REQUEST FOR PROPOSAL (RFP)

FOR

PROVISION OF ANGIOPLASTY DEVICES

RFP NUMBER:    MSNS 2014-0301

RFP ISSUED:     March 14, 2014
RFP CLOSING:   April 2, 2014

AUTHORIZED CONTACT:  Mr. John Chisholm
                   Contracting Authority

NOTE

Proponents obtaining RFP Documents by direct download from the Procurement Website are responsible for ensuring that they are aware of and have complied with any Addenda issued. This can be done by visiting the Procurement Website at www.gov.ns.ca/tenders.
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1. INTRODUCTION

1.1. GENERAL

Nova Scotia’s citizens expect their publicly funded organizations to make smart, efficient purchases – to save money where possible, while improving the quality of goods and services for Nova Scotia’s families. Reaching this goal means reviewing, and in some cases, adjusting the way we do business.

By standardizing purchases across Nova Scotia health authorities, and establishing stronger relationships with suppliers, Merged Services Nova Scotia, acting on behalf of Nova Scotia’s health authorities and the IWK (hereinafter referred to as MSNS), plans to gain efficiencies and reduce overall costs while improving consistency, quality and service.

1.2. MERGED SERVICES NOVA SCOTIA (MSNS) OVERVIEW

MSNS is a province-wide merged services organization that will create enhanced value to the health system through the effective and efficient delivery of administrative and support services, including procurement. It operates on behalf of the nine District Health Authorities (DHA) and IWK to form agreements that align requirements, volumes and pricing with successful proponents across the province.

1.3. DISTRICT HEALTH AUTHORITY/IWK OVERVIEW

Nova Scotia has nine district health authorities and the IWK Health Centre, which govern, plan, manage, deliver, monitor, and fund health services within their district. They are responsible for hiring at their acute and tertiary hospitals as well as for the services and programs they offer within their district. The full list of the health districts/IWK is shown below:

- South Shore Health District
- South West Health District
- Annapolis Valley Health Authority
- Colchester East Hants Health Authority
- Cumberland Health Authority
- Pictou County Health Authority
- Guysborough Antigonish Strait Health Authority
- Cape Breton District Health Authority
- Capital District Health Authority (CDHA)
- IWK Health Centre

CDHA is currently the only district health authority that purchases Angioplasty Devices. CDHA is Nova Scotia’s largest provider of health services. It operates hospitals, health centers, and community based projects throughout Halifax Regional Municipality and the western part of Hants County. CDHA has over 12,000 employees, physicians, learners, and approximately 1,900 volunteers. It provides medical and surgical care, mental health care, community health programs, addiction prevention and treatment and environmental health services, through nine hospitals as well as dozens of community health centers across the region.
As an academic district, CDHA helps educate tomorrow’s health care providers and administrators. Also, it participates in research into new treatments, cures, processes, and practices. With an operating budget of more than $800 million, CDHA serves the 400,000 residents of the Halifax and West Hants regions and provides specialist services to the rest of Nova Scotia and Atlantic Canada.

While CDHA is currently the only Nova Scotia district health authority that purchases angioplasty devices, this RFP is posted and awarded under the jurisdiction of MSNS and accordingly the agreement with the successful proponent will be accessible to all Nova Scotia district health authorities and the IWK Health Centre.

1.4. DEFINITIONS

Authorized Contact:

The person authorized by MSNS to be the contact for Proponents during the Request for Proposal process.

Closing Time:

The date/time stipulated in section 3 “Instructions to Proponents” for submission of proposals.

Compliant Proposal:

A proposal which meets **ALL** mandatory requirements of a Request for Proposal or tender process.

Contract:

The mutually binding agreement, executed by the Owner and the successful Proponent(s) under which the successful Proponent shall provide the specified product (or service) in accordance with specified performance measures and timeframes and other terms and conditions for the stipulated price.

Extension of a Contract:

An extension to the duration of the contract which is set forth in a written amendment to the contract and executed by the Parties.

Owner:

MSNS, representing Nova Scotia’s district health authorities and the IWK is the owner.

Proponent:

A party who submits a proposal in response to the RFP.

Request for Proposal (RFP) – Detailed Definition:

A request to suppliers or professionals, with specific expertise, to submit proposals on how (and at what price) they would provide a good or service (such as a business process, product or replacement system, a new or improved product design, etc). An RFP usually, but in the sole discretion of MSNS may not, lead to a contract award.

Time:

All clock times indicated in the document are Local Atlantic Times.
1.5. ELECTRONIC TENDERING WEBSITE

Merged Services uses the Nova Scotia tender website where tenders are posted. You can access the website at [http://www.novascotia.ca/tenders/tenders/ns-tenders.aspx](http://www.novascotia.ca/tenders/tenders/ns-tenders.aspx). (Hereinafter the Nova Scotia Tenders website) then click on the link Tenders to select the required documents. Please note that all addendums to the documents are also posted on this website during the tender period. It is vendor's responsibility to monitor the site and download all pertinent information.

2. PROJECT DESCRIPTION AND SCOPE

2.1. GOODS/SERVICES

MSNS is seeking proposals from qualified proponent(s) for purposes of retaining a strategic supplier or suppliers able to execute the fulfillment, delivery, and services associated with a range of angioplasty devices specified in Appendix B, with the annual volume estimates for each category provided in Appendix A. The historical demand figures are provided in order to assist the Proponents in the development of their proposals only and do not constitute a guarantee of the volume of business to be procured by MSNS.

An RFP process usually but not always leads to a contract award. In the event of the successful completion of this RFP process, MSNS, in its sole discretion, intends, to the extent possible, to enter into a Contract between the participating Health Authorities and one (1) successful Proponent for an initial period of two (2) years. MSNS will reserves the right to extend the Contract for two (2) consecutive one-year extensions beyond the initial period. MSNS reserves, in its sole discretion, the right to enter into Contracts with more than one Proponent.

MSNS established strong ties with other Canadian provinces that are based on the principles of interprovincial collaboration in procurement and allow MSNS access to contractual arrangements of other provinces, including arrangements directly applicable to the scope of this RFP.

Through this RFP process MSNS intends to evaluate Proponents’ responses and reserves the right to, in its sole discretion, either award a contract to one or several Proponents, whose proposal(s) result in the best value outcome, or terminate the RFP and partake in the arrangements available through other provinces.

2.2. ENVIRONMENTAL IMPACT PROCUREMENT

MSNS, on behalf of the DHAs/IWK, is committed to participating in sustainable practices that impact our community and our world, and improve the environment by integrating environmental performance considerations into the procurement process, including planning, acquisition, use and disposal. MSNS recognizes that value for money includes the consideration of many factors such as cost, performance, availability, quality and environmental performance. MSNS recognizes that environmentally responsible procurement will result in the reduction of lifecycle costs. The benefits of environmentally responsible procurement are:

- Reduction in harmful or hazardous gas and waste emissions and air contaminants;
- Support of reuse and recycle initiatives;
- Improved utilization of natural resources; and,
- Support of a healthier working environment for employees through the purchase of environmentally preferable goods and services.

3. INSTRUCTIONS TO PROPOONENTS

3.1. SUBMISSION INSTRUCTIONS

Proposals shall be directed to:

John Chisholm, Authorized Contact
Capital District Health Authority
863 Bethune Building
1276 South
Park St.
Halifax, NS
B3H 2Y9

no later than 14:30 Hours Atlantic Standard Time on April 2, 2014. (The “Closing Time”)
(No faxed or emailed proposals will be accepted.)

