



Ontario Education
Collaborative Marketplace

Marché Éducationnel
Collaboratif de l'Ontario

SUPPLY OF LABORATORY /SCIENCE SUPPLIES

REQUEST FOR PROPOSAL

ONTARIO EDUCATION COLLABORATIVE MARKETPLACE

**SHALL NOT BE OBLIGATED IN ANY MANNER TO ANY SUPPLIER WHATSOEVER
UNTIL A WRITTEN AGREEMENT HAS BEEN DULY EXECUTED WITH A SUPPLIER**

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REQUEST FOR PROPOSAL (“RFP”)

RFP NO: OECM RFP 2010-113

SECTION 1: INTRODUCTION

1.1 Definitions

The following definitions apply:

- a) **“Applicable Law”** and **“Applicable Laws”** means any common law requirement and all applicable and enforceable statutes, regulations, directives, policies, administrative interpretations, orders, by laws, rules, guidelines, approvals and other legal requirements of any government and/or regulatory authority in effect from time to time;
- b) **“Annual”** means twelve months;
- c) **“Basket”** means the group of products of particular importance to Institutions in terms of volume and value (core items) which are listed in the Pricing Proposal Schedule 5, Section 1;
- d) **“Business Day”** or **“Business Days”** means Monday to Friday between the hours of 8:30 a.m. to 5:00 p.m., except when such a day is a public holiday, as defined in the Employment Standards Act (Ontario)2000, or as otherwise agreed to by the parties in writing;
- e) **“Client-Supplier Agreement”** means the sub-agreement to be entered into between the Supplier and the Purchaser pursuant to the Master Agreement;
- f) **“Conflict of Interest”**, as such term appears in the Unfair Advantage and Conflict of Interest Statement Schedule, includes, but is not limited to, any situation or circumstance where:
 - i. in relation to the RFP process, the respondent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having or having access to information in the preparation of its Proposal that is confidential to OECM and not available to other Proponents (ii) communicating with any person with a view to influencing preferred treatment in the RFP process; or (iii) engaging in conduct that compromises or could reasonably be seen to compromise the integrity of the open and competitive RFP process and render that process non-competitive and unfair; or;
 - ii. in relation to the performance of its obligations under the Master Agreement, the Proponent’s other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgment; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under the Master Agreement;

- g) **“Days”** means calendar days;
- h) **“Eligible Proposal”**, as such term appears in Section 4.3 (Evaluation Process), means a Proposal that meets or exceeds the requirements for a phase of the evaluation process and is allowed to proceed to the next phase;
- i) **“Evaluation Team”** means the individuals who have been selected by OECM to evaluate the Proposals;
- j) **“Institution”** means any Ontario school board, college, university or other educational institution;
- k) **“Master Agreement”** has the meaning ascribed thereto in Section 1.3 (Type of Agreement);
- l) **“OECM”** means Ontario Education Collaborative Marketplace;
- m) **“Personal Information”** means recorded information about an identifiable individual or that may identify an individual;
- n) **“Product(s)”** means the goods intended to be procured pursuant to this RFP;
- o) **“Proponent”** means an entity that submits a Proposal in response to this RFP and, in respect of the period prior to the RFP Closing Time, as the context may suggest, refers to a potential Proponent;
- p) **“Proposal”** means all of the documentation submitted by a Proponent in response to the RFP, which has been accepted by OECM;
- q) **“Purchaser”** means any school board, university, college or other institution which enters into a Client-Supplier Agreement;
- r) **“Request for Proposals”** or **“RFP”** means this Request for Proposals issued by OECM for the purchase of the Products, and all addenda thereto;
- s) **“RFP Coordinator”** means the individual identified in Section 3.1.1 (RFP Coordinator);
- t) **“Successful Proponent”** means the highest-ranked Proponent(s) that OECM has identified as the top-ranked Proponent(s) in accordance with the evaluation process;
- u) **“Unfair Advantage”**, as referred in Section 3.17 (Unfair Advantage and Conflict of Interest) and in relation to the RFP process, means any conduct engaged into, directly or indirectly, by a Proponent that may result in gaining an unfair advantage over other Proponents, including but not limited to:
 - i. possessing, or having access to, information in the preparation of its Proposal that is confidential to OECM and which is not available to other Proponents

- ii. communicating with any person with a view to influencing, or being conferred preferred treatment in, the RFP process, or
- iii. engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and result in any unfairness.

1.2 Rules of Interpretation

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

- a) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine, feminine and neuter genders include all other genders.
- b) Words in the RFP shall bear their natural meaning.
- c) References containing terms such as “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- d) In construing the RFP, the rule known as the ejusdem generis rule shall not apply nor shall any similar rule or approach apply to the construction of the RFP and, accordingly, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- e) Unless otherwise indicated, time requirements will be strictly enforced.
- f) The following terminology applies in the RFP:
 - i. Whenever the terms “must” or “shall” are used in relation to OECM or the Proponents, such terms shall be construed and interpreted as synonymous and shall be construed to read “OECM shall” or the “Proponent shall”, as the case may be;
 - ii. The term “should” relates to a requirement which OECM would like the Proponent to address in its Proposal; and
 - iii. The term “will” describes a procedure that is intended to be followed.

1.3 Type of Agreements

The Successful Proponent(s) shall be required to enter into the agreement (“Master Agreement”) attached in the Form of Agreement Schedule. The Master Agreement will be signed in August 2010, or thereafter and no obligation on the part of OECM or any Purchaser shall arise until such time as the Master Agreement is signed. The term of the Master Agreement is intended to be for a period of two years with an option in favour of OECM to extend the term of the Master Agreement on the same terms and conditions for two (2) additional periods of one year each. Price adjustments will be considered on an annual basis as described in section 2.30 of this RFP.

OECM will sign Master Agreements (Contract) with all Successful Proponent(s) and each participating Institution will sign an Institution-specific Client-Supplier Agreement, Schedule 2 to the Master Agreement. Please see Appendix B.

Other Institutions may participate at any time during the initial Agreement period or during the optional extension period by signing its own Institution-specific Client-Supplier Agreement to the Contract.

1.4 Term of Agreement

The Successful Proponent(s) will be awarded a firm two (2) year contract with two (2) optional renewal periods of one year each. OECM reserves the right, at its sole discretion, to extend this contract for the renewal periods based on satisfactory service, performance and pricing for the previous and optional periods. Each Institution will identify their volumes and requirements using Schedule 2 as presented in the OECM Master Agreement and modified as required based on the needs of the Institution. As additional Institutions choose to participate during the term of the Agreement, the expiry date of their Schedule 2 Agreements will be the same as the Master Agreement.

OECM shall not enter into any separate contract or agreement drafted by, presented by or otherwise proposed by any Proponent, including any “standard form” or other Supplier contract.

1.5 Background

OECM was incorporated in 2006 as a not-for-profit entity to support publicly funded education in Ontario by enabling opportunities for savings of time and money for reinvestment in core academic activities. Services being provided to support this mandate include collaborative strategic sourcing and implementation of supporting procurement and sourcing tools to help process improvement in Ontario School Boards, Colleges and Universities (for the purposes of this RFP “Purchasers”).

This Request for Proposal is issued by OECM on behalf of publicly funded Ontario School Boards, Colleges and Universities. While it has been developed to address the needs of School Boards, Colleges and Universities, OECM intends that the Agreement(s) arising from this RFP be accessible to Broader Public Sector (BPS) organizations including municipalities, public hospitals, social services organizations and Ontario Government ministries and agencies.

OECM is working collaboratively with many School Boards, Colleges and Universities in the development and implementation of this initiative.

Although estimated volumes from a small number of institutions are provided in Schedule 5, Proponent(s) are expected to consider the breadth of the publicly funded education sector, consisting of 72 School Boards, 24 Colleges and 20 Universities in preparing their response. The estimated spend of the publicly funded education sector is \$28 million.

1.6 Products

This RFP is issued for the purpose of obtaining Proposals from qualified Proponents for the provision of Lab/Sciences Supplies for School Boards, Colleges and Universities in Ontario.

1.7 OECM Rebate

Proponent(s) are required to recommend a pricing structure which includes a rebate for OECM but still results in a price for the Products and related services which is lower than that which any Institution may be able to negotiate on their own. The OECM volume rebate is set at 3% per annum.

1.8 Objectives

The objectives of the RFP are as follows:

- Ensure timely and cost effective delivery of Lab/Science Supplies;
- Achieve overall product and delivery cost savings for all School Boards, Colleges and Universities in the Province;
- Provide product choice for School Boards, Colleges and Universities province wide;
- Provide Laboratory /Science supplies and related services that meet the highest environmental sustainability standards whenever possible and economically feasible without compromising quality and availability.

OECM intends to award this RFP to multiple Proponents by item and/or groups of items. OECM may award multiple Proponents' products in each category as necessary to satisfy the need of School Boards, Colleges and Universities. Proponents may propose some or all products but the products proposed must be available in all regions. OECM, working with School Boards, Colleges and Universities' representatives will select those Proponents and products best able to satisfy the requirements of the RFP at the lowest evaluated cost and meet the needs of the participating institutions.

1.9 Electronic Marketplace

OECM is in the process of building and implementing an electronic marketplace that will connect buyers and suppliers to facilitate more effective, efficient procurement of goods and services.

Successful Proponents will be required to make products and services available through this marketplace and agree to the Supplier Requirements identified in Appendix C. OECM will work with Successful Proponents to determine the best mechanism which will enable a catalogue of their product offerings on the OECM eMarketplace.

1.10 No Guarantee of Volume of Work or Exclusivity of Contract

OECM makes no guarantee of the value or volume of Products to be assigned to the successful Proponent(s). The Master Agreement executed with the Successful Proponent(s) will not be an exclusive Contract for the provision of the described Products. OECM and Purchasers may contract with others for the same or similar Products to those described in this RFP, as required in the best interest of OECM and the Purchasers.

SECTION 2: STATEMENT OF REQUIREMENTS

2.1. Mandatory Requirements

In order to be considered, Proponents must meet all Mandatory requirements. Those who do not meet all mandatory requirements will be disqualified.

Proponents should refer to Schedule 6 Mandatory Requirements, for the listing of mandatory requirements and Schedule 7 General Requirements Checklist for use in preparing their submissions.

2.2 General Requirements

Proponents should respond to all General Requirements which will be evaluated according to the evaluation criteria and process identified in Section 4.4 Evaluation Methodology and Process.

The Successful Proponent(s) shall provide the Deliverables on a timely basis to all participating Institutions. The Deliverables include the provision of online ordering for Institutions' use. The Supplier(s) will be required to supply Laboratory /Science Supplies including, but not limited to, those in the following categories:

- Chemicals
- Glassware
- Plasticware
- Labware
- Safety Supplies
- Apparatus
- Biologicals
- Live Specimens
- Biotechnology
- Physical Sciences

- Earth Sciences
- Electronics
- Books
- Software
- Instructional Supplies
- Furniture
- Other related items

2.4 Condition of Goods

Unless otherwise specified in these Proposal documents, materials and supplies must be new items (not refurbished, not previously used, not re-manufactured), in good operating condition, fit for the purpose for which they are being acquired, and free from defects in workmanship and material. Any item which fails in any way to meet the specifications of the Proposal is subject to rejection or may be paid for on a negotiated adjusted price basis between the Purchaser and the Successful Proponent(s). The decision of the Purchaser pertaining to items being rejected shall be final.

2.5 Scope of Services

The Successful Proponent(s) shall:

- accommodate delivery of orders to all educational facilities to all regions throughout the Province of Ontario;
- be able to accommodate the receipt of orders from all Institutions through telephone, facsimile and Internet portal;
- make available a toll-free number for each of telephone and facsimile orders and enquiries;
- have no minimum order limitations;
- have no delivery cost charged to the Institutions if an order exceeds the minimum amount specified by the Proponent in the Pricing Proposal Schedule 5;
- process orders for the Deliverables received during normal business hours upon receipt;
- provide complete and current hardcopy printed catalogues to all Institutions as requested by OECM and/or Institutions without extra charge and maintain an accurate and up-to-date online catalogue;
- provide price quotations for items upon request from an Institution; and
- supply order forms and/or templates in hardcopy and/or appropriate electronic formats acceptable to OECM.

2.6 Ordering Options

Proponents are to identify ordering options that are currently available including purchase order, phone, fax, on-line via web catalogue or email. Proponents are also to identify order tracking processes, both internal and those available to view by institutions.

2.7 Delivery and Packaging

Time is the essence for every order and delivery. The burden of proof of time of delivery to the location specified in the order shall rest with the Successful Proponent(s).

Items shall be securely and properly packaged for shipment according to accepted standard commercial practice without extra charge(s) for packing materials or containers. The containers shall remain the property of the Institution. Successful Proponent(s) may be required to remove packaging.

OECM has created delivery regions for the purpose of pricing (Appendix A- Delivery Regions). Proponents are expected to consider these regions when submitting their response to RFP Pricing Schedule 5.

The Proponent shall indicate the minimum amount required in an order to avoid any delivery cost charged to the Institutions on account of such order.

2.7.1 Handling, Delivery and Packaging of Hazardous Materials including Chemicals

The regulations of the Occupational Health and Safety Act and WHMIS (Workplace Hazardous Materials Information System) will govern all awards made by this Proposal including the storage, handling and usage of chemicals and other hazardous materials. The Successful Proponent(s) will be fully responsible to ensure the safety of all workers, students, staff and general public. Only competent and skilled personnel will be provided by the Successful Proponent(s) under this contract. The Successful Proponent(s) will be responsible to monitor adherence to safety standards and provide proper instructions to all of their staff. The Proponent should describe the Workplace Hazardous Materials Information System training that its personnel may have received in accordance with the Ontario Occupational Health and Safety Act.

The Successful Proponent(s) shall meet all requirements of the Workplace Hazardous Materials Information System (WHMIS). Correct labels must be in place at the time of receipt by the Purchasers and Successful Proponent(s) must supply a current copy of the applicable Materials Safety Data Sheet (MSDS) for each shipment. Products which are inadequately labeled or are without the required MSDS will be returned.

2.7.1.1 Restricted Components

As of June 1, 2008, sellers, users and transporters of ammonium nitrate (AN) will be required to meet new security measures as specified in the Restricted Components Regulations of the Explosives Act.

The following eight (8) Restricted Components, are covered by the Restricted Components Regulations of the Explosives Act :

- hydrogen peroxide at a concentration of 30 percent or higher
- nitric acid at a concentration of 68 percent or higher
- nitromethane
- potassium chlorate
- potassium perchlorate
- sodium chlorate
- potassium nitrate
- sodium nitrate

Successful Proponent(s) will be required to meet new security measures as specified in the *Restricted Components Regulations of the Explosives Act*.

2.8. Sub-Contracting

Unless otherwise stated in this document, it is mutually agreed and understood that the Successful Proponent(s) will not assign, transfer, convey, sublet or otherwise dispose of the contract or the right, title or interest therein, or the bidder(s) power to execute such contract to any other person, firm, company or corporation without the previous written consent of OECM.

2.9. Returns and Claims

The Successful Proponent(s) shall:

- Not charge any restocking fees for goods ordered in error or otherwise returned to the Successful Proponent;
- Establish a Return and Claim Authorization procedure acceptable to OECM for the return of damaged, defective, other return, or not received goods;
- Establish a procedure for the processing of claims in a manner satisfactory to OECM through telephone, facsimile, e-mail and Internet portal as available;
- Accept all claims from Institutions transmitted in accordance with the established claims procedure;

- Process all credit claims within five (5) Business Day of claim submission by the Institution in the manner in which payment was received.

2.10. Back Orders & Substitutions

The Successful Proponent(s) shall:

- Meet a minimum order fill rate of ninety-five percent (95 %);
- Not deliver substitute products without the pre-authorization of the ordering Institution;
- Inform Institutions at the time of order placement when products are out-of-stock, de-listed/discontinued, or otherwise unavailable for delivery the next Business Day for all orders placed by telephone, via the online ordering tool or for facsimile orders.

Proposals shall include information regarding the procedures and practices to be used for back-order and/or product substitution situations, which are to include:

- No automatic cancellation of backorders;
- Cancellation by institution if item is backordered for an extended period of time, without charge to the Purchaser; and
- Notification to institution by methods in addition to the invoice or packing slip.

2.11. Warranties and Guarantee

Proponents will include details related to all product warranties and guarantees for all products in their Proposal including length of warranty, coverage and all terms and conditions. Successful Proponents are expected to coordinate all warranty issues and to replace all defective warranted products at no cost to participating Institutions or OECM.

2.12. Understanding Scope

Proposals shall be clear and concise, and shall include sufficient detail for substantiating the validity of stated claims.

Proponents are expected to describe their approach to the provision of the products and services required, including sufficient detail to demonstrate their understanding of the objectives and scope of this RFP and enable effective evaluation. Included in this approach may be innovative services or solutions related to the provision of Lab/Science Supplies.

Proponents may choose to propose alternative products provided those Products meet or exceed the identified minimum specifications and other business requirements of the items listed on Proposal Pricing Schedule 5. Specifications must be provided for each product proposed in order to demonstrate that they meet the minimum specifications.

OECM expects consistent Product pricing regardless of geographic region or specific location and understands that freight and other costs may differ between geographic regions. (see appendix A-Delivery Regions)

Proponents are required to identify, in detail, any limitations to the provision of Products, services including delivery and outline recommendations to address these limitations.

2.13. Supplier Awards

It is expected that this RFP may result in multiple supplier awards. Proponents may bid on some or all items. The RFP will be awarded by item or grouped items. OECM may award multiple Proponents' products in each category as necessary to satisfy the need of School Boards, Colleges and Universities. Proponents should include all zones in their response and identify any limitations to delivery in a particular zone or specific location. OECM will consider the breadth of delivery in proposal evaluation.

2.14. Right to Negotiate

OECM reserves the right to enter into negotiations with any Proponent to clarify or modify its submitted proposal. Negotiations with a Proponent do not oblige OECM to negotiate or execute a contract with that Proponent. The award of a contract shall be at the sole discretion of OECM.

2.15. Manufacturer or Distributor

The Successful Proponents must be a manufacturer or a distributor for all or some items and categories proposed. If a Proponent is a distributor and not a manufacturer of an item proposed to be delivered pursuant to this RFP, the Proponent must hold all necessary rights and permissions to distribute such item and must also confirm that the manufacturer thereof will provide complete warranty support in respect thereof.

2.16. Company Overview

As part of the mandatory requirements, Proponents are required to provide in the Declaration (Schedule 1), the address, telephone number and email address of the Proponent's main office and the primary contact for this document.

Executive Summary

The Proponent should submit an executive summary of its Proposal describing the main features, benefits, and any limitations or conditions of its Proposal, in non-technical terms. Such executive summary should include no reference to Pricing and should not exceed three pages.

