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**GC01 INTERPRETATION (NOTE: The following definitions are found in the Contract itself and are repeated here merely for the convenience of the reader. In case of a conflict, the definitions in the main Contract shall take precedence over the following)**

- In the present Contract,
- 1.1 “Contract” means this Contract;
  - 1.2 “Amount” means the amount expressed in the Contract to be payable to the Contractor for the Work;
  - 1.3 “CIHR” means the Canadian Institutes of Health Research;
  - 1.4 “Contracting Authority” means the person designated under s. 6 of the Contract;
  - 1.5 “Contractor” means the person or entity whose name appears on the signature page of the Contract and who is to supply the goods or services to CIHR under the Contract;
  - 1.6 “Government Property” means all materials, parts, components, Specifications, equipment, software, articles and things supplied to the Contractor by or on behalf of CIHR for the purposes of performing the Contract and anything acquired by the Contractor in any manner in connection with the Work the cost of which is paid by CIHR under the Contract;
  - 1.7 “Invention” means any new and useful art, process, machine, manufacture or composition of matter, or any new and useful improvement in any art, process, machine, manufacture or composition of matter;
  - 1.8 “Party” means CIHR or the Contractor or any other signatory to the Contract and “Parties” means all of them;
  - 1.9 “Project Authority” means the person designated under sub-section 7.1 of the Contract;
  - 1.10 “Specifications” means the functional or technical description of the Work set out or referred to in the Contract, including drawings, samples and models, and further includes, except to the extent inconsistent with anything set out or referred to in the Contract, any such description set out or referred to in any brochure, product literature or other documentation furnished by the Contractor in relation to the Work or any part thereof;



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- 1.11 “Subcontract” includes a contract let by the Contractor or a subcontractor at any tier for the performance or supply of a part of the Work, and includes a purchase referred to in GC 34.2(a) at any such tier, and the derivatives of the word shall be construed accordingly;
- 1.12 “Work” means the whole of the activities, services, materials, equipment, software, matters and things required to be done, delivered or performed by the Contractor in accordance with the terms of the Contract.

**GC02 ACCOUNTS AND AUDIT**

1. The Contractor shall keep proper accounts and records of the cost to the Contractor of the Work and of all expenditures or commitments made by the Contractor in connection therewith, and shall keep all invoices, receipts and vouchers relating thereto. The Contractor shall not, without the prior written consent of CIHR, dispose of any such accounts, records, invoices, receipts or vouchers until the expiration of 6 years after final payment under this Contract, or until the settlement of all outstanding claims and disputes, whichever is later.
2. All such accounts and records as well as any invoices, receipts and vouchers shall at all times during the retention period referred to in 1. be open to audit, inspection and examination by the authorized representatives of CIHR, who may make copies and take extracts thereof. The Contractor shall provide all facilities for such audits and inspections and shall furnish all such information as the representatives of CIHR may from time to time require with respect to such accounts, records, invoices, receipts and vouchers.

**GC03 AMENDMENTS AND WAIVERS**

1. No design change, modification to the Work, or amendment to the Contract shall be binding unless it is incorporated into the Contract by written amendment.
2. While the Contractor may discuss any proposed changes or modifications to the scope of the work with the Technical Authority, The CIHR shall not be liable for the cost of any such change or modification until it has been incorporated into the Contract in accordance with 1.
3. No waiver shall be valid, binding or affect the rights of the Parties unless it is made in writing by, in the case of a waiver by The CIHR, the Contracting Authority and, in the case of a waiver by the Contractor, the authorized representative of the Contractor.



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4. The waiver by a Party of a breach of any term or condition of the Contract shall not prevent the enforcement of that term or condition by that Party in the case of a subsequent breach, and shall not be deemed or construed a waiver of any subsequent breach.

**GC04 APPROPRIATION**

1. In accordance with Section 40 of the *Financial Administration Act*, payment under the Contract is subject to there being an appropriation for the service for the fiscal year in which the payment is due.

**GC05 ASSIGNMENT**

1. The Contract shall not be assigned in whole or in part by the Contractor without the prior written consent of CIHR, and any assignment made without that consent is void and of no effect.
2. No assignment of the Contract shall relieve the Contractor from any obligation under the Contract or impose any liability upon CIHR unless otherwise agreed to in writing by CIHR.