Unless MSNS, in its sole discretion, decides to the contrary, only sealed proposals which are completed, signed, and dated shall be accepted. (Please refer to section 7 for further submission instructions).

The package exterior must clearly be labeled “Response to RFP MSNS 2014-0301 Provision of Angioplasty Devices for Merged Services Nova Scotia” including the full contact and address information indicated above.

Unless MSNS, in its sole discretion, decides to the contrary, proposals received after the above Closing Time will not be accepted and will be returned unopened.

Disclosure/Conflicts of Interest:

Proponents are required to identify to the Authorized Contact any potential conflicts of interest that exist or may arise with respect to their participation in this RFP process.

Response to Deliverables:

All deliverables in Appendix “A” must be addressed in your proposal.

Response to Detailed Requirements:

All detailed requirements identified in Appendix “B” must be addressed in your proposal.

Response to Pricing:

The pricing table in Appendix “A” must be completed in the requested format and returned with your proposal in a separate envelope clearly marked “Fee Submission”. 
3.2. **ADDENDA AND AMENDMENTS**

MSNS shall have sole and absolute discretion to modify or amend this RFP, including without limitation the proposal requirement, or any other terms, whether material or not as well as to suspend or cancel this RFP at any time.

MSNS reserves the right to issue addenda at any point during the RFP period. All addenda become part of the proposal documents.

Addenda issued by MSNS will be available for viewing on the Nova Scotia Tendering website.

All Proponents are responsible for ensuring that they are aware of and comply with all addenda issued by MSNS. **Proponents must include copy(s) of all issued addenda in their proposals.**

3.3. **REVISION OF PROPOSALS**

Proposals already submitted may be amended by the Proponents prior to the Closing Time by sending in a complete new Proposal, clearly indicating that it replaces the previously submitted Proposal.

Any such revision must be submitted in writing, attached to a formal revision cover letter on company letterhead or equivalent, and must be signed by an authorized official of the Proponent.

The revised Proposal should clearly identify the RFP name and numbers and the Closing Time of the RFP.

A Proposal revision replaces any other Proposal revisions previously submitted by the Proponent; only the last of any Proposals received prior to the Closing Time will be accepted and considered pursuant to this RFP.

3.4. **QUESTIONS**

All questions or concerns regarding the Request for Proposal must be directed, by email only, to the Contact Authority:

John Chisholm, Merged Services Nova Scotia  
Email: john.chisholm@cdha.nshealth.ca

by no later than **14:30 Standard Atlantic Time on March 21, 2014.**

**Note:**

**Contact is restricted to the individual identified above. Contact with any other individuals may, in the sole discretion of MSNS, result in disqualification of the Proponent from the process.**

All questions received in advance of the above date and time will be answered in **one addendum** which will, unless MSNS, in its sole discretion, decides to the contrary, be posted no later than five (5) days prior to the Closing Time.

Questions received in any manner other than as outlined above, or questions received after the above Closing Time, unless MSNS exercises its sole discretion to the contrary, WILL NOT be answered.

The MSNS representatives shall not be bound by or be liable for any representation or information provided verbally.
3.5. **PROPONENT RESPONSIBILITY FOR INFORMATION**

It is the Proponent’s responsibility to ensure that they have all the necessary information concerning the intent and requirements of this RFP.

To ensure consistency and quality of information provided to Proponents, the Contracting Authority will communicate, any information, including addendums with respect to significant inquiries received and the replies to such inquiries without revealing the sources of the inquiries. As indicated above, addendums will be posted to the Nova Scotia Tendering website.

3.6. **FORM AND CONTENT OF PROPOSALS**

Unless MSNS in its sole discretion communicates a decision to the contrary, proposals must be submitted in accordance with the requirements and in the format detailed in this RFP. Proposals must contain all the required Appendices. All submissions must be directed to the Contact Authority. Proposals will be time stamped immediately upon receipt.

This RFP process is subject to the Terms and Conditions set out in this RFP and its attached schedules and this RFP does not constitute a legally binding offer to enter into a contract on the part of either MSNS or the participating Health Authorities/IWK before the successful completion of the negotiations and execution of the formal Agreement.

3.7. **PROPOSED SCHEDULE OF EVENTS**

This RFP Proposed Schedule of Events is tentative only and may be changed by the MSNS at its sole discretion. A notice of any changes will also be posted on the Nova Scotia Tenders website.

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Dates (MM/DD/YYYY)</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP issue date</td>
<td>03/14/2014</td>
</tr>
<tr>
<td>Deadline for Proponents to submit RFP questions</td>
<td>03/21/2014</td>
</tr>
<tr>
<td>Answers provided to Proponents’ questions</td>
<td>03/26/2014</td>
</tr>
<tr>
<td>RFP responses are due</td>
<td>04/02/2014</td>
</tr>
</tbody>
</table>

3.8. **PROPOSAL SUBMISSION**

A Proponent’s certification and assurances form must be signed by an authorized signing officer or authorized person for the proponent certifying that all information contained in the proposal is accurate and agreeing to comply with all the terms, conditions, and provisions of the RFP.

Proponents must submit their Proposal in separate envelopes as described below:
- Envelope I: Technical and Management Proposal; (Five hard copies, one electronic copy on a USB Stick)
Envelope II: Cost Proposal; (One hard copy, one electronic copy on a USB Stick)

Envelope I: Technical and Management Proposal
- To be considered compliant, the Proponent must consist of all portions of the proposal, including, but not necessarily limited to, the list of documents outlined below.

The technical and management submission envelope must not contain any reference to the fee being proposed.
- Complete RFP document signed at Sections 5.11 and 5.12 with Mandatory Criteria Acknowledgement Table completed and signed
- Three references in respect of the provision of similar products and services, Appendix C
- Detailed long term data and reviewed publications of the products being submitted for consideration as part of this proposal
- A completed technical requirements document, as outlined in Appendix B
- Evidence of necessary insurance coverage, evidence of all appropriate certifications and approvals from Health Canada
- Medical Equipment Device License Number for each product

Envelope II: Cost Proposal
In addition to the Technical and Management Proposal, the Proponent shall complete and submit the Pricing Schedule set out in Appendix A.

The Pricing Schedule must be completed as a separate page in and submitted in a separate envelope. Prices and other financial information shall not appear in any other area of the proposal.

The Cost Proposals submitted in any other format will not, unless MSNS exercises its sole discretion to the contrary, be considered compliant and may, in MSNS’s sole discretion, make the Proposal non-eligible for consideration.

All pricing submissions must meet the following requirements:
- All prices must be in Canadian funds
- All prices shall be firm for the duration of the Agreement, DDP destination hospital, inclusive of all duties
- If HST is applicable, it must be itemized HST as a separate item in the Pricing Schedule
- MSNS qualifies for government and educational discounts from various proponents. All applicable discounts are to be identified in the Pricing Schedule

4. BASIS OF SELECTION

4.1. PROPOSAL EVALUATION

The proposal will be examined in accordance with the Terms and Conditions outlined in this RFP document following the evaluation process and criteria outlined below. Subsequent to the submission of Proposals, MSNS shall have no obligation to receive further information, whether in writing or oral, from any Proponent. MSNS shall not be obligated in any manner to any Proponent whatsoever other than under a Contract executed with the successful Proponent(s).
4.2. EVALUATION TEAM

The Evaluation Team will consist of designated representatives of the District Health Authorities/IWK. It is understood and accepted by the Proponent that all decisions about the degree to which a proposal meets the requirements of this RFP are the judgment of this Evaluation Team.