Proponents should also include a brief synopsis of Proponent background and areas of expertise with the provision of Laboratory/Science Supplies that demonstrate adequate resources, skills, and fulfillment capabilities to provide the required products and services.

Proponents are required to complete the Company Profile Schedule 3 as a mandatory requirement.

2.17. Proposal Pricing

2.17.1 General

Prices shall be quoted in Canadian dollars, and shall include all applicable customs duties, tariffs, overhead, profit, permits, licenses, labour, travel, carriage insurance, and warranties, and shall not be subject to adjustments including fluctuation in foreign exchange rates. All prices quoted, unless otherwise instructed in this RFP, shall remain firm for the period set out in the RFP. All prices should be quoted exclusive of federal or provincial taxes or other similar taxes, each of which, if applicable, should be stated separately. In the event of any discrepancy in the pricing, the lowest price submitted shall prevail.

A Proposal that includes any conditional, optional, contingent or variable pricing that is not expressly requested in this RFP may, subject to the requirements of the RFP and the express and implied rights of OECM, be disqualified.

All pricing should be quoted as outlined in the Proposal Pricing Schedule 5, which must be completed for all or some products within the categories which are part of the Basket. The various tabs and sections of the Proposal Pricing Schedule 5 should be completed for all proposed Products. Note that while product cost and freight costs are to be itemized separately in the Proposal submission, the Purchasers may contract on a total cost basis, where appropriate.

All proposed Products must be delivered FOB destination.

Submission of the Proposal Pricing Schedule 5 is a mandatory requirement of this RFP.

2.18. Individual Item Pricing

Proponents shall provide pricing for all or some core items in the Basket in the Proposal Pricing Schedule 5 which identifies all delivery costs by region for the firm year one price, as a separate item.

2.19. Discounts to Unit Prices

For other products not itemized within the Basket in the Proposal Pricing Schedule 5 Section 1, the Proponent should specify the discount applicable to all items within the categories offered in the Proponent's catalogue which shall include the price list.

The Proponent shall include in its proposal an electronic copy of its catalogue in Microsoft Excel format with vendor code, manufacturing part number, list prices and discount rate applicable. Proponents must provide a catalogue with current pricing along with the discount percentage as a part of their proposal pricing. The percentage off catalogue discount proposed must remain in effect throughout the contract term. Catalogues and related pricing may be updated on no more than an annual basis. Successful suppliers must provide OEMC and participating institutions with 90 days notice of a new or adjusted catalogue. Successful Proponents must provide participating institutions with hard copy catalogues if requested.

2.20. Cost Reduction/Value Added Opportunities

Proponents are also requested to include any recommendations they may have to reduce costs and/or to provide value added services at no cost. These recommendations (without their specific cost impact) should be included in their submission. Value added components should be specifically related to the Products being proposed pursuant to this RFP.

2.21. Contingency Plans

Proponents are required to provide contingency plans to address peak demand periods, supply shortages and work stoppages.

2.22. Insurance

Successful Proponents are required to carry insurance as outlined in the OEMC Master Agreement Appendix B Article 7. Agreement to provide insurance is a mandatory requirement of this RFP. Proponents must indicate agreement as part of the Declaration and Certification Schedule1.

2.23. Permits, Licenses and Approvals

2.23.1 General

Proponents shall obtain all permits, licences, and approvals required in connection with the supply of the Products. The costs of obtaining such permits, licences and approvals shall be the responsibility of, and shall be paid for by, the Proponent.

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

2.23.2 Electrical Products

Without in any way limiting the provisions of Section 2.25.1 (General), any electrical Products being proposed for consideration pursuant to this RFP must be authorized or approved in accordance with the Electrical Safety Code or by a certification organization accredited with the

Standards Council of Canada Act (Canada), and shall bear the certification organization's mark identifying the products certified for use in Canada. Certification shall be to the standard that is appropriate for the intended use of the electrical Products at any Purchaser's facilities. Prior to entering into any Client-Supplier Agreement, the Proponent shall have provided satisfactory evidence of such certification, as applicable.

2.24. Alerts

The Proponent is required to identify any products that are subject to a safety alert and/or recall. The Proponent should disclose the guaranteed response time to assess recalled products and resources available to assess all recalled products in order to ensure the products meet current safety standards and regulations. This disclosure is a mandatory requirement.

2.25. Environmental Stewardship

Publicly funded School Boards, Colleges and Universities are committed to the advancement of environmentally sound management practices, and support the reduction of greenhouse gases.

Proponent should submit the following information in their Proposal:

- Information that describes any environmental certification for each product.
- Any initiative taken by the Proponent to minimize the amount and weight of packaging used for any products supplied or used in providing services.
- Information on the ability to recycle any packaging and products supplied or used in providing services and other information on recycling.
- ISO14001 certification;
- A summary of the environmental initiatives undertaken by the Proponent.

2.26. Reporting

2.26.1 Reporting

The participating Institutions and OECM are to receive usage reports detailing items purchased under this agreement. These reports may be delivered by the most appropriate means for each Institution, which may include web posting, e-mail, hard copy, etc.

2.26.2 Consolidated OECM Reports

On a monthly basis the Successful Proponents must deliver OECM consolidated reports containing the following as a minimum

a) Usage Reports

Spend data for all participating Institutions at line item level which must include the following fields:

- Institution
- Supplier (Successful Proponent)
- Manufacturer
- Manufacturer part number
- Supplier code
- Category
- Brand
- Product description
- Units of Measurement
- Units per UoM
- Volume
- List price
- Discount off price list
- Unit price
- Extended price.

b) Rebate information

This includes monthly product rebate information by category for each participating institution.

c) Ad hoc information, as requested.

These reports will be delivered in tabulating format and may be used as the basis for updating the Basket of products according to section 2.30.1. The reports will be delivered on Microsoft (MS) Excel format.

2.26.3 Institution Specific Reports

On a quarterly basis each participating Institution is to receive reports specific to their usage. These reports will contain the following as a minimum:

- Description of each item purchased;
- Volume and value of purchases by item for the period and year to date;
- Delivery Location;
- Purchase Order number if applicable;
- Ad hoc reports as requested

2.27 Payment

2.27.1 Payment Terms

Standard payment terms are Net 30 Days. Proponent(s) are to identify payment options which are currently available, including EFT, cheque, purchasing card, etc. The Successful Proponent(s) will be required to accommodate a variety of payment options required by participating institutions.

2.28. Invoicing

Each Institution will stipulate the billing address. Invoices shall clearly set out and itemize the following information regarding purchases:

- Date of Purchase
- Quantity
- Delivery Location
- Individual Line Item Description
- Purchase Order Number, where applicable
- Contract number, where applicable
- Requisitioning Identification

2.29. Discounts

2.29.1 Prompt Payment Discounts

Proponents are encouraged to offer a prompt payment discount. Prompt payment discounts will be considered in the pricing evaluation.

2.29.2 Discounts - Additional Products and Services

Proponents are asked to indicate the method of discounting and percentage discount for additional categories of products not specifically identified. Proponents are to provide a listing of all additional categories and products with prices and discounts included.

2.29.3 Volume Escalation Discount

It is expected that some form of a discounted price structure will be offered that improves as the number of Institutions, accounts and commodity volumes increase. OECM will consider options that meet the objectives of the program. Proponent shall provide additional pricing discounts at the following annual break points on sales of all products whether or not in the Basket:

- \$ 1,000,000- 2,000,000
- \$ 2, 000,000- 5,000,000
- \$ 5,000,000 – 10,000,000
- \$ 10,000,000+

2.29.4 Bulk Purchase Discount

Institutions may have a need for a large one-time purchase and the Successful Proponents will be expected to negotiate additional discounts with individual institutions.

2.30. Price Adjustments

2.30.1 Core Basket adjustment requested by OECM

At the end of the first and second years of the agreement and at the end of the first renewal period and based on the usage reports delivered by Successful Proponents according to section 2.28.2 a, OECM may modify the core items in the Basket of products in the Proposal Pricing Schedule 5. OECM may request additional items to be included in the Basket or adjustments to pricing for current items with meaningful increase of volume in comparison to historical volumes provided in Proposal Pricing Schedule 5. Net pricing will then be negotiated for these adjustments with the Successful Proponents. If such net pricing cannot be negotiated for any particular item, OECM shall have the option to delete such item from the Master Agreement or to have it continue to be supplied at the then current price.

2.30.2 Price adjustments requested by Suppliers or OECM

At the end of the first and second years of the agreement and at the end of the first renewal period, the Successful Proponent(s) or OECM may request a price review. As part of any review OECM will consider adjustments that reflect changes in exchange rates, raw materials, or operational adjustments due to new or changed municipal, provincial or federal regulations, by-laws or ordinances. OECM will not consider any fixed costs or overhead adjustments in its review.

OECM will use the relevant StatsCan Industry Price Indices or a similar 3rd party index as proposed by the Proponent and accepted by OECM and the participating Institutions as an independent measure when considering price adjustments.

Any request for a price adjustment will be initiated as follows:

A request for a pricing review shall be provided no later than 90 days prior to the end of the relevant contract period. Any such request to adjust prices must be accompanied by appropriate documentation and include detailed cost calculations which support any request for a price adjustment.

If OECM and Proponent(s) cannot agree on an adjusted price, OECM may, in its sole discretion, choose to exercise its rights of termination or exercise its right NOT to extend the Contract, in either case, with respect to the entire Contract or with respect to any particular item or items, at the sole discretion of OECM.

2.31. Most Favoured Customer

The Successful Proponent(s) shall guarantee that the pricing and discounts quoted by the Proponent for all products available to Institutions will be equal to or lower than the prices and discounts charged to any other customer of comparable spend and service requirements.

Should any other comparable public sector agency or buying group, not party to this contract, receive more favourable pricing from the Successful Proponent(s) than offered to OECM and its participating Institutions, the Successful Proponent(s) shall adjust OECM's contract pricing to align with the comparable sector agency or buying group's pricing.

2.32. References

2.32.1 Current References

As a mandatory requirement through inclusion in Schedule 1 – Declaration and Certification, Proponents must list and provide a brief description of three current contracts/commercial relationships in the education sector which are comparable to the proposed contract and which demonstrate relevant capabilities of your firm. For each contract or commercial relationship listed, provide the following information:

- a) Categories supplied to the institution,
- b) The approximate annual value of the items supplied to the Institution
- c) Name, title, address, telephone number and email address of the client and contact name for each of the three contracts completed for reference purposes.

2.33. Default or "No Longer A Client" Reference

Proponents must indicate whether the firm has had a contract terminated for default in the last five years. Termination for default is defined as notice to stop performance due to the Proponent's non-performance or poor performance or if the issue of performance was either (a) not litigated due to inaction on the part of the Proponent or (b) litigated and such litigation determined that the

Proponent was in default. Submit full details of their terms for default including the other party's name, address, and telephone number. Present the Proponent's position on the matter. OECM will evaluate the facts and may, at its sole discretion, reject the proposal on the grounds of the past experience. Indicate if no such termination for default has been experienced by the Proponent in the past five years.

2.34. Implementation and Ongoing Support

2.34.1 Implementation Rollout

The Successful Proponents will work with OECM and the participating Institutions to establish a detailed implementation plan for communication and the rollout of the contract(s). An explanation of the approach to and contents of, such a plan shall be detailed within the Proposal.

2.35. Account Management

Proponents must outline who will be responsible for administering the contract, their representative(s), plus details relating to the provision of responsive account management within the broader Ontario geography.

2.36. Support Team Structure

Proponents must describe how customer service support for the services included in this RFP will be provided within the broader Ontario geography.

2.37. Measurable Performance and Report Capabilities

The Successful Proponent(s) will be required to provide various performance reports to OECM and participating Institutions on a regular basis. The exact detail for these reports will be determined with the Successful Proponent(s) during the implementation planning phase following award of the contract.

At a minimum supplier performance will be measured by the OECM and participating Institutions on the following:

- a) Consistent product quality
- b) On time delivery (standard delivery as well as rush delivery standards)
- c) Order fill rate
- d) Adherence to specific delivery requirements especially for hazardous chemicals
- e) Customer service response time
- f) Management of Returns
- g) Invoice without errors
- h) Management of Warranties

Proponents are required to include current or proposed performance metrics with their proposal.

Detailed performance metrics for the above measures will be finalized with the Successful Proponents upon award.

2.38. Electronic Enablement

The Proponent should provide information in respect of the following:

- a) its current capabilities and available functions with respect to the ability to communicate and process transactions through an electronic data interchange, which should include, but shall not be limited to, electronic data exchange through a value added network, internet business to business portals, or direct electronic interaction over the internet; and
- b) bar coding standards and protocols that the Proponent currently uses.

2.39. Standard Contract Terms and Conditions

2.39.1 OECM Agreement

The Successful Proponents will be expected to sign the OECM Master Agreement and Schedules outlined in Appendix B.

2.39.2 OECM Rebate

The Successful Proponents are required to provide a 3% volume based rebate. The OECM rebate is to be paid out monthly beginning April 1st of each contracted year. The OECM rebate is to be calculated on product pricing only. Rebates will not apply to freight charges. Freight should be billed at cost.

2.39.3 Associated Documentation

The Proponent should submit when it is requested, at no cost to the Purchaser, the embedded literature links, rather than attaching such literature, for all descriptive literature, design specifications, maintenance data and components list, and such similar documentation relating to the proposed products that may be purchased pursuant to this RFP. Where information is not available electronically, the Proponent should provide hard copy material related to the products and related services and cross reference to the itemized products contained in Basket in the Proposal Pricing Schedule 5

2.39.4 Unfair Advantage and Conflict of Interest

The Proponent shall confirm that it has not employed any teacher, supervisory officer or other employee of an Ontario district school board or of the Ontario Ministry of Education to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario district school board,

provincial school or teachers' college, or to any pupil enrolled therein, nor has it, directly or indirectly, given or paid compensation to any such teacher, supervisory officer or employee for such purpose.

The Proponent should similarly confirm that it has not employed any member of faculty or other employee of an Ontario college or university to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario college or university or to any student enrolled therein, nor has it, directly or indirectly, given or paid compensation to any such member of faculty or employee for such purpose where such employment or compensation would place the member of faculty or employee in a conflict of interest with the college or university by which he or she is employed.

The completion of the Unfair Advantage and Conflict of Interest Statement Schedule 2 is a mandatory requirement.

2.39.5 Legal Actions

The Proponent should disclose any pending or threatened legal action against the Proponent or by the Proponent against any third party, which may have an impact on the availability of Products or support services proposed by the Proponent.

2.39.6 Criminal Background Checks

The Successful Proponent(s) must comply with the Criminal Background Checks provisions of the Client-Supplier Agreement. (Schedule 2)

2.39.7 Confidentiality

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

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

2.39.8 Confidential Information of Proponent

Except as provided otherwise in this RFP, or as may be required by Applicable Law, OECM shall treat the Proponents' Proposals and any information gathered in any related process as

confidential, provided that such obligation shall not include any information that is or becomes generally available to the public other than as a result of disclosure by OECD.

During any part of this RFP process, a Proponent shall not require that OECD, or any of its representatives or agents, execute a confidentiality agreement. In the event that a Proponent refuses to participate in any required step of the RFP (such as an oral presentation or demonstration) because OECD has refused to execute any such confidentiality agreement, the Proponent shall receive no points for the particular step in the evaluation process in respect of which the Proponent has refused to participate.

Notwithstanding the foregoing, OECD shall be expressly permitted to disclose to any potential Purchaser the Proposal submitted by any Proponent and the information contained therein.

2.39.9 Proponent's Submission

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

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

2.39.10 Personal Information

Submission of Information

The Proponent should not submit as part of its Proposal any information related to the qualifications or experience of persons who will be assigned to provide services unless specifically requested. Unless so requested, any such information, whether in the form of resumes or other documentation, will be returned to the Proponent and will not be used in the evaluation process. Should OECD subsequently request such information from a Successful Proponent during the process to finalize any Master Agreement that may be awarded from this RFP, OECD will treat this information in accordance with the provisions of this Section.

Use

Any personal information as defined in the Personal Information Protection and Electronic Documents Act, S.C. 2005, c.5 that is requested from each Proponent by OECD shall only be used to select the qualified individuals to undertake the project/services and to confirm that the work performed is consistent with these qualifications.

Consent

It is the responsibility of each Proponent to obtain the consent of such individuals prior to providing the information to OECD. OECD will consider that the appropriate

consents have been obtained for the disclosure to and use by OECM of the requested information for the purposes described.

2.39.11 Freedom of Information and Protection of Privacy Act

The Freedom of Information and Protection of Privacy Act, 1990 (Ontario) or the Municipal Freedom of Information and Protection of Privacy Act, 1990 (Ontario) may apply to information provided to OECM by a Proponent. A Proponent should identify any information in its Proposal or any accompanying documentation supplied in confidence for which confidentiality is to be maintained by OECM. The confidentiality of such information will be maintained by OECM, except as otherwise required by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed on a confidential basis, to OECM's Evaluation Team for the purpose of evaluating or participating in the evaluation of their Proposals.

By submitting any Personal Information requested in this RFP, Proponents are agreeing to the use of such information as part of the evaluation process, for any audit of this procurement process and for contract management purposes. If a Proponent has any questions about the collection and use of Personal Information pursuant to this RFP, questions are to be submitted to the RFP Coordinator in accordance with Section 3.4 (Clarification and Questions).

2.39.12 Competition Act

Under Canadian law, a Proponent's Proposal must be prepared separately and independently, without conspiracy, collusion or fraud. For more information on this topic, Proponents may wish to visit the Competition Bureau website at <http://www.cb-bc.gc.ca/eic/site/cb-bc.nsf/eng/01240.html>, and in particular, part VI of the Competition Act, R.S.C. 1985, c. C-34.

2.39.13 Intellectual Property

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

All deliverables, documentation, services and intellectual property rights of any kind derived and/or developed pursuant to this RFP shall remain the exclusive property of OECM.

Requests to present data or publish or present papers derived from work pursuant to this RFP in any type of publication, journal or professional conference must be made to OECM and prior approval must be obtained in writing from the RFP Coordinator.

