomes in the public domain, or to the extent that the Contractor does not benefit from or ceases to benefit from any intellectual property rights protection for such information under legislation or at law (other than under the terms of the Contract), for any reason including as a result of Canada's use or disclosure of deliverables under the Contract for any purpose whatever that is not expressly excluded under the Contract;
 - (b) is or becomes known to Canada from a source other than the Contractor, except from any source that is known to Canada to be under an obligation to the Contractor not to disclose the information;
 - (c) is independently developed by or for Canada; or
 - (d) is disclosed under compulsion of a legislative requirement or any order of a court or other tribunal having jurisdiction.

K3410D (10/12/01) Canada to Own Intellectual Property Rights in Foreground Information

Effective 30/05/03, this clause is superseded by K3410D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause where the Contractor is to be required to exploit the Intellectual Property in the Foreground Information in Canada. With some deletions and minor changes, this clause can also be used to require commercial exploitation within a specified time, in Canada or elsewhere. *See Legal Services about the advisability of including this clause.*

IMPORTANT NOTE: The following clause, "Commercialization in Canada", must not be used in a contract for the procurement of goods or services which is subject to the procurement disciplines of either the World Trade Organization - Agreement on Government Procurement (WTO-AGP) or the North American Free Trade Agreement (NAFTA). Any use of this provision which is not prohibited pursuant to the WTO-AGP or the NAFTA should be tailored to the specific circumstances of the situation as the clause may be difficult to enforce or may impose impractical restrictions on the Contractor's commercialization and thus may result in the Contractor failing to commercialize the IP. Furthermore, the use of the clause will require on-going monitoring by the client department.

K3415D (25/05/01) Commercialization in Canada

1. In consideration of the Contractor receiving title to the Intellectual Property Rights in the Foreground Information, the Contractor agrees that manufacture of any product incorporating or derived from the Foreground Information will be done substantially in Canada and that the provision of any service incorporating or derived from the Foreground Information will be substantially from a base in Canada, and that such a product or such a service will be marketed and sold within _____ months after final payment under the Contract is made to the Contractor.

K - General Conditions - Modifications

2. The Contractor shall have satisfied the obligation in subsection 1 in relation to any part of the Foreground Information if a product manufactured substantially in Canada or a service provided substantially from a base in Canada that incorporates or is derived from that part of the Foreground Information is being offered for general sale by the Contractor or its transferee, assignee or licensee, and at least one arm's-length sale has been made (other than a sale from a transferee, assignee or licensee to the Contractor, or vice-versa). The minister for whose department or agency the Work is being or was carried out may accept other evidence as demonstrating satisfaction of the obligation. When the obligation has been satisfied in relation to any part of the Foreground Information, the obligation shall cease to apply to that part of the Foreground Information.
3. If, _____ months before the end of the period specified in subsection 1, the obligation to market and sell a product or service as set out in that subsection has not yet been satisfied in relation to any part of the Foreground Information, the Contractor shall immediately submit to the minister for whose department or agency the Work is being or was carried out a report setting out:
 - (a) a description of the efforts that have been and will be made by the Contractor or its transferee, assignee or licensee to satisfy the obligation; and
 - (b) the reasons why the obligation has not been satisfied.
4. At the expiration of the period specified in subsection 1, if the minister for whose department or agency the Work is being or was carried out is satisfied that the Foreground Information is capable of commercial exploitation in Canada but that
 - (a) the Contractor (or its transferee, assignee or licensee) is incapable of achieving that; or
 - (b) the Contractor has not made every reasonable effort to fulfil the obligation;then that minister may invoke either of the remedies set out in subsection 6. If that minister is satisfied that the potential value to Canada of commercial exploitation of the Foreground Information substantially in Canada so justifies, that minister may extend the time for the Contractor to fulfil the obligation by such period as that minister may decide. In any other circumstance, the obligation shall cease to apply to that part of the Foreground Information.
5. The Contractor agrees that any of the following, affecting any part of the Foreground Information, would constitute a breach of the Contractor's obligation entitling the minister to exercise, in relation to that part of the Foreground Information, the option to collect the liquidated damages provided for in the Contract for such a breach (if any), or, without prejudice to any other remedy that may be available at law or under the Contract, to exercise a remedy set out in subsection 6:
 - (a) the Contractor or any affiliate, subcontractor or agent of the Contractor manufactures outside Canada a product incorporating or derived from the Foreground Information without that product also being manufactured substantially in Canada, or provides from a base outside Canada a service incorporating or derived from the Foreground Information without that service also being provided substantially from a base in Canada;
 - (b) through the act or omission, whether direct or indirect, and whether deliberate or negligent, of the Contractor or its employee or subcontractor (including the sale or assignment of the Foreground Information or license or other authorization of the use of the Foreground Information), any person, corporation or other entity is enabled to manufacture outside Canada a product incorporating or derived from the Foreground Information without that product also being manufactured substantially in Canada, or to provide from a base outside Canada a service incorporating or derived from the Foreground Information without that service also being provided substantially from a base in Canada;
 - (c) the Contractor or its transferee or assignee, or a controlling interest in the Contractor or its transferee or assignee, is acquired by a person not resident in Canada or by a corporation or other entity controlled outside of Canada, and that person, corporation or other entity does not enter into an agreement with the minister for whose department or agency the Work is being or was carried out governing the use of the Foreground Information, promptly and before a breach described in paragraph (a) or (b) has occurred; or

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- (d) to the extent permitted by the laws of Canada or a Canadian province, the Contractor or its transferee or assignee becomes bankrupt or insolvent, makes an assignment for the benefit of creditors, or takes the benefit of any statute relating to bankrupt or insolvent debtors, or the Contractor, its transferee or assignee suffers the appointment against it of a receiver under a debt instrument or by a court, or an order is made or a resolution passed for the winding up of the Contractor, its transferee or assignee.
6. Where this subsection applies by virtue of subsection 4 or 5, the minister for whose department or agency the Work is being or was carried out may, by notice, either
- (a) require the Contractor to assign or transfer to Canada at no cost the Intellectual Property Rights in the Foreground Information, or
- (b) require the Contractor to provide to one or more persons, corporations or other entities specified by that minister at no cost a non-exclusive, perpetual, unconditional, irrevocable, world-wide, and royalty-free license permitting the commercial exploitation of the Intellectual Property Rights in the Foreground Information, including the right to further develop the Foreground Information and to own the Intellectual Property Rights in any such further development.
- The Contractor agrees that it will promptly execute such conveyances or other documents relating to title or licensing as the said minister may require, and that it will afford that minister or a licensee, as the case may be, at that party's expense all reasonable assistance in the preparation of applications and in the prosecution of any application for registration of any Intellectual Property Rights in any jurisdiction arising out of the Foreground Information, including without limitation the assistance of the inventor in the case of Inventions.
7. In the event that a breach described in paragraph (a), (b) or (c) of subsection 5 occurs, in addition to all other remedies available to Canada at law or under the terms of the Contract, the Contractor shall upon demand account for and pay to Canada any net revenues earned by the Contractor as a result of the breach.