The Evaluation Team will treat all proposals with strict confidentiality and comparative information on proposals will not be divulged except where required under the Freedom of Information and Protection of Privacy Act.

4.3. EVALUATION PROCESS

The Evaluation Team will evaluate all Proposals based on the materials submitted and the results of the reference and background checks. Proposals must be specific and complete in order to provide the information necessary to evaluate whether the Proponent meets MSNS’s requirements.

To assist in the evaluation of the Responses, the Evaluation Team may, but is not required to:

- Conduct reference checks as the Evaluation deems necessary to verify any and all information regarding the Proponent and rely on and consider any relevant information from such cited references in the evaluation of Proposals.
- Conduct any background investigations that it considers necessary in the course of the evaluation process and consider any relevant information resulting in the evaluation of Proposals.

The Proponents may be requested to demonstrate financial stability during the evaluation process.

The Proposals will be evaluated using the following process:

**Stage 1:** Each Proposal will be reviewed to verify compliance with the terms and condition of this RFP. Unless MSNS exercises it sole discretion to the contrary, proposals that fail to meet these requirements will be excluded from further consideration in the evaluation process.

**Stage 2:** Proposals which meet the requirements of Stage 1 above will be further assessed by the Evaluation Team using but not necessarily limited to the Evaluation Criteria detailed in the table below. The Evaluation Team will, in its sole discretion, assess a Proponent’s ability to meet the MSNS’s requirements, evaluate the cost of proposal and assign scores against the rated criteria. A Proponent’s technical and management proposal contained in envelope #1 will be evaluated based on MSNS’s requirements including but not necessarily limited to the technical and management requirements in Appendix B.

<table>
<thead>
<tr>
<th>Criterion</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost of Proposal</td>
<td>50%</td>
</tr>
<tr>
<td>Qualitative Requirements</td>
<td>50%</td>
</tr>
<tr>
<td><strong>Maximum Score Possible</strong></td>
<td>100%</td>
</tr>
</tbody>
</table>

A minimum qualifying score of 30% is required in the Qualitative Requirements section for the Proposal to be considered for the short-list. Meeting the qualifying score in the Qualitative Requirements section does not guarantee that the Proponent will be short-listed. The total score of all Proponents will be evaluated in order to form the short-list.
Stage 3: Based on the results of the scoring, a short list of Proponents whose proposals meet the minimum qualifying score and have the highest overall ranking will be selected. The number of short listed Proponents will be determined by the Evaluation Team in its sole discretion following the review of the responses. MSNS will then notify applicable Proponents that they have been short listed.

Stage 4: Short-listed Proponents will be invited to discuss their proposal with MSNS and may be asked to do a formal presentation of their Proposal. The Evaluation Team will then refine and adjust the initial Proposal scores of the short-listed Proponents based on the presentations and clarifications received. Following which, MSNS will determine, in its sole discretion, whether to proceed with an award based on the Proposals submitted and clarifications received or to enter into a final round of negotiations with one or multiple Proponents sequentially or contemporaneously. Selection of the successful Proponents from the short-list will be decided in the sole discretion of the Evaluation Team.

4.4. REFERENCES

Proponents are requested to provide a minimum of three references. References should be similar in scope, focus, size and complexity to the Province of Nova Scotia environment and the requirements of this RFP. Please fill out the table in Appendix C as completely as possible. Identify customers who may be contacted for a review of their project/engagement experiences. Identify the project resources that are consistent between the reference projects and your proposed project team. At least one reference project should have the same Project Lead as is proposed for our project in your response to this RFP.

5. GENERAL RFP TERMS AND CONDITIONS

5.1. MSNS RESERVATION

MSNS makes no representation or assurance regarding the outcome of proposals, and specifically reserves the right to terminate the RFP process without consequence or liability to any of the Proponents or any other party.

5.2. AWARD OF CONTRACT /NEGOTIATION WITH PROPONENTS

MSNS, on behalf of the DHAs/IWK, may, in its sole discretion, negotiate the final terms and conditions sequentially or contemporaneously, including but not limited to terms and conditions related to price, for any contract awarded pursuant to this RFP with the preferred Proponent(s). If MSNS is unable to reach an agreement satisfactory to MSNS with one or several Proponents, MSNS may end negotiations in its sole discretion. Without limiting any other provision of this RFP, MSNS and the DHAs/IWK shall have no liability to any Proponent as a result of such negotiations or modifications.

Unsuccessful Proponents may request a debriefing after the receipt of a notification of award. All requests must be in writing to the Procurement Representative and must be made within thirty (30) calendar days of notification of award. The intent of the debriefing information session is to aid the Proponent in presenting a better Proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process.

5.3. ASSIGNMENT OF RFP/AWARDED CONTRACT
The Proponent's Proposal, and/or the Contract resulting from the acceptance of a Proposal, may not be assigned, in whole or in part, by the Proponent without the prior written consent of the Owner, which consent may be arbitrarily withheld.

5.4. INDEMNIFICATION

The Proponent shall indemnify and hold the MSNS, DHAs/IWK harmless from and against all costs, actions, suits, claims, losses, expenses (including legal costs), liabilities, or damages arising from any action or omission of the Proponent, or by its servants, agents, employees, or students in relation to all matters arising out of this RFP process and any resultant contract, including proceedings of any kind or nature for the alleged infringement of intellectual property rights, save and except where caused by the negligence or willful misconduct of MSNS, the DHAs/IWK, its servants, agents, or employees.

5.5. DISCLOSURE OF INFORMATION

**Personal Information International Disclosure Protection Act (PIIDPA)**

The Proponent acknowledges that in the performance of any Contract awarded hereunder it may obtain information concerning individuals which information is subject to protection in accordance with applicable legislation and regulation including, without limiting the generality of the foregoing, the Personal Information International Disclosure Protection Act (“PIIDPA”), Freedom of Information and Protection of Privacy Act, the Personal Health Information Act, and any other applicable Act or regulation. The Proponent agrees to safeguard any such information in accordance with all such legislation/regulation and use same solely to comply with its obligations under the awarded Contract.

**Confidentiality of Information**

Information pertaining to MSNS or the DHAs/IWK obtained by the Proponent as a result of participating in this RFP is confidential and must not be disclosed without written permission from MSNS or the DHAs/IWK or DHW, as applicable.

**Access to Source Data**

In completion of contract deliverables, the proponent shall be required to turn over all source data, tables and benchmark comparisons to MSNS.

5.6. PERIOD OF CONTRACT

MSNS, in its sole discretion, intends, to the extent possible, to enter into a Contract between the participating Health Authorities and one (1) successful Proponent for an initial period of two (2) years. MSNS will reserves the right to extend the Contract for two (2) consecutive one-year extensions beyond the initial period. MSNS reserves, in its sole discretion, the right to enter into Contracts with more than one Proponent.

5.7. ACCEPTANCE/REJECTION

MSNS thanks all interested parties for their efforts in submitting a Proposal. Proponents agree that proposals shall be valid for a period of not less than one hundred twenty (120) days. MSNS, reserves the right to waive informalities in or reject any or all proposals.
MSNS reserves the right to cancel this process at any point at the discretion of the DHAs/IWK. Proponents not successful in obtaining the contract will receive a notice of same.

