



**Request for Proposals
for
Ultrasonic Testing**

Request for Proposals No.: **RFP 2025 113**

Issued: **Friday, November 21, 2025**

Submission Deadline: **Monday, December 22, 2025 by 2:00:00 PM local time**

TABLE OF CONTENTS

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS	3
1.1 Invitation to Proponents.....	3
1.2 RFP Contact.....	4
1.3 Accommodations for Proponents with Disabilities.....	4
1.4 French Language Services.....	4
1.5 Contract for Deliverables	5
1.6 RFP Timetable	5
1.7 Submission Instructions.....	5
PART 2 – EVALUATION AND AWARD.....	7
2.1 Stages of Evaluation.....	7
2.2 Stage I – Mandatory Submission Requirements	7
2.3 Stage II – Evaluation	7
2.4 Stage III – Pricing	7
2.5 Selection of Top-Ranked Proponent.....	8
2.6 Notice to Proponent and Execution of Agreement	8
2.7 Failure to Enter into Agreement.....	8
PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS	9
3.1 General Information and Instructions.....	9
3.2 Communication after Issuance of RFP	10
3.3 Notification and Debriefing.....	11
3.4 Conflict of Interest and Prohibited Conduct.....	11
3.5 Confidential Information.....	14
3.6 Reserved Rights and Limitation of Liability	14
3.7 Governing Law and Interpretation.....	15
3.8 Power of Legislative Assembly	16
APPENDIX A – FORM OF AGREEMENT	17
APPENDIX B – RFP PARTICULARS	39
A.THE DELIVERABLES	39
B.MATERIAL DISCLOSURES.....	40
C.MANDATORY SUBMISSION REQUIREMENTS	40
D.MANDATORY TECHNICAL REQUIREMENTS.....	41
E.PRE-CONDITIONS OF AWARD	41
F.EVALUATION CRITERIA.....	41
G.PRICE EVALUATION METHOD.....	43
APPENDIX C – SUBMISSION FORM.....	44
APPENDIX D – SCHEDULE OF PRICES	50
APPENDIX E – HEALTH, SAFETY AND ENVIRONMENTAL	51

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

1.1 Invitation to Proponents

1.1.1 Invitation

This Request for Proposals (the “RFP”) is an invitation by Ontario Northland Transportation Commission (“ONTC”) to prospective proponents to submit proposals for **Ultrasonic Testing**, as further described in Section A of the RFP Particulars (Appendix B) (the “Deliverables”).

ONTC is an agency of the Province of Ontario that provides reliable and efficient transportation services to northern and rural communities. For over 120 years, the company has provided integrated and impactful transportation services including rail freight, passenger rail, motor coach transportation, rail repair, and remanufacturing services.

ONTC’s rail services are vital in maintaining a reliable supply chain in Northern Ontario by connecting freight customers to global economies. The forestry industry, mining operations, farming communities, and manufacturers count on ONTC’s services to deliver large volumes across vast distances. The company’s 675 miles of mainline track span throughout northeastern Ontario and northwestern Quebec.

ONTC motor coaches connect rural Ontario to major centres providing access to education, medical appointments, shopping, and seamless connections to other transportation providers. The Polar Bear Express passenger train connects Moosonee and Cochrane, Ontario, providing an all-season land link for Indigenous communities on the James Bay Coast.

Improving and repairing transportation equipment is also a large part of ONTC’s service offering. We remanufacture and repair locomotives, passenger rail cars, freight cars, and more. ONTC’s unique mechanical skillset attracts new business and secures skilled trades jobs in Northern Ontario.

ONTC makes provincial dollars reach further by creating innovative solutions that help drive economic growth sustainably, responsibly, and with future generations top of mind. Throughout the agency, modernization is underway with many exciting projects that will improve how we operate. ONTC employs over 1,000 people including Locomotive Engineers, Motor Coach Operators, skilled tradespeople, and business professionals. Employees work together to improve and deliver services that provide value to the regions served.

ONTC invites qualified contractors to submit proposals for ultrasonic testing services relating to its rail infrastructure. The contract encompasses approximately 660 miles of track, with scheduled testing occurring twice annually in the spring and fall during 2026, 2027, and 2028. ONTC reserves the right to extend the contract under identical terms and conditions for up to two additional one-year periods. The scope further includes an optional annual summer test, at ONTC’s discretion, covering an additional 186 miles within the Island Falls Subdivision. The selected contractor will be required to supply skilled personnel and appropriate equipment to ensure timely completion of all testing activities.