**GC06 CERTIFICATION - LOBBYISTS AND CORRUPTION**

1. The Contractor certifies that any person who should be registered as a lobbyist under the *Lobbyists Registration Act*, in respect of this Contract, is so registered.
2. The Contractor certifies that it has not directly or indirectly paid or agreed to pay and covenants that it will not directly or indirectly pay a contingency fee for the solicitation, negotiation or obtaining of this Contract to any person other than an employee acting in the normal course of the employee's duties.
3. All accounts and records pertaining to payments of fees or other compensation for the solicitation, obtaining or negotiation of the Contract shall be subject to the Accounts and Audit provision of the Contract.
4. If the Contractor certifies falsely under this section or is in default of the obligations contained therein, CIHR may either terminate this Contract for default or recover from the Contractor by way of reduction to the Contract amount or otherwise the full amount of the contingency fee.

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5. In this section:

"contingency fee" means any payment or other compensation that is contingent upon or is calculated upon the basis of a degree of success in soliciting or obtaining a Government Contract or negotiating the whole or any part of its terms.

"employee" means a person with whom the Contractor has an employer/employee relationship.

"person" includes an individual or group of individuals, a corporation, a partnership, an organization and an association and, without restricting the generality of the foregoing, includes an individual who is required to file a return with the registrar pursuant to section 5 of the Lobbyist Registration Act R.S. 1985 c.44 (4th supplement) as the same may be amended from time to time.

6. The following activities are prohibited: corruption and collusion for contracts for the provision of goods and services.

**GC07 COMPLIANCE WITH APPLICABLE LAWS**

1. The Contractor shall comply with all laws applicable to the performance of the Work or any part thereof including, without limitation, all laws concerning health and labour conditions and the protection of the environment, and shall require compliance therewith by all of its subcontractors. Evidence of compliance with such laws shall be furnished by the Contractor to the Contracting Authority at such times as the Contracting Authority may reasonably request.

**GC08 CONFIDENTIAL INFORMATION**

1. Any information of a character confidential to the affairs of CIHR to which the Contractor, or any officer, servant or agent of the Contractor becomes privy as a result of the Work to be performed under this Contract, shall be treated as confidential, during as well as after the performance of the said services.

**GC09 CONFLICT OF INTEREST**

1. The Contractor declares that the Contractor has no interest in the business of any third party that would cause a conflict of interest or seem to cause a conflict of interest in carrying out the Work. Should such an interest be acquired during the life of the Contract, the Contractor shall declare it immediately to the Agency Representative.

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2. It is a term of this Contract that no individual, for whom the post-employment provisions of the Conflict of Interest and Post-Employment Code for Public Office holders or the Conflict of Interest and Post-Employment Code for the Public Service apply, shall derive a direct benefit from this Contract unless that individual is in compliance with the applicable post-employment provisions.

**GC10 CONTRACTOR STATUS**

1. This is a Contract for the performance of a service and the Contractor is engaged under the Contract as an independent contractor for the purpose(s) of delivering a good or goods and/or providing a service. Neither the Contractor nor any of the Contractor's personnel is engaged by the Contract as an employee, servant or agent of CIHR. The Contractor agrees to be solely responsible for any and all payments and/or deductions required to be made including those required for Canada or Quebec Pension Plans, Unemployment Insurance, Workmen's Compensation, or Income Tax.

**GC11 RESERVED**

**GC12 ENTIRE CONTRACT**

1. The Contract constitutes the entire agreement between the Parties with respect to the subject matter of the Contract and supersedes all previous negotiations, communications and other agreements relating to it unless they are incorporated by reference in the Contract.

**GC13 RESERVED**

**GC14 INCAPACITY TO CONTRACT WITH GOVERNMENT**

1. The Contractor certifies that the Contractor, including the Contractor's officers, agents and employees, has not been convicted of an offence under the following provisions of the Criminal Code:  
Section 121, Frauds upon the Government;  
Section 124, Selling or Purchasing Office;  
Section 418, Selling Defective Stores to Her Majesty;
2. Subsection 750(3) of the Criminal Code prohibits anyone who has been so convicted from contracting with the government or benefiting from a government contract.

**GC15 INDEMNIFICATION**

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1. The Contractor shall indemnify and save harmless CIHR and their servants and agents from and against all claims, losses, damages, costs, expenses, actions and other proceedings, made, sustained, brought, prosecuted, threatened to be brought or prosecuted, in any manner based upon, occasioned by or attributable to any injury to or death of a person or damage to or loss of property arising from any wilful or negligent act, omission or delay on the part of the Contractor, the Contractor's servants or agents in performing the work or as a result of the work, and any liens, attachments, charges or other encumbrances or claims upon or in respect of any materials, parts, Work-in-process or finished Work furnished to, or in respect of which any payment has been made by CIHR.
2. The Contractor shall indemnify, CIHR and their servants and agents from all costs, charges and expenses whatsoever that CIHR sustains or incurs in or about all claims, actions, suits and proceedings for the use of the invention claimed in a patent, or infringement or alleged infringement of any patent or any registered industrial design or any copyright resulting from the performance of the Contractor's obligations under the Contract, and in respect of the use of or disposal by CIHR of anything furnished pursuant to the Contract.
3. The Contractor's liability to indemnify or reimburse CIHR under the Contract shall not affect or prejudice CIHR from exercising any other rights under law.
4. The Contractor acknowledges that he is not an employee, servant or agent of CIHR and will not represent or hold himself out to third parties in that capacity. To the extent that any third party, in reliance upon representations by the Contractor, considers the Contractor to be an agent or employee of CIHR, the Contractor agrees to indemnify CIHR for any loss or damages and costs occasioned thereby by such third party.