5.8. JOINT PROCUREMENT INITIATIVE

The Province of Nova Scotia encourages greater collaboration and the identification of strategic procurement opportunities among all public sector entities. These entities include, but are not limited to Provincial Government Departments, Municipalities, Academic Institutions, School Boards, Health Authorities, Housing Authorities, and Crown Corporations.

Proponents acknowledge in submitting a Proposal that the District Health Authorities (DHAs) in Nova Scotia (1 through 9) and IWK Health Center are included in the RFP process and shall be entitled to could join MSNS as a party or parties to the resultant contract(s) at their own discretion. As applicable, each DHA will issue a Purchase Order for its requirements. The goods/services will be DDP destination hospital and invoiced as per instructions stated in a Purchase Order(s). In support of the objectives of the initiative, the Proponent shall make available the goods and services as defined in this RFP to any public sector entity on the terms and conditions set out in this RFP (including, but not limited to pricing). Entities eligible to participate in this RFP are defined as ‘public sector entities’.

5.9. CROSS-JURISDICTIONAL COLLABORATION

The Proponent acknowledges that in line with supporting the objectives of the Council of Atlantic Premiers Joint Procurement initiative the Proponent agrees to make available the goods and services as defined in this RFP to other Atlantic Provinces and Government entities (members of the Atlantic Premiers Joint Procurement Initiative) on the terms and conditions set out in this RFP and the resulting Agreement (including, but not limited to pricing).

5.10. TERMS OF PARTICIPATION OF OTHER PUBLIC SECTOR ENTITIES

Other jurisdictions and entities eligible to benefit from this RFP process as provided in section 16.2 shall enter into a separate contract (the Participating PSE Contract) with the Proponent. The Proponents acknowledge, confirm and agree that by submitting a Proposal in response to this RFP, the Proponent irrevocably waives and releases MSNS from any claim or right of recourse resulting or arising from acts or omissions of any entity participating in this RFP.

MSNS role in this RFP with respect to the joint procurement initiative for entities that choose to exercise their right to enter a Participating PSE Contract is limited to MSNS acting as an administrative facilitator to enable their participation. The entities that choose to participate and enter such Participating PSE Contract do so in their own right, and MSNS shall not be party to or in any way have any responsibility or legal liability in respect of the Participating PSE Contract in any manner whatsoever.

The Proponent may only provide the goods and services specified under this RFP to additional entities, expressly listed in the original scope of this RFP. A participating PSE Contract shall contain the following minimum terms:

a. The Proponent and other entity acknowledge and agree that MSNS shall not have any contractual or financial obligation, or any liability of any kind or nature whatsoever to either the Proponent or the other entity for any matter arising under the agreement or through the provision of goods and services specified in this RFP and, without limiting the generality of the foregoing, the Proponent and other entity acknowledge and agree that:
The MSNS will not be liable or responsible for any act or omission of the other entity in relation the other entity’s access to the provisions of goods or services under the Participating PSE Contract.

The other entity shall make its own enquiries and satisfy itself as to the suitability of the Proponent or its products or services for the other entity;

The other entity shall be responsible for obtaining its own professional advice, including its own independent legal advice, and for including any additional business and legal terms and conditions in the other entity agreement as may be necessary and appropriate in its specific circumstances;

The other entity shall be responsible for its own contract administration with the Proponent and shall not direct any Proponent service issues that may arise to the Province; and

The other entity consents to the release of its usage information by the Proponent to the MSNS in the Proponent’s usage reports.

b. No other entity agreement shall have a term that extends beyond the Term of the Agreement with the MSNS that may result from this RFP.

5.11. CONTRACTUAL REQUIREMENTS

The successful Proponent will be required to execute a contract in the DHA/IWK standard form (See Appendix D). This RFP document and the successful Proponent’s proposal shall be attached as a schedule and incorporated by reference into this standard form agreement to the extent applicable.

By submitting a response to this RFP,

(i) the Proponent acknowledges and agrees that the resultant Contract will be subject to the terms and conditions of the RFP including the standard form of Contract; and

(ii) the Proponent must accept each of the following terms and conditions as they pertain to the RFP process itself. Any references to a “Contract” in this section pertain to a MSNS/DHA/IWK contract arising from the award of this tender.

1. MSNS acknowledges that any information submitted in confidence by a vendor, if disclosed to third parties, could reasonably be expected to cause financial harm or harm the competitive position of the vendor. Any information contained in a proposal that is considered confidential by the vendor must therefore be clearly identified as confidential. MSNS and its representatives shall, to the extent permitted by law, respect the confidential nature of any information so identified.

2. The Proponent(s) agrees that it shall not seek information regarding this proposal or any proposals or decisions relating to this proposal by application under the Freedom of Information and Protection of Privacy Act (Nova Scotia). The Proponent(s) acknowledges that all information and records relating to this procurement process may be released to the vendor only at the discretion of MSNS/DHAS/IWK and subject to the procurement process, applicable law and confidentiality concerns.

3. MSNS reserves the right to reject any and all proposals submitted, and to negotiate with the Proponent(s) selected in its sole discretion in any manner necessary, to serve the best interest of MSNS/the DHAS/IWK. Neither the responsive proposal that scores the highest number of rated points nor the one that contains the lowest price will necessarily be accepted or considered the best value proposal.

4. MSNS/the DHAS/IWK will not pay for the information solicited by this RFP. All costs incurred by a Proponent in the preparation of a proposal are the responsibility of the Proponent. MSNS/the DHAS/IWK makes no representation or assurance regarding the outcome of proposals, and specifically reserves the right to terminate the RFP process without consequence or liability.

5. References identified in the proposal may be contacted by MSNS or its representatives to substantiate the proposed solution’s capabilities and reliability, vendor performance, and overall service.
Proponent(s) are expected to cooperate fully in helping MSNS and its representatives to verify Proponent(s)’ claims.

6. The successful Proponent(s) will be required to execute a contract in the MSN/DHAS/IWK standard form. This RFP and the Proponent(s)’ proposal shall be attached as a schedule and incorporated by reference into this standard form agreement to the extent applicable.

7. All proposal materials will become the property of MSNS/the DHAS/IWK, unless otherwise specified by the proponent and agreed to by MSNS.

8. The Proponent represents and warrants that none of the proposal materials infringe any intellectual property rights of third parties.

9. MSNS reserves the right to seek clarification on existing requirements contained in the RFP. Should additional requirements be identified, they will be submitted to all Proponents in writing as an addendum to this document.

10. All proposed equipment/goods/furniture (if any) must comply with and be approved for all applicable laws, codes and standards. Further the successful Proponent(s) shall deliver the services as required by the RFP and resultant contract in accordance with all applicable industry standards and best practices.

11. Nova Scotia law requires that all businesses operating in the Province of Nova Scotia register with the Registry of Joint Stock Companies, with some exceptions for New Brunswick corporations duly registered in New Brunswick or individuals operating in their personal capacities. Accordingly, the successful Proponent(s) and any subcontractors listed in the proposal must be registered in the Province of Nova Scotia under the Corporations Registration Act or the Partnerships and Business Names Registration Act before a contract is awarded.

12. All prices / costs are to be quoted in Canadian dollars and exclusive of any taxes.

13. All prices are to be DDP Destination (freight included) on delivery to the DHAS/IWK.

14. MSNS/DHAS/IWK qualifies for government and educational discounts from various vendors. All applicable discounts are to be identified in the cost section. If HST is applicable it must be itemized as a separate item in the Pricing Proposal.