2.39.14 Rights of OECM – General

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

- a) Make public the names of any or all Proponents;

- b) Request written clarification or the submission of supplementary written information from any Proponent and incorporate such clarification or supplementary written information into the Proponent's Proposal, at OECM's discretion, provided that any clarification or submission of supplementary written information shall not be an opportunity for the Proponent to correct errors in its Proposal or to change or enhance the Proponent's Proposal in any material manner;
- c) Waive formalities or elements of non-compliance and accept Proposals which substantially comply with the requirements of this RFP, in OECM's sole discretion;
- d) Verify with any Proponent or with a third party any information set out in a Proposal, as described in Section 3.15 (Verification of Information);
- e) Check references other than those provided by any Proponent;
- f) Disqualify any Proponent whose Proposal contains misrepresentations or any other inaccurate or misleading information, or any Proponent whose reasonable failure to cooperate with OECM impedes the evaluation process, or whose Proposal is determined to be non-compliant with the requirements of the RFP;
- g) Disqualify a Proposal where the Proponent has previously breached a contract with OECM, the Proponent has been charged or convicted of an offence in respect of a contract with OECM Purchaser, or the Proponent reveals a Conflict of Interest or Unfair Advantage in its Proposal or a Conflict of Interest or evidence of any Unfair Advantage is brought to the attention of OECM;
- h) Disqualify any Proposal of any Proponent who has breached any Applicable Laws, which in OECM's sole discretion is material to this RFP, or who has engaged in conduct prohibited by this RFP, including where there is any evidence that the Proponent or any of its employees or agents colluded with any other Proponent, its employees or agents in the preparation of the Proposal;
- i) Make changes, including substantial changes, to this RFP provided that those changes are issued by way of addenda in the manner set out in this RFP;
- j) Accept or reject a Proposal if only one Proposal is submitted;
- k) Select any Proponent other than the Proponent whose Proposal reflects the lowest cost to the Purchasers;
- l) Cancel this RFP process at any stage without award, and OECM may thereafter issue a new request for proposals, request for qualifications, sole source or do nothing, and OECM shall not be obligated to provide reasons for any such cancellation;

- m) Cancel this RFP process at any stage and issue a new RFP for the same or similar requirements, including where:
 - i. OECM determines it would be in the best interest of OECM not to award an Master Agreement;
 - ii. The Proposal prices exceed the bid or indicative prices received by OECM for products acquired of a similar nature and previously done work;
 - iii. The Proposal prices exceed the costs a Purchaser would incur by doing the work, or most of the work, with its own resources;
 - iv. The Proposal prices exceed the funds available for the Products;
 - v. The funding for the acquisition of the proposed Products has been revoked, modified, or has not been approved;
 - vi. and where OECM cancels this RFP, OECM may do so without providing reasons for any such cancellation, and OECM may thereafter issue a new request for proposals for the same or similar requirements, a request for qualifications, sole source or do nothing;
- n) Discuss with any Proponent different or additional terms to those contemplated in this RFP or in any Proponent's Proposal;
- o) Determine to award under this RFP for some but not all items or groups of items within any region or regions;
- p) Reject any or all Proposals in its absolute discretion, including where a Proponent has launched legal proceedings against OECM or a potential Purchaser or is otherwise engaged in a dispute with OECM or a potential Purchaser; and/or

By submitting a Proposal, the Proponent authorizes the collection by OECM of the information identified in this RFP, which OECM may request from any third party.

2.39.15 Rights of OECM – Successful Proponent

In the event that a Successful Proponents fails or refuses to execute the Master Agreement within fourteen (14) Business Days from being notified of its position as a Successful Proponent, OECM may, in its sole discretion,

Extend the period for concluding the Master Agreement, provided that if substantial progress towards executing the Master Agreement is not achieved within a reasonable period of time from such extension, OECM may, in its sole discretion, terminate the discussions;

Exclude the Successful Proponent's Proposal from further consideration and begin discussions with the next highest-ranked Proponent without becoming obligated to offer to negotiate with all Proponents; and

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

OECM may also cancel this RFP in the event any Successful Proponent fails to obtain any of the permits, licenses, consults, or authorizations required pursuant to this RFP.

2.39.16 Proponent's Costs

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

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

2.39.17 Liability

The Proponent agrees that:

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

The Proponent further agrees that if OECM commits a material breach of this RFP, OECM's liability to the Proponent, and the aggregate amount of damages recoverable against OECM for any matter relating to or arising from that material breach, whether based upon an action or

claim in contract, warranty, equity, negligence, intended conduct or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of OECM, shall be no greater than the Proposal preparation costs that the Proponent seeking damages from OECM can demonstrate.

2.39.18 Assignment

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

2.39.19 Entire RFP

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

2.39.20 Priority of Documents

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

2.39.21 Governing Law

The RFP, the Proponent's Proposal, and any resulting Master Agreement shall be governed by the laws of Ontario and the federal laws of Canada applicable therein.

SECTION 3: RFP TERMS AND PROCEDURES

3.1 Procedure

3.1.1 RFP Coordinator Contact Information

All communications regarding any aspect of this RFP, pre and post award must be directed to the RFP Coordinator:

Name: Luis Limon

Title: Manager, Strategic Sourcing

Address: 90 Eglinton Avenue East, Suite 504, Toronto, Ontario M4P 2Y3

Facsimile #: 416-847-1196

E-mail address: luis.limon@oecm.ca

Proponents that fail to comply with the requirement to direct all communications to the RFP Coordinator will be disqualified from the RFP process. Without limiting the generality of this provision, Proponents shall not communicate with or attempt to communicate with the following:

- a) Any employee or agent of OECM (other than the RFP Coordinator);
- b) Any employee or agent of any Institution;
- c) Any member of the Evaluation Team;
- d) Any expert or advisor assisting the Evaluation Team; and,
- e) Any member of the Board of Directors of OECM.

3.1.2 Notice

Proponents are advised that from the date of issue of the RFP through any award notification, Only the RFP Coordinator is authorized by OECM to amend or waive the requirements of the RFP pursuant to the terms of this RFP;

As noted above, Proponents must not contact any officer, director, trustee, governor, employee or agent of OECM or any Institution (except for the RFP Coordinator), unless instructed to do in writing by the RFP Coordinator;

Under no circumstances shall a Proponent rely upon any information or instructions from OECM or any Institution, including any officer, director, trustee, governor, employee or agent unless the information or instructions are provided in writing by the RFP Coordinator; and

OECM and any Institution, and any of their respective officers, directors, trustees, governors, employees or agents shall not be responsible for any information or instructions provided to the Proponent, with the exception of information or instructions provided in writing by the RFP Coordinator.

3.2 RFP Timeline

#	Major Milestones	Expected Completion Date
1	RFP posted on MERX and Biddingo	May 21 , 2010
2	Questions to be received in writing	June 1, 2010
3	Answers to Questions posted on MERX and Biddingo	June 6, 2010
4	RFP closing	June 30, 2010
5	Evaluation completed	July 16, 2010
6	Anticipated Award Date	August 6,, 2010
7	Anticipated Agreement Start	Following Contract Awards

The above timelines are subject to change at the sole discretion of OECM. In the event a change is made to any of the above dates, OECM will post any such change on MERX and Biddingo.

OECM may amend any timeline, including the RFP Closing Time, without liability, cost or penalty, and within its sole discretion.

In the event of any change in the RFP Closing Time, the Proponent shall thereafter be subject to the extended timeline.

3.3 Information

3.3.1 Proponent to Review

Every Proponent should carefully review the RFP to ensure that it has no reason to believe there are any uncertainties, inconsistencies, errors, omissions, or ambiguities in any part of the RFP. Every Proponent is responsible for conducting its own investigations and due diligence necessary for the preparation of its Proposal.

3.3.2 Proponent to Notify

In the event that a Proponent has any reason to believe that any of the conditions listed in Section 3.3.1 (Proponent to Review) exist, the Proponent must notify the RFP Coordinator in writing prior to submitting a Proposal. The RFP Coordinator will then clarify for the benefit of all Proponents.

Proponents shall not:

- a) after submission of a Proposal, claim that there was any misunderstanding or that any of the conditions set out in Section 3.3 (Information) were present with respect to the RFP; or
- b) Claim that OECM is responsible for any uncertainty, inconsistency, error, omission, or ambiguity in any part of the RFP.

3.4 Clarification and Questions

3.4.1 Submission

The following apply regarding any request for clarification of any aspect of the RFP:

Proponents must submit requests for clarification by email to the RFP Coordinator, or as may otherwise be directed by the RFP Coordinator;

In submitting a request for clarification, a Proponent must include its telephone number and email address;

Where a question relates to a specific section of this RFP, reference should be made to the specific section number and page; and

Requests for clarification must be submitted no later than April 23, 2010.

3.4.2 Questions and Answers

OECM will provide Proponents with written responses to questions that are submitted in accordance with Section 3.4.1 (Submission), subject to the provisions of this Section. Questions and answers will be distributed in numbered Addenda to Proponents by posting such Addenda on MERX and Biddingo. In answering a Proponent's questions, OECM will set out the question(s), but without identifying the Proponent that submitted the question(s) and OECM may, in its sole discretion,

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

Any answer that is intended to result in any change to any aspect of the RFP will be formally evidenced through the issue of a separate Addendum for this purpose.

3.4.3 Issued Addenda

Before submitting a Proposal, a Proponent shall be responsible to verify that it has received all of the Addenda that have been issued, which shall be posted on MERX and Biddingo at least 7 Days prior to the RFP Closing Time, unless it is an Addendum that extends the RFP Closing Time.

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

3.5 Receipt Confirmation

Proponents are requested to complete and return by facsimile or email the Receipt Confirmation Schedule 8, by May 31, 2010, and in accordance with the specific instructions contained within the Schedule.

3.6 Proposal Submission

3.6.1 General

To be considered in the RFP process, a Proponent's Proposal must be received by 15:00:00 (3:00:00 PM) Eastern Daylight Savings Time on June 30, 2010 in a sealed package and should bear the Proponent's name, return address, and RFP # OECM RFP 2010-113, and addressed to:

Luis Limon, RFP Coordinator

90 Eglinton Avenue East, Suite 504

Toronto, ON M4P 2Y3

Proposals received after the RFP Closing Time shall not be considered and shall be returned to the Proponent unopened. Each Proponent is responsible for the actual delivery of its Proposal to the address and location listed above, regardless whether delivery of the Proposal to the required location has been assumed by a courier, delivery service, Canada Post or any employee or agent of OECM.

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

Proposals are to be submitted in English only, and any Proposal received by OECM that is not entirely in English shall be disqualified.

3.6.2 Receipt

Every Proposal received will be stamped at the location referred to in Section 3.6.1 (General) before the RFP Closing Time and a receipt will be provided.

A Proponent should allow sufficient time in the preparation of its Proposal to ensure its Proposal is received by the RFP Closing Time.

3.7 Withdrawal of Proposal

A Proponent may withdraw its Proposal only by providing written notice received by the RFP Coordinator before the RFP Closing Time. Following the RFP Closing Time, a Proposal may not be withdrawn.

3.8 Amendment of Proposal

A Proponent may amend its Proposal after submission, but only if the Proposal is amended and resubmitted before the RFP Closing Time. The Proponent must provide notice to the RFP Coordinator in writing and replace its Proposal with a revised Proposal, in accordance with the requirements of this RFP.

3.9 Completeness of Proposal

By submitting a Proposal, the Proponent confirms that all of the components required to use and/or provide the Products have been identified in its Proposal or will be provided to OECM at no additional charge. Any component requirements that may be identified by the Proponent after the RFP Closing Time or subsequent to signing the Master Agreement shall be provided at the Proponent's expense.

By submitting a Proposal, the Proponent is deemed to confirm that it has prepared its Proposal with reference to all of the provisions of the Form of Agreement Appendix B, that it has factored all of the provisions of the Master Agreement, including all insurance requirements, into its pricing assumptions, calculations and into its proposed Pricing.

3.10 Proponent's Proposals

All Proposals shall become the property of OECM and will not be returned to the Proponents.

3.11 Proposal Irrevocability

Subject to a Proponent's right to withdraw a Proposal in accordance with the procedure described in Section 3.7 (Withdrawal of Proposal), a Proposal shall be irrevocable by the Proponent for 120 Days from the RFP Closing Time.

Proposals will be opened privately after the RFP Closing Time.

3.12 Acceptance of RFP

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

3.13 Amendments to the RFP

Subject to Section 3.4.3 (Issued Addenda), OECM shall have the right to amend or supplement this RFP in writing prior to the RFP Closing Time. No other statement, whether written or oral, shall amend this RFP. The Proponent is responsible to ensure it has received all Addenda, if any, which are intended to bind each Proponent.

3.14 Clarification of Proponent's Proposal

OECM shall have the right at any time after the RFP Closing Time, to seek clarification from any Proponent in respect of the Proponent's Proposal, without contacting any other Proponent. OECM shall not be obliged to seek clarification of any aspect of any Proposal.

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

3.15 Verification of Information

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

- a) verify any Proponent's statement or claim made in the Proponent's Proposal or made subsequently in an interview, site visit, oral presentation, demonstration or discussion by whatever means OECM may deem appropriate, including contacting persons in addition to those offered as references, and to reject any Proponent statement or claim, if such statement or claim or its Proposal is patently unwarranted or is questionable; or
- b) access the Proponent's premises where any part of the work is to be carried out to confirm Proposal information, quality of processes, and to obtain assurances of viability.

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

3.16 Proposal Acceptance

The lowest price Proposal or any Proposal shall not necessarily be accepted. While price and financial considerations constitute an element of the evaluation process, several other considerations are to be taken into account in evaluating the Proposals, as is set out in Section 4.3 (Evaluation Process).

3.17 Right to Waive Minor Irregularities

OECM shall have the right to waive any minor irregularity in any Proposal or related to the submission of the Proposal, provided that the Proposal is substantially compliant.

3.18 No Publicity or Promotion

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

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

3.19 Debriefing

Not later than 60 Days following the date of posting of a contract award notification in respect of the RFP, a Proponent may contact the RFP Coordinator requesting a debriefing from OECM, and OECM shall conduct such debriefing in accordance with the requirements of the Supply Chain Guideline.

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

Proponents should note that, regardless of the time of submission of a request by a Proponent, debriefings will not be provided until such time as a contract award notification has been posted.

3.20 Bid Protest Procedure

In the event that a Proponent wishes to review the decision of OECM in respect of any material aspect of the RFP process, the Proponent shall submit a protest in writing to OECM within 10 Days posting of a contract award notification in respect of the RFP.

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

A protest in writing shall include the following:

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

For the purpose of a protest under this RFP, the OECM Sourcing Director will review and address any bid protest in a timely and appropriate manner.

SECTION 4: SUBMISSION REQUIREMENTS

4.1 Request For Proposal (RFP) Documents

4.1.1 Proponent(s) shall promptly examine all of the RFP documents upon receipt. Any errors, omissions, or ambiguities discovered therein shall be reported to the person identified in Section 4.2 below. Any necessary amendments to the RFP will be posted on MERX and Biddingo before the RFP closing date. Unless confirmed by written amendment, Proponent(s) shall not take into consideration any instructions or answers modifying the RFP Documentation.

4.1.2 The RFP documents consist of the following:

A. The RFP itself (including Schedules & Appendices as outlined)

B. Schedules (1 through 8)

Schedule 1: Declaration and Certification

Schedule 2: Unfair Advantage and Conflict of Interest

Schedule 3: Company Profile

Schedule 4: References

Schedule 5: Proposal Pricing

Schedule 6: Mandatory Requirements Checklist

Schedule 7: General Requirements Checklist

Schedule 8: Receipt Confirmation

C. Appendices (A through E)

a) Delivery Regions

b) OECM Master Agreement and related Schedules

c) OECM eMarketplace Supplier Responsibilities

d) Proposal Return Label

Any or all amendments.

Each Proponent shall be responsible for verifying that they have received all documents and amendments that have been issued by OECM, before submitting their proposal

4.2 Proposal Format

4.2.1 General

Every Proponent's Proposal should be comprised and formatted as follows:

- a) 1 original paper copy in an envelope, excluding the Proposal Pricing Schedule 5;
- b) 1 original paper copy of the Pricing Schedule Workbook in one envelope;
- c) 6 paper copies of the Proposal, excluding the Proposal Pricing Schedule 5 in a separate envelope;
- d) 1 electronic copy (CD-ROM or Memory Stick in Microsoft Word format) of the Proposal excluding the Proposal Pricing Schedule 5;
- e) 1 electronic copy (CD-ROM or Memory Stick in Microsoft Excel) of the Proposal Pricing Schedule 5 Workbook.
- f) 1 electronic copy (CD-ROM, DVD-ROM or Memory Stick in Microsoft Excel) of the Proponent's catalogue with all the items divided by category and including list price and discount applied.

Note: Proponents must follow instructions in Submission Requirements Section 4 of this RFP and shall be disqualified if pricing information is included anywhere except within the Pricing Proposal Form enclosed in a separate, appropriately labeled Envelope.

4.2.2 Forms and Schedules

Proposals should be submitted in accordance with the instructions set out in this RFP and by completing the Schedules provided for this purpose. Proposals should be completed without delineations, alterations, or erasures. In the event of any discrepancy between the original copy of a Proposal and any of the copies, the original shall prevail.

4.2.3 Technical Requirements

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

- a) All pages should be numbered;
- b) Avoid using symbols in the file name such as &, #, etc.;
- c) Avoid using scanned copies of documents, where possible, which tend to increase the size of the document;
- d) Any embedded literature links within a Proposal should be a direct link to the products page rather than the Proponent's main website. Where literature links are not possible,

a PDF document may also be incorporated within the Proposal. PDF literature documents should be named as follows: “Proponent Name – Products Category – Item”; and

- e) The Schedules provided, as appropriate, should be used for completing the Proposal.

The Proponent should:

- a) Completely address, on a point-by-point basis, each requirement identified in Section 2 (Statement of Requirements) and the Proposal should be complete in all respects; and,
- b) Adhere to the Proposal format requirements described above; as directed in this RFP.
- c) It is recommended that Proponent responds to each section and subsection where applicable within the RFP document. For example: after reading section 2.11 Warranties and Guarantees, Proponent would insert a response immediately below the section/subsection. Depending on the section, this may include detailed information. Follow the detailed instructions in Proposal Pricing Schedule 5 in order to complete all sections of the Pricing Workbook. An electronic version of the Pricing Workbook is included in the RFP package provided by MERX and Biddingo.

4.3 Evaluation Process

4.3.1 General

The evaluation of the Proposals will be conducted by the evaluation team (the “Evaluation Team”) in 3 stages, as described below.

A Proposal must meet the requirements of each stage of the evaluation process to proceed to the next stage. The evaluation of the Proposals will be conducted on the basis of the members of the Evaluation Team arriving at a consensus. Where a consensus is not possible, the score will be averaged. OECM shall determine, in its sole discretion, the membership of the Evaluation Team, which will include School Boards, Colleges and Universities representatives and may include external consultants and/or advisors to OECM.