**GC16 INJURY ON DUTY**

1. The CIHR shall assume no liability for injury on duty while the Contractor is performing tasks related to this Contract except to the extent caused by or due to CIHR. It is the Contractor's responsibility to ensure that proper insurance coverage is in place prior to the commencement of duties.

**GC17 INSPECTION OF THE WORK**

1. The Work and any and all parts thereof shall be subject to such inspection as the Project Authority determines to be appropriate, consistent with the relevant provisions of the Contract, if any, prior to acceptance by CIHR. The Contracting Authority and the Project Authority, or their representatives, shall have access to

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- the Work at any time during working hours at any site where any part of the Work is being carried out and may make examinations and such tests of the Work as they may think fit. Should the Work or any part thereof not be in accordance with the requirements of the Contract, the Project Authority shall have the right to reject the Work and require its correction or replacement at the Contractor's expense. The Project Authority, as the case may be, shall inform the Contractor of the reasons for any such rejection.
2. The Contractor shall provide all assistance and facilities, test pieces, samples and documentation that the Project Authority may reasonably require for the carrying out of any such inspection, and the Contractor shall forward such test pieces and samples to such person or location as the Project or Contracting Authority may direct. Inspection by the Project Authority shall not relieve the Contractor from responsibility to meet the requirements of the Contract.
  3. No part of the Work shall be submitted for acceptance or delivery until it has been inspected and approved by the Contractor and, wherever practicable, marked with an approval stamp satisfactory to the Project Authority. The Contractor shall keep accurate and complete inspection records which shall, upon request, be made available to the Project Authority, who may make copies thereof and take extracts therefrom during the performance of the Contract and for any period of time thereafter provided for in the Contract.

**GC18 INTEREST ON OVERDUE ACCOUNTS**

1. For the purposes of this section:
  - (a) **"Average Rate"** means the simple arithmetic mean of the Bank Rates in effect at 4:00 p.m. Eastern Standard Time each day during the calendar month which immediately precedes the calendar month in which payment is made, where the "Bank Rate" means the rate of interest established from time to time by the Bank of Canada as the minimum rate at which the Bank of Canada makes short term advances to members of the Canadian Payments Association.
  - (b) **"date of payment"** means the date of the negotiable instrument drawn by the Receiver General for Canada and given for payment of an amount due and payable;
  - (c) an amount is **"due and payable"** when it is due and payable by CIHR to the Contractor in accordance with the terms of the Contract; and



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- (d) an amount becomes "**overdue**" when it is unpaid on the first day following the day upon which it is due and payable.
2. The CIHR shall be liable to pay to the Contractor simple interest at the Average Rate plus 3 percent per annum on any amount that is overdue, from the date such amount becomes overdue until the day prior to the date of payment, inclusive. Interest shall be paid without notice from the Contractor.
  3. The CIHR shall not be liable to pay interest in accordance with this clause if CIHR is not responsible for the delay in paying the Contractor.
  4. The CIHR shall not be liable to pay interest on overdue advance payments.

**GC19 INTERNATIONAL SANCTIONS**

1. Persons in Canada, and Canadians outside of Canada, are bound by economic sanctions imposed by Canada. As a result, CIHR 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-en.asp>.

2. It is a condition of this Contract that the Contractor not supply to CIHR 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 CIHR of the situation; the procedures applicable to force majeure shall then apply.

**GC20 INVOICING**

1. The Contractor shall submit invoice(s) in duplicate (2) on its own forms to the Project Authority, and shall include the following information:
  - a. Company name and address;
  - b. Contract number;
  - c. Invoice Number and Date;

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- d. Name of the Project Authority;
  - e. Period in which services were rendered;
  - f. Deliverables and/or milestones completed and attached (when applicable);  
and
  - g. Total amount for services rendered, GST shown separately.
2. The invoice submitted by the Contractor should include a description of the Work performed, the dates and hours worked. The Contractor will submit invoices on a monthly basis.

**GC21 MEMBERS OF THE HOUSE OF COMMONS**

1. No member of the House of Commons shall be admitted to any share or part of this Contract or to any benefit to arise therefrom.