15. MSNS/the DHAS/IWK requires monthly-consolidated invoice where applicable.

16. The successful proponent(s) is responsible for ordering, installation and payment of any special equipment/services required for successful completion of the project

17. MSNS/DHAS/IWK reserves the right to terminate any contractual agreement that might arise from an RFP giving 30-day notice.

18. The Proponent shall identify any component of their solution that includes hazardous materials requiring MSNS/the DHAS/IWK to take the environmental or personnel precautions.

19. All Proponent(s) must provide full-disclosure of any and all funding of “in-kind” programs that have been provided to MSNS/DHAS/IWK. Furthermore all proponents must disclose the name(s) of and person(s) employed at MSN/DHAS/IWK who is under contract, or represents the proponent in any capacity which may be viewed as a conflict of interest

20. **It is a condition precedent to the MSNS’s acceptance of any proposal that the Proponent(s) confirms that they have no outstanding or pending litigation, action, claim, demand or cause of action against MSNS/DHAS/IWK which in any way relates to the subject matter of the RFP or which relates to the supply of goods and services to MSNS/DHAS/IWK.**

21. A Proponent’s acknowledgement of contractual requirement and assurances must be signed by an authorized signing officer of or authorized person for the proponent certifying that all information contained in the proposal is accurate and agreeing to comply with all of the terms, conditions and provisions of the RFP

22. MSNS encourages the use of electronic commerce for business transactions; therefore, proponents are requested to include a description of their capabilities and experience with electronic commerce. Proponent(s) should also include any discount structure they offer with this.

23. Proponent(s) submitting proposals hereby certify that the vendor’s business is fully compliant with the Personal Information Protection and Electronic Documents Act (Canada), the Freedom of Information and Protection of Privacy Act and the Personal Information International Disclosure Act. Proponent(s) submitting proposals hereby certify that all information necessary to allow the MSNS/DHAS/IWK to
determine compliance with the Personal Information International Disclosure Act has been provided to the MSNS.

24. MSNS reserves the right to disqualify any Proponent that in the MSNS’s sole opinion has an actual or potential conflict of interest or an unfair advantage, whether existing now or is likely to arise in the future, or may permit the Proponent to continue and impose such terms and conditions, as the Province in its sole discretion may require. Proponents are required to disclose, to the RFP Contacts, any potential or perceived conflict of interest issues prior to RFP closing date and time.

25. This Request for Proposals is subject to the Atlantic Provinces Standard Terms and Conditions Goods and Services. Supplementary Terms and Conditions and Contractual Requirements are laid out in the document. In the event of any conflict or disagreement between the Atlantic Provinces Terms and Conditions for Goods and Services and the supplementary Terms and Conditions, the latter have precedence and will be assumed to be correct.

26. The Proponent must acknowledge their capability to deliver the ordered product to the ordering hospital within one day of the order placement.

27. The Proponent must confirm the capability to provide the ordered products in the correct quantity at the required location. The Proponent shall accept responsibility to correct any discrepancies in either the correct goods or the correct quantity of goods within two (2) business days of notification. There will be no restocking charges for any and all goods either ordered incorrectly or shipped incorrectly which are returned to the Proponent. All returns will be shipped back to the Proponent at no cost to the participating DHA.

28. Should new technology become available during the term of the contract arising from the award of this RFP that has an impact on the quality of patient care, MSNS may complete a new technology evaluation for a period that will not exceed three months. Should the evaluation identify that the new technology as favorable, the Proponent(s) will be notified in writing and will be allowed a period of three (3) months to provide a comparable product. MSNS, at its sole discretion, may choose to acquire the new technology from any qualified vendor.

29. No Liability:

   Proponents shall be solely and fully responsible for all costs associated with the development, preparation, transmittal, and submission of any proposal or material in response to this RFP, including without limitation the costs of any in-person presentation of proposals at a location designated by MSNS, and all costs incurred by a Proponent during the selection process and any negotiations. No Proponent shall have any claim against MSNS or the DHAs/IWK (individually or jointly) for any compensation of any kind whatsoever as a result of participating in this RFP process whether through preparation of or submittal a Proposal or otherwise, including without limitation any claim for costs of proposal preparation or participation in negotiations, or for loss of anticipated profits, whether based in contract including fundamental breach, tort, breach of any duty, including without limitation any allegation that MSNS or the DHAs/IWK has breached an obligation to abide by stipulated eligibility requirements, if any, for participation in this RFP process, or any other cause of action whatsoever. The Proponent shall indemnify and hold the MSNS/DHAs/IWK harmless from and against all costs, actions, suits, claims, losses, expenses (including legal costs), liabilities, or damages arising from any action or omission of the Proponent, or by its servants, agents, employees, or students in relation to all matters arising out of this RFP process, including proceedings of any kind or nature for the alleged infringement of intellectual property rights, save and except to the extent caused by the negligence or willful misconduct of MSNS/DHAs/IWK, their servants, agents, or employees.

   No Implied Terms: No term or condition shall be implied, including without limitation based upon any industry or trade practice or custom or any practice or policy of the DHA's/IWK which is inconsistent or conflicts with the provisions contained in these RFP conditions.

   Governing Law: This RFP and proposals shall be deemed to have been made in the Province of
ACKNOWLEDGED AND AGREED: ______________________________________________

Proponent’s Name _________________________________________________________

Per: _____________________________________________________________________
(Authorized Signing Authority for Proponent)

(Date) _______________________________________________________

5.12. CONFLICT OF INTEREST

The Proponent must complete the following:

(a) If the box below is left blank, the Proponent will be deemed to declare that: (1) there was no Conflict of Interest in preparing its submission; and (2) there is no foreseeable Conflict of Interest in the Proponent or any of its Personnel performing the contractual obligations contemplated in the Request for Services.

(b) Otherwise, if the statement below applies, check the box.

☐ The Proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proponent foresees an actual or potential Conflict of Interest in it and/or its Personnel performing the contractual obligations contemplated in the Request for Services.

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

(d) The following individuals, as employees, advisors, or in any other capacity (i) participated in the preparation of our submission; AND (ii) were employees of the Merged Services Nova Scotia or a District Health Authority/IWK Health Center (DHAs/IWK) and have ceased that employment prior to the Requested Submission Date:

<table>
<thead>
<tr>
<th>Name of Individual:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Classification (of last position with MSNS or the DHAs/IWK):</td>
<td></td>
</tr>
<tr>
<td>Last Date of Employment with MSNS or the DHAs/IWK:</td>
<td></td>
</tr>
<tr>
<td>Name of Last Supervisor with MSNS or the DHAs/IWK:</td>
<td></td>
</tr>
<tr>
<td>Brief Description of Individual’s Job Functions (at last position with MSNS or the</td>
<td></td>
</tr>
</tbody>
</table>
DHAs/IWK):

Brief Description of Nature of Individual’s Participation in Preparation of Submission:

(Repeat above boxed information for each identified individual)

(e) The following are individuals that: (i) are proposed to be assigned by the Proponent to perform work under the Statement of Work; AND (ii) were employees of the Merged Services Nova Scotia or a District Health Authority/IWK Health Center (DHAs/IWK) and have ceased that employment prior to the Requested Submission Date:

<table>
<thead>
<tr>
<th>Name of Individual:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Classification (of last position with MSNS or the DHAs/IWK):</td>
</tr>
<tr>
<td>Last Date of Employment with MSNS or the DHAs/IWK:</td>
</tr>
<tr>
<td>Name of Last Supervisor with MSNS or the DHAs/IWK:</td>
</tr>
<tr>
<td>Brief Description of Individual’s Job Functions (at last position with MSNS or the DHAs/IWK):</td>
</tr>
</tbody>
</table>

(Repeat above boxed information for each identified individual)

(f) By signing this agreement, upon request, the Proponent shall provide Merged Services Nova Scotia with a Conflict of Interest Declaration from each individual identified above in the form prescribed by Merged Services Nova Scotia.