1.1.2 Proponent Must Be Single Entity

The proponent must be a single legal entity that, if selected, intends to enter into the contract with ONTC. If the proposal is being submitted jointly by two (2) or more separate entities, the proposal must identify only one (1) of those entities as the “proponent”. The proponent will be responsible for the performance of the Deliverables.

1.1.3 Bidding System Registration

All proponents must have a vendor account with the electronic bidding system at: <https://www.merx.com/>. This will enable the proponent to download the solicitation document, to receive addenda email notifications, download addenda, and submit their proposal electronically through the bidding system.

1.2 RFP Contact

For the purposes of this procurement process, the “RFP Contact” will be:

Ashley Commanda
Manager, Public Procurement
Telephone: 705-472-4500 ext. 398
Email: Ashley.Commanda@ontarionorthland.ca

Proponents and their representatives are not permitted to contact any employees, officers, agents, elected or appointed officials, or other representatives of ONTC, other than the RFP Contact, concerning matters regarding this RFP. Failure to adhere to this rule may result in the disqualification of the proponent and the rejection of the proponent’s proposal.

1.3 Accommodations for Proponents with Disabilities

In accordance with the Ontario Human Rights Code, Ontarians with Disabilities Act, 2001 (ODA) and Accessibility for Ontarians with Disabilities Act, 2005 (AODA), ONTC will accommodate for a disability, ensuring full and equitable participation throughout the RFP process. If a proponent requires this RFP in a different format to accommodate a disability, the proponent must contact the RFP Contact as soon as possible and in any event prior to the Submission Deadline. The RFP in the different format will be issued only to the requesting proponent and all addenda will be issued in such different format only to the requesting proponent.

1.4 French Language Services

In accordance with the French Language Services Act, R.S.O. 1990, c. F.32, and Ontario Regulation 544/22, ONTC is committed to providing equitable access to procurement opportunities in both official languages. While this RFP and associated documents are posted in English, a French version is available upon request. Interested parties may contact the RFP Contact to obtain a French copy.

1.5 Contract for Deliverables

1.5.1 Type of Contract

The selected proponent will be required to enter into an agreement with ONTC for the provision of the Deliverables in the form attached as Appendix A to the RFP (the “Agreement”).

1.5.2 Term of Contract

The term of the Agreement is to be for a period of three (3) years, with an option in favour of ONTC to extend the Agreement on the same terms and conditions for up to two (2) additional one (1) year terms.

1.6 RFP Timetable

1.6.1 Key Dates

Issue Date of RFP	Friday, November 21, 2025
Deadline for Questions	Friday, December 12, 2025 by 4:00:00 PM local time
Deadline for Issuing Addenda	Wednesday, December 17, 2025 by 4:00:00 PM local time
Submission Deadline	Monday, December 22, 2025 by 2:00:00 PM local time
Anticipated Execution of Agreement	February 9, 2026
Irrevocability Period	90 calendar days

The RFP timetable is tentative only and may be changed by ONTC at any time.

1.7 Submission Instructions

1.7.1 Submission of Proposals

Proposals must be submitted electronically through the bidding system at:

<https://www.merx.com/>

Submissions by other methods will not be accepted.

In the event of any technical issues, proponents should contact the bidding system's technical support.

MERX	Customer Support
Phone	1-800-964-6379
Email	merx@merx.com

The Technical Proposal shall be uploaded into the bidding system, in PDF format, and not have a security password. It is the proponent's sole responsibility to ensure all uploaded documents are not defective, corrupted, or blank and can be opened by ONTC. If the Technical Proposal cannot be downloaded by ONTC, the Proposal shall be rejected.

The Pricing Proposal shall be uploaded into the bidding system. No pricing information shall be uploaded as part of the Technical Proposal as this is a two-envelope process.

1.7.2 Proposals to Be Submitted on Time

Proposals must be finalized and fully uploaded in the bidding system on or before the Submission Deadline. The time of receipt of proposals shall be determined by the bidding system web clock. Late submissions will not be accepted by the bidding system and will be disqualified as late.

Proponents are cautioned that the timing of submission is based on when the proposal is received by the bidding system, not when a proposal is submitted by a proponent. As transmission can be delayed due to file transfer size, transmission speed, or other technical factors, proponents should plan to submit proposals well in advance of the Submission Deadline to avoid submitting late due to technical issues. Proponents submitting near the Submission Deadline do so at their own risk.