**GC22 NO BRIBE**

1. The Contractor represents and covenants that no bribe, gift, benefit, or other inducement has been or will be paid, given, promised or offered directly or indirectly to any official or employee of CIHR or to a member of the family of such a person, with a view to influencing the entry into the Contract or the administration of the Contract.

**GC23 NOTICES**

1. Where in the Contract any notice, request, direction, or other communication is required to be given or made by either Party, it shall be in writing and is effective if delivered in person, sent by registered mail, by telegram or by telex addressed to the party for whom it is intended at the address mentioned in the Contract and any notice, request, direction or other communication shall be deemed to have been given if by registered mail, when the postal receipt is acknowledged by the other party; by telegram, when transmitted by the carrier; and, by telex, when transmitted. The address of either party may be changed by notice in the manner set out in this provision.

**GC24 OFFICIAL LANGUAGES**

1. In accordance with the Official Languages Act, any survey, questionnaire, report or other forms may be required to be conducted and prepared in both Official Languages at the discretion of the Contracting Authority.

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**GC25 PAYMENT**

1. Payments under this Contract, except advance payments, shall be conditional upon performance, completion and delivery of the Work, or any part of the Work to the satisfaction of CIHR, and upon submission of an invoice satisfactory to CIHR.
2. Subject to Parliamentary appropriation of funds and to GC25.1, payment by CIHR for the Work shall be made:
  - (a) in the case of an advance payment, within thirty (30) days of the signing of this Contract by both parties or within thirty (30) days of receipt of an invoice requesting payment, whichever is later,
  - (b) in the case of progress payment, within thirty (30) days following the date of receipt of a duly completed work or progress report or within thirty (30) days of receipt of an invoice requesting payment, whichever is later, and
  - (c) in the case of a final payment, within thirty (30) days following the date of receipt of the completed Work or within thirty (30) days or receipt of an invoice requesting payment whichever is later.
- 3.1 If CIHR has any reasonable objection whatsoever to the invoice, the supporting documentation, or the performance of the Contract by the Contractor, then CIHR shall, within fifteen (15) days of receipt of the invoice or as quickly as reasonably possible (the “*notification delay*”), notify the Contractor of the nature of the objection, and the time limits set out in 2. shall be extended by the time elapsed from the *notification* until the objection is resolved.
- 3.2 If CIHR exceeds the *notification delay*, the only consequence shall be that the time period used to calculate interest otherwise payable to the Contractor under GC 18 shall be increased by the number of days in excess of the *notification delay*, but interest shall only be due for the excess if the date of payment, as defined for the purposes of GC 18, is after the limits set out in 2., extended by 3.1.
4. Notwithstanding any other provision of the Contract, no payment shall be made to the Contractor unless and until, with respect to all parts of the Work in respect of which payment is claimed, the Contractor, where required to do so, establishes to the satisfaction of CIHR that such parts of the Work will be free from all claims, liens, attachments, charges or encumbrances.

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**GC26 POWERS OF THE CANADIAN INSTITUTES OF HEALTH RESEARCH**

1. Every right, remedy, power and discretion vested in or acquired by the Canadian Institutes of Health Research under the Contract or by law shall be cumulative and non-exclusive.

**GC27 PRIVACY**

1. If the Contractor requires access to certain information which CIHR has obtained under the *Public Service Employment Act*, the information is classified as protected and is subject to the *Privacy Act* and shall at all times be treated as such by the Contractor.
2. In particular, and without restricting the generality of the foregoing, the Contractor or his representative:
  - a) shall not disclose the information to anyone
  - b) shall not use the information for any purposes other than those for which it was provided under this Contract
  - c) shall not use the information collected/compiled for any other purposes other than those for which it was collected or compiled under this Contract
  - d) shall not make any copy of the information except with the written consent of the Project Authority.
  - e) shall return all the information (and any copy thereof) at any time at the request of the Project Authority and, in any event, within 10 days after the completion of the Contract, and,
  - f) shall take whatever action is necessary to ensure that all individuals hired to complete the work under this Contract are made aware of, and fully comply with, all the provisions of this clause.

**CG28 PROACTIVE DISCLOSURE**

1. The Government of Canada is committed to publicly disclose all Contracts entered into over \$10,000 including taxes, with only very limited exceptions such as national security. These requirements cover the procurement Contracts for goods and services.
2. It is a term of this Contract that information contained in it in relation to the following data elements - vendor name, reference number, Contract date, description of work, Contract period or delivery date, and Contract value, will be gathered, and posted on

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the CIHR web site. Information that would normally be withheld under the Access to Information Act and Privacy Act will not appear on that web site.

3. This "public disclosure" is intended to ensure that Contract information is collected and presented consistently across government and in a manner that promotes transparency and facilitates public access.