K3415D (04/01/94) Commercialisation in Canada

Effective 25/05/01, this clause is superseded by K3415D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause if the Contractor is to be liable for liquidated damages in the event that the Foreground Information is exploited outside of Canada. If there will be more than one item of foreground information with separate commercial potential, separate damages should be specified for each. See Lega Services regarding the evaluation of the amount of damages to be inserted.

K3420D (04/01/94) Liquidated Damages

The Contractor agrees that Canada would suffer actual damages as a result of a breach, described in paragraph 5(a), (b) or (c) of clause K3415D, of the obligation set out in subsection 1. of clause K3415D, and that such damages are likely to be extremely difficult to quantify. In the event that such a breach occurs, the Contractor agrees to pay to Canada liquidated damages in the amount of \$_____. Canada and the Contractor agree that the foregoing amount is their best estimate of the amount of damages that Canada would suffer, and that it is not intended to be, nor is it to be construed as, a penalty.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause only in bid solicitations where the bidder must have access to information that is confidential or proprietary to Canada or a third party. In the case of third party information, the contracting officer must ensure that Canada has the contractual right to disclose that information to bidders.

K3500T (10/12/01) Confidential Information for Bidding

In order to prepare a bid in response to this solicitation, the Bidder must have access to information that is confidential or proprietary to Canada or third parties. It is a condition of this solicitation that the Bidder sign a Confidentiality Agreement substantially in the form set out in Appendix _____ attached hereto prior to being given access to such information either at the reading room identified in this solicitation or as part of the solicitation package.

Appendix _____

CONFIDENTIALITY AGREEMENT

TO: HER MAJESTY THE QUEEN IN RIGHT OF CANADA ("CANADA"), AS REPRESENTED BY THE MINISTER OF PUBLIC WORKS AND GOVERNMENT SERVICES ("MINISTER")

[Name] (the "Bidder") agrees that the documentation available as part of the bid solicitation package or in the reading room (the "Documentation") for review by a bidder in order for a bidder to submit a bid to the Minister in response to Solicitation No. _____ contains information that is confidential or proprietary to Canada or to third parties, and that such information is not to be disclosed or used in any way other than as set out below.

In consideration of the Minister disclosing the Documentation to the Bidder, the Bidder agrees that:

- (a) it shall not, without the prior written permission of the Minister, disclose to anyone, other than an employee or a proposed subcontractor with a need to know, the Documentation or any information contained in the Documentation;
- (b) it shall not make copies of the Documentation nor make use of the Documentation or any information therein for any purpose other than for the preparation of a bid in response to Solicitation No. _____;
- (c) at the close or earlier termination of the bid period, it will immediately deliver the Documentation to the Minister together with every copy of the Documentation and every draft, working paper and note that contains any information contained in the Documentation.

The Bidder shall require any proposed subcontractor referred to in (a) above to execute a confidentiality agreement on the same terms and conditions as those contained herein.

The Bidder acknowledges and agrees that it shall be liable for any and all claims, loss, damages, costs, or expenses incurred or suffered by Canada or the Minister caused by the failure of the Bidder, or by anyone to whom the Bidder discloses the Documentation or any information therein, to comply with these terms and conditions.

Nothing in this Confidentiality Agreement shall be construed as limiting the Bidder's right to disclose any information to the extent that such information:

- (a) is or becomes in the public domain through no fault of the Bidder or any proposed subcontractor;
- (b) is or becomes known to the Bidder from a source other than Canada, except any source that is known to the Bidder to be under an obligation to Canada not to disclose the information;
- (c) is independently developed by the Bidder; or

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- (d) is disclosed under compulsion of a legislative requirement or any order of a court or other tribunal having jurisdiction.

[Name of Bidder]

by its authorized representative

Date

K3500T (25/05/01) Confidential Information for Bidding

Effective 10/12/01, this clause is superseded by K3500T.

Remarks: Use the following clause whenever a definition of Canadian goods and Canadian services is required. This clause must always be used whenever clauses K4001T, K4002T, K4003T, K4004T, K4005T, K4006T, K4011T, K4013T and K4014T are used.

K4000D (16/12/05) Canadian Content Definition

1. **Canadian good:** A good wholly manufactured or originating in Canada is considered a Canadian good. A product containing imported components may also be considered Canadian for the purpose of this policy when it has undergone sufficient change in Canada, in a manner that satisfies the definition specified under the North American Free Trade Agreement Rules of Origin (see *Supply Manual*, Annex 5.5:
<http://www.pwgsc.gc.ca/acquisitions/text/sm/chapter05-e.html#annex5.5>).

For the purposes of this determination, the reference in the NAFTA Rules of Origin to "territory", is to be replaced with "Canada". For photocopiers, computers and office equipment within Federal Supply Classification (FSC) groups 36, 70 and 74, only the products of MERIT/CIRCLE firms or companies in Priority Group 1 prior to April 1992 are considered Canadian (see paragraph 7.(a)).
2. **Canadian service:** A service provided by an individual based in Canada is considered a Canadian service. Where a requirement consists of only one service, which is being provided by more than one individual, the service will be considered Canadian if a minimum of 80 percent of the total bid price for the service is provided by individuals based in Canada.
3. **Variety of goods:** When requirements consist of more than one good:
 - (a) aggregate evaluation: no less than 80 percent of the total bid price must consist of Canadian goods; or,
 - (b) item by item evaluation: in some cases, the bid evaluation may be conducted on an item-by-item basis and contracts may be awarded to more than one supplier. In these cases, suppliers will be asked to identify separately each item that meets the definition of Canadian goods.
4. **Variety of services:** For requirements consisting of more than one service, a minimum of 80 percent of the total bid price must be provided by personnel based in Canada.
5. **Mix of goods and services:** When requirements consist of a mix of goods and services, no less than 80 percent of the total bid price must consist of Canadian goods and services (as defined above).