4.4 Evaluation Methodology and Process

The Proposal evaluation process gives consideration to RFP compliance, Proponent qualifications, alignment with specifications, service capabilities and price. The stages and scoring for this RFP are as follows:

Evaluation Methodology	Evaluation (%)
Stage 1 – Mandatory Requirements	

<p>Review to determine which Proposals comply with all of the mandatory requirements, in which case, a passing grade will be achieved. Proposals which do not comply with all mandatory requirements will receive a failing grade, be disqualified and not evaluated further.</p> <p>See Mandatory Requirements Checklist Schedule 6.</p>	<p>Pass/Fail</p>
<p>Stage 2 – Evaluation of Rated Criteria</p>	
<p>The evaluation team will review all Proposals that meet the Mandatory Requirements in detail and rate each Rated Evaluation criterion according to the points rating below in section 4.5 -Evaluation of Rated Criteria</p> <p>The extent to which Proposals meet the General Requirements of this Request for Proposal, References and Product Testing as well as Proponent Presentations, if required, is included in this evaluation.</p> <p>See General Requirements Checklist – Schedule 7.</p>	<p>30%</p>
<p>Stage 3 - Evaluation of Pricing</p>	
<p>Review and evaluation of the pricing submitted. This stage will be undertaken after the completion of Stages 1 and 2. (See Section 4.6 -Evaluation of Pricing)</p>	<p>70%</p>
<p style="text-align: right;">Total:</p>	<p>100%</p>

4.5 Rated Criteria

Rated Criteria Categories	OECM Evaluation	Points Rating
Background and areas of expertise for the provision of Lab/Sciences supplies that demonstrate the resources, skills and order fulfillment capabilities.	Proponents will demonstrate their experience, skills and resources to fulfill the needs of institutions in Lab/Sciences supplies.	30
Delivery and Service Capacity	<p>Proponents that provide the most effective and responsive delivery mechanisms and lead times</p> <p>Proponents that demonstrate superior service capacity and responsiveness based on:</p> <ul style="list-style-type: none"> ○ Catalogue Coverage in terms of categories and products (weight 40%) ○ Order-taking capabilities include web-based ordering (weight 20%) ○ Customer service response for providing information of products and alternatives, lead times, how to use them and warranties (weight 25%) ○ Customer service response to solve issues such as back-orders, returns, warranties, etc. (weight 15%) 	40
Reporting Capabilities	Proponents are required to provide proof of their capabilities to deliver the reports (usage and performance) requested by OECM and institutions according to requirements outlined on the RFP.	20
Environmental Factors	Proponents are required to demonstrate a strong commitment to the adoption of environmentally sustainable standards in their products, operations and processes.	5
Contingency Plans	Proponents are required to provide detailed contingency plans to address peak demand periods, supply shortages and work stoppages.	5
TOTAL		100 POINTS= 30%

4.6 Evaluation of Pricing

4.6.1 Evaluation of Basket of Products

Each Proponent will receive a score allocated per item. This is determined by a combination of Proposed Discount Price without Freight (80%) and All-In Price with Freight (20%).

Proposed Discount Price without Freight (80%): A percentage score will be awarded by evaluating all proponents' prices against the lowest proponent price offered. The lowest price submitted will get the highest score possible.

For example, if the lowest bid price offered by a Proponent (Proponent A) is \$12.00, Proponent A will receive full 0.80 score ($\$12/\$12 * 80\%$). Proponent B who bids \$15.00 will receive 0.64 of the possible score ($\$12/\$15 * 80\%$) and Proponent C who bids \$24.00 will receive 0.40 of the possible score ($\$12/\$24 * 80\%$).

Price with Freight by Region (20%): The second score element will be based on evaluating all proponents' prices with freight by region against the lowest proponent price offered with freight by region. The lowest price submitted by region will receive the highest score possible.

For example, if in a region the lowest bid price offered by Proponent A is \$15.00, Proponent A will receive the maximum score of 0.20 ($\$15/\$15 * 20\%$). Proponent B who bids \$18.00 will receive 0.16 of the possible points ($\$15/\$18 * 20\%$) and Proponent C who bids \$28.00 will receive 0.11 of the possible points ($\$15/\$28 * 20\%$). All points obtained by a proponent in all regions will be added up and the result will be divided by the total number of regions quoted to get the final score.

The next step is to add up the points awarded for Proposed Discount Price without Freight and the points awarded for Price with Freight by Region.

Proponent	Price w/out Freight (80%)	Prices with Freight (20%)	Total Score Awarded
A	0.80	0.20	1.00
B	0.64	0.16	0.80
C	0.40	0.11	0.51

4.6.2 Evaluation of Discount off List Price

In accordance with Schedule 5, Section 2, in the Pricing template, proponents are expected to list their categories and choose from a list of common categories determined by OEMC to find the equivalent.

Proponents will be awarded a score based on the highest Proponent discount percentage off list price by category divided by discount percentage off proposed.

For example, Proponent A offers 20% discount off for Safety, and Proponent B offers 30% for the same category. Total points awarded for Proponent A is 0.66 (20/30) and Proponent B will be awarded 1.00 (30/30).

Proponent	Proponent Category	Proposed % Discount	OECM Category	Total Score Awarded
A	Safety Equipment	20%	Safety Supplies	0.66
B	Safety Equipment	30%	Safety Supplies	1.00

If two or more categories are classified into one OECM category, a weighted average based on the number of items in category will be used to calculate one discount percentage

4.6.3 Evaluation of the minimum amount required in an order to avoid any delivery cost charged to the Institutions on account of such order.

Proponents will be awarded a score based on the lowest dollar amount per order, over which amount no delivery cost will be charged to the institutions.

For example, Proponent A offers \$80 dollar minimum order amount and Proponent B offers \$120 dollar minimum order amount. Total points awarded for Proponent A is 1.0 (80/80) and Proponent B will be awarded 0.66 (80/120).

4.6.4 Evaluation of additional discount on aggregate volume

Proponent will be awarded a score based on the highest additional discount per break point for aggregate volume offered to the institutions by all Proponents. For example, for the first break point \$1,000,000, Proponent A is offering 1.5% , Proponent B 1.8% and Proponent C 2.0%. The points awarded for that break point are for Proponent A is 0.6 (1.2/2.0), Proponent B 0.9 (1.8/2.0) and Proponent C 1.0 (2.0/2.0). The total points per Proponents will be the result of adding up the scores for each individual break point.

4.7 Product Testing

Following the initial screening, the evaluating committee may request Proponents to submit products for testing by the evaluation committee and others selected to test particular products. Proponents will be required to deliver sample product(s) to a central location identified by OECM at the time of product evaluation. Samples are to be submitted only when requested and at no cost to OECM.

4.8 Presentations

Proponents may be requested to make presentations in order to clarify or verify their Proposal and to enable a comprehensive assessment of the proposals. Presentations are at the option of OECM and the Evaluation Team. Should there be a need for a Proponent presentation, the Proponent will be notified in advance in writing of the matters on which clarification or verification will be sought, and the agenda for the meeting. The Proponent will not have the opportunity to modify its written Proposal or otherwise introduce new information during or after the Presentation. Presentations will be evaluated on the basis of the rated evaluation criteria. (Section 4.5)

4.9 Reference Verification

The Evaluation Team will verify as many references provided by the Successful Proponent as the Evaluation Team may deem appropriate, as the Evaluation Team may determine in its sole discretion. In addition, the Evaluation Team will carry out a detailed evaluation of such references as it determines is most appropriate. References will be evaluated as related to the delivery of products and services and form part of the rated evaluation process.

After the references have been Successfully verified, OECM will invite Successful Proponent(s) to enter into discussions to finalize the terms of the Master Agreement, attached in the Form of Agreement Appendix B. Subject to the requirements of Section 4.10 (Discussions with Successful Proponent(s)), OECM expects that the Master Agreement will be executed in the form in which it appears in this RFP.

4.10 Discussions with Successful Proponent(s)

After identifying the Successful Proponent(s), if any, OECM shall finalize the terms and conditions of the Master Agreement with the Successful Proponent(s) or it may, in its sole discretion, prior to doing so, enter into a memorandum of understanding or letter of intent with the Successful Proponent(s), on terms satisfactory to OECM, as an interim measure and thereafter finalize such terms and conditions.

OECM shall at all times be entitled to exercise its right under Rights of OECM-Successful Proponent (Section 2.40.14).

For certainty, OECM makes no commitment of any kind to a Successful Proponent until the Master Agreement has been executed between OECM and the Successful Proponent. The Successful Proponent acknowledges that the commencement of any discussions in respect of the Master Agreement does not create any contractual obligations between OECM and the Successful Proponent.

SCHEDULE 1: DECLARATION AND CERTIFICATION (Mandatory Requirement)

The Proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of what is required under the RFP. By submitting a Proposal, the Proponent agrees and consents to the terms, conditions and provisions of the RFP, including the Form of Agreement Appendix B, and offers to provide the Products in accordance therewith at the Rates set out in the Proposal Pricing Schedule 5. Please complete all sections and answer all questions in the appropriate boxes

I solemnly declare and certify as follows:

Proponent Information	a) The full legal name of the Proponent is:	
	b) Any other registered business name under which the Proponent carries on business is:	
	c) The jurisdiction under which the Proponent is formed is:	
	d) The name, address, telephone, cell phone, facsimile number and e-mail address for the contact person for the Proponent is:	
	e) Indicate whether the Proponent is an individual, a sole proprietorship, a corporation, a partnership, a joint venture, an incorporated consortium or a consortium that is a partnership or other legally recognized entity:	
Addenda	The Proponent submits that they have thoroughly reviewed this document together with the following Addenda and hereby accepts and agrees to all provisions and conditions stated therein and has included fully in the Pricing for all requirements:	
	Addendum Number	Dated
1.		
2.		
3.		

Certification	The Proponent certifies that any Products proposed (if applicable) have been authorized or approved for its intended use in accordance with all applicable safety requirements in Ontario, accredited with the Standards Council of Canada Act (Canada) and whether it bears the certification organization's mark which identifies products certified for use in Canada.	
Consortium Information	If the Proponent is responding to this RFP as a Consortium, all required information has been provided (insert page number in Proposal where information can be found). OR Where a consortium is not responding to this RFP, state: "Not Applicable"	(Page number Or N/A)
Alerts	The Proponent attests that there have been no product related or safety alert, recall, hazard notification or other safety /quality-related publication applicable to the Products being proposed pursuant to this RFP. If YES, please identify Proposal page number where details are provided.	(Yes or No) If yes, page number)
Default Reference(s)	The Proponent has had a default termination as detailed in Section 2.34 in the past five years. If YES, please identify Proposal page number where details are provided as per Section 3.15).	(Yes or No. If yes, page number)
Pricing	The Proponent has submitted its Pricing in accordance with the instructions in the RFP and in the form set out in the Proposal Pricing Schedule 5.	
Proposal Irrevocable	The Proponent agrees that its Proposal shall be irrevocable for 120 Days following the Proposal RFP Closing Time.	
Disclosure of Information	The Proponent hereby agrees that any information provided in this Proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of a court or tribunal. The Proponent hereby consents to the disclosure, on a confidential basis, of its Proposal to OEMC's advisors retained for the purpose of evaluating or participating in the evaluation of this Proposal.	
Proof of Insurance	By signing this Declaration, the Proponent agrees, if selected, that it has verified its capability to do so and will provide proof of insurance coverage as set out in the OEMC Master Agreement Appendix B Article 7.	
Outstanding Legal Actions	The Proponent is involved in outstanding litigation. If yes, provide details.	(Yes or No. If yes, provide details)

Execution of Master Agreement	If its Proposal is selected by OECM, the Proponent agrees to finalize and execute the Master Agreement in the form set out in Article 8 and Schedule II of the Master Agreement Appendix B in accordance with the terms of the RFP.
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I solemnly declare and certify that the above statements outlined under Schedule 1 - DECLARATION AND CERTIFICATION are true.

(Signature of Witness)

(Signature of Proponent Representative)

(Name of Witness)

(Name & Title of Proponent Representative)

(Date)

I have authority to bind the Proponent.

SCHEDULE 2: UNFAIR ADVANTAGE AND CONFLICT OF INTEREST STATEMENT (Mandatory Requirement)

Prior to completing this Schedule, the Proponent is advised to review the definitions of Unfair Advantage and Conflict of Interest set out in Sections 1.1 (Definitions) and Sections 2.40.4 (Subsection 217 (3) of the Education Act) of this RFP. In the event that the boxes below are left blank, the Proponent shall be deemed to declare that (a) it has had no Unfair Advantage in preparing its Proposal and (b) there is no foreseeable actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP. Check either/ all boxes that apply:

The Proponent declares that **there is an actual or potential Unfair Advantage** relating to the preparation of its Proposal.

The Proponent foresees **no actual or potential Conflict of Interest** in performing the contractual obligations contemplated in the RFP.

In the event the Proponent declares an actual or potential Unfair Advantage and/or an actual or potential Conflict of Interest (by marking either of the boxes above), the Proponent shall provide all relevant detailed information below.

The Proponent agrees to provide any additional information which may be requested by the RFP Coordinator, in the form prescribed by the RFP Coordinator.

Where, in its sole discretion, OECM concludes that an Unfair Advantage and/or Conflict of Interest arises, it may, in addition to any other remedy available to it at law or in equity, disqualify the Proponent's Proposal, or terminate any Master Agreement awarded to the Proponent under the RFP.

Proponent Name: _____

(Signature of Witness)

(Signature of Proponent Representative)

(Name of Witness)

(Name & Title of Proponent Representative)

Date

I have authority to bind the Proponent.

SCHEDULE 3: COMPANY PROFILE (Mandatory Requirement)

For any Proponent consortium, including joint ventures or partnerships, each individual entity should complete a separate Schedule and include in the Proposal Submission. Please list any assumptions made when answering the questions below.

Proponent Name: _____

Item	Proponent Response
Indicate whether Proponent is incorporated, partnership, sole proprietorship or other	
If company listed on stock exchange identify exchange	
Canadian head office location and registered office	
Corporate head office location (if different then above)	
Identify any current quality certifications (i.e. ISO, CMM, GMP)	
Canadian sales revenue	
Worldwide sales revenue	
Number of years in business	
Number of years doing business in Canada	
Current number of sales personnel in Ontario	
Current number of support personnel in Canada	
If not in Canada, where is your current support personnel located?	
Has your company or division been involved in a merger or acquisition in the past five years?	
If so, with whom?	

Item	Proponent Response
For consortiums - Confirmation that the prime Vendor has in place the authority to sign on behalf of all consortium members and bind the Consortium to the obligations of the RFP	
For consortiums - Provide a description of the consortium structure, members and operating relationships	
For consortiums - Provide an understanding as to how the consortium will deliver the work of the RFP	
How many items are in your catalogue?	
Indicate which categories are included in your catalogue?	
Is all equipment listed in your catalogue CSA approved? If not, does your company have a process in place (brief description) to obtain CSA approvals within a reasonable time? Indicate number of working days required to obtain CSA approval where required.	
Indicate the location of your company's Distribution Centre(s) in Canada and specifically in Ontario	
Indicate your company's Customer Support locations	
Elaborate how your company handles Customs Brokerage requirements for imported items to minimize delivery delays for the users.	
What controls can be implemented by your company to avoid over ordering and the ordering of non-approved products?	
Elaborate on the mechanism and processes your company has in place to ensure MSDS are available for all controlled products. Can MSDS information be provided in an electronic form?	
Are controlled products/chemicals labelled in accordance with required legislation? Please submit sample labels with your proposal.	
Does your company provide chemical waste disposal services?	
What is your company's normal lead-time between receipt of orders and delivery?	
What controls can be implemented by your company to avoid over ordering and the ordering of similar products than those contained in the Basket?	

SCHEDULE 4: REFERENCES (Mandatory Requirement)

Proponent Name: _____

Description of Contract Including the role of your Company	Reference Company Information Name, address and phone number	Reference Contact Information Name, email and phone number	Period of Contract/ Commercial Relationship	Approx. Value (CDN\$)
1.				
2.				
3.				

SCHEDULE 5: PROPOSAL PRICING (Mandatory Requirement)

THE PROPOSAL PRICING MUST BE SUBMITTED IN A SEPARATE SEALED ENVELOPE.

1. INSTRUCTIONS FOR COMPLETING THE PRICING OF CORE ITEMS IN THE BASKET IN THE PROPOSAL WORKBOOK

- a) Proponents must complete the Pricing Proposal Workbook by providing the Unit Prices for which the Proponent shall provide Products. All pricing information for proposed products must be completed using the appropriate spaces within the Proposal Workbook. For all products where proponents choose NOT TO BID, the spaces pertaining to these products **MUST REMAIN BLANK**.
- b) Proponents may propose some or all products but should submit product unit price (without freight cost) as well as price including freight cost for all the regions and identify any limitations in a particular region or specific location. Proponents may propose some or all products but the products proposed must be available in all regions.
- c) The prices submitted shall not include goods and services tax (GST), provincial sales tax (PST) and Harmonized Sales Tax (HST).
- d) Proponents should quote all or some products of the Basket.
- e) Proponents may choose to propose alternative products provided the proposed products meet or exceed the identified minimum specifications. The Proponent must provide manufacturer part number, brand, manufacturer and specifications to demonstrate that the alternative product proposed meet the specifications of the product in the Basket.

2. INSTRUCTIONS FOR COMPLETING THE PRICING FOR NON-CORE ITEMS IN THE PROPOSAL WORKBOOK

- a) The Proponent should specify the discount applicable to all items within the categories offered in the Proponent's catalogue which shall include the price list. The Proponent must list the categories offered in its catalogue, identify the OECM category and indicate the discount off list price applicable.
- b) The Proponent must specify the minimum amount required in an order to avoid any delivery cost charged to the Institutions on account of such order.
- c) Proponent(s) are required to submit a form of a discounted price structure that improves as the number of Institutions, accounts and commodity volumes increase. Proponent shall provide additional pricing discounts at the following annual break points :

- \$ 1,000,000- 2,000,000
- \$ 2,000,000 – 5,000,000
- \$ 5,000,000 – 10,000,000
- \$ 10,000,000+

3. PRICING

- a) Prices are to be submitted all inclusive of the cost of any labour, materials and equipment required to provide Lab/Science Supplies including but not limited to all applicable taxes, overheads, and all other associated Proponent expenses excluding PST / HST, in Canadian Dollars. Additionally, unit price including freight costs for each product are to be identified for each region separately.
- b) Any work found to be required to complete the Requirements as described in this document will be considered included in the prices listed.

4. TECHNICAL INSTRUCTIONS

- Double click on the Microsoft Excel workbook icon
- Input price on line items chosen to bid for each region and save
- Exit Excel by clicking the x at the top right hand corner

Note: Requires Microsoft Excel 97 or above

SCHEDULE 6: MANDATORY REQUIREMENTS CHECKLIST (Mandatory Requirement)

Proponents must indicate the page number in its Proposal where each Mandatory Requirement can be found.

The Proponent must complete and submit all mandatory schedules and information in order to be considered. (2.1 Mandatory and General Requirements)

In the event that OECM determines, in its sole discretion, that any Mandatory Requirement is not met, the Proposal shall be disqualified.