**GC29 PROVINCIAL AND MUNICIPAL SALES TAX**

1. Provincial Taxes

- (a) Excluding legislated exceptions, federal government departments and agencies are not required to pay any ad valorem sales tax levied by the province in which the taxable goods or services are delivered. This exemption has been provided to federal government departments and agencies under the authority of one of the following:

- (i) Provincial Sales Tax (PST) Exemption Licence Numbers, for the provinces of:

Prince Edward Island	OP-10000-250
Ontario	11708174G
Manitoba	390-516-0
British Columbia	R005521

- (ii) For Quebec, Saskatchewan, the Yukon Territory, the Northwest Territories and Nunavut, an Exemption Certification, which certifies that the goods or services purchased are not subject to the provincial/territorial sales and consumption taxes because they are being purchased by the federal government with Canada funds for the use of the federal government.

- (b) Currently, in Alberta, the Yukon Territory, the Northwest Territories and Nunavut, there is no general PST. However, should a PST be introduced in the Northwest Territories, Nunavut, or Yukon Territory, the sales tax exemption certificate would be required on the purchasing document.

- (c) Federal departments and agencies are required to pay the HST in the participating provinces of Newfoundland and Labrador, Nova Scotia and New Brunswick.

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(d) The Contractor is not exempt from paying PST under the above Exemption Licence Numbers or Exemption Certification. The Contractor is required to pay the PST on taxable goods or services used or consumed in the performance of the Contract (as per appropriate provincial legislation), including material incorporated into real property.

2. Municipal Taxes

The CIHR is exempt from municipal taxes.

3. Changes to Taxes and Duties

In the event of any change in any tax imposed under the Excise Act, R.S.C. 1985, c. E-14, and Excise Tax Act, R.S.C. 1985, c. E-15, or any duties imposed under the Customs Tariff or any other federal or provincial sales, excise or other like duties, taxes, charges or impositions after the bid submission date and which affects the costs of the Work to the Contractor, the Contract price will be adjusted to reflect the increase or decrease in the cost to the Contractor

4. Other Taxes

4.1 Goods and Services Tax / Harmonized Sales Tax (GST/HST) VAT

All prices and amounts of money in the Contract are exclusive of GST, HST, VAT or other legal taxes as applicable, unless otherwise indicated. The Goods and Services Tax (GST) or Harmonized Sales Tax (HST), Value Added Tax (VAT) or other legal taxes, whichever is applicable, is extra to the price herein and will be paid by Canada.

GST, HST, VAT, or other legal taxes to the extent applicable, will be incorporated into all invoices and progress claims and shown as a separate item on invoices and progress claims. All items that are zero-rated, exempt or to which the GST, HST, VAT or other legal taxes does not apply, are to be identified as such on all invoices. The Contractor agrees to remit to the appropriate Government Agency any amounts of GST, HST, VAT or other legal taxes paid or due.

**GC30 RESOLUTION OF DISAGREEMENTS**

1. In the event of a disagreement regarding any aspect of the services or any instructions given under this Contract:

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- a) The Contractor may give a notice of disagreement to the Project Authority. Such notice shall be promptly given and contain the particulars of the disagreement, any changes in time or amounts claimed, and reference to the relevant clauses of the Contract;
- b) The Contractor shall continue to perform the services in accordance with the instructions of the Project Authority;
- c) The Contractor and the Project Authority shall attempt to resolve the disagreement by negotiations conducted in good faith. The negotiations shall be conducted, first, at the level of the Contractor's project representative and the Project Authority and, secondly and if necessary, at the level of a principal of the Contractor's firm and a senior CIHR manager;
- d) The Contractor's continued performance of the services in accordance with the instructions of the Project Authority shall not jeopardize the legal position of the Contractor in any disagreement;
- e) If it was subsequently agreed or determined that the instructions given were in error or contrary to the Contract, CIHR shall pay the Contractor those fees the Contractor shall have earned as a result of those change(s) in the services provided, together with those reasonable disbursements arising from the change(s) and which have been authorized by the Project Authority;
- f) The fees mentioned in (e) shall be calculated in accordance with the Terms of Payment set out in this Contract;
- g) If the disagreement is not settled, the consultant may make a request to the Project Authority for a written CIHR decision and the Project Authority shall give notice of the CIHR decision within fourteen (14) days of receiving the request, setting out the particulars of the response and any relevant clauses of the Contract;
- h) Within fourteen (14) days of receipt of the CIHR written decision, the Contractor shall notify the Project Authority advising if the Contractor accepts or rejects the decision;
- i) If the Contractor rejects the decision of CIHR, the Contractor, by notice may refer the disagreement to mediation;
- j) If the decision is referred to mediation, the mediation shall be conducted with the assistance of a skilled and experienced mediator chosen by the Contractor from a list of mediators proposed by CIHR, and the CIHR mediation procedures shall be used unless the parties agree otherwise; and
- k) Negotiations conducted under this Contract, including those conducted during mediation, shall be without prejudice.