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6. Annex 7.8 of the *Supply Manual* (<http://www.pwgsc.gc.ca/acquisitions/text/sm/chapter07-e.html#annex7.8>) shows how Canadian content is determined for a mix of goods, a mix of services or a mix of goods and services.
7. Other Canadian goods and services:
 - (a) **CIRCLE Canada and MERIT Partnership Program:** For photocopiers, computers and office equipment within FSC groups 36, 70 and 74, only the products of the following firms are considered Canadian goods:
 - (i) MERIT Partner under the MERIT Partnership Program (<http://strategis.ic.gc.ca/epic/internet/inict-tic.nsf/en/it04598e.html>) (administered by Industry Canada [IC] and Public Works and Government Services Canada [PWGSC]);
 - (ii) Companies which, on March 31, 1992, were allocated to Priority Group 1 under the Priority Groups Policy in effect at that time; or
 - (iii) CIRCLE Canada (<http://strategis.ic.gc.ca/epic/internet/inict-tic.nsf/en/it04597e.html>) companies as agreed on by IC and PWGSC.
 - (b) **Textiles:** Textiles are considered to be Canadian goods according to a modified rule of origin, copies of which are available from the Clothing and Textiles Division, Logistics, Electrical, Fuel and Transportation Directorate.

K4000D (10/12/04) Canadian Content Definition

Effective 16/12/05, this clause is superseded by K4000D.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content policy is applicable (see *Supply Manual*), where competition is being solely limited to bids offering Canadian Goods and/or Services and where it is **mandatory** that bidders submit a certification with their bid. This clause is to be used for single item requirements and multi-item requirements that are being certified on an aggregate basis.

This clause must be used in conjunction with clause K4000D, Canadian Content Definition.

K4001T (24/05/02) Canadian Content Certification - Mandatory With Bid - Solely Limited - Single Item or Aggregate Basis

1. This procurement is limited to Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition.
2. The Bidder represents and warrants that, of the Goods and Services being offered, no less than 80 percent of the bid price consists of Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition.
3. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.

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4. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
5. Failure to execute this representation and warranty on the signature block immediately following this paragraph and to include it with the bid will render the bid non-responsive.

Signature

Date

K4001T (10/12/01) Canadian Content Certification

Effective 24/05/02, this clause is superseded by K4001T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content Policy is applicable (see *Supply Manual*) and where competition is being conditionally limited to bids offering Canadian goods and/or services. This clause is to be used for single item requirements and multi-item requirements that are being certified on an aggregate basis.

This clause must be used in conjunction with clause K4000D.

K4002T (16/12/05) Canadian Content Certification - Conditionally Limited - Single Item or Aggregate Basis

1. This procurement is subject to a preference for Canadian goods and/or services as defined in clause K4000D.
2. Bids that include this representation and warranty will be given preference over other bids, if there are three or more suppliers who have submitted bids with a valid certification.
3. The Bidder represents and warrants that, of the goods and/or services being offered, no less than 80 percent of the bid price consists of Canadian goods and/or services, as defined in the clause K4000D.
4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
6. Failure to execute this representation and warranty on the signature block immediately following this paragraph and to include it with the bid will result in the goods and/or services offered being treated as non-Canadian.

Signature

Date

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K4002T **(24/05/02)** **Canadian Content Certification - Conditionally Limited - Single Item or Aggregate Basis**

Effective 16/12/05, this clause is superseded by K4002T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content Policy is applicable (see *Supply Manual*), where competition is being solely limited to bids offering Canadian goods and/or services and where it is mandatory that bidders submit a certification with their bid. This clause is to be used for multi-item requirements that are being certified on an individual item basis and where the bidder will be required to indicate beside each item, listed in the bid, whether the item is Canadian.

This clause must be used in conjunction with clause K4000D.

K4003T **(16/12/05)** **Canadian Content Certification - Mandatory With Bid - Solely Limited - Multi-Items Listed in Bid**

1. This procurement is limited to Canadian goods and/or services as defined in clause K4000D.
2. The Bidder represents and warrants that, of the goods and/or services being offered, items individually identified as such in the bid are Canadian goods and/or services as defined in clause K4000D, and acknowledges that only those items will receive consideration.
3. Bids may be accepted in whole or in part.
4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
6. Failure to execute this representation and warranty on the signature block immediately following this paragraph and to include it with the bid will render the bid non-responsive.

Signature

Date

K4003T **(24/05/02)** **Canadian Content Certification - Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Bid**

Effective 16/12/05, this clause is superseded by K4003T.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content policy is applicable (see *Supply Manual*), where competition is being solely limited to bids offering Canadian Goods and/or Services and where it is **mandatory** that bidders submit a certification with their bid. This clause is to be used for multi-item requirements that are being certified on an individual item basis and where the bidder is to list in the clause those items in its bid that are to be considered Canadian.

This clause must be used in conjunction with clause K4000D, Canadian Content Definition.

K4004T (24/05/02) Canadian Content Certification - Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Clause

1. This procurement is limited to Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition.
2. Bids may be accepted in whole or in part.
3. The Bidder represents and warrants that, of the Goods/or and Services being offered, the following items are Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition, and acknowledges that only those items will receive consideration.

4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
6. Failure to execute this representation and warranty on the signature block immediately following this paragraph and to include it with the bid will render the bid non-responsive.

Signature

Date

K4004T (10/12/01) Canadian Content Certification

Effective 24/05/02, this clause is superseded by K4004T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content Policy is applicable (see *Supply Manual*) and where competition is being conditionally limited to bids offering Canadian goods and/or services. This clause is to be used for multi-item requirements that are being certified on an individual item basis and where the bidder will be required to indicate beside each item, listed in the bid, whether the item is Canadian.

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This clause must be used in conjunction with clause K4000D.