ACKNOWLEDGED AND AGREED: _________________________________________

Proponent’s Name ______________________________________________________

Per: ___________________________________________________________________

(Authorized Signing Authority for Proponent)

(Date) ________________________________________________________________

5.13. MANDATORY CRITERIA ACKNOWLEDGMENT

This form must be completed and included as part of all submissions.

I/we make the following certification and assurance as a required element of this RFP, that the truthfulness of the facts affirmed herein and the continuing compliance with these requirements are a condition of this RFP and of the agreements entered into pursuant to this RFP.
I/we certify that this proposal is made without any connection, knowledge, comparison of figures, or arrangements with any other company, firm, or person providing a proposal for the same work unless disclosed in my/our proposal and is in all respect fair and without collusion or fraud.

I/we agree to comply with all of the mandatory terms, mandatory conditions, and mandatory provisions as outlined herein, understanding that such conditions and provisions apply to this RFP and to any contract entered into pursuant to this RFP.

Proposals must include the following table, indicating with a checkmark (√) that the proposal meets the mandatory criteria, and providing your proposal page number that contains information to verify that the criteria has been met.

Failure to provide the required information shall result in the submitted proposal being declared non-compliant.

<table>
<thead>
<tr>
<th>RFP Section</th>
<th>Mandatory Criteria</th>
<th>Acknowledgement</th>
<th>Proposal Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.8</td>
<td>The Proponent has submitted 2 envelopes: Envelope 1 containing the Technical Proposal, Envelope 2 containing the Pricing Proposal</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3.2</td>
<td>The Proponent has submitted all Addenda issued with this RFP prior to the Closing date</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Envelope 1 Technical Proposal

| 3.8         | The Proponent has included a Cover Letter in which Proponent acknowledges and confirms that their proposal accounts for all (if any) addenda issued during the tender period |                 |                    |
| 3.8         | The Proponent has included a copy of the RFP document Pages 1-22 signed as requested, and agrees to enter into a CDHA Standard Form of Contract                        |                 |                    |
| 3.8         | The Proponent has included its Technical and Management proposal                                                                                                                                                    |                 |                    |
| Appendix C  | The Proponent has submitted the required references information                                                                                                                                                    |                 |                    |
| 3.8         | The Proponent has included a Medical Equipment Device License Number for each product                                                                                                                            |                 |                    |
| Appendix B  | The Proponent has disclosed the latex content of each item and packaging included in their response                                                                                                          |                 |                    |
3.8 The Proponent shall submit product re-call and advisory information in the last three years

3.8 The Proponent shall submit in detail, long term data and reviewed publications

3.8 The Proponent has included evidence of necessary insurance coverage

3.8 The Proponent has included evidence of the necessary certifications from Health Canada

5.11 The Proponent has included, if applicable, a letter fully disclosing any and all funding of “in-kind” programs that have been or will be provided to MSNS/DHAS/IWK, and the name(s) of person(s) employed at MSNS/DHAS/IWK who is under contract, or represents the Proponent in any capacity which may be viewed as a conflict of interest

Envelope 2 Commercial Proposal

Appendix A The Proponent has included a completed Appendix A Price Proposal without changes

ACKNOWLEDGED AND AGREED: _____________________________________________

Proponent’s Name _________________________________________________________

Per: _____________________________________________________________________

(Authorized Signing Authority for Proponent)

(Date) _________________________________________________________________

a. Proponent Authorized Signatures

   Please include Table 2 as an appendix to your proposal

5.14. PROPOINENT’S AUTHORIZED SIGNATURES

<table>
<thead>
<tr>
<th>Table 2: Proponent Authorized Signatures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Authorized Signature:</td>
</tr>
<tr>
<td>Print Name:</td>
</tr>
<tr>
<td>Position:</td>
</tr>
<tr>
<td>------------------------------</td>
</tr>
<tr>
<td>Date:</td>
</tr>
<tr>
<td>Telephone Number:</td>
</tr>
<tr>
<td>Fax Number:</td>
</tr>
<tr>
<td>Email Address:</td>
</tr>
<tr>
<td>Authorized Signature:</td>
</tr>
<tr>
<td>Print Name:</td>
</tr>
<tr>
<td>Position:</td>
</tr>
<tr>
<td>Date:</td>
</tr>
<tr>
<td>Telephone Number:</td>
</tr>
<tr>
<td>Fax Number:</td>
</tr>
<tr>
<td>Email Address:</td>
</tr>
<tr>
<td>Mailing Address of Proponent:</td>
</tr>
</tbody>
</table>
APPENDIX D: STANDARD FORM CONTRACT

STANDARD FORM CONTRACT

THIS AGREEMENT MADE ON THE ____ day, of _________, 2013, at HALIFAX, NOVA SCOTIA.

BETWEEN:

SOUTH SHORE DISTRICT HEALTH AUTHORITY, a body corporate pursuant to the Health Authorities Act,
- and -
SOUTH WEST NOVA DISTRICT HEALTH AUTHORITY, a body corporate pursuant to the Health Authorities Act,
- and -
ANnapolis valley district health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Colchester east hants health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Cumberland health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Pictou county health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Guysborough Antigonish Strait health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Cape breton district health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Capital district health authority, a body corporate pursuant to the Health Authorities Act,
- and -
Izaak Walton Killam Health Centre, a body corporate pursuant to the Izaak Walton Killam Health Centre Act,

(hereinafter collectively referred to as the “DHAs/IWK”)

- AND -

___________________ , (hereinafter referred to as the “Consultant”)

WHEREAS the DHAs/IWK issued Request for Proposal [title] on [date] for the provision of [description].

WHEREAS the Consultant was the successful proponent to RFP# ________ , and the DHAs/IWK have accepted the proposal of the Consultant dated ________, subject to the modifications set out herein.

WHEREAS the Consultant has agreed to perform certain services for the DHAs/IWK in accordance with the requirements, terms and conditions of this agreement (the “Agreement”).
NOW THEREFORE, the parties agree as follows:

1. STATEMENT OF WORK

The services and work to be performed shall be in accordance with the project description and scope and deliverables set out in the RFP and Consultant's response to the RFP as amended by the parties where applicable ("RFP Response"), attached as Schedule "____" to this agreement.

The RFP Response is hereby incorporated by reference and forms an integral part of this Agreement (hereinafter referred to as the "Services").

2. DELIVERY

The Consultant shall deliver the Services as required by the Contract Documents. The Services shall be performed in accordance with all applicable industry standards and best practices.

3. CONTRACTING AGENT

Any changes to the Agreement must be authorized in writing by the Contracting Agent. The Consultant is not to perform Services in excess of or outside the scope of Services as defined in this Agreement based on verbal or written requests or instructions from any personnel other than the officer designated below:

Contracting Authority
[insert contact]

4. INDEPENDENT CONTRACTOR

The parties hereby agree and acknowledge that the Consultant is engaged as an independent contractor and is not nor shall it be deemed to be an employee or agent of the DHAs/IWK.