RFP Reference Number	Mandatory Requirement	Mandatory Requirement Met? (Yes/No)	Page #
Schedules			
Schedule 1 Reference Section 2.16	Completion and Submission of: Declaration and Certification		
Schedule 2 Reference Section 2.39.4	Completion and Submission of: Unfair Advantage and Conflict of Interest Statement		
Schedule 3 Reference Section 2.16	Completion and Submission of: Company Profile		
Schedule 4 Reference Section 2.32	Completion and Submission of References		
Schedule 5 Reference Section 2.17	Completion and Submission of: Proposal Pricing (in a Separate Envelope)		

SCHEDULE 7: GENERAL REQUIREMENTS CHECKLIST

(Mandatory Requirement)

Proponents must indicate the page number in its Proposal where each General Requirement can be found.

Proponent should use the chart below (**in addition to the Mandatory Requirements Checklist Schedule 6**) as a checklist in preparing their responses to the General Requirements set out in *Section 2* of the RFP. The information listed under Requirement Item may not be a complete list and is not a complete description. Proponents should review all applicable provisions in the RFP before responding.

RFP Reference Number	General Requirement	General Requirement Met? (Yes/No)	Page #
Section 1.7	Proponent has recommended a pricing structure, including OEMC rebate		
Section 2.7.1	Proponent has met all WHMIS requirements		
Section 2.12	Proponents have described their approach to the provision of the products and services required, including sufficient detail to demonstrate their understanding of the objectives and scope of this RFP and enable effective evaluation.		
Section 2.15	Proponent is a manufacturer or a distributor for all or some items and categories proposed and hold all necessary rights and permissions to distribute such items and confirm that the manufacturer will provide complete warranty support		
Section 2.17.1	Proponent has proposed pricing in Canadian dollars and has included all applicable customs duties, tariffs,		

	overhead, profit, permits, licenses, labour, travel, carriage, insurance and warranties		
Section 2.19	Proponent has included electronic copy of its catalogue in MS Excel format		
Section 2.19	Proponent has provided a catalogue with current pricing along with the discount percentage		
Section 2.21	Proponent has provided contingency plans addressing peak demand periods, supply shortages and work stoppages		
Section 2.22	Proponent has agreed to provide insurance		
Section 2.23.1	Proponent has obtained all permits, licenses and approvals required in connection with the supply of the Products		
Section 2.23.2	Any electrical Products proposed for consideration have been authorized or approved in accordance with the Electrical Safety Code or by a certification organization accredited with the Standards Council of Canada Act (Canada)		
Section 2.24	Proponent has identified any products subject to a safety alert and/or recall		

Section 2.25	Proponent has included evidence of its commitment to advancement of environmentally sound management practices		
Section 2.29.3	Proponent has provided additional pricing discounts at the specified annual break points		
Section 2.33	Proponent has indicated whether the firm has had a contract terminated for default in the last five years		
Section 2.35	Proponent has outlined who will be responsible for administering the contract, their representative(s) and details relating to the provision of responsive account management		
Section 2.36	Proponent has described how customer service support for the services will be provided within the broader Ontario geography.		
Section 2.26	Proponent agreed to provide various reports to OECM and participating Institutions on a regular basis.		

SCHEDULE 8: RECEIPT CONFIRMATION

To: OECM Luis Limon, RFP Coordinator

Fax: 416-847-1196 Email: luis.limon@oecm.ca

Re: RFP No. OECM 2010-113 Supply of Lab/Science Products

Proponents are requested to acknowledge receipt of RFP # OECM 2010-113 and their intent to submit a Proposal by sending this Receipt Confirmation Schedule by email to the attention of the RFP Coordinator.

I hereby acknowledge receipt of the above-noted RFP.

[Please check your answer]

I / We DO DO NOT Intend to submit a Proposal to this RFP.

(Name)

(Representative's Signature)

(Address)

(Name – Please Print)

(City, Province, Postal Code)

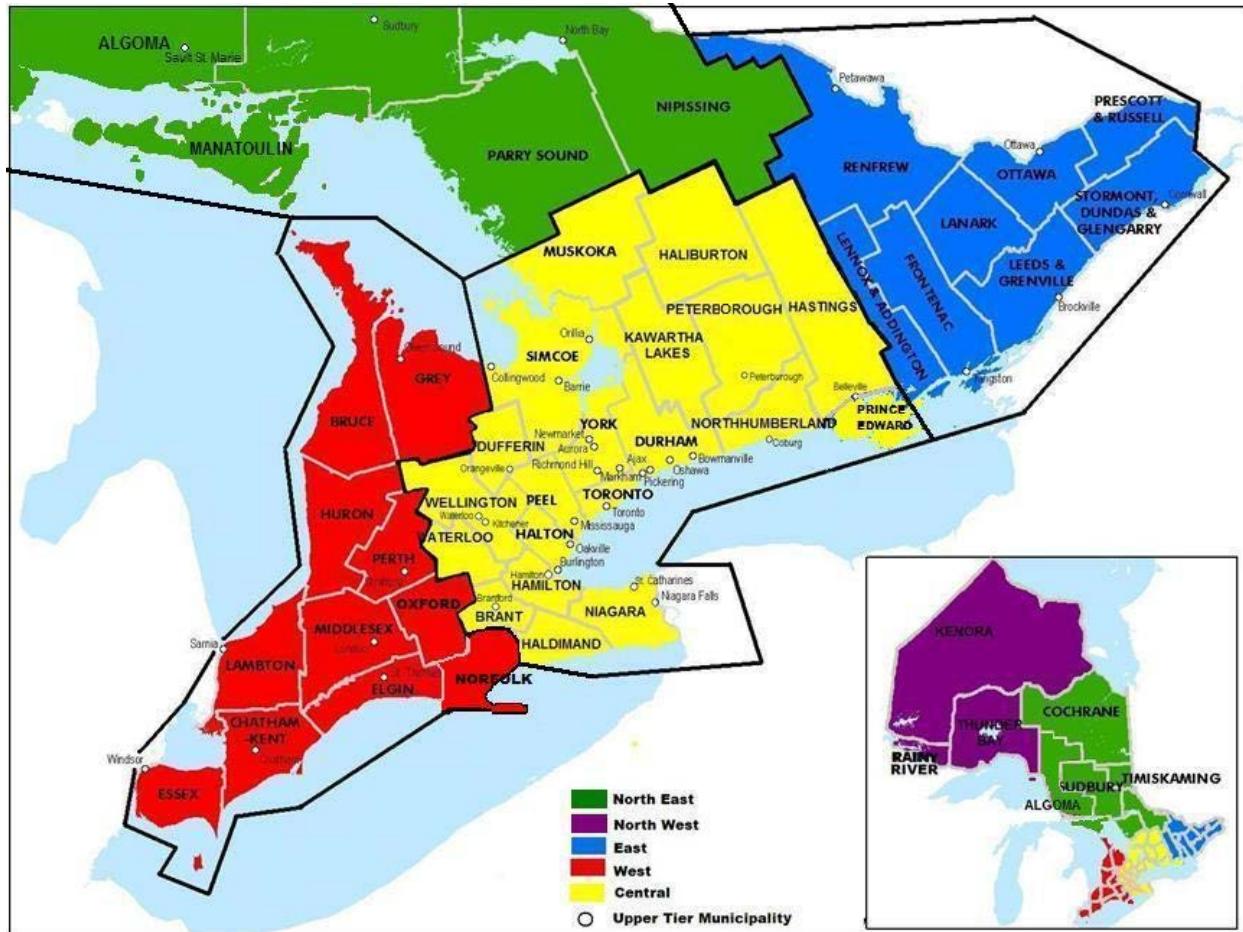
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(Email)

APPENDIX A: DELIVERY REGIONS



Colleges				
West	Central	East	North West	North East
Fanshawe College	Centennial College	Algonquin College	Confederation College	Cambrian College
Lambton College	Conestoga College	Canadore College of Applied Arts	Northern College	College Boreal
St. Clair College	Durham College	St. Lawrence College		Sault College
	Sir Sanford Flemming College			
	George Brown College			
	Georgian College			
	Humber ITAL			
	Loyalist College			

	Mohawk College			
	Niagara College of Applied Arts			
	Seneca College			
	Sheridan College			

Universities				
West	Central	East	North West	North East
University of Windsor	Brock University	Queen's University	Lakehead University	Algoma University
	McMaster University	Royal Military College		Laurentian University
	Ontario College of Art & Design	Carleton University		Nipissing University
	Ryerson University	Dominican University College		
	Trent University	University of Ottawa		
	University of Guelph			
	University of Toronto			
	University of Waterloo			
	University of Western Ontario			
	Wilfred Laurier University			
	York University			

School Board Regions				
West	Central	East	North West	North East
Essex	Norfolk	Prince Edward	Kenora	Cochrane
Chatham-Kent	Haldimand	Lennox & Addington	Thunder Bay	Algoma
Lambton	Niagara	Frontenac	Rainy River	Sudbury
Elgin	Hamilton	Renfrew		Timiskaming
Middlesex	Waterloo	Lanark		
Huron	Wellington	Leeds & Grenville		
Bruce	Halton	Ottawa		
Grey	Dufferin	Stormont, Dundas & Glengarry		
Perth	Peel	Prescott & Russell		
Oxford	Simcoe			
	York			
	Toronto			
	Durham			
	Muskoka			
	Kawartha Lakes			
	Northumberland			
	Peterborough			
	Haliburton			
	Grand Erie			
	Hastings			

Master Agreement and Client-Supplier Agreement

For

SUPPLY OF LABORATORY/SCIENCE SUPPLIES

Between

Ontario Education Collaborative Marketplace

And

As of

May 21, 2010

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MASTER AGREEMENT

THIS MASTER AGREEMENT (“the Master Agreement”), made in duplicate, for the provision of Lab/Science Supplies effective as of _____, 2010

BETWEEN:

Ontario Education Collaborative Marketplace
(referred to as “OECM”)

AND:

(referred to as the “Supplier”)

WHEREAS OECM issued an RFP and selected the Supplier to provide the Resources on a non-exclusive basis, on the terms and conditions set out herein:

AND WHEREAS the Supplier has agreed to enter into Client-Supplier Agreement(s) with one or more Clients which shall be subject to the terms and conditions of this Master Agreement and the Contract documents.

NOW THEREFORE in consideration of their respective agreements set out below, the parties covenant and agree as follows:

ARTICLE 1 – INTERPRETATION AND GENERAL PROVISIONS

1.01 Defined Terms

When used in the Master Agreement, the following words or expressions have the following meanings:

“Authority” means any government authority, body or department, whether federal, provincial or municipal, having or claiming jurisdiction over the Contract; and **“Authorities”** means all such authorities, bodies and departments;

“Business Day” means any working day, Monday to Friday inclusive, excluding statutory and other holidays, namely: New Year's Day; Family Day; Good Friday; Easter Monday; Victoria Day; Canada Day; Civic Holiday; Family Day; Labour Day; Thanksgiving Day; Remembrance Day; Christmas Day; Boxing Day and any other day which OECM or a Client has elected to be closed for business;

“Business Hours” mean 8:30 a.m. to 5:00 p.m. EST or EDT, as applicable, during any Business Day;

“Client” means any Institution which executes a Client-Supplier Agreement. In addition, “Client” covers all staff thereof that may order the goods and/or services from the Supplier, including but not limited to administration staff, teachers/professors, and purchasing professionals;

“Client-Supplier Agreement” means the sub-agreement to be entered into between the Supplier and a Client setting out specific Resources required by the Client, along with any additional terms and conditions contained therein;

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

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

“Contract” means the aggregate of: (a) the Master Agreement, including Schedule 1 (Schedule of Resources, Rates and Supplementary Provisions), Schedule 2, the form of Client-Supplier Agreement and any other schedule or appendix attached at the time of execution; (b) the assignment-specific Client-Supplier Agreement; (c) the RFP, including any addenda; (c) the Proposal; and (d) any amendments executed in accordance with the terms of the Master Agreement.

“Expiry Date” means _____ or, if the original term is extended, the final date of the extended term

“FIPPA” means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended;

“Indemnified Parties” means OECM, each client and their respective employees, directors, officers, agents and subcontractors;

“Industry Standards” include, but are not limited to (a) the provision of any and all labour, supplies, equipment and other goods or services that are necessary and can reasonably be understood or inferred to be included within the scope of the Contract or customarily furnished by Persons providing Resources of the type provided hereunder in similar situations in Ontario and; (b) adherence to commonly accepted norms of ethical business practices, which shall include the Supplier establishing, and ensuring adherence to, precautions to prevent its employees or agents from providing or offering gifts or hospitality of greater than nominal value to any person acting on behalf of or employed by OECM and participating Institutions;

“Institutions” means all publicly supported educational institutions (school boards and authorities, colleges and universities) in the Province of Ontario;

“Intellectual Property” means any intellectual, industrial or other proprietary right of any type in any form protected or protectable under the laws of Canada, any foreign country, or any political subdivision of any country, including, without limitation, any intellectual, industrial or proprietary rights protected or protectable by legislation, by common law or at equity;

“MFIPPA” means the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M. 56, as amended;

“OECM Address” and **“OECM Representative”** mean:

Director of Sourcing, OECM
90 Eglinton Avenue East, Suite 504
Toronto, ON M4P 2Y3

“OECM Confidential Information” means all information of any Institution or OECM that is of a confidential nature, including all confidential information in the custody or control of OECM or a Client, regardless of whether it is identified as confidential or not, and whether recorded or not, and however fixed, stored, expressed or embodied, which comes into the knowledge, possession or control of the Supplier in connection with the Contract. For the purposes of greater certainty, OECM Confidential Information shall:

- (a) include: (i) all new information derived at any time from any such information whether created by OECM, the Client, the Supplier or any third-party; (ii) all information (including Personal Information) that OECM or the Client is obliged, or has the discretion, not to disclose under provincial or federal legislation;
- (b) not include information that: (i) is or becomes generally available to the public without fault or breach on the part of the Supplier of any duty of confidentiality owed by the Supplier to OECM, the Client or to any third-party; (ii) the Supplier can demonstrate to have been rightfully obtained by the Supplier, without any obligation of confidence, from a third-party who had the right to transfer or disclose it to the Supplier free of any obligation of confidence; (iii) the Supplier can demonstrate to have been rightfully known to or in the possession of the Supplier at the time of disclosure, free of any obligation of confidence when disclosed; or (iv) is independently developed by the Supplier; but the exclusions in this subparagraph shall in no way limit the meaning of Personal Information or the obligations attaching thereto under the Contract or at law;

“Person”, if the context allows, includes any natural persons, firms, partnerships or corporations, or any combination thereof;

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

“Proceeding” means any action, claim, demand, lawsuit, or other proceeding;

"Procurement Card" means the corporate credit card(s) used by the Client, as may be changed from time to time;

"Procurement Card Protocols" means the manner in which the Supplier is required to process any payments under the Contract that the Client elects to make by way of Procurement Card, which shall include the requirement to (a) collect the authorized employee's name, the abbreviated Client name, the expiry date, the PST or GST exemption number and the employee's authorization; (b) contact the financial Institution identified on the Procurement Card each time the Procurement Card is used for payment; (c) receive payment from the financial Institution named on the Procurement Card once that Institution authorizes payment; and (d) bear the cost of any and all charges relating to the use of the Procurement Card, including the financial Institution's charges for payment through the Procurement Card; typically used for consumables;

"Proposal" means the proposal submitted by the Supplier in response to the RFP;

"Rates" means the applicable price, in Canadian funds, to be charged for the applicable Resources, as set out in the RFP/Proposal, representing the full amount chargeable by the Supplier for the provision of the Resources, including but not limited to (a) all applicable duties and taxes, including Goods and Services Tax; (b) all labour and material costs; (c) all travel and carriage costs; (d) all insurance costs; and (e) all other overhead including any fees or other charges required by law. Additional products may be added to the list of products available with the written approval of the parties. Products that become no longer generally commercially available may be withdrawn from future order taking by the Supplier and replaced with newly introduced product with a written consent of both parties.

"Record", for the purposes of the Contract, means any recorded information, including any Personal Information, in any form: (a) provided by OECM or by the Client to the Supplier, or provided by the Supplier to OECM or the Client, for the purposes of the Contract; or (b) created by the Supplier in the performance of the Contract; and shall include or exclude, as the case may be, any information specifically described in Schedule 1 or in a particular Client-Supplier Agreement;

"Requirements of Law" mean all applicable requirements, laws, statutes, codes, acts, ordinances, orders, decrees, injunctions, by-laws, rules, regulations, official plans, permits, licences, authorisations, directions, and agreements with all Authorities that now or at any time hereafter may be applicable to either the Contract or the Resources or any part of them;

"Resources" means everything developed for or provided to OECM or the Client in the course of performing under the Contract or agreed to be provided to OECM or the Client under the Contract, by the Supplier or its employees, volunteers, agents or subcontractors, as further defined, but not limited by Schedule 1 or a specific Client-Supplier Agreement, including but not limited to any goods or services or any and all Intellectual Property and any and all concepts, techniques, ideas, information, documentation and other materials, however recorded, developed or provided;

"RFP" means the Request for Proposal dated May 21, 2010, Supply of Lab/Sciences products for Ontario School Boards' Reference OECM-2010-113 issued by OECM for the Resources and any addenda to it;

"Supplier's Subcontractor" includes the Supplier's subcontractors or their respective directors, officers, agents, employees or independent contractors, who shall fall within the meaning of Supplier for the purposes of this Article;

"Supplier Address"

"Supplier Representative"

"Term" means the period of time from the effective date first above written up to and including the later of (a) _____ or (b) the expiry date of any extension to the Contract;

"Third-Party Intellectual Property" means any Intellectual Property owned by a party other than OECM, Client or the Supplier.

The Contract embodies the entire agreement between the parties with regard to the provision of Resources and supersedes any prior understanding or agreement, collateral, oral or otherwise, existing between the parties at the date of execution of the Master Agreement, with exception of Legacy Agreements.

1.03 Severability

If any term or condition of the Contract, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the Contract, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

1.04 Interpretive Value of Contract Documents

In the event of a conflict or inconsistency in any provisions in the Contract: (a) the main body of the Master Agreement shall govern over the Schedules to the Agreement; (b) the Master Agreement (including its Schedules) shall govern over any Client-Supplier Agreement; (c) the Master Agreement (including its Schedules) and a Client-Supplier Agreement shall govern over the RFP and the Proposal; and (d) the RFP shall govern over the Proposal.

1.05 Force Majeure

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the Contract where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Contract would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism and labour disruptions but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this Contract due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the Contract by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the Contract, at law or in equity.