The bidding system will send a confirmation email to the proponent advising when the proposal was submitted successfully. If you do not receive a confirmation email, contact the bidding system's technical support immediately.

1.7.3 Proposals to Be Submitted in Prescribed Format

Proposal materials should be prepared and submitted in accordance with the instructions in the bidding system, including any maximum upload file size.

Documents should not be embedded within uploaded files, as the embedded files may not be accessible or evaluated.

1.7.4 Amendment of Proposals

Proponents may amend their proposals prior to the Submission Deadline. However, the proponent is solely responsible for ensuring that the amended proposal is received by the bidding system by the Submission Deadline.

1.7.5 Withdrawal of Proposals

Prior to the Submission Deadline, proponents may withdraw a submitted proposal through the bidding system.

1.7.6 Proposals Irrevocable after Submission Deadline

Proposals shall be irrevocable for the Irrevocability Period, as specified in the RFP Timetable, running from the moment that the Submission Deadline passes.

[End of Part 1]

PART 2 – EVALUATION AND AWARD

2.1 Stages of Evaluation

ONTC will conduct the evaluation of proposals in the following stages:

2.2 Stage I – Mandatory Submission Requirements

Stage I will consist of a review to determine which proposals comply with all of the mandatory submission requirements. Proposals that do not comply with all of the mandatory submission requirements as of the Submission Deadline will, subject to the express and implied rights of ONTC, be rejected. The mandatory submission requirements are listed in Section C of the RFP Particulars (Appendix B).

2.2.1 No Amendment to Forms

Other than inserting the information requested on the mandatory submission forms set out in the RFP, a proponent may not make any changes to any of the forms. Any proposal containing any such changes, whether on the face of the form or elsewhere in the proposal, may be disqualified.

2.3 Stage II – Evaluation

Stage II will consist of the following two (2) sub-stages:

2.3.1 Mandatory Technical Requirements

ONTC will review the proposals to determine whether the mandatory technical requirements as set out in Section D of the RFP Particulars (Appendix B) have been met. Proposals that do not comply with all of the mandatory technical requirements will, subject to the express and implied rights of ONTC, be rejected.

2.3.2 Non-Price Rated Criteria

ONTC will evaluate each qualified proposal on the basis of the non-price rated criteria (Technical Proposal) as set out under Initial Evaluation Criteria in Section F of the RFP Particulars (Appendix B).

2.4 Stage III – Pricing

Stage III will consist of a scoring of the submitted pricing of each qualified proposal in accordance with the price evaluation method set out in Section G of the RFP Particulars (Appendix B). The evaluation of price will be undertaken after the evaluation of mandatory requirements and rated criteria has been completed.

In the event that a proponent's pricing appears to be abnormally low in relation to the Deliverables, ONTC may require the proponent to provide a detailed explanation of the pricing information to account for the low level of price and confirm that all requirements in respect of the Deliverables have been taken into account. If the proponent is unable to satisfactorily account for the abnormally low pricing, ONTC may reject the proposal. ONTC may also reject any proposal that contains unbalanced pricing. Pricing may be considered unbalanced where nominal or significantly understated prices are proposed for some elements of the Deliverables and inflated prices are proposed for other elements of the Deliverables. Unbalanced pricing includes, but is

not limited to, “front-loaded” pricing which contains inflated pricing for Deliverables to be provided or completed at the beginning of the contract, offset by understated pricing for Deliverables to be provided or completed later in the contract.

2.5 Selection of Top-Ranked Proponent

After the completion of Stage III, all scores from Stage II and Stage III will be added together and proponents will be ranked based on their total scores. Subject to the reserved rights of ONTC, the top-ranked proponent will be selected to enter into the Agreement in accordance with the following section. In the event of a tie, the selected proponent will be the proponent with the highest score on the Technical Proposal.

2.6 Notice to Proponent and Execution of Agreement

Notice of selection by ONTC to the selected proponent shall be in writing. The selected proponent shall execute the Agreement in the form attached as Appendix A to this RFP and satisfy any other applicable conditions of this RFP, including the pre-conditions of award listed in Section E of the RFP Particulars (Appendix B), within ten (10) days of notice of selection. This provision is solely for the benefit of ONTC and may be waived by ONTC.

2.7 Failure to Enter into Agreement

If a selected proponent fails to execute the Agreement or satisfy any pre-conditions of award within ten (10) days of notice of selection, ONTC may, without incurring any liability, proceed with the selection of another proponent and pursue all other remedies available to ONTC.