K4005T (16/12/05) Canadian Content Certification - Conditionally Limited - Multi-Items Listed in Bid

1. This procurement is subject to a preference for Canadian goods and/or services as defined in clause K4000D.
2. On an item-by-item basis, items that include this representation and warranty will be given preference over other bids, if there are three or more suppliers who have submitted bids with a valid certification. Bids may be accepted in whole or in part.
3. The Bidder represents and warrants that, of the goods and/or services being offered, items individually identified as such in the bid are Canadian goods and/or services as defined in clause K4000D, and acknowledges that only those items will receive consideration.
4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
6. Failure to execute this representation and warranty on the signature block immediately following this paragraph and to include it with the bid will result in all goods and/or services offered being treated as non-Canadian.

Signature

Date

K4005T (24/05/02) Canadian Content Certification - Conditionally Limited - Multi-Item Requirements Listed in Bid

Effective 16/12/05, this clause is superseded by K4005T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content Policy is applicable (see *Supply Manual*) and where competition is being conditionally limited to bids offering Canadian goods and/or services. This clause is to be used for multi-item requirements that are being certified on an individual item basis and where the bidder is to list in the clause those items in its bid that are to be considered Canadian.

This clause must be used in conjunction with clause K4000D.

K4006T (16/12/05) Canadian Content Certification - Conditionally Limited - Multi-Items Listed in Clause

1. This procurement is subject to a preference for Canadian goods and/or services as defined in clause K4000D.

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2. On an item-by-item basis, items that include this representation and warranty will be given preference over other bids, if there are three or more suppliers who have submitted bids with a valid certification. Bids may be accepted in whole or in part.
3. The Bidder represents and warrants that, of the goods and/or services being offered, the following items are Canadian goods and/or services as defined in clause K4000D, and acknowledges that only those items will receive consideration.

4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
6. Failure to execute this representation and warranty on the signature block immediately following this paragraph and to include it with the bid will result in all goods and/or services offered being treated as non-Canadian.

Signature

Date

=====
K4006T (24/05/02) Canadian Content Certification - Conditionally Limited - Multi-Item Requirements Listed in Clause

Effective 16/12/05, this clause is superseded by K4006T.

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Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content policy is applicable (see *Supply Manual*), where competition is being solely limited to bids offering Canadian Goods and/or Services and where it is **not mandatory** that bidders submit a certification with their bid. This clause is to be used for single item requirements and multi-item requirements that are being certified on an aggregate basis.

This clause must be used in conjunction with clause K4000D, Canadian Content Definition.

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K4011T (24/05/02) Canadian Content Certification - Not Mandatory With Bid - Solely Limited - Single Item or Aggregate Basis

1. This procurement is limited to Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition.
2. The Bidder represents and warrants that, of the Goods and/or Services being offered, no less than 80 percent of the bid price consists of Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition.
3. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and

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warranty of Canadian content may be verified in such manner as the Minister may reasonably require.

4. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
5. The execution of this representation and warranty on the signature block immediately following this paragraph is a condition to render the bid responsive. Failure to provide the signed certification upon request within _____ calendar days, if it is not submitted with bid, will render the bid non-responsive.

Signature

Date

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content Policy is applicable (see *Supply Manual*), where competition is being solely limited to bids offering Canadian goods and/or services and where it is NOT mandatory that bidders submit a certification with their bid. This clause is to be used for multi-item requirements that are being certified on an individual item basis and where the bidder will be required to indicate beside each item, listed in the bid, whether the item is Canadian.

This clause must be used in conjunction with clause K4000D.

K4013T (16/12/05) Canadian Content Certification - Not Mandatory With Bid - Solely Limited - Multi-Items Listed in Bid

1. This procurement is limited to Canadian goods and/or services as defined in clause K4000D.
2. The Bidder represents and warrants that, of the goods and/or services being offered, items individually identified as such in the bid are Canadian goods and/or services as defined in clause K4000D, and acknowledges that only those items will receive consideration.
3. Bids may be accepted in whole or in part.
4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
6. The execution of this representation and warranty on the signature block immediately following this paragraph is a condition to render the bid responsive. Failure to provide the signed certification upon request within _____ calendar days, if it is not submitted with the bid, will render the bid non-responsive.

Signature

Date

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K4013T (24/05/02) **Canadian Content Certification - Not Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Bid**

Effective 16/12/05, this clause is superseded by K4013T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all competitive bid solicitations in which the Canadian Content policy is applicable (see *Supply Manual*), where competition is being solely limited to bids offering Canadian Goods and/or Services and where it is **not mandatory** that bidders submit a certification with their bid. This clause is to be used for multi-item requirements that are being certified on an individual item basis and where the bidder is to list in the clause those items in its bid that are to be considered Canadian.

This clause must be used in conjunction with clause K4000D, Canadian Content Definition.

K4014T (24/05/02) **Canadian Content Certification - Not Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Clause**

1. This procurement is limited to Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition.
2. Bids may be accepted in whole or in part.
3. The Bidder represents and warrants that, of the Goods and/or Services being offered, the following items are Canadian Goods and/or Services as defined in clause K4000D, Canadian Content Definition, and acknowledges that only those items will receive consideration.

4. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and to enter into any contract resulting from this bid. Such representation and warranty of Canadian content may be verified in such manner as the Minister may reasonably require.
5. Should a verification by the Minister disclose a breach of such covenant, the Minister shall have the right to treat any contract resulting from this bid as being in default.
7. The execution of this representation and warranty on the signature block immediately following this paragraph is a condition to render the bid responsive. Failure to provide the signed certification upon request within _____ calendar days, if it is not submitted with bid, will render the bid non-responsive.

Signature

Date

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K4015T (10/12/01) Canadian Content Certification - S and T

This clause is cancelled effective 12/12/03.

K4015T (03/02/97) Canadian Content Certification - S and T

Effective 10/12/01, this clause is superseded by K4015T.

K4016T (31/03/95) Canadian Content - Science & Technology

This clause is cancelled effective 30/06/95.

K4016T (01/04/92) Canadian Content - Science & Technology

Effective 31/03/95, this clause is superseded by K4016T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all contracts where the winning bidder's eligibility for consideration required the completion and submission of a signed Canadian Content certification.