1.06 Notices by Prescribed Means

Notices shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery or facsimile and shall be addressed to, respectively, the OECM Address to the attention of the OECM Representative and to the Supplier Address to the attention of the Supplier Representative. The parties may change such addresses by written notice to the other given in accordance with this paragraph. Notices shall be deemed to have been given (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or (b) in the case of personal delivery or facsimile one (1) Business Day after such notice is sent in accordance with this paragraph. In the event of a postal disruption, notices must be given by personal delivery or by facsimile. Notices relating to a particular Client-Supplier Agreement shall also be governed by this paragraph, but shall be delivered to the particular representatives and addresses established under the specific Client-Supplier Agreement. Unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this paragraph.

1.07 Governing Law

The Contract shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of the Province of Ontario.

1.08 Third Party Benefits

Supplier acknowledges that a Client may enforce provisions included in Master Agreement for such Client's benefit even though such Client is not a party to the Master Agreement.

1.09 Counterparts

This Agreement may be executed in counterparts, each of which will constitute an original, and all of which will constitute one agreement.

1.10 Headings

The division of this Master Agreement into Articles, Sections and Schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Master Agreement.

1.11 Extended Meanings

The parties agree to the following interpretive terms and conditions:

- (a) words importing the singular number include the plural and vice versa and words importing gender include all genders in this Contract;
- (b) reference to any agreement, indenture or other instrument in writing means such agreement, indenture or other instrument in writing as amended, modified, replaced or supplemented from time to time, unless otherwise agreed to herein;
- (c) whenever any payment to be made or action to be taken hereunder is required to be made or taken on a day other than a business day, such payment shall be made or action taken on the next following business day.
- (d) unless the context otherwise requires, words importing a particular gender shall include the other gender;
- (e) "in writing" or "written" means and includes printing, typewriting or any electronic means of communication capable of being permanently reproduced in alphanumeric characters at the point of reception;
- (f) the words "include" and "including" mean "include, without limitation," and "including, without limitation," throughout this Contract;
- (g) any reference to a statutory or regulatory provision shall include that provision as from time-to-time modified or re-enacted providing that in the case of modifications or re-enactments made after the date of this Contract the same shall not have effective substantive change to that provision, unless otherwise agreed to herein; and,
- (h) time periods within which a payment is to be made or any other action is to be taken hereunder shall be calculated excluding the day on which the period commences, but including the day on which the period ends.

1.12 Condonation Not a Waiver

Any failure by OECM or the Client to insist in one or more instances on strict performance by the Supplier of any of the terms or conditions of the Contract shall not be construed as a waiver by OECM and the Client of the right to require strict performance of any such terms or conditions, and the obligations of the Supplier with respect to such performance shall continue in full force and effect.

1.13 Changes by Written Amendment Only

Any changes to the Contract shall be by written amendment signed by the parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

1.14 Rights and Remedies and Supplier Obligations Not Limited to Contract

The express rights and remedies of OECM and the Client and obligations of the Supplier set out in the Contract are in addition to and shall not limit any other rights and remedies available to OECM and the Client or any other obligations of the Supplier at law or in equity.

ARTICLE 2 – LEGAL RELATIONSHIP BETWEEN OECM/CLIENT, SUPPLIER AND THIRD-PARTIES

2.01 **Supplier's Power to Contract and Perform the Contract**

The Supplier represents and warrants that it has the full right and power and all necessary licences, authorizations and qualifications to enter into and perform its obligations under the Contract and that it is not a party to any agreement with another Person which would in any way interfere with the rights of OECM or the Client under this Contract. Without limiting the generality of the foregoing, if the Supplier is not the manufacturer of any of the Resources, Supplier represents and warrants that it has all necessary rights and permissions to distribute such Resources and that the manufacturer thereof will provide complete warranty support in respect thereto.

2.02 **Representatives May Bind Parties**

The parties represent that their respective representatives have the authority to legally bind them to the extent permissible by the Requirements of Law.

2.03 **Parties Not a Partner, Agent or Employee**

Neither party shall have any power or authority to bind the other or to assume or create any obligation or responsibility, express or implied, on behalf of the other and shall not hold itself out as an agent, partner or employee of the other. Nothing in the Contract shall have the effect of creating an employment, partnership or agency relationship between OECM and the Supplier (or any of the Supplier's directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors).

2.04 **Responsibility of Supplier**

The Supplier agrees that it is liable for the acts and omissions of its directors, officers, employees, agents, partners, affiliates, volunteers and subcontractors. This paragraph is in addition to any and all of the Supplier's liabilities under the Contract and under any applicable law. The Supplier shall advise these individuals and entities of its obligations under the Contract and, without limiting the generality of the foregoing, shall take appropriate action to ensure compliance with (a) the Contract generally and (b) with the requirements of Article 5 (Confidentiality FIPPA/MFIPPA) of the Master Agreement. In addition to any other liabilities of the Supplier pursuant to the Master Agreement or otherwise at law or in equity, the Supplier shall be liable for all damages, costs, expenses, losses, claims or actions arising from any breach of the Contract resulting from the actions of the above mentioned individuals and entities. This paragraph shall survive the termination or expiry of this Contract.

2.05 **No Liability of OECM**

The Supplier acknowledges and agrees that OECM shall not be liable or responsible to the Supplier for any matter arising under the Client-Supplier Agreement or through the provision of the Resources and, without limiting the generality of the foregoing, the Supplier acknowledges and agrees that:

- (a) OECM will not be liable or responsible for any act or omission of the Client in relation to the Client's access to the provision of Resources under the Contract; and,
- (b) OECM, in its sole discretion, may restrict access by Clients to the provision of Resources under the Contract and the Supplier agrees to comply with any procedures or requirements established by OECM for such access.

2.06 **No Subcontracting or Assignment**

The Supplier shall not assign the whole or any part of the Contract or any monies due under it without the prior written consent of OECM. Such consent shall be in the sole discretion of OECM and subject to the terms and conditions that may be imposed by OECM.

2.07 **Duty to Disclose Change of Control**

In the event that the Supplier undergoes a change in control the Supplier shall immediately disclose such change in control to OECM and shall comply with any terms and conditions subsequently prescribed by OECM resulting from the disclosure.

2.08 Conflict of Interest

The Supplier shall: (a) avoid any Conflict of Interest in the performance of its contractual obligations; (b) disclose without delay any actual or potential Conflict of Interest that arises during the performance of its contractual obligations; and (c) comply with any requirements prescribed by OECM or the Client to resolve any Conflict of Interest. In addition to all other contractual rights or rights available at law or in equity, OECM may, at its sole and absolute discretion, immediately terminate the Contract upon giving notice to the Supplier where (a) the Supplier fails to disclose an actual or potential Conflict of Interest; (b) the Supplier fails to comply with any requirements prescribed by OECM or the Client to resolve a Conflict of Interest; or (c) the Supplier's Conflict of Interest cannot be resolved. Before any termination of either the Master Agreement or Client-Supplier Agreement pursuant to the provisions of this Section 2.08, there must be a cure period of no less than 30 days. This paragraph shall survive any termination or expiry of the Contract.

2.09 Client-Supplier Agreement

The Supplier agrees to enter into Client-Supplier Agreements with Institutions who request the Supplier to do so at any time following the effective date of this Master Agreement.

2.10 Contract Binding

The Contract shall enure to the benefit of and be binding upon the parties and their successors, administrators and their permitted assigns.

ARTICLE 3 - PERFORMANCE BY SUPPLIER

3.01 Supplier Performance and Client-Supplier Agreement

This Master Agreement sets out terms and conditions in connection with the acquisition of Resources and contemplates the execution by the Supplier and the Client, during the Term, of one or more Client - Supplier Agreements in the form set out in Schedule 2 Client-Supplier Agreement for the purpose of providing specific Resources. Furthermore, with respect to Client-Supplier Agreements:

- (a) only Clients as defined under the Master Agreement may obtain Resources on the terms and conditions provided for in the Contract, and only by entering into a Client-Supplier Agreement executed by a duly authorized representative of the Client and accepted by the Supplier and the Supplier shall provide quarterly reports to OECM summarizing the Client-Supplier Agreements entered into, the particular Clients and the Resources provided;
- (b) Resources shall be provided only pursuant to a Client-Supplier Agreement and in accordance with the Contract;
- (c) the Supplier shall not, under the Contract, sell or offer to sell any Resources to any person, organization that is not a Client as defined in the Master Agreement;
- (d) the terms and conditions of the Master Agreement shall apply to each Client-Supplier Agreement and the same terms and conditions that apply between the Supplier and OECM under the Master Agreement shall also apply between the Supplier and each Client under each Client-Supplier Agreement and, without limiting this paragraph, the duties owing to OECM under the Master Agreement shall also be owing to the Client under the particular Client-Supplier Agreement and the rights exercisable by OECM under the Master Agreement shall also be exercisable by the Client under the particular Client-Supplier Agreement;
- (e) each Client-Supplier Agreement shall refer to this Master Agreement by setting out the agreement number set out on the first page of this Master Agreement, and shall, at minimum, also include (i) the name or description of each deliverable, along with the related Rates payable and tentative delivery dates; (ii) the type, term and commencement date of each assignment; (iii) the name and contact information for the Client and Supplier for the purposes of the particular Client-Supplier Agreement; (iv) the acknowledgement contained in Article 5 –

- Supplier - Client Acknowledgement as contained in the Form of Client-Supplier Agreement in Schedule 2 – Schedule of Forms to the Master Agreement (the terms of which are deemed to form part of the provision of Resources to each Client and are acknowledged and agreed to by the Supplier by executing the Master Agreement); and (v) any other terms and conditions agreed upon by the parties in accordance with the Contract;
- (f) the terms and conditions set out in a Client-Supplier Agreement shall have no effect on any other Client-Supplier Agreement and shall only apply to the provision of Resources under that particular Client-Supplier Agreement; and,
 - (g) in the event of an inconsistency between the terms of the form of Client-Supplier Agreement attached hereto and a Client-Supplier Agreement executed by the Supplier and a Client, the terms and conditions set out in the former shall govern.

3.02 **Performance Warranty**

Supplier represents and warrants: (a) the quality, safety, merchantability and fitness of the Resources for purposes indicated, expressly or impliedly, by OEMC or a Client; (b) that the Resources conform to the samples provided by Supplier to OEMC or a Client and all specifications and product literature supplied by Supplier or its agents and representatives to OEMC or a Client; and (c) that the Resources will be fit and sufficient for the purposes intended.

OEMC acknowledges that Supplier is not the manufacturer of all of the Resources. Supplier will pass through to OEMC or Client any applicable manufacturer warranties, to the extent transferable.

The Supplier hereby represents and warrants that the Resources shall be provided in accordance with: (a) the Contract; (b) Industry Standards; and (c) Requirements of Law. If any of the Resources, in the opinion of OEMC or the Client, are inadequately provided or require corrections, the Supplier shall forthwith make the necessary corrections at its own expense as specified by OEMC or the Client in a rectification notice.

3.03 **Use and Access Restrictions**

The Supplier acknowledges that unless it obtains specific written preauthorization from OEMC and the Client, any access to or use of OEMC or Client property, technology or information that is not necessary for the performance of its contractual obligations with OEMC and the Client is strictly prohibited. The Supplier further acknowledges that OEMC and the Client may monitor the Supplier to ensure compliance with this paragraph. This paragraph is in addition to and shall not limit any other obligation or restriction placed upon the Supplier.

3.04 **Notification by Supplier**

During the Term, the Supplier shall advise OEMC and the Client promptly of: (a) any contradictions, discrepancies or errors found or noted in the Contract; (b) supplementary details, instructions or directions that do not correspond with those contained in the Contract; and (c) any omissions or other faults that become evident and should be corrected in order to provide the Resources in accordance with the Contract and Requirements of Law.

3.05 **Work Volumes**

The Supplier acknowledges that it is providing the Resources on a non-exclusive basis. OEMC and the Clients make no representation regarding the volume of goods and services required under the Contract. OEMC and the Clients reserve the right to contract with other parties for the same or similar goods and services as those provided by the Supplier and reserve the right to obtain the same or similar goods and services internally.

3.06 **Reporting**

The Supplier must provide monthly electronic reports to OEMC. OEMC will provide the Supplier with a template, which is expected to be in Microsoft Excel format, along with instructions. OEMC's fiscal year begins Jan 1; therefore, reports are expected on or about March 31, June 30, September 30, and December 31 each year of the Agreement and also on an ad hoc basis at OEMC's request. Details for Usage and other Reports are listed in Schedule 1.

The Supplier must provide the relevant section of these reports to the applicable Clients at the time of issuance to OECM.

3.07 e-Marketplace

The Supplier agrees to work with OECM regarding the provision of products on the e-Marketplace. Supplier agrees to provide the Resources through the e-Marketplace to be operated by OECM and to be bound by OECM's form of Supplier Service Agreement in effect from time to time and any other documents necessary for the Supplier to participate in the eMarketplace, including the terms and conditions relating to membership in and access and use of the Ariba Supplier Network operated by Ariba Inc.

ARTICLE 4 - PAYMENT FOR PERFORMANCE AND AUDIT

4.01 Payment According to Contract Rates

The Client shall, subject to the Supplier's compliance with the provisions of the Contract, pay the Supplier for the Resources provided at the Rates established under the Contract. OECM shall not be responsible for any payment payable to the Supplier in accordance with any Client-Supplier Agreement.

4.02 Invoicing

The Supplier will provide electronic and / or hardcopy invoices to each Client for which they sign the Client-Supplier Agreement at the address specified by the Client. The invoices will contain the following information at a minimum. Further details may be specified within the individual Client-Supplier Agreement.

- Price per item and/or service purchased;
- Applicable taxes - shown as a separate line item on all orders;
- Any other costs; and
- Reference to relevant Client purchase order numbers, if applicable.

4.03 Payment by Client

The Supplier will accept the payment option requested by the Clients, which may include but not be limited to: credit / purchase cards and cash, cheque, Electronic Funds Transfer (EFT). The payment term for this contract shall be Net 30 days.

4.04 Default Billing and Payment Process

Unless the parties expressly set out an alternative billing and payment process in a particular Client-Supplier Agreement, the following process shall govern:

- (a) the Supplier shall provide the Client with a monthly billing statement no later than ten (10) Business Days after the end of each month and that billing statement shall include: (i) the reference number assigned to the Client-Supplier Agreement by the Client; (ii) a brief description of the Resources provided for the relevant month; and (iii) taxes, if payable by the Client, identified as separate items;
- (b) the Client shall approve or reject the billing statement within fifteen (15) Business Days and in the event that the Client rejects the billing statement, it shall so advise the Supplier promptly in writing and the Supplier shall provide additional information as required by the Client to substantiate the billing statement; and
- (c) each billing statement must be approved by the Client before any payment is released and payment shall be made within thirty (30) Business Days of such approval, or as defined by Schedule 2- Client-Supplier Agreement of such approval.

Any subparagraph set out above that is not expressly replaced in a particular Client-Supplier Agreement with an alternative provision shall remain in full force and effect.

4.05 **Hold Back or Set Off**

The Client may hold back or set off against payment if, in the opinion of OECM or the Client acting reasonably, the Supplier has failed to comply with any requirements of the Contract. These rights may be exercised within the context of a particular Client-Supplier Agreement or between various Client-Supplier Agreements pertaining to the same Client.

4.06 **No Expenses or Additional Charges**

There shall be no other charges payable to the Supplier under the Contract other than the Rates established under the Contract.

4.07 **Payment of Taxes and Duties**

Unless otherwise stated in the Contract, the Client shall pay all applicable GST, PST and HST as applicable, with respect to the Contract.

4.08 **OECM Rebate**

The Supplier shall pay to OECM a rebate equal to 3% of the amount billed by the Supplier to Clients for the Resources provided by the Supplier (exclusive of freight and taxes) pursuant to this Master Agreement. This rebate shall be paid to OECM monthly beginning April 1st of each contracted year. Provided however that any such rebate less than \$100 not paid in any particular quarter shall continue to be payable to OECM and shall be paid as soon as the aggregate rebate payable exceeds \$100.

4.09 **Interest on Late Payment**

If a payment is in arrears through no fault of the Supplier, the interest charged by the Supplier, if any, for any late payment shall not exceed the pre-judgment interest rate established under section 127(2) of the *Courts of Justice Act*, R.S.O. 1990, c. C45, in effect on the date that the payment went into arrears.

4.10 **Document Retention and Audit**

For seven (7) years after the expiration of the Term, the Supplier shall maintain all necessary records to substantiate (a) all charges and payments under the Contract and (b) that the Resources were provided in accordance with the Contract and with Requirements of Law. During the Term, and for seven (7) years after the Term, the Supplier shall permit and assist OECM or the Client in conducting audits of the operations of the Supplier to verify (a) and (b) above. OECM or the Client shall provide the Supplier with at least ten (10) Business Days prior notice of its requirement for such audit. The Supplier's obligations under this paragraph shall survive any termination or expiry of the Contract.

4.11 **Price Adjustment**

Unless written notice requesting a price review is given by either party at least 90 days prior to the expiration of the original term of the Contract or the first renewal term, the Rates will remain the same for the next renewal period.

Either the Supplier or OECM may request a price review to be effective on and after the end of the first year of the Term, the second year of the Term and/or the first renewal period. Any such request to adjust prices must be made at least ninety (90) days before the end of the first year of the Term, the second year of the Term or the first renewal period, as the case may be, and must be accompanied by appropriate documentation and include detailed cost calculations which support any request for a price adjustment. Following a request for a price review, OECM and the Supplier shall negotiate in good faith adjustments to the Rates.

As part of any review OECM will consider adjustments that reflect changes in raw materials, or operational adjustments due to new or changed municipal, provincial or federal regulations, by-laws or ordinances. OECM will not consider any fixed costs or overhead adjustments in its review.

OECM will use relevant StatsCan Industry Price Indices, or a similar 3rd party index as proposed by the Supplier and accepted by OECM and the Clients as an independent measure when considering price adjustments.

If OECM and the Supplier cannot agree on an adjusted price at least 45 days prior to the expiration of the first year of the Term, the second year of the Term or the end of the first renewal period, as the case may be, (or by such later date as may be agreed by OECM and the Supplier), OECM shall have the right to terminate the Contract at the end of the first year of the Term or not to extend the Contract, as the case may be, in its entirety or with respect to any particular item to be supplied hereunder and the Supplier shall have the right to delete from the Contract any such item with respect to which the parties have not been able to agree on an adjusted price effective as of the end of the first year of the Term, the second year of the Term or the first renewal period, as the case may be.

4.12 Most Favoured Pricing

The Supplier represents and warrants that, as of the date hereof, the Rates, as well as all terms, warranties and benefits to be granted to a Client under the Contract are, and for the Term, shall continue to be, comparable to or more favourable than the equivalent prices, terms, warranties and benefits offered by the Supplier and its affiliates and associates to any other comparable public sector agency or buying group.

The Supplier agrees that where OECM or a Client provides evidence that the Supplier is in breach of its obligation to provide most favoured customer pricing to a Client or Clients, it shall adjust this Agreement retroactively to the date of the breach to comply with such obligation.