[End of Part 2]

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

3.1 General Information and Instructions

3.1.1 RFP Incorporated into Proposal

All of the provisions of this RFP are deemed to be accepted by each proponent and incorporated into each proponent's proposal. A proponent who submits conditions, options, variations, or contingent statements inconsistent with the terms set out in this RFP, including the terms of the Agreement in Appendix A, either as part of its proposal or after receiving notice of selection, may be disqualified. If a proponent is not disqualified despite such changes or qualifications, the provisions of this RFP, including the Agreement set out in Appendix A, will prevail over any such changes or qualifications in the proposal.

3.1.2 Proponents to Follow Instructions

Proponents should structure their proposals in accordance with the instructions in this RFP. Where information is requested in this RFP, any response made in a proposal should reference the applicable section numbers of this RFP.

3.1.3 Proposals in English

All proposals are to be in English only.

3.1.4 No Incorporation by Reference

The entire content of the proponent's proposal should be submitted in a fixed format, and the content of websites or other external documents referred to in the proponent's proposal, but not attached, will not be considered to form part of its proposal.

3.1.5 Past Performance

In the evaluation process, ONTC may consider the proponent's past performance or conduct on previous contracts with ONTC or other institutions.

3.1.6 Information in RFP Only an Estimate

ONTC and its advisers make no representation, warranty, or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any quantities shown or data contained in this RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to proponents the general scale and scope of the Deliverables. It is the proponent's responsibility to obtain all the information necessary to prepare a proposal in response to this RFP.

3.1.7 Proponents to Bear Their Own Costs

The proponent will bear all costs associated with or incurred in the RFP process, including, without limitation, preparation and presentation of its proposal and if applicable, costs incurred for meeting attendance, interviews or demonstrations.

3.1.8 Proposal to be Retained by ONTC

ONTC will not return the proposal or any accompanying documentation submitted by a proponent.

3.1.9 No Guarantee of Volume of Work or Exclusivity of Contract

ONTC makes no guarantee of the value or volume of work to be assigned to the selected proponent. The Agreement will not be an exclusive contract for the provision of the described Deliverables. ONTC may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

3.1.10 Trade Agreements

Proponents should note that procurements falling within the scope of the Ontario-Quebec Trade and Co-operation Agreement, Canadian Free Trade Agreement, and Comprehensive Economic and Trade Agreement are subject to those trade agreements but that the rights and obligations of the parties will be governed by the specific terms of this RFP.

3.2 Communication after Issuance of RFP

3.2.1 Proponents to Review RFP

Proponents shall promptly examine all of the documents comprising this RFP, and

- (a) shall report any errors, omissions, or ambiguities; and
- (b) may direct questions or seek additional information

in writing by email to the RFP Contact on or before the Deadline for Questions. No such communications are to be sent or initiated through any other means. ONTC is under no obligation to provide additional information, and ONTC is not responsible for any information provided by or obtained from any source other than the RFP Contact or the bidding system. It is the responsibility of the proponent to seek clarification on any matter it considers to be unclear. ONTC shall not be responsible for any misunderstanding on the part of the proponent concerning this RFP or its process.

3.2.2 All New Information to Proponents by Way of Addenda

This RFP may be amended only by addendum in accordance with this section. If ONTC, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all proponents by addendum posted in the bidding system. Each addendum forms an integral part of this RFP and may contain important information, including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by ONTC.

3.2.3 Post-Deadline Addenda and Extension of Submission Deadline

If ONTC determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, ONTC may extend the Submission Deadline for a reasonable period of time.

3.2.4 Verify and Clarify

When evaluating proposals, ONTC may request further information from the proponent or third parties in order to verify or clarify the information provided in the proponent's proposal. The response received by ONTC shall, if accepted by ONTC, form an integral part of the proponent's proposal.

3.3 Notification and Debriefing

3.3.1 Notification to Other Proponents

Once the Agreement is executed by ONTC and a proponent, the other proponents may be notified directly in writing and shall be notified by public posting, on ONTC's website, of the outcome of the procurement process.

3.3.2 Debriefing

Proponents may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the RFP Contact and must be made within sixty (60) days of such notification. The RFP Contact will contact the proponent's representative to schedule the debriefing. Debriefings may occur by way of conference call or other remote meeting format as prescribed by ONTC.