K4100C (10/12/04) Canadian Content Certification

1. The Contractor represents and warrants that the certification of Canadian Content submitted with its bid is accurate and complete, and that the goods and services to be provided to Canada pursuant to this Contract will be in accordance with the said certification. The Contractor acknowledges that the Minister has relied upon such representation and warranty to enter into this Contract. Such representation and warranty may be verified in such manner as the Minister may reasonably require.
2. The Contractor acknowledges that in the event of a breach of such covenant, the Minister shall have the right to treat the Contract as being in default in accordance with the default provisions of the Contract.
3. The Contractor shall keep proper records and documentation relating to the origin of the goods and services provided to Canada. The Contractor shall not, without the prior written consent of the Minister, dispose of any such records or documentation until the expiration of six (6) years after final payment under this Contract, or until settlement of all outstanding claims and disputes, whichever is later. All such records and documentation shall at all times during the aforementioned retention period be open to audit, inspection and examination by the authorized representatives of the Minister, who may make copies and take extracts thereof. The Contractor

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shall provide all facilities for such audits, inspections and examinations, and shall furnish all such information as the representatives of the Minister may from time to time require with respect to such records and documentation.

4. Nothing in this clause shall be interpreted as limiting the rights and remedies which Canada or the Minister may otherwise have in relation to or pursuant to this Contract.

K4100C (03/02/97) Canadian Content Certification

Effective 10/12/04, this clause is superseded by K4100C.

K5000D (24/05/02) CKTEA Definitions

This clause is cancelled effective 16/12/05.

K5000D (10/12/01) CKTEA Definitions

Effective 24/05/02, this clause is superseded by K5000D.

K5001T (24/05/02) CKTEA Certification - Mandatory With Bid - Solely Limited - Single Item or Aggregate Basis

This clause is cancelled effective 16/12/05.

K5001T (10/12/01) CKTEA Certification

Effective 24/05/02, this clause is superseded by K5001T.

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K5002T (24/05/02) CKTEA Certification - Conditionally Limited - Single Item or Aggregate Basis

This clause is cancelled effective 16/12/05.

K5002T (10/12/01) CKTEA Certification

Effective 24/05/02, this clause is superseded by K5002T.

K5003T (24/05/02) CKTEA Certification - Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Bid

This clause is cancelled effective 16/12/05.

K5003T (10/12/01) CKTEA Certification

Effective 24/05/02, this clause is superseded by K5003T.

K5004T (24/05/02) CKTEA Certification - Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Clause

This clause is cancelled effective 16/12/05.

K5004T (10/12/01) CKTEA Certification

Effective 24/05/02, this clause is superseded by K5004T.

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K5005T **(24/05/02)** **CKTEA Certification - Conditionally Limited - Multi-Item Requirements Listed in Bid**

This clause is cancelled effective 16/12/05.

K5005T **(10/12/01)** **CKTEA Certification**

Effective 24/05/02, this clause is superseded by K5005T.

K5006T **(24/05/02)** **CKTEA Certification - Conditionally Limited - Multi-Item Requirements Listed in Clause**

This clause is cancelled effective 16/12/05.

K5006T **(10/12/01)** **CKTEA Certification**

Effective 24/05/02, this clause is superseded by K5006T.

K5011T **(24/05/02)** **CKTEA Certification - Not Mandatory With Bid - Solely Limited - Single Item or Aggregate Basis**

This clause is cancelled effective 16/12/05.

K5013T **(24/05/02)** **CKTEA Certification - Not Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Bid**

This clause is cancelled effective 16/12/05.

K - General Conditions - Modifications

K5014T (24/05/02) **CKTEA Certification - Not Mandatory With Bid - Solely Limited - Multi-Item Requirements Listed in Clause**

This clause is cancelled effective 16/12/05.

K5100C (10/12/01) **CKTEA Certification**

This clause is cancelled effective 16/12/05.

Remarks: Use this clause in contracts where, during the price negotiation process, the contractor has represented that it is not under common ownership control of another division, parent company or affiliate supplying materials and/or services in connection with the work under the contract. See *Supply Manual*.

K9000C (15/06/98) **Common Ownership Control**

The Contractor warrants that it is not under common ownership control of another division, parent company or affiliate supplying materials and/or services in connection with the performance of the Work under the Contract. For the purposes of this warranty, the phrase "ownership control" means that at least 50 percent of the voting rights are held by the related entity. The Contractor acknowledges that the Minister has relied on the warranty in establishing the price payable under the Contract and that, in the event of breach of such warranty, the Minister shall have the right to treat this Contract as being in default or, alternatively, the right to readjust the price to reflect the level of profit payable under departmental policy when common ownership control exists, as set out in the Department of Public Works and Government Services (DPWGS) Transfer Pricing Policy, copy of which the Contractor acknowledges to have received and which has been published in Chapter 10 of the DPWGS *Supply Manual*.

K9000C (31/03/95) **Common Ownership Control**

Effective 15/06/98, this clause is superseded by K9000C.

Remarks: **THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS.** Use the following clause in bid solicitations relating to acquisition for which joint venture proposals have been anticipated as eligible. (Refer to the *Supply Manual*, procedure 7A.133.)

K9001T (01/12/00) **Joint Venture**

1. The Bidder represents that the bidding entity is/is not **(delete as applicable)** a joint venture in accordance with the definition in paragraph 3.

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2. A Bidder that is a joint venture represents the following additional information:

(a) Type of joint venture (mark applicable choice):

- incorporated joint venture
- limited partnership joint venture
- partnership joint venture
- contractual joint venture
- other

(b) Composition: (names and addresses of all members of the joint venture.)

3. Definition of joint venture

A joint venture is an association of two or more parties who combine their money, property, knowledge, skills, time or other resources in a joint business enterprise agreeing to share the profits and the losses and each having some degree of control over the enterprise. Joint ventures may be carried on in a variety of legal forms divided into three categories:

- (a) the incorporated joint venture;
- (b) the partnership venture;
- (c) the contractual joint venture where the parties combine their resources in the furtherance of a single business enterprise without actual partnership or corporate designation.