ARTICLE 5 - CONFIDENTIALITY AND FIPPA/MFIPPA

5.01 Confidentiality and Promotion Restrictions

Any publicity or publications related to the Contract shall be at the sole discretion of OECM and the Client. OECM and the Client may, in their sole discretion, acknowledge the Resources provided by the Supplier in any such publicity or publication. The Supplier shall not make use of its association with OECM or the Client without the prior written consent of both OECM and the Client. Without limiting the generality of this paragraph, the Supplier shall not, among other things, at any time directly or indirectly communicate with the media in relation to the Contract unless it has first obtained the express written authorization to do so by both OECM and the Client.

5.02 OECM or Client Confidential Information

During and following the Term, the Supplier shall:

- (a) keep all OECM or Client Confidential Information confidential and secure;
- (b) limit the disclosure of OECM or Client Confidential Information to only those employees who have a need to know it and who have been specifically authorized to have such disclosure;
- (c) not directly or indirectly disclose, destroy, exploit or use any OECM or Client Confidential Information (except for the purpose of providing the Resources, or except if required by order of a court or tribunal), without first obtaining: (i) the written consent of OECM and the Client and (ii) in respect of any OECM or Client Confidential Information about any third-party, the written consent of such third-party;
- (d) provide OECM or Client Confidential Information to OECM or the Client on demand; and
- (e) return all OECM or Client Confidential Information to OECM and the Client before the termination or expiry of the Term, with no copy or portion kept by the Supplier.

5.03 Restrictions on Copying

The Supplier shall not copy any OECM or Client Confidential Information, in whole or in part, unless copying is essential for the provision of the Resources. On each copy made by the Supplier, the Supplier must reproduce all notices which appear on the original.

5.04 **Injunctive and Other Relief**

The Supplier acknowledges that breach of any provisions of this Article may cause irreparable harm to OECM or the Client or to any third-party to whom OECM or the Client owes a duty of confidence, and that the injury to OECM or the Client or to any third-party may be difficult to calculate and inadequately compensable in damages. The Supplier agrees that OECM or the Client is entitled to obtain injunctive relief (without proving any damage sustained by it or by any third-party) or any other remedy against any actual or potential breach of the provisions of this Article.

5.05 **Notice and Protective Order**

If the Supplier or any of its directors, officers, employees, agents, representatives or advisors become legally compelled to disclose any OECM Confidential Information, the Supplier will provide OECM and the Client with prompt notice, unless prohibited by a court of competent jurisdiction, to that effect in order to allow OECM and the Client to seek one or more protective orders or other appropriate remedies to prevent or limit such disclosure, and it shall cooperate with OECM and the Client and their legal counsel to the fullest extent. If such protective orders or other remedies are not obtained, the Supplier will disclose only that portion of OECM Confidential Information which the Supplier is legally compelled to disclose, only to such person or persons to which the Supplier is legally compelled to disclose, and the Supplier shall provide notice to each such recipient (in co-operation with legal counsel for OECM or the Client) that such OECM Confidential Information is confidential and subject to non-disclosure on terms and conditions equal to those contained in the Master Agreement and, if possible, shall obtain each recipient's written agreement to receive and use such OECM Confidential Information subject to those terms and conditions.

5.06 **FIPPA and MFIPPA Records**

The Supplier, OECM and the Client acknowledge and agree that FIPPA or MFIPPA applies to and governs all Records of the Client and may require the disclosure of such Records to third parties. Furthermore, the Supplier agrees:

- (a) to keep Records secure;
- (b) to provide Records to OECM or the Client within seven (7) calendar days of being directed to do so by OECM or the Client for any reason including an access request or privacy issue;
- (c) not to access any Personal Information unless the Client determines, in its sole discretion, that access is permitted under FIPPA or MFIPPA and is necessary in order to provide the Resources;
- (d) not to directly or indirectly use, collect, disclose or destroy any Personal Information for any purposes that are not authorized by the Client;
- (e) to ensure the security and integrity of Personal Information and keep it in a physically secure and separate location safe from loss, alteration, destruction or intermingling with other records and databases and to implement, use and maintain the appropriate products, tools, measures and procedures to do so;
- (f) to restrict access to Personal Information to those of its employees who have a need to know it and who have been specifically authorized to have such access for the purpose of providing the Resources;
- (g) to implement other specific security measures that in the reasonable opinion of the Client would improve the adequacy and effectiveness of the Supplier's measures to ensure the security and integrity of Personal Information and Records generally; and
- (h) that any confidential information supplied to OECM or the Client may be disclosed by OECM or the Client where they are obligated to do so under FIPPA or MFIPPA as appropriate, by an order of a court or tribunal or pursuant to a legal proceeding;

and the provisions of this paragraph shall survive any termination or expiry of the Contract and shall prevail over any inconsistent provisions in the Contract.

5.07 **PIPEDA**

The Supplier represents and warrants that if it is or becomes subject to any private sector privacy legislation during the term of this Agreement it will be solely responsible for compliance with such legislation. Without limitation, the Supplier represents and warrants that if it is subject to the *Personal Information Protection and Electronic Documents Act, S.C. 2000, c.5*, including any further amendments thereto (PIPEDA): (a) it and all its subcontractors shall ensure the PIPEDA compliance of all PIPEDA Protected Information it collects directly from individuals or indirectly from OECM or others, uses or discloses in the course of performing their obligations under this Agreement; and (b) without limitation, it shall ensure

the PIPEDA compliance of all PIPEDA Protected Information it transfers or discloses to OECM. For the purpose of this Agreement "PIPEDA Protected Information" means any "Personal Information" or "Personal Health Information" as defined under PIPEDA

5.08 **Survival**

The provisions of this Article shall survive any termination or expiry of the Contract.

ARTICLE 6 – INTELLECTUAL PROPERTY AND USE OF OECM OR CLIENT INSIGNIA

6.01 **Intellectual Property**

The Supplier agrees that all Intellectual Property and every other right, title and interest in and to all concepts, techniques, ideas, information and materials, however recorded, (including images and data) provided by OECM or the Client to the Supplier shall remain the sole property of OECM or the Client at all times.

6.02 **No Use of OECM or Client Insignia**

The Supplier shall not use any insignia or logo of OECM or the Client except where required to provide the Resources, and only if it has received the prior written permission of OECM and the Client to do so.

6.03 **Supplier Representation and Warranty Regarding Third-Party Intellectual Property**

The Supplier represents and warrants that the provision of the Resources shall not infringe or induce the infringement of any Third-Party Intellectual Property rights. The Supplier further represents and warrants that it has obtained assurances with respect to any Third-Party Intellectual Property that any rights of integrity or any other moral rights associated therewith have been waived.

6.04 **Survival**

The obligations contained in this Article shall survive the termination or expiry of the Contract.

ARTICLE 7 – INDEMNITY AND INSURANCE

7.01 **Supplier Indemnity**

The Supplier hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by the Supplier, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

7.02 **Supplier's Insurance**

The Supplier hereby agrees to obtain and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of the Supplier would maintain including, but not limited to, the following:

- (a) Commercial general liability insurance on an occurrence basis for third party bodily injury, personal injury and property damage, to an inclusive limit of not less than **\$2,000,000** per occurrence, **\$2,000,000** products and completed operations aggregate. The policy is to include the following:
- the Indemnified Parties as additional insured with respect to liability arising in the course of performance of the Supplier's obligations under, or otherwise in connection with, the Contract
 - contractual liability coverage
 - cross-liability clause
 - employers liability coverage (or compliance with the paragraph below entitled "Proof of W.S.I.A. Coverage" is required)
 - 30 day written notice of cancellation, termination or material change
 - tenants legal liability coverage (if applicable and with applicable sub-limits)
 - non-owned automobile coverage with blanket contractual coverage for hired automobiles

7.03 **Proof of Insurance**

The Supplier shall provide OECM with proof of the insurance required by this Master Agreement in the form of valid certificates of insurance that reference this Master Agreement and confirm the required coverage, on or before the commencement of this Master Agreement, and renewal replacements on or before the expiry of any such insurance. Upon the request of OECM, a copy of each insurance policy shall be made available to it. The Supplier shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Resources.

7.04 **Proof of W.S.I.A. Coverage**

If the Supplier is subject to the Workplace Safety and Insurance Act (WSIA), it shall submit a valid clearance certificate of WSIA coverage to OECM prior to the commencement date of the Master Agreement. In addition, the Supplier shall, from time to time at the request of OECM, provide additional WSIA clearance certificates. The Supplier covenants and agrees to pay when due, and to ensure that each of its subcontractors pays when due, all amounts required to be paid by it/its subcontractors, from time to time during the Term of the Contract, under the WSIA, failing which OECM or the Client shall have the right, in addition to and not in substitution for any other right it may have pursuant to the Contract or otherwise at law or in equity, to pay to the Workplace Safety and Insurance Board any amount due pursuant to the WSIA and unpaid by the Supplier or its subcontractors and to deduct such amount from any amount due and owing from time to time to the Supplier pursuant to the Contract together with all costs incurred by OECM or the Client in connection therewith.

7.05 **Supplier Participation in Proceeding**

The Supplier shall, at its expense, to the extent requested by OECM or the Client, participate in or conduct the defence of any Proceeding against any Indemnified Parties referred to in this Article and any negotiations for their settlement. OECM or the Client may elect to participate in or conduct the defence of any such Proceeding by notifying the Supplier in writing of such election without prejudice to any other rights or remedies of OECM or the Client under the Contract, Master Agreement, Client-Supplier Agreement, at law or in equity. Each Party participating in the defence shall do so by actively participating with the other's counsel. No settlement shall be entered into by the Supplier unless it has obtained the prior written approval of OECM and the Client. If the Supplier is requested by OECM or the Client to participate in or conduct the defence of any such Proceeding, OECM and the Client agree to co-operate with and assist the Supplier to the fullest extent possible in the Proceedings and any related settlement negotiations. If OECM and the Client conduct the defence of any such Proceedings, the Supplier agrees to co-operate with and assist OECM and the Client to the fullest extent possible in the Proceedings and any related settlement negotiations. This paragraph shall survive any termination or expiry of the Contract.

ARTICLE 8 – TERMINATION, EXPIRY AND EXTENSION

8.01 Immediate Termination of Contract

OECM may immediately terminate the Contract upon giving notice to the Supplier where:

- (a) the Supplier is adjudged bankrupt, makes a general assignment for the benefit of its creditors or a receiver is appointed on account of the Supplier's insolvency;
- (b) the Supplier breaches any provision in Article 5 (Confidentiality and FIPPA) of the Master Agreement;
- (c) the Supplier breaches the Conflict of Interest paragraph in Article 2 (Legal Relationship Between OECM/Client, Supplier and Third-Parties) of the Master Agreement;
- (d) the Supplier, prior to or after executing the Master Agreement, makes a material misrepresentation or omission or provides materially inaccurate information to OECM;
- (e) the Supplier undergoes a change in control which in the reasonable opinion of OECM adversely affects the Supplier's ability to satisfy some or all of its obligations under the Contract;
- (f) the Supplier subcontracts for the provision of part or all of the Resources or assigns the Contract without first obtaining the written approval of OECM; or
- (g) the Supplier's acts or omissions constitute a substantial failure of performance; and the above rights of termination are in addition to all other rights of termination available at law, or events of termination by operation of law.

8.02 Dispute Resolution by Rectification Notice

Subject to the above paragraph, where the Supplier fails to comply with any of its obligations under the Contract, OECM or the Client may issue a rectification notice to the Supplier setting out the manner and time-frame for rectification. Within seven (7) Business Days of receipt of that notice the Supplier shall either (a) comply with that rectification notice; or (b) provide a rectification plan satisfactory to OECM or the Client. If the Supplier fails to either comply with that rectification notice or provide a satisfactory rectification plan with which it subsequently complies, OECM may immediately terminate the Contract or the Client may immediately terminate the Client-Supplier Agreement. Where the Supplier has been given a prior rectification notice, the same subsequent type of non-compliance by the Supplier shall allow OECM to immediately terminate the Contract or shall allow the Client to immediately terminate the Client-Supplier Agreement without issuing a further rectification notice.

8.03 Supplier's Obligations on Termination

Upon termination, the Supplier shall, in addition to its other obligations under the Contract and at law:

- (a) provide OECM with a report detailing (i) the current state of the provision of Resources by the Supplier at the date of termination; and (ii) any other information requested by OECM pertaining to the provision of the Resources and performance of the Contract;
- (b) execute such documentation as may be required by OECM to give effect to the termination of the Contract; and
- (c) comply with any instructions provided by OECM, including but not limited to instructions for facilitating the transfer of the Supplier's obligations to another Person.

8.04 Effect of Termination on Client-Supplier Agreements

Termination of the Contract by OECM effectively terminates all Client-Supplier Agreements between the Supplier and the Client, unless OECM stipulates to the contrary. Such termination does not prevent Supplier from attempting to negotiate retention of or a new agreement with affected Clients.

8.05 Supplier's Payment Upon Termination

On termination of the Contract, OECM is not responsible for any payment to the Supplier. The Client shall only be responsible for the payment of the Resources provided under the CSA up to and including the effective date of any

termination of the Contract. Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Resources supplied or money paid prior to termination. In addition to its other rights of hold back or set off, the Client may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

8.06 Scope of Termination Rights

The termination rights under this Article may be exercised (a) by a Client for the purposes of terminating one or more Client-Supplier Agreements between the Supplier and that particular Client (b) by OECM for the purposes of terminating one or more Client-Supplier Agreements between the Supplier and a specific Client or Clients; or (c) by OECM for the purposes of terminating the Master Agreement and Contract, which shall have the effect of terminating all Client-Supplier Agreements between the Supplier and all Clients. These express rights of termination are in addition to and shall in no way limit any rights or remedies of OECM or the Clients under the Contract, at law or in equity.

8.07 Expiry, Client-Supplier Agreement Survival and Extension of Contract

The Contract shall expire at the end of the Term of the Master Agreement. The term of any Client-Supplier Agreement executed prior to the end of the Term of the Master Agreement shall expire no later than the expiry of the Master Agreement or any extension thereto, unless OECM stipulates to the contrary.

Subject to paragraph 4.11 hereof, OECM shall have the option to extend the Contract for two (1) additional periods of (1) year each, such extensions to be upon the same terms, conditions and covenants contained in the Contract, excepting Rates (which shall be determined pursuant to paragraph 4.11) and the option to renew in the second renewal period. The option shall be exercisable by OECM upon thirty (30) calendar days prior written notice to the Supplier, setting forth the precise duration of the extension.

IN WITNESS WHEREOF the parties hereto have executed the Master Agreement effective as of the date first above written.

ONTARIO EDUCATION COLLABORATIVE MARKETPLACE

Signature: _____

Name: Lawrence S. Loop

Title: Chief Executive Officer (CEO)

Date of Signature: _____

Supplier Name: _____

Signature: _____

Name: _____

Title: _____

Date of Signature: _____

I have authority to bind the Supplier.

Schedule I - Schedule of Resources, Rates and Supplementary Provisions

A DESCRIPTION OF RESOURCES

General Requirements

The Supplier will provide the following General Requirements at no cost to Clients with whom the Supplier has signed Client-Supplier Agreements.(Highlighted in the Information Package, Appendix A)

A1 Payment Terms

Normal Payment Terms under this agreement is Net 30 days

A2 Reporting

A2.1 Consolidated OECM Reports

On a Monthly basis OECM is to receive consolidated reports containing the following as a minimum:

- Usage data for all participating SCUs;
- Cost/spend data for all participating SCUs;
- Rebate information;
- Ad hoc information, as requested.

A2.2 SCU Specific Reports

On a quarterly basis each participating SCU is to receive reports specific to their usage. These reports will contain the following as a minimum:

a) Spend data for all participating Institutions at line item level which must include the following fields:

- institution
- supplier (Successful Proponent)
- manufacturer
- manufacturer part number
- supplier code
- category
- brand
- product description
- Units of Measurement
- units per UoM
- volume
- list price
- discount off price list
- unit price
- extended price.

b) Rebate information: this includes monthly and quarterly product rebate information by category for each participating institution.

A3 Delivery

The Supplier agrees to offer delivery freight prepaid and allowed, to all Client identified locations in the Province of Ontario according to the Pricing Schedule identified in the Supplier Submission, dated. _____.

A4 OECM Rebate

The Supplier will provide OECM with an annual volume rebate of 3% based on pre-tax purchase revenue paid out monthly beginning April 1st of each contract year.

B Pricing

The Supplier agrees to offer the following Pricing including discounts to Purchasers signing Client-Supplier Agreements for the duration of this Master Agreement. These rates and discounts were issued by the Supplier in their submission to OECM in response to the Request for Proposal. Details are to be included. Composition of and pricing for core Basket to be subject to adjustment in accordance with RFP.

C Delivery Costs

The Supplier agrees to limit delivery costs to Clients in accordance with the freight costs contained within the Proposal Pricing Schedule 5 of the RFP.

Appendix A

Information Package

Information Package Specific to This Contract

To be inserted

APPENDIX B

PRICING

Pricing Specific to This Contract

To be inserted

Schedule II – Client-Supplier Agreement

Pursuant to the Master Agreement, each Client and the Supplier shall enter into a Schedule 2- Client-Supplier Agreement for the provision of assignment-specific Resources in accordance with the following form:

CLIENT-SUPPLIER AGREEMENT

THIS CLIENT-SUPPLIER AGREEMENT, made in duplicate, for **[**describe the specific Resources**]** is effective as of the **[**insert start date for Term**]**

BETWEEN:

[insert full legal name of Client College/University/School Boards**]**

("the Client")

- and -

[Insert Legal Name of Supplier**]**

("the Supplier")

WHEREAS the Supplier entered into a Master Agreement with Ontario Education Collaborative Marketplace referred to as **[**insert Master Agreement reference number**]** for the provision of Resources;

AND WHEREAS the Client has decided to become a Client as defined under the Master Agreement by entering into this Client-Supplier Agreement (the "**CSA**");

NOW THEREFORE in consideration of their respective agreements set out below and subject to the terms of the Master Agreement, the parties covenant and agree as follows:

Article 1.0 - Definitions

Unless otherwise specified in the CSA, capitalized words and phrases shall have the meaning set out in the Master Agreement. When used in the CSA, the following words and phrases have the following meanings:

"Rates" means the applicable price for the Resources, as defined in the Master Agreement;

"Term" means the period of time from the effective date first above written up to and including the later of (a) _____ or (b) the expiry date of any extension to the CSA; which in any event shall be no later than the expiry of the Master Agreement or any extension thereto.

Article 2.0 - The Master Agreement

- 2.1 This CSA is entered into pursuant to, incorporates by reference and is governed by the Master Agreement.
- 2.2 All terms and conditions of the Master Agreement apply with the appropriate modifications to this CSA. In the event of a conflict between this CSA and the Master Agreement, the latter shall govern (unless this CSA provides otherwise).