**GC31 SECURITY AND PROTECTION OF THE WORK**

1. The Contractor shall keep confidential all information provided to the Contractor by or on behalf of CIHR in connection with the Work, or acquired by the Contractor in the course of performing the work. The Contractor shall not

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- disclose the information to any person without the written permission of CIHR, except that the Contractor may disclose to a subcontractor, authorized in accordance with this Contract, information necessary for the performance of the subcontract. The Contractor shall treat as confidential, during as well as after the performance of any work under this Contract, any information including any personal information as defined in the *Privacy Act* to which the Contractor becomes privy as a result of acting under the Contract.
2. This section does not apply to any information that:
    - i) is publicly available from a source other than the Contractor; or
    - ii) is or becomes known to the Contractor from a source other than CIHR, except any source that is known to the Contractor to be under an obligation to CIHR not to disclose the information.
  3. Upon request, the Contractor shall return to the Project Authority all information provided to the Contractor by or on behalf of CIHR or acquired by the Contractor in connection with the work and any copies of the information, in any form whatsoever.
  4. When the Contract, the Work, or any information referred to in GC9.2 is identified as TOP SECRET, SECRET, CONFIDENTIAL OR PROTECTED by CIHR,
    - i) the Contractor shall, at all times, take all measures reasonably necessary for the safeguarding of the material so identified, including any other instruction issued by CIHR.
    - ii) CIHR shall be entitled to inspect the Contractor's premises and the premises of a subcontractor at any tier for security purposes at any time during the term of the Contract, and the Contractor shall comply with, and ensure that any subcontractor complies with, all written instructions issued by CIHR dealing with the material so identified, including any requirement that employees of the Contractor or of any subcontractor execute and deliver declarations relating to reliability screenings, security clearances and other procedures.

**GC32 SEVERABILITY**

1. If any provision of the Contract is declared by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be severed from the Contract and all other provisions of the Contract shall remain in full force and effect.



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**GC33 STATUS AND REPLACEMENT OF PERSONNEL**

1. If at any time during the period of the Contract the Contractor is unable to provide the services of any person who must perform the Work in the Contract, it shall immediately provide a replacement person with similar qualifications and experience. The Contractor shall, as soon as possible, give notice to CIHR of:
  - a) the reason for the removal of the person from the Work;
  - b) the name, qualifications and experience of the proposed replacement person; and
  - c) proof that the person has the required security clearance granted by CIHR, if applicable.
2. The CIHR may order the removal from the Work of any such replacement person and the Contractor shall immediately remove the person from the Work and shall, in accordance with subsection (1), secure a further replacement.
3. The fact that CIHR does not order the removal of a replacement person from the Work shall not relieve the Contractor from its responsibility to meet the requirements of the Contract.
4. If the Contractor intends to use any person in fulfillment of this Contract who is or who is not an employee of the Contractor, the Contractor hereby warrants that such a person is under no restrictive covenants in relation to a constraint of trade that would prevent the person from fulfilling his or her services in relation to the Work and, the Contractor has written permission from the person (or the employer of such a person) to propose the services of the person in relation to the Work to be performed in fulfillment of this Contract.

**GC34 SUBCONTRACTING**

1. Unless otherwise provided in the Contract, the Contractor shall obtain the consent of CIHR in writing prior to subcontracting or permitting the subcontracting of any portion of the Work at any tier. The CIHR shall not unreasonably withhold consent.
2. Notwithstanding subsection 1, the Contractor may, without prior consent of CIHR:
  - (a) purchase "off-the-shelf" items and software and such standard articles and materials as are ordinarily produced by manufacturers in the normal course of business;

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(b) subcontract for the provision of such incidental services as might ordinarily be subcontracted in performing the Work;

(c) in addition to purchases and services referred to in paragraphs (a) and (b), subcontract any part or parts of the Work to one or more subcontractors up to a total value in the aggregate of 40 percent of the Contract Amount and

(d) permit its subcontractors at any tier to make purchases or subcontract as permitted in paragraphs (a), (b) and (c).

A Subcontract at any tier may not be let without consent, under paragraph (b), (c) or (d), where the subcontractor would obtain title to intellectual property developed as part of the Work.