4. The joint venture team arrangement is to be distinguished from other types of contractor arrangements, such as:

- (a) prime contractor, in which, for example, the purchasing agency contracts directly with a contractor (prime) who acts as the system assembler and integrator, with major components, assemblies and subsystems normally subcontracted;
- (b) associated contractor, in which for example, the purchasing agency contracts directly with each of the major component suppliers and performs the integration tasks or awards a separate contract for this purpose.

K9001T (01/06/91) Joint Venture

Effective 01/12/00, this clause is superseded by K9001T.

Remarks: Use the following clause in all bid solicitations/contractual documents involving Canadian Arsenal Limited. (Refer to the *Supply Manual*, procedures 7A.055 and 7A.056)

K9002D (01/12/00) Canadian Arsenal Limited, Certification

1. The Corporation acknowledges that it has received, read and understood the Canadian ownership requirements contained in the *Canadian Arsenal Limited Divestiture Authorization Act*.
2. The Corporation certifies that it is in full compliance with the requirements of the Act and the terms of the Purchase and Sale Agreement between the Minister of Public Works and Government Services and S.N.C. Defence Products Incorporated.
3. In the event that it is determined that this certification made by the Corporation is untrue, whether made knowingly or unknowingly, the Contract may be determined to be in default and the Minister shall be entitled, pursuant to the provisions of the Contract, to terminate for default.

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4. The Minister shall have access, at all reasonable times, to the Corporation's records, or to those of its transfer agent, relating to the issue, transfer and ownership of its securities to which are attached votes that may ordinarily be cast to elect directors of the Corporation or amalgamated corporation. For this purpose, the term "amalgamated corporation" means a corporation that is formed by the amalgamation of the Corporation with another corporation, including a body corporate, association, partnership or other organization.
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K9002D (15/09/97) Canadian Arsenalns Limited, Certification

Effective 01/12/00, this clause is superseded by K9002D.

K9003C (30/05/03) Timeliness

This clause is cancelled effective 14/05/04.

K9003C (01/06/91) Timeliness

Effective 30/05/03, this clause is superseded by K9003C.

K9004C (01/06/91) Human Ethics Review Committee

This clause is cancelled effective 15/09/97.

K9005D (31/01/92) Master and Servant Relationship

This clause is cancelled effective 01/06/94.

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K9005D (01/06/91) Master and Servant Relationship

Effective 31/01/92, this clause is superseded by K9005D.

Remarks: Use this clause when title to the vessel, including any government issue, obtained or constructed with money provided by Canada, shall remain vested in Canada.

K9006C (15/09/97) Title to Property - Vessel

This Contract is a "defence contract" within the meaning of the *Defence Production Act*, R.S.C. 1985 c.D-1. In accordance with the provisions of section 20 of that Act, title to any government issue (as defined in that Act) furnished or made available to the Contractor or obtained or constructed by it with money provided by Canada remains vested or vests in Canada free and clear of all claims, liens, charges and encumbrances. Notwithstanding any law in force in any province or any territory of Canada but subject to the provisions of this Contract, Canada is entitled, at any time, to remove, sell or dispose of the Government Issue. Without restricting the generality of the foregoing, in the event of default by the Contractor, Canada, or its agents, shall have the immediate right to enter the shipyard, without first obtaining a court order, and to take possession of the "Vessel" and all other property of Canada, including, but not limited to, work-in-process located on the premises, and to perform any further work required to enable the "Vessel", and other such property, to be removed from the shipyard.

K9006C (01/06/91) Title to Property

Effective 15/09/97, this clause is superseded by K9006C.

K9007D (01/06/91) Personal Injuries

This clause is cancelled effective 12/12/03.

K9009D (01/12/00) Air Charter Conditions

1. Interpretation

- 1.1 "day" means any period 24 consecutive hours;
- 1.2 "month" means any period of 30 consecutive days; and
- 1.3 "flight" means the movement of an aircraft from the point of take-off to the first point of landing.

2. Operation, Interruption or Cancellation of Charter Flights

- 2.1 The Carrier shall have exclusive operational control over chartered aircraft and the contents and crew thereof.

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2.2 Every person who is provided with transportation on a chartered aircraft shall comply with all the terms and conditions of the contract, and all persons and property aboard a chartered aircraft shall be subject to the authority of the pilot-in-charge.

2.3 The Carrier may:

- (a) cancel or terminate a charter or any flight of a charter at any time,
- (b) return to base or to the last point of landing, or
- (c) divert or land at an intermediate point,

when such action is deemed by the Carrier to be necessary owing to the unserviceability of the aircraft, weather conditions or other conditions beyond the control of the Carrier.

3. Dangerous Goods

The Charterer and the Carrier shall comply with the applicable governmental regulations governing the carriage of dangerous goods.

4. Space for the Carrier's Use

Any capacity in the chartered aircraft not being utilized by the Charterer may, unless the Charterer objects, be used by the Carrier for the carriage of its own personnel, baggage or goods.

5. Cancellations, Non-Completions or Deviations

5.1 When a charter is cancelled by the Carrier after commencement, charges shall be charged for the completed portion only.

5.2 No charges shall be charged to the Charterer:

- (a) where flights are not completed due to mechanical failure or crew casualties and the Carrier fails to arrange satisfactory alternative transportation; or
- (b) in respect of any flying in an unsuccessful attempt to complete a flight required under the charter, unless the Charterer, his servant or agent agreed to such flying being done.

6. Substitution of Aircraft

6.1 When, owing to causes beyond the control of the Carrier, the chartered aircraft is unavailable at the time the charter commences or becomes unavailable while carrying out the charter, the Carrier may furnish another aircraft of the same type or, with the consent of the Charterer, substitute any other type of aircraft at the rates and charges applicable to the aircraft originally chartered except as provided in subsections 6.2 and 6.3.

6.2 When a substituted aircraft is capable of a larger payload than the aircraft originally chartered, the payload carried in the substituted aircraft shall not be greater than the payload that would have been available in the aircraft originally chartered, unless the Charterer agrees to pay the rates and charges applicable to the substituted aircraft.

6.3 When the maximum payload of a substituted aircraft is smaller than the maximum payload of the aircraft originally chartered, charges shall be based on the rates and charges applicable to the type of substituted aircraft, except that where such rates and charges are higher than those for the aircraft originally chartered, the rates and charges for the original aircraft chartered shall apply.