Article 3.0 – Representatives for Client-Supplier Agreement

- 3.1 The Supplier's representative for purposes of this CSA shall be:

[insert Supplier's contact name, phone, facsimile and E-mail numbers**]**

- 3.2 The Client representative for purposes of this Agreement shall be:

[insert Client contact name, phone, facsimile and E-mail numbers**]**

Article 4.0 - Term of Client-Supplier Agreement

- 4.1 This CSA shall expire at the end of the Term. Provided that OECM has extended the Term of the Master Agreement, the Client shall have the option to extend this CSA for two further periods of one year each, such extensions to be upon the same terms, conditions and covenants contained in this CSA, excepting Rates (which shall be determined in the manner set out in the Master Agreement) and the option to renew in the second renewal period. The option shall be exercisable by the Client upon fifteen (15) calendar days prior written notice to the Supplier, setting forth the precise duration of the extension.

Article 5.0 – Resources, Rates and Payment Process

- 5.1 The Supplier agrees to provide the Resources to the Client as described in the Master Agreement and as more particularly specified in Schedule "A" (Assignment) to this CSA in accordance with the Rates set out in the Master Agreement.
- 5.2 The Supplier shall adhere to the time lines set out in the Schedule "A" (Assignment).
- 5.3 The Client hereby consents to the use by the Supplier of the Subcontractors and personnel (if any) named in Schedule "A" (Assignment).
- 5.4 The Client may request changes to the particular Assignment, which may include altering, adding to, or deleting any of the Resources. The Supplier shall comply with all reasonable Client change requests and the performance of such request shall be in accordance with the terms and conditions of the Master Agreement and CSA, including the Rates for such Resources set out in the Master Agreement. Any changes requested must be authorized in writing by the Client and accepted by the Supplier in writing in accordance with Article 13.3 of this CSA.

Article 6.0 - Rates and Payment

- 6.1 Provided that the Services as defined in the Schedule A Service Level Agreement are satisfactory to the Client, the Client shall pay the Supplier in accordance with the prices provided in the Supplier's Proposal which forms part of the Master Agreement. For convenience, the applicable Rates for this Assignment are set out **[*in Schedule "B" (Rates) of this Agreement]** or **[*below]**:

- 6.2 The Client will pay the Supplier by way of **[insert method of payment e.g. credit / purchase cards and cash, cheque, Electronic Funds Transfer (EFT)] Payment Terms – Net 30 days**
- 6.3 The Supplier shall bill the Client for Services in accordance with Article 4.04 of the Master Agreement, unless otherwise set out in Schedule “B” (Rates) to this CSA or in Article 6.1 above.

Article 7.0 - Insurance

- 7.1 The Supplier shall furnish a Certificate of Insurance to the Client in accordance with the insurance requirements set out in Article 7 of the Master Agreement prior to commencing performance under the CSA.
- 7.2 The Supplier shall ensure that the Client is named as an additional insured party under the Supplier’s insurance policy put in effect and maintained pursuant to Article 7.02 of the Master Agreement.

Article 8.0 - Notices

- 8.1 Notices shall be in writing and shall be delivered by e-mail, postage-prepaid envelope, personal delivery or facsimile and shall be addressed to, respectively, the Client address to the attention of the Client Representative and to the Supplier address to the attention of the Supplier Representative. The parties may change such addresses by notice in writing delivered to the other in accordance with this paragraph.
- 8.2 Notices shall be deemed to have been given (a) in the case of postage-prepaid envelope, five (5) Business Days after such notice is mailed; or (b) in the case of personal delivery or facsimile, e-mail, one (1) Business Day after such notice is sent in accordance with this paragraph.
- 8.3 In the event of a postal disruption, notices must be given by personal delivery or by facsimile or e-mail,
- 8.4 Unless the parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this Article.

Article 9.0 – Dispute resolution and Termination

- 9.1 Where the Supplier fails to comply with any of its obligations under the Contract, the Client may issue a rectification notice to the Supplier setting out the manner and time-frame for rectification. Within seven (7) Business Days of receipt of that notice the Supplier shall either (a) comply with that rectification notice; or (b) provide a rectification plan satisfactory to the Client. If the Supplier fails to either comply with that rectification notice or provide a satisfactory rectification plan and subsequently comply with such rectification plan the Client may immediately terminate the CSA. Where the Supplier has been given a prior rectification notice, the same subsequent type of non-compliance by the Supplier shall allow the Client to immediately terminate the CSA, without issuing a further rectification notice.

9.2 Supplier’s Obligations on Termination

The Supplier shall, in addition to its other obligations under the Contract and at law:

- (a) provide the Client with a report detailing (i) the current state of the provision of Resources by the Supplier at the date of termination; and (ii) any other information requested by the Client pertaining to the provision of the Resources and performance of the CSA;
- (b) execute such documentation as may be required by the Client to give effect to the termination of the CSA; and

- (c) comply with any instructions provided by the Client, including but not limited to instructions for facilitating the transfer of the Supplier's obligation to another person.

9.3 Supplier's Payment Upon Termination

Subject to updated clause 8.01 of the Master Agreement, a Client shall only be responsible for the payment of the Resources supplied on or before the effective date of any termination of the CSA. Termination shall not relieve the Supplier of its warranties and other responsibilities relating to the Resources performed or money paid prior to termination. In addition to its other rights of hold back or set off, the Client may hold back payment or set off against any payments owed if the Supplier fails to comply with its obligations on termination.

9.4 Termination in Addition to Other Rights

The express rights of termination in the CSA are in addition to and shall in no way limit any rights or remedies of the Client under the CSA, at law or in equity.

9.5 Survival upon Termination

In the event that OEMC terminates the Master Agreement with the Supplier prior to the expiry of this CSA but does not terminate this CSA at the same time, the terms of the Master Agreement shall survive and continue to apply to this CSA.

Article 10.0 - Publicity

- 10.1 Any publicity or publications related to this CSA or the Services shall be at the sole discretion of the Client. The Client may, in its sole discretion, acknowledge the Services of the Supplier in any such publicity or publication. The Supplier shall not make use of its association with the Client without the prior written consent of the Client.

Article 11.0 - Legal Relationship between Client, Supplier and Third-Parties

11.1 Supplier's Power to Contract

The Supplier represents and warrants that it has the full right and power and all necessary licences, authorizations and qualifications to enter into and perform its obligations under this CSA and that it is not a party to any agreement with another Person which would in any way interfere with the rights of the Client under this Contract.

11.2 Representatives May Bind the Parties

The parties represent that their respective representatives have the authority to legally bind them.

11.3 Independent Contractor

This CSA is for a particular and non-exclusive service. The Supplier shall have no power or authority to bind the Client or to assume or create any obligation or responsibility, express or implied, on the Client's behalf, or to hold itself out as an agent, employee or partner of the Client. Nothing in the CSA shall have the effect of creating an employment, partnership or Institution relationship between the Client and the Supplier. For the purposes of this paragraph, the Supplier includes any of its directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors.

11.4 No Subcontracting or Assignment

The Supplier shall not subcontract or assign the whole or any part of the CSA or any monies due under it without the prior written consent of the Client. Such consent shall be in the sole discretion of the Client and subject to the terms

and conditions that may be imposed by the Client. Without limiting the generality of the conditions which the Client may require prior to consenting to the Supplier's use of a subcontractor, every contract entered into by the Supplier with a subcontractor shall adopt all of the terms and conditions of the Master Agreement and CSA as far as applicable to those parts of the Resources provided by the subcontractor. Nothing contained in the Master Agreement or CSA shall create a contractual relationship between any subcontractor or its employees and the Client.

Article 12 – General

12.1 Severability

If any term or condition of the CSA, or the application thereof to the parties or to any Persons or circumstances, is to any extent invalid or unenforceable, the remainder of the CSA, and the application of such term or condition to the parties, Persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

12.2 Force Majeure

Neither party shall be liable for damages caused by delay or failure to perform its obligations under the CSA where such delay or failure is caused by an event beyond its reasonable control. The parties agree that an event shall not be considered beyond one's reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the CSA would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism and labour disruptions but shall not include shortages or delays relating to supplies or services. If a party seeks to excuse itself from its obligations under this CSA due to a force majeure event, that party shall immediately notify the other party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance. If the anticipated or actual delay or non-performance exceeds fifteen (15) Business Days, the other party may immediately terminate the CSA by giving notice of termination and such termination shall be in addition to the other rights and remedies of the terminating party under the CSA, at law or in equity.

12.3 Changes By Written Amendment Only

Any changes to the CSA shall be by written amendment signed by both parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

12.4 Section 217 Education Act et. al.

The Supplier represents and warrants that it has not employed, and that it will not during the Term employ, any teacher, supervisory officer or other employee of an Ontario district school board or of the Ontario Ministry of Education to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario district school board, provincial school or teachers' college, or to any pupil enrolled therein, and that it has not given or paid, and will not during the Term give or pay, directly or indirectly, compensation to any such teacher, supervisory officer or employee for such purpose.

The Supplier further represents and warrants that it has not employed, and that it will not during the Term employ, any member of faculty or other employee of an Ontario college or university to promote, offer for sale or sell, directly or indirectly, any book or other teaching or learning materials, equipment, furniture, stationery or other article to any Ontario college or university, or to any student enrolled therein, and that it has not given or paid, and will not during the Term give or pay, directly or indirectly, compensation to any such member of faculty or employee for such purpose where such employment or compensation would place the member of faculty or employee in a conflict of interest with the college or university by which he or she is employed.

12.5 Criminal Records Check

The Supplier covenants and agrees that it will not engage any employee or other person to perform services for the Supplier who may come into direct contact with students on a regular basis, or who may have access to student information to provide services hereunder, where such employee or other person has been charged with or convicted of an offence the nature of which may be construed as jeopardizing the safety and well being of the students of the Client. For the purposes of this CSA, the Client shall determine in its sole and unfettered discretion whether an employee of the Supplier or such other person may come into direct contact with students on a regular basis or have access to student information and whether or not any such offence is of a nature which may be construed as jeopardizing the safety and well-being of students.

The Supplier covenants and agrees to retain on file at its head office a criminal background check covering convictions, charges and occurrences under the Criminal Code, the Narcotics Control Act, and any other convictions, charges and occurrences which would be revealed by the long version Vulnerable Persons search of the automated Criminal Records Retrieval System maintained by the RCMP ("Criminal Background Check"), together with an Offence Declaration in a Client approved form for every employee of the Supplier or other person who will perform services for the Supplier who may come into direct contact with students on a regular basis or who may have access to student information, prior to the occurrence of such possible direct contact or prior to having access to student information and on or before September 1st each year thereafter with respect to Offence Declarations.

The Supplier agrees to indemnify and save harmless the Client from all claims, liabilities, expenses and penalties to which it may be subjected on account of: the Supplier engaging an employee or other person to perform services in contravention of this paragraph 12.5; or the Supplier's failure to retain a Criminal Background Check or an Offence Declaration on file, as aforesaid. This indemnity shall survive the expiration or sooner termination of this CSA. In addition to and notwithstanding anything else herein contained, if the Supplier engages an employee or other person to perform services in contravention of this paragraph 12.5, or fails to retain a Criminal Background Check and an Offence Declaration for any employee of the Supplier or other person who performs services for the Supplier who may come into direct contact with students on a regular basis, or who may otherwise have access to student information prior to the occurrence of such possible direct contact, or prior to having access to student information and on or before September 1st each year thereafter with respect to Offence Declarations, then the Client will have the right to immediately terminate this CSA without prejudice to any other rights which it may have in this CSA, at law or in equity.

The Client shall be entitled, on forty-eight (48) hours prior written notice to attend at the head office of the Supplier for the purposes of reviewing the Criminal Background Checks and Offence Declarations. The parties acknowledge and agree that it is contemplated that the Client may attend to such reviews at least twice per year during the Term, and any renewal thereof.

In the event that either the Criminal Background Check or an Offence Declaration reveals a charge or a criminal conviction which is not acceptable to the Client in the circumstances and in its sole and unfettered discretion, then the Client will have the right to request that the Supplier prohibit the employee of the Supplier or other person who performs services for the Supplier from providing services to the Client hereunder. Upon such request, the Supplier will forthwith effect such removal, without prejudice to any other rights which the Client may have in this CSA, at law or in equity.

IN WITNESS WHEREOF the parties hereto have executed this Client-Supplier Agreement as of the date first above written.

[Insert full legal name of Client **]**

Signature: _____

Name: _____

Title: _____

Date of Signature: _____

[Insert Supplier's Full Legal Name**]**

Signature: _____

Name: _____

Title: _____

Date of Signature: _____

I have authority to bind the Supplier.

Article 1

SCHEDULE A To Client-Supplier AGREEMENT

ASSIGNMENT

*****Set out a description of the Resources being acquired under the CSA including:**

- detailed description of the Resources (Products, reporting, etc)
- geographic regions in which Resources are to be provided (describe campuses, individual schools, etc)
- additional services (if required)
- identify personnel to be used by the Supplier, including any subcontractors
- reporting requirements***]
- Institutions may identify any specific one time, bulk purchase requirements or add additional Institution specific requirements (such a property access etc.) that do not conflict with the Master Agreement, the RFP or the Proponent(s) submission.

All Assignments include the following terms:

Customer Service

The Supplier will have personnel available by telephone to answer customer service related inquiries, including but not limited to orders, selection, billing, and reporting, during Business Hours. The Suppliers will have some form of answering service to receive phone messages in the event calls from the Client are unable to be answered. Telephone calls or other forms of correspondences by the Client such as fax or email must be answered within one (1) Business Day.

(a) Shipping

The Supplier will deliver the Resources directly to the Ontario addresses provided by the Client. Shipping will be FOB Destination.

Return of Resources

The Supplier will allow for the return of any shipment, if in the Client's opinion, the Resources received did not conform to their order and the Supplier will not charge any fees including but not limited to restocking charges and pick up charges, associated with the return of Resources. Where a return is found to be the client's error and not that of the Supplier a (TBD) restocking fee will be charge to the client

The Client may return Resources at their own expense for any reason other than not conforming to the Client orders.

SCHEDULE B TO CLIENT-SUPPLIER AGREEMENT

(i) RATES

***Provide detail for:

- Rates and discount structure as per the Master Agreement (could be a copy of what is included in the MA)
- Ceiling cost limit for the Client-Supplier Agreement
- Additional discounts for one time bulk purchases referenced in Schedule A to Client-Supplier Agreement
- Invoicing process if different from the Master Agreement***]

[End of Client-Supplier Agreement]

APPENDIX C: OECM eMARKETPLACE / SUPPLIER EXPECTATIONS

OECMs contracted supplier(s) will be expected to make products available through the OECM eMarketplace. If selected, OECM will work with the Supplier to determine the best mechanism to enable a catalogue of their product offerings on the OECM eMarketplace.

The OECM eMarketplace is built using the Ariba Spend Management suite of products. In order to participate, Suppliers must register on the Ariba Supplier Network. Catalogs are text files stored on the Ariba Supplier Network (Ariba SN) or on your own company's website that describe the products and services your organization offers and the prices you charge. Please go to <http://www.ariba.com/suppliermembership/en/index.cfm> for more information about the Ariba Supplier Network fees.

OECM is currently implementing the eMarketplace in five institutions. It is expected that these implementations will be completed in late 2010 and mid 2011.

1. OECM eMarketplace eCatalogues

The eMarketplace will enable institutions to purchase electronically from registered suppliers who make their catalogues available as either "punch out" catalogues or hosted directly on the eMarketplace.

eCatalogues are loaded into the OECM Marketplace to enable buyers to view and purchase products from the list of enabled Suppliers.

There are 2 types of eCatalogues used by OECM: Punch Out or Hosted.

A Punch Out eCatalogue is hosted on the Supplier's own website. Buyers go to a Supplier's specific website via the OECM eMarketplace system to purchase products and services. The Punch Out eCatalogue is outside the OECM firewall on the Supplier's server. The purchasing transaction is passed back to OECM eMarketplace for buyer approval.

An OECM Hosted eCatalogue is a full listing of products and/or services offered by a Supplier. The data for a hosted eCatalogue is provided by the Supplier and loaded and maintained in the OECM eMarketplace. The Hosted eCatalogue is hosted inside the OECM firewall. OECM provides an Excel template that helps you create and upload your catalogues to the eMarketplace.

2. OECM eMarketplace Fees

There is no cost to join the OECM eMarketplace. Applicable fees only apply when buyers place orders.

- 1% of the Purchase Order Value of each Transaction (“Transaction Fees”) capped at \$1,000 per Transaction

For example, for a \$500 order, the fee payable to OECM is \$5

- A \$1000 annual fee for each eCatalogue hosted by OECM beyond the two free catalogues permitted, namely, an English language version and French language version of the same catalogue. No catalogue fees apply to supplier hosted (Punch out) catalogues.

APPENDIX D - PROPOSAL RETURN LABEL

AFFIX THIS LABEL TO YOUR SUBMISSION PACKAGE ENVELOPE

Supplier to complete the following:
(Full Legal Name and Address)

NAME: _____

ADDRESS: _____

CONTACT: _____

PHONE: _____

RFP No. OECM2010-113

RFP Title:
Supply of Laboratory/Science Supplies

PROPOSAL SUBMISSION DEADLINE:

Date: June 30, 2010

Time: 3:00:00 p.m.
(Toronto Time)

TO:

**Ontario Education Collaborative Marketplace
90 Eglinton Avenue, Suite 504
Toronto, ON M4P 2Y3**

The Postal Code is to aid in identifying the building only. The onus remains solely with Proponents to instruct courier/ delivery personnel to deliver proposals to the exact floor location specified above by the Proposal Submission Deadline. Proponents assume sole responsibility for late deliveries if these instructions are not strictly adhered to.

IMPORTANT INSTRUCTIONS:

Proposals must be submitted in a sealed package(s) to the address indicated on the Proposal Return Label between the hours of 9:00 a.m. and 5:00 p.m. (Toronto Time), Monday through Friday (excluding Statutory Holidays), AND NO LATER THAN THE PROPOSAL SUBMISSION DEADLINE NOTED ABOVE.

OECM does not accept responsibility for proposal submissions directed to any location other than the address indicated on the label above. The Postal Code is to aid in identifying the building only. **The onus remains solely with Proponents to instruct courier/ delivery personnel to deliver proposal submissions to the EXACT FLOOR location specified above. Proponents assume sole responsibility for late deliveries if these instructions are not strictly adhered to.**

Failure to affix this Label to your submission envelope/package may also result in submissions not being recognized as a response to this RFP. This could result in your Submission arriving late at OECM's office and will be deemed late, disqualified and returned to the Proponent.

Proposals received by Fax or any other kind of electronic transmission will be rejected.