3.3.3 Procurement Protest Procedure

Any proponent with concerns about the RFP process is required to attend a debriefing prior to proceeding with a protest.

If, after attending a debriefing, the proponent wishes to challenge the RFP process, it should provide written notice to the RFP Contact in accordance with applicable procurement protest procedures. The written notice must contain:

- (a) a clear statement as to which procurement the proponent wishes to challenge;
- (b) a clear explanation of the proponent's concerns with the procurement, including specifics as to why it disagrees with the procurement process or its outcome; and
- (c) the proponent's contact details, including name, telephone number, and email address.

ONTC will send an initial response to acknowledge receipt of the proponent's notice and indicate the date by which ONTC will provide the proponent with a formal response.

3.4 Conflict of Interest and Prohibited Conduct

3.4.1 Conflict of Interest

For the purposes of this RFP, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including, but not limited to:

- (i) having or having access to confidential information of ONTC in the preparation of its proposal that is not available to other proponents;
 - (ii) having been involved in the development of the RFP, including having provided advice or assistance in the development of the RFP;
 - (iii) receiving advice or assistance in the preparation of its response from any individual or entity that was involved in the development of the RFP;
 - (iv) communicating with any person with a view to influencing preferred treatment in the RFP process (including, but not limited to, the lobbying of decision-makers involved in the RFP process); or
 - (v) engaging in conduct that compromises, or could be seen to compromise, the integrity of the open and competitive RFP process or render that process non-competitive or unfair; or
- (b) in relation to the performance of its contractual obligations under a contract for the Deliverables, 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 judgement; or
 - (ii) could, or could be seen to, compromise, impair, or be incompatible with the effective performance of its contractual obligations.

3.4.2 Disqualification for Conflict of Interest

ONTC may disqualify a proponent for any conduct, situation, or circumstances, determined by ONTC, in its sole and absolute discretion, to constitute a Conflict of Interest as defined above.

An existing supplier of ONTC may be precluded from participating in the RFP process in instances where ONTC has determined that the supplier has a competitive advantage that cannot be adequately addressed to mitigate against unfair advantage. This may include, without limitation, situations in which an existing supplier is in a position to create unnecessary barriers to competition through the manner in which it performs its existing contracts, or situations where the incumbent fails to provide the information within its control or otherwise engages in conduct obstructive to a fair competitive process.

3.4.3 Disqualification for Prohibited Conduct or Breach

ONTC may disqualify a proponent, rescind a notice of selection, or terminate a contract subsequently entered into if ONTC determines in its sole and absolute discretion that the proponent has engaged in any conduct prohibited by this RFP or has otherwise breached the terms of the of the RFP.

3.4.4 Prohibited Proponent Communications

Proponents must not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Submission Form (Appendix C).

3.4.5 Proponent Not to Communicate with Media

Proponents must not, at any time directly or indirectly, communicate with the media in relation to this RFP or any agreement entered into pursuant to this RFP without first obtaining the written permission of the RFP Contact. Further, proponents must not make any media release, social media or Internet post, public announcement or public disclosure (whether for publication in the press, on the radio, television, internet or any other medium) that relates to the RFP process, the solicitation documents or the Deliverables or any matters related thereto, without the prior written consent of ONTC.

3.4.6 No Lobbying

Proponents must not, in relation to this RFP or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to influence the selection of the selected proponent(s).

3.4.7 Illegal or Unethical Conduct

Proponents must not engage in any illegal business practices, including activities such as bid-rigging, price-fixing, bribery, fraud, coercion, or collusion. Proponents must not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications; offering gifts to any employees, officers, agents, elected or appointed officials, or other representatives of ONTC; deceitfulness; submitting proposals containing misrepresentations or other misleading or inaccurate information; or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFP.

3.4.8 Supplier Suspension

ONTC may suspend a supplier from participating in its procurement processes for prescribed time periods based on past performance or based on inappropriate conduct, including, but not limited to, the following:

- (a) illegal or unethical conduct as described above;
- (b) the refusal of the supplier to honour its submitted pricing or other commitments;
- (c) engaging in litigious conduct, bringing frivolous or vexatious claims in connection with ONTC's procurement processes or contracts, or engaging in conduct obstructive to a fair competitive process; or
- (d) any conduct, situation, or circumstance determined by ONTC, in its sole and absolute discretion, to have constituted an undisclosed Conflict of Interest.