5. ACCOUNTS AND AUDIT

The Consultant shall keep proper accounts and records of the cost to the Consultant of the Services and of all expenditures or commitments made by the Consultant in connection therewith, and shall keep all invoices, receipts and vouchers relating thereto (the "Accounting Records"). The Consultant shall keep the Accounting Records for a period of five (5) years following completion of this Agreement or termination of the Consultant's services.

All Accounting Records shall at all times during the retention period stipulated above be open to audit, inspection and examination by the authorized representatives of the DHAs/IWK, who may make copies and take extracts thereof. The Consultant shall provide all facilities for such audits and inspections and shall furnish all such information as the representatives of the DHAs/IWK may from time to time require with respect to such accounts, records, invoices, receipts and vouchers.

6. REPRESENTATIONS AND WARRANTIES

The Consultant hereby warrants and represents that it has full right, power, and authority to enter into and fully perform all aspects of this Agreement without impediment. If the Consultant is a corporation, it shall continuously be a corporation in good standing in the jurisdiction of its incorporation.

7. INDEMNIFICATION
The Consultant shall indemnify and save harmless the DHAs/IWK and its affiliates, officers, employees, independent contractors, subcontracts, agents, and assigns from all cost, losses, damages, judgments, claims, demands suits, actions, causes of action, contracts, or other proceedings of any kind or nature including proceedings of any kind or nature for the infringement or alleged infringement of any intellectual property right or patent based upon the use of anything or invention protected by any intellectual property protection, based on, occasioned by, or attributable to anything done or omitted to be done by the Consultant, its directors, officers, employees, independent contractors, subcontracts, members, partners, volunteers, agents, and assigns in connection with this Agreement.

8. INTELLECTUAL PROPERTY

Data
Consultant shall comply with all laws, regulations, standards or duties which apply to the collection, storage, processing, disclosure or use of the DHAs/IWK data under, without limitation, the Personal Information Protection and Electronic Documents Act (Canada), the Personal Information International Disclosure Protection Act (Nova Scotia), the Freedom of Information and Protection of Privacy Act (Nova Scotia), the Hospitals Act (Nova Scotia), the Personal Health Information Act (Nova Scotia) once proclaimed in force, in each case as from time to time amended, supplemented or replaced. All DHA/IWK data shall be held within Canada, and Consultant agrees that no DHA/IWK data under its custody or control shall be made subject to the USA Patriot Act or any similar act or law of a foreign jurisdiction. From time to time, the DHAs/IWK may, in its sole discretion move, or direct Consultant to move, any DHA/IWK data held by Consultant from the current computer environment to any other DHA/IWK -preferred computer environment, whether hosted internally or by a third party.

Intellectual Property Rights
Consultant agrees that the work products, including without limitation documents, spreadsheets, templates and materials produced specifically for the DHAs/IWK in the performance of Services and production of deliverables under this Agreement, or any order (collectively, the “Work Products”) are and shall remain the sole and exclusive property of the DHAs/IWK. Consultant shall not sell, transfer, publish, disclose or otherwise make any of the Work Products available to third parties without the DHAs/IWK’s prior written consent. Without limiting the generality of the foregoing:

(a) All rights, including but not limited to copyright and all other intellectual property rights, in all Work Products shall be the sole and absolute property of the DHAs/IWK in perpetuity. The DHAs/IWK shall have the perpetual and exclusive right throughout the world to reproduce and use the Work Products in any manner without any further payment to, or consent of, Consultant; and

(b) Consultant hereby assigns and conveys to the DHAs/IWK absolutely the Work Products and all rights therein, including but not limited to copyright and all other intellectual property rights, except insofar as any Work Products and all rights therein are already owned by the DHAs/IWK or any third party; and

(c) Consultant waives all moral rights in the Work Products in favour of the DHAs/IWK.

Except insofar as any Work Products and all rights therein are already owned by the DHAs/IWK or any third party, Consultant hereby warrants that it owns and controls all rights in the Work Products, as necessary to assign and waive all rights in favour of the DHAs/IWK as above, and that the consent of no other person or entity (including without limitation no resource personnel and no Subconsultant) is required.

9. PERSONAL INFORMATION

The Consultant acknowledges that information about identifiable individuals, including but not limited to resident Veterans/patients of the DHAs/IWK (“Personal Information”) has, is or may be disclosed to the Consultant for the sole purpose of the Consultant carrying out the Services to the DHAs/IWK pursuant to
this Agreement. Accordingly, the Consultant shall exercise all reasonable precautions (and in no event less than those generally used in the health care industry) to protect Personal Information from unauthorized access, disclosure, copying, use or modification and, in any event, treat any information which is "personal information" as defined in the Personal Information Protection and Electronic Documents Act (Canada) (or substantially similar legislation enacted in Nova Scotia) and the Freedom of Information and Protection of Privacy Act (Nova Scotia), as amended, in accordance with these Acts.

The Consultant agrees to maintain a privacy policy, acceptable to the DHAs/IWK and to indemnify the DHAs/IWK for all damages, costs and expenses incurred by the DHAs/IWK as a result of a failure of the Consultant to comply with its obligations under this Section.

The Consultant further agrees:

(a) to use the Personal Information for the sole purpose of providing goods and/or services to the DHAs/IWK pursuant to this Agreement and not to use the Personal Information for its own benefit and not to disclose the Personal Information or the knowledge of the existence of the Personal Information and use by the Consultant to any other third parties, without the DHAs/IWK’s prior written consent;

(b) upon request of the DHAs/IWK, to cease any and all use of the Personal Information and to return or destroy the Personal Information in a manner agreed to by the DHAs/IWK; and

(c) upon reasonable request of the DHAs/IWK, to provide information pertaining to the Consultant’s handling of Personal Information demonstrating that the Consultant is compliant with this Agreement and relevant legislation regarding Personal Information, including, but not limited to:
   (i) the Consultant’s privacy policy; and
   (ii) information regarding any complaints against the Consultant to federal or provincial privacy commissioners or provincial departments of health.

10. CONFIDENTIALITY

The Consultant shall further keep private, treat as confidential, and not make public or divulge during as well as after the expiry or earlier termination of this Agreement, any information or material to which the Consultant, its directors, officers, employees, Subconsultants, members, partners, volunteers, agents, and assigns become privy as a result of acting under this Agreement, without the prior written consent of the DHAs/IWK.

11. TERM & TERMINATION

The Term of this Agreement shall be as described in the RFP, Period of Contract.

The following termination conditions shall apply to this Agreement:

(a) **Termination for Convenience.** Notwithstanding anything contained in this Agreement, the DHAs/IWK may terminate this agreement at any time for convenience by providing written notice to the Consultant. In the event of termination for convenience, the DHAs/IWK shall pay the Consultant contract fees earned, and unavoidable expenses incurred, but not to exceed those unavoidable expenses incurred, if any, for a thirty (30) calendar day period following provision of notice of termination.

(b) **Termination by the DHAs/IWK for Cause.** Where the Consultant is in default in carrying out any of its obligations under this Agreement, the DHAs/IWK may, upon giving written notice to the Consultant, terminate for cause the whole or any part of this Agreement, either immediately, or at
the expiration of a 14 calendar day cure period, if the Consultant has not cured the default to the satisfaction of the DHAs/IWK within that cure period.

(c) **Termination Due to Bankruptcy.** Where the Consultant 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 where a receiver is appointed under a debt instrument or a receiving order is made against the Consultant or an order is made or a resolution passed for the winding up of the Consultant, the DHAs/IWK may upon giving notice to the Consultant, immediately terminate for cause of the whole or any part of this Agreement.