3. In any Subcontract other than a Subcontract referred to in paragraph 2 (a), the Contractor shall, unless CIHR otherwise consents in writing, ensure that the subcontractor is bound by terms and conditions compatible with and, in the opinion of CIHR, not less favourable to CIHR than the terms and conditions of the Contract. Deviations in any subcontract from the terms of the Contract, including any right of termination of the Contract, shall be entirely at the risk of the Contractor.
4. The Contractor is not obliged to seek consent to Subcontracts specifically authorized in the Contract.
5. Any consent to a Subcontract shall not relieve the Contractor from its obligations under the Contract or be construed as authorizing any liability on the part of CIHR to a subcontractor.

**GC35 SUCCESSORS AND ASSIGNS**

1. The Contract shall enure to the benefit of and be binding upon the parties hereto and their lawful heirs, executors, administrators, successors and assigns.

**GC36 SUPPLEMENTAL INVOICING INSTRUCTIONS**

1. Pursuant to paragraph 221(1)(d) of the *Income Tax Act*, payments made by departments and agencies to contractors under applicable services Contracts (including Contracts involving a mix of goods and services) must be reported on a T1204 Government Service Contract Payments slip. To enable departments and agencies to comply with this requirement, the Contractor is required to provide its Procurement Business Number (PBN) or its Social Insurance Number. For the

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PBN, the Contractor is to ensure the accuracy of its information in the Supplier Registration Information service.

**GC37 TERMINATION DUE TO DEFAULT OF CONTRACTOR**

1. The CIHR may, by notice to the Contractor, terminate the whole or any part of the Work if:
  - i) the Contractor becomes bankrupt or insolvent, or a receiving order is made against the Contractor, or an assignment is made for the benefit of creditors, or if an order is made or resolution passed for the winding up of the Contractor, or if the Contractor takes the benefit of any statute for the time being in force relating to bankrupt or insolvent debtors, or
  - ii) the Contractor fails to perform any of the Contractor's obligations under the Contract, or, in the view of CIHR, so fails to make progress as to endanger performance of the Contract in accordance with its terms.
2. In the event that CIHR terminates the Work in whole or in part under GC37.1, CIHR may arrange, upon such terms and conditions and in such manner as CIHR deems appropriate, for the work to be completed that was so terminated, and the Contractor shall be liable to CIHR for any excess costs relating to the completion of the Work.
3. Upon termination of the work under GC37.1, CIHR may require the Contractor to deliver and transfer title to CIHR, in the manner and to the extent directed by CIHR, any finished work which has not been delivered and accepted prior to such termination and any materials or work-in-process which the Contractor has specifically acquired or produced for the fulfillment of the Contract. The CIHR shall pay the Contractor for all such finished work delivered pursuant to such direction and accepted by CIHR, the cost to the Contractor of such finished work plus the proportionate part of any fee fixed by the said Contract and shall pay or reimburse the Contractor the fair and reasonable cost to the Contractor of all materials or work-in-process delivered to CIHR pursuant to such direction. The CIHR may withhold from the amounts due to the Contractor such sums as CIHR determines to be necessary to protect CIHR against excess costs for the completion of the Work.
4. The Contractor shall not be entitled to be reimbursed any amount which, taken together with any amounts paid or becoming due to the Contractor under the Contract, exceeds the Contract Amount applicable to the Work or the particular part thereof.

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5. If, after CIHR issues a notice of termination under GC37.1, it is determined by CIHR that the default of the Contractor is due to causes beyond the control of the Contractor, such notice of termination shall be deemed to have been issued pursuant to GC38.1 and the rights and obligations of the parties hereto shall be governed by GC38.

**GC38 TERMINATION OR SUSPENSION**

1. The CIHR may, by giving notice to the Contractor, terminate or suspend the Work with respect to all or any part or parts of the Work not completed. The Contractor shall proceed to complete parts of the Work not affected by the termination notice. Additional notices for different parts of the Contract may be given subsequently.
2. All work completed by the Contractor to the satisfaction of CIHR before the giving of such notice shall be paid for by CIHR in accordance with the provisions of the Contract.
3. All Work not completed before the giving of such notice shall be paid by CIHR to the Contractor on the following terms:
  - (a) the amount of any capital expenditures actually incurred only if they were specifically authorized under the Contract or approved in writing by CIHR for the purpose of the Contract, less any depreciation in respect thereof already taken into account in determining cost, to the extent that the capital expenditures are properly apportionable to the performance of the Contract;
  - (b) all costs of and incidental to the termination of the Work or part thereof, including the cost of cancellation of obligations incurred by the Contractor with respect to the terminated work or part thereof; but not including the cost of severance payments or damages to employees whose services are no longer required by reason of the termination;
  - (c) where CIHR pays for costs for inventory under GC38, this inventory shall vest with CIHR.
4. Payment and reimbursement under the provisions of GC38 shall be made only to the extent that it is established to the satisfaction of CIHR that the costs and expenses were actually incurred by the Contractor and that the same are fair and reasonable and are properly attributable to the termination or suspension of the Work or the party thereof so terminated.