7. Determination of Firm Rate Per Hour

7.1 Except as provided in subsection 7.2, the hours and minutes for which a charge is made shall be computed from the time the aircraft leaves the surface of the earth and terminating when the aircraft touches the surface of the earth at the next point of landing. The term "*Firm Rate Per Hour*" is an hourly charge or portion thereof of "*Air Time*" as defined in the Canadian Aviation Regulations, Part VIII, Air Navigation Services, and will be the basis of calculating charges for air services.

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- 7.2 When operations involve a continuous succession of flights, each of less than ten (10) minutes duration, and the engine is not shut down between such flights, air time shall be computed from the time the aircraft leaves the surface of the earth for the first flight and ceases when the aircraft touches the surface of the earth at the final point of landing.
- 7.3 In determining the duration of a flight:
- (a) each fraction of an hour shall be stated as a decimal, established on the basis of a six minute period,
 - (b) each period of less than three minutes shall be rounded to zero, and
 - (c) each period of between three and six minutes shall be rounded to six minutes,
- except that no flight shall be considered to have a duration of less than 0.1 hour.
8. **Application of Rates and Charges Fixed Wing Only**
- 8.1 On charters rates per mile shall apply for all point-to-point flights where flight distances are measurable.
- 8.2 Rates per hour shall apply when the Carrier is providing air service for a Charterer engaged in operations involving flights or parts thereof where flight distances are not measurable, or when requested by Charterer and such request is noted by the Carrier on the invoice.
9. **Methods of Measuring Distance Fixed Wing Only**
- 9.1 When a flight is required to be flown over airways routes or routes prescribed by the Department of Transport, the distances shall be measured in straight lines along such routes.
- 9.2 The distances of flights, other than a flight referred to in subsection 9.1, shall be measured in a straight line between the places of commencement and termination of the work provided for in the charter, using standard 8 miles to 1 inch aeronautical charts of the National Topographic Series, as issued by the Department of Natural Resources, Ottawa.

K9009D (01/08/92) Air Charter Conditions

Effective 01/12/00, this clause is superseded by K9009D.

Remarks: Use this clause in contracts with suppliers located in California when title is not to be taken by Canada until delivery and when progress or advance payments will be made. This clause is to be used in conjunction with clauses C2002C and D4003C.

K9010C (29/10/93) Passage of Title

Notwithstanding anything contained in this Contract, payments under clauses relating to progress or advance payments shall not constitute or result in a transfer of title in the raw materials, work-in-process, finished goods or other articles giving rise to or represented by such payment.

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Remarks: Use this clause in contract documents where information is to be provided by the contractor in accordance with Ontario Labour Legislation requirements for janitorial, food catering and security service contracts.

K9015C (13/12/02) Ontario Labour Legislation

1. Without restricting the generality of the foregoing, the Contractor shall keep its employees' records up to date and, upon request by the Minister, submit to the Minister, within seven (7) days of the date of the request, the following information regarding its employees, as provided for in section 77 (2) of the *Employment Standard Act*, 2000, and as set out in Ontario Regulation 287/01:
 - (a) the employee's name, residential address and telephone number;
 - (b) his or her job classification or job description;
 - (c) the wage rate actually paid to the employee;
 - (d) a description of the benefits, if any, provided to the employee including the cost of each benefit and the benefit period to which the cost relates;
 - (e) the number of hours that the employee works in a regular non- overtime work week, or if hours vary from week to week, the number of the employee's non-overtime hours for each week that the employee worked during the thirteen (13) weeks preceding the date of the request for information;
 - (f) the date on which the employer hired the employee;
 - (g) any period of employment attributed to the employer under section 10 of the Act;
 - (h) the number of weeks that the employee worked at the premises during the 26 weeks preceding the date on which the request was made for the information (the 26-week period shall be calculated without including any period during which the provision of services at the premises was temporarily discontinued, or during which the employee was on a leave under Part XIV of the Act);
 - (i) a statement indicating whether the employee
 - (1) is actively employed in providing services at the premises but whose job duties were not primarily performed at the premises during the thirteen (13) weeks immediately preceding the date on which the request was made for the information;
 - (2) is employed, but not actively employed, in providing services at the premises but whose job duties were not primarily performed at the premises during his or her most recent thirteen (13) weeks of active employment.
2. In addition to the above information, the Contractor shall, upon request, provide the Minister, within seven (7) days after the date of the request, with an up-to-date copy of the collective agreement regarding the employees at the premises or, if no collective agreement exists for these premises, a copy of the union certificate regarding these employees or, if no union certificate was issued, a copy of any pending union application.
3. Between the date the information described above is provided by the Contractor and the expiry date of the Contract, the Contractor shall provide the Minister with updated information immediately any changes to said information occur.
4. The information described above, with the exception of 1.a), will be provided by the Contracting Authority to prospective bidders for a future contract for those services relating to the premises.

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K9015C (30/10/96) Ontario Labour Legislation

Effective 13/12/02, this clause is superseded by K9015C.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use this clause in bid solicitation where information is provided to bidders in accordance with Ontario Labour Legislation requirements for janitorial, food catering and security service contracts.

K9015T (13/12/02) Ontario Labour Legislation

1. In accordance with the requirements of Section 77(1) of the *Employment Standards Act, 2000*, the following information concerning each employee of the previous employer providing services at the premises is attached hereto:
 - (a) job classification or job description for each employee;
 - (b) the wage rate actually paid to the employee;
 - (c) a description of the benefits, if any, provided to the employee including the cost of each benefit and the benefit period to which the cost relates;
 - (d) the number of hours that the employee works in a regular non- overtime work week, or if hours vary from week to week, the number of the employee's non-overtime hours for each week that the he/she worked during the 13 weeks preceding the date of the request for information;
 - (e) the date on which the employer hired the employee;
 - (f) any period of employment attributed to the employer under Section 10 of the Act;
 - (g) the number of weeks that the employee worked at the premises during the 26 weeks preceding the date on which the request was made for the information (the 26-week period shall be calculated without including any period during which the provision of services at the premises was temporarily discontinued, or during which the employee was on a leave under Part XIV of the Act);
 - (h) a statement indicating whether the employee
 - (1) is actively employed in providing services at the premises but whose job duties were not primarily performed at the premises during the thirteen (13) weeks immediately preceding the date on which the request was made for the information; or,
 - (2) is employed, but not actively employed, in providing services at the premises but whose job duties were not primarily performed at the premises during his or her most recent thirteen (13) weeks of active employment.
2. The name, address and telephone number of each employee as they appear in the previous employer's records will be provided to the successful bidder after award of the Contract.
3. In addition to the above information, a copy of either the collective agreement, union certificate, or pending union applications regarding the employees at the premises is also attached, if applicable.
4. Bidders shall use the information referred to in subparagraphs 1.(a) to 1.(h) (and paragraph 3 if applicable) above only for the purposes of preparing their bids and complying with the Act, and shall not disclose such information except as may be authorized by the Minister in writing.