(d) **Termination by Consultant for Non-Payment.** Consultant shall only be entitled to terminate this agreement in the event of non-payment of fees by the DHAs/IWK and provided that Consultant provides the DHAs/IWK with 30 days written notice of such failure to pay such fees and the opportunity to cure any non-payment. In the event of a bona fide dispute regarding the payment of fees, the Consultant shall continue the Services pending resolution pursuant to the dispute resolution process contained in Section 15.

12. LIMITATION OF LIABILITY AND DAMAGES

In the event this Agreement is terminated, the liability of the DHAs/IWK is limited to Services actually delivered and accepted up to the termination date and specific Services actually conducted and accepted prior to the delivery of the notice of termination. In no event shall the DHAs/IWK be liable under or in connection with this Agreement for any liability of any kind whatsoever, whether for damages or otherwise including without limiting the generality of the foregoing loss of profit, loss of business opportunity, consequential or indirect damages, exemplary or punitive damages, whether or not the possibility of such loss or damages was disclosed to or could have reasonably been foreseen by such party.

13. FORCE MAJEURE

The Consultant shall not be liable for failure to provide the Services, if such failure is due to causes beyond its reasonable control if and only if the DHAs/IWK are notified within five (5) days in writing of the existence of such a failure, its causes and the reasons for it being beyond the reasonable control of the Consultant.

14. JURISDICTION AND ATTORNMENT/ARBITRATION

In the event the parties are unable to reach a settlement of any dispute arising out of this Agreement, then such disputes shall be settled by binding arbitration by an arbitrator mutually agreed upon by the parties. The arbitration shall be conducted in accordance with the rules under the *Commercial Arbitration Act* (Nova Scotia). If the parties cannot agree on a single arbitrator, then the arbitrator(s) shall be selected in accordance with the *Commercial Arbitration Act* (Nova Scotia).

The parties hereby agree that this Agreement shall be construed in accordance with the laws of the Province of Nova Scotia and the laws of Canada.

15. MISCELLANEOUS

   (a) **Headings.** The headings used in this Agreement are for the convenience of reference only and shall not be used in the construction or interpretation of this Agreement.

   (b) **Severability.** The provisions of this Agreement shall be deemed severable, and the invalidity or unenforceability of any one or more of the provisions hereof shall not affect the validity or unenforceability of the other provisions hereof.
(c) Assignment. Neither party may assign this Agreement in whole or in part without the prior written consent of the other party.

(d) Waiver. No waiver of any provision of this Agreement shall be valid unless the same is in writing and signed by the party against whom such waiver is sought to be enforced. Moreover, no valid waiver of any provision of this Agreement at any time shall be deemed a waiver of any other provision of this Agreement at such time or will be deemed a valid waiver of such provision at any other time.

(e) Entire Agreement. This Agreement and the Schedules attached hereto or referred to herein, including the RFP and RFP response, constitute the entire agreement and understanding by and between the DHAs/IWK and the Consultant, and no representations, promises, agreements or understanding, written or oral, not herein contained shall be of any force or effect. No change or modification hereof shall be valid or binding unless the same is in writing and signed by the party intended to be bound.

(f) Survivorship. The following sections survive expiry or earlier termination of this Agreement:

- Section 5 Accounts and Audit;
- Section 6 Representations and Warranties;
- Section 7 Indemnification;
- Section 8 Intellectual Property;
- Section 9 Personal Information;
- Section 10 Confidentiality;
- Section 12 Limitation of Liability and Damages;
- Schedule “A”, Insurance; and
- Schedule “A”, Errors and Omissions.

IN WITNESS HEREOF, the parties hereto have executed the Agreement on the date first above written:

South Shore District Health Authority

Witness

Date

South West Nova District Health Authority

Witness

Date

Annapolis Valley District Health Authority

Witness

Date
Colchester East Hants Health Authority

Witness

Date

Cumberland Health Authority

Witness

Date

Pictou County Health Authority

Witness

Date

Guysborough Antigonish Strait Health Authority

Witness

Date

Cape Breton District Health Authority

Witness

Date

Capital District Health Authority

Witness

Date

Izaak Walton Killam Health Centre

Witness

Date
[Consultant name]

Per:______________ Date:__________

Position: ________________
Schedule “A”  
(Additional Terms and Conditions)

(A). BASIS OF PAYMENT

The Contractor will be paid in accordance with the Pricing Proposal submitted with its RFP proposal.

(B). METHOD OF PAYMENT

Payment for the Services will be made in accordance with the Pricing Proposal of the RFP and RFP proposal.

Payment is contingent upon submission of a detailed invoice by the Consultant (as per Section C, Invoicing Instructions), and the signed acceptance of the invoice and Services detailed therein, by the DHAs/IWK Contracting Agent.

If the DHAs/IWK have any objection to the form of the invoice or the substantiating documentation, within fifteen (15) days of its receipt, the DHAs/IWK shall notify the Consultant of the nature of the objection. "Form of the invoice" means an invoice that contains or is accompanied by such substantiating documentation as the DHAs/IWK require.

(C) INVOICING INSTRUCTIONS

(i) Payment will only be made on receipt of a satisfactory invoice duly supported by specified release documents and other documents called for under this Agreement.

(ii) Monthly Consolidated Invoices must be submitted on the Consultant’s own invoice form and must show:

   (1) the date;
   (2) name and address of EACH COST CENTRE;
   (3) Item/reference number, monthly reports and/or description of the Services provided for the period of the invoice;
   (4) purchase order number;
   (5) the amount invoiced (exclusive of HST) and the amount of HST, as appropriate, shown separately.

(D) INSURANCE

The Consultant shall, without limiting its obligations or liabilities herein and at its own expense, provide and maintain the following insurance with insurers licensed in Nova Scotia and in forms and amounts acceptable to the DHAs/IWK:

(i) Professional Liability, where applicable, in an amount not less than the value of the $5,000,000 per claim and in the aggregate for this Agreement insuring his liability for errors and omissions in the performance of his professional services including all the Consultants.

(ii) Comprehensive General liability in an amount not less than $5,000,000.00, inclusive per claim and in the aggregate against bodily injury, personal injury, and property damage including loss of use thereof. Such insurance shall include, but not be limited to non-owned automobile liability and employees as additional insureds.

(iii) Automobile Liability on all vehicles owned, operated or licensed in the name of the Consultant in an amount of not less than $2,000,000.00.

(iv) "All-Risks" Valuable Papers and Records Insurance on all such items pertaining to the Services in an amount adequate to enable their reconstruction.
All insurance policies shall state that the coverage provided will not be changed in any material way, cancelled or terminated until thirty (30) days after written notice of such change, cancellation or termination has been given to the DHAs/IWK.

The Consultant shall, upon the DHAs/IWK’s request, provide the DHAs/IWK with acceptable evidence of all required insurance prior to the commencement of the Services and shall promptly provide the DHAs/IWK with a certified true copy of each policy.

The Consultant shall require any and all Subconsultants to have and maintain insurance in the nature and amounts necessary to satisfy the above insurance requirements.

**E) ERRORS AND OMISSIONS**

Without limiting any of the Consultant’s liability under this Agreement, it shall be the responsibility of the Consultant to correct, free of charge or expense to the DHAs/IWK, any errors or omissions in the Services, caused by the Consultant, its employees, agents or Subconsultants.