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5. The Contractor shall not be entitled to be reimbursed any amount which, taken together with any Amounts paid or becoming due to the Contractor under the Contract, exceeds the Contract Amount applicable to the Work or the particular part thereof.
6. The Contractor shall have no claim for damages, compensation, loss of profit, allowance or otherwise by reason of or directly or indirectly arising out of any action taken or notice given by CIHR under the provisions of GC38 except as expressly provided therein.

**GC39 TIME OF THE ESSENCE**

1. Time is of the essence of the Contract.
2. Any delay by the Contractor in performing the Contractor's obligations under the Contract which is caused by an event beyond the control of the Contractor, and which could not have been foreseen and could not have been avoided by the Contractor by means reasonably available to the Contractor, constitutes an excusable delay. Events may include, but are not restricted to: acts of God, acts of Her Majesty, acts of local or provincial governments, fires, floods, epidemics, quarantine restrictions, strikes or labour unrest, freight embargoes and unusually severe weather.
3. The Contractor shall give notice to CIHR immediately after the occurrence of the event that causes the excusable delay. The notice shall state the cause and circumstances of the delay and indicate the portion of the Work affected by the delay. When requested to do so by the Contracting Authority, the Contractor shall deliver a description in a form satisfactory to CIHR, of Work-around plans including alternative sources and any other means that the Contractor will utilize to overcome the delay and endeavour to prevent any further delay. Upon approval in writing by CIHR of the Work-around plans, the Contractor shall implement the Work-around plans and use all reasonable means to recover any time lost as a result of the excusable delay. Any additional costs caused by the delay shall be supported by the Contractor.
4. Unless the Contractor complies with the notice requirements set forth in the Contract, any delay that would constitute an excusable delay shall be deemed not to be an excusable delay.
5. Notwithstanding that the Contractor has complied with the requirements of GC39.3, CIHR may exercise any right of termination contained in GC38.

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**GC40 WARRANTY**

1. Notwithstanding inspection and acceptance of the Work by or on behalf of CIHR and without restricting any other provision of the Contract or any condition, warranty or provision implied or imposed by law, the Contractor warrants that, for a period of 12 months from the date of delivery, or if acceptance takes place on a later date, the date of acceptance, the Work shall be free from all defects in design, materials or workmanship, and shall conform with the requirements of the Contract, provided that with respect to Government Property, the Contractor's warranty shall extend only to its proper incorporation into the Work. In addition, the Contractor has the obligation to respect any other warranty provided for by law.
2. In the event of a defect or nonconformance in any part of the Work during the warranty period defined in GC40.1 and GC40.5, the Contractor, at the request of CIHR to do so, shall as soon as possible repair, replace or otherwise make good at its own option and expense the part of the Work found to be defective or not in conformance with the requirements of the Contract.
3. The Work or any part thereof found to be defective or non-conforming shall be returned to the Contractor's plant for replacement, repair or making good; provided that, when in the opinion of CIHR it is not expedient to remove the Work from its location, the Contractor shall carry out any necessary repair or making good of the Work at that location, and to the extent the defect does not occur during the warranty period, shall be paid the fair and reasonable Cost (including reasonable traveling and living expenses) incurred in so doing, with no allowance therein by way of profit, less an amount equal to the Cost of rectifying the defect or non-conformance at the Contractor's plant.
4. The CIHR shall pay the transportation cost associated with returning any Work or part thereof to the Contractor's plant pursuant to GC40.3, and the Contractor shall pay the transportation cost associated with forwarding the replacement or returning the Work or part thereof when rectified to the delivery point specified in the Contract, or such lesser cost as may be required to transport the Work or part thereof to another location directed by the Technical Authority.
5. The warranty period set out in GC40.1 shall be extended by the duration of any period or periods during the life of the warranty, including any such extension, in which the Work is unavailable for use or cannot be used because of a defect or non-conformance referred to in this section, less the duration of any delay by CIHR in informing the Contractor of the defect or non-conformance or in returning the Work or part thereof to the Contractor's plant. Upon returning the

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Work or part thereof to CIHR, the Contractor shall advise CIHR in writing of the warranty period remaining, including any such extension.

6. The warranties set out in GC40.1 shall apply to any part of the Work repaired, replaced or otherwise made good pursuant to GC40.2, for the greater of
  - (a) the warranty period remaining under GC40.5, or
  - (b) 90 days or such other period as may be specified for that purpose in the written Contract between the Parties.
  
7. All of the provisions of GC40.2 to GC40.6 inclusive apply, with such minimum changes as the context may require, to any such part of the Work that is found during that period to be defective or not in conformance with the Contract.