In advance of a decision to suspend a supplier, ONTC will notify the supplier of the grounds for the suspension and the supplier will have an opportunity to respond within a timeframe stated in the notice. Any response received from the supplier within that timeframe will be considered by ONTC in making its final decision.

3.5 Confidential Information

3.5.1 Confidential Information of ONTC

All information provided by or obtained from ONTC in any form in connection with this RFP either before or after the issuance of this RFP:

- (a) is the sole property of ONTC and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of the Agreement;
- (c) must not be disclosed without prior written authorization from ONTC; and
- (d) must be returned by the proponent to ONTC immediately upon the request of ONTC.

Each proponent shall be responsible for any breach of the provisions of this section by any person to whom it discloses ONTC confidential information.

3.5.2 Confidential Information of 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 ONTC. The confidentiality of such information will be maintained by ONTC, 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 advisers retained by ONTC to advise or assist with the RFP process, including the evaluation of proposals. 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 Contact.

3.6 Reserved Rights and Limitation of Liability

3.6.1 Reserved Rights of ONTC

ONTC reserves the right to:

- (a) make public the names of any or all proponents;
- (b) make changes, including substantial changes, to this RFP provided that those changes are issued by way of addendum in the manner set out in this RFP;
- (c) request written verification or clarification from any proponent and incorporate a proponent's response to that request for clarification into the proponent's proposal;
- (d) assess a proponent's proposal on the basis of: (i) a financial analysis determining the actual cost of the proposal when considering factors including quality, service, price, and transition costs arising from the replacement of existing goods, services, practices, methodologies, and infrastructure (howsoever originally established); and (ii) in addition to any other evaluation criteria or considerations set out in this RFP, consider any other relevant information that arises during this RFP process;
- (e) reject a proposal that contains abnormally low or unbalanced pricing;

- (f) waive formalities and accept proposals that substantially comply with the requirements of this RFP;
- (g) verify with any proponent or with a third party any information set out in a proposal;
- (h) check references other than those provided by any proponent;
- (i) disqualify a proponent, rescind a notice of selection, or terminate a contract subsequently entered into if the proponent has engaged in any conduct that breaches the process rules or otherwise compromises or may be seen to compromise the competitive process;
- (j) select a proponent other than the proponent whose proposal reflects the lowest cost to ONTC;
- (k) cancel this RFP process at any stage;
- (l) cancel this RFP process at any stage and issue a new RFP for the same or similar deliverables;
- (m) accept any proposal in whole or in part; or
- (n) reject any or all proposals;

and these reserved rights are in addition to any other express rights or any other rights that may be implied in the circumstances.

3.6.2 Limitation of Liability

By submitting a proposal, each proponent agrees that

- (a) neither ONTC nor any of its employees, officers, agents, elected or appointed officials, advisors, or representatives will be liable, under any circumstances, for any claim arising out of this RFP process including, but not limited to, costs of preparation of the proposal, loss of profits, loss of opportunity, or for any other claim; and
- (b) the proponent waives any right to or claim for any compensation of any kind whatsoever, including claims for costs of preparation of the proposal, loss of profit, or loss of opportunity by reason of ONTC's decision to not accept the proposal submitted by the proponent, to enter into an agreement with any other proponent, or to cancel this RFP process, and the proponent shall be deemed to have agreed to waive such right or claim.

3.7 Governing Law and Interpretation

These Terms and Conditions of the RFP Process (Part 3):

- (a) are intended to be interpreted broadly and independently (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive and shall not be construed as intending to limit the pre-existing rights of ONTC; and

- (c) are to be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and the courts of the Province of Ontario shall have exclusive jurisdiction to entertain any action or proceeding based on, relating to or arising from this RFP.

3.8 Power of Legislative Assembly

No provision of this RFP is intended to operate, nor shall any such provision have the effect of operating, in any way, that would interfere with or otherwise fetter the discretion of the Legislative Assembly of Ontario in the exercise of its legislative powers.

[End of Part 3]

APPENDIX A – FORM OF AGREEMENT

The Contract for Deliverables will be the ONTC Form of Agreement as attached to this Appendix A.

THIS AGREEMENT FOR SERVICES MADE EFFECTIVE XXX (the “Effective Date”)

BETWEEN:

ONTARIO NORTHLAND TRANSPORTATION COMMISSION

(“ONTC”)

and

XXX

(“Service Provider”)

THE PARTIES AGREE AS FOLLOWS:

INTERPRETATION

1. Definitions. In this Agreement,

“Agreement” means this agreement and all attached schedules;

“Applicable