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5. The enclosed information concerning the employees of the previous employer providing services at the premises has been received from the previous employer and the Minister is unable to warrant its accuracy or completeness. If you require verification or further information, please contact: _____
 6. Canada does not warrant the accuracy or completeness of any information concerning the employees of the previous employer providing services at the premises, nor shall it be responsible for any damage or loss which may result from use of or reliance upon any of this information.
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K9015T (30/10/96) Ontario Labour Legislation

Effective 13/12/02, this clause is superseded by K9015T.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in contracts for procurements subject to the Set-Aside Program for Aboriginal Business. When the General Conditions to be used in the bid solicitation and contract do not include an entire agreement provision, the clause K9026D, Entire Agreement, must also be used.

K9025C (15/09/97) Aboriginal Business Certification

1. The Contractor represents and warrants that the certification of compliance with the definition of an Aboriginal business set out in *Requirements for the Set-Aside Program for Aboriginal Business* and submitted with its bid is and remains accurate and complete. The Contractor acknowledges that the Minister has relied upon such representation and warranty to enter into this Contract. Such representation and warranty may be verified in such manner as the Minister may reasonably require.
 2. The Contractor acknowledges that in the event of a breach of this covenant, the Minister shall have the right to treat the Contract as being in default in accordance with the default provisions of the Contract.
 3. The Contractor shall keep proper records and documentation relating to the accuracy of the certification provided to Canada. The Contractor shall not, without the prior written consent of the Minister, dispose of any such records or documentation supporting the accuracy of the certification until the expiration of six (6) years after final payment of this Contract, or until settlement of all outstanding claims and disputes, resulting from a dispute under this contract, whichever is later. All such records and documentation shall at all times during the aforementioned retention period be open to audit, inspection and examination by the authorized representatives of the Minister, who may make copies and take extracts thereof. The Contractor shall provide all facilities for such audits, inspections and examinations, and shall furnish all such information as the representatives of the Minister may from time to time require with respect to such records and documentation.
 4. Nothing in this clause shall be interpreted as limiting the rights and remedies which Canada or the Minister may otherwise have in relation to or pursuant to this Contract.
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K - General Conditions - Modifications

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in bid solicitations for procurements subject to the Set-Aside Program for Aboriginal Business. When the General Conditions to be used in the bid solicitation and contract do not include an entire agreement provision, the clause K9026D, Entire Agreement, must also be used.

K9025T (15/09/97) Set-Aside / Aboriginal Business

1. This procurement is set aside for Aboriginal business under the federal government's Set-Aside Program for Aboriginal Business. Bidders must complete and sign the certification "Certification Requirements for the Set-Aside Program for Aboriginal Business" contained in Appendix "_____", *Requirements for the Set-Aside Program for Aboriginal Business*, and this certification shall be submitted with the proposal. **It is a precondition to the submission of a valid bid that this certification be accurately completed. Failure to complete and submit the Certification with the proposal shall render the proposal non-compliant.**
2. By executing the certification, the Bidder represents and warrants that it is an Aboriginal business as defined in the Set-Aside Program for Aboriginal Business.
3. The Bidder acknowledges that the Minister relies upon such representation and warranty to evaluate bids and shall rely upon such representation and warranty to enter into any contract resulting from this bid. Such representation and warranty of the certification may be verified in such manner as the Minister may reasonably require.
4. Should a verification by the Minister disclose a breach of such representation and warranty, the Minister shall have the right to disqualify the bid or to treat any contract resulting from this bid as being in default and render it subject to the remedies set out in the certification and General Conditions.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in bid solicitations and contracts for procurements subject to the Set-Aside Program for Aboriginal Business when the General Conditions to be used in the bid solicitation and contract do not include an entire agreement provision.

K9026D (15/09/97) Entire Agreement

The Contract, including all Appendices, Annexes and all terms and conditions, including those incorporated by reference and the *Requirements for the Set-Aside Program for Aboriginal Business* and "Certification Requirements for the Set-Aside Program for Aboriginal Business" documents as completed and submitted by the Bidder, constitute the entire and sole agreement between the parties with respect to the subject matter of the Contract and supersedes all previous negotiations, communications and other agreements, whether written or oral, relating to it, unless they are incorporated by reference in the Contract. There are no terms, covenants, representations, statements of conditions binding on the parties other than those contained in the Contract.

Remarks: THIS CLAUSE IS TO APPEAR IN FULL TEXT IN PROCUREMENT DOCUMENTS. Use the following clause in all contract documents which call for the collection or creation of personal information. This includes contracts for investigations relating to specific individuals in cases such as harassment or the employment status of a public servant.

K - General Conditions - Modifications

K9035D (23/11/98) Handling of Personal Information

K - General Conditions - Modifications

The Contractor acknowledges that Canada is bound by the *Privacy Act*, R.S.C. 1985, c. P-21, with respect to the protection of personal information as defined in that Act. The Contractor shall keep private and confidential any such personal information collected, created or handled by the Contractor under the Contract, and shall not use, copy, disclose, dispose of or destroy such personal information except in accordance with this clause and the delivery provisions of the Contract. All such personal information is the property of Canada, and the Contractor shall have no right in or to that information. The Contractor shall deliver to Canada all such personal information in whatever form, including all working papers, notes, memoranda, reports, data in machine-readable format or otherwise, and documentation which have been made or obtained in relation to this Contract, upon the completion or termination of the Contract, or at such earlier time as the Minister may request. Upon delivery of the personal information to Canada, the Contractor shall have no right to retain that information in any form and shall ensure that no record of the personal information remains in the Contractor's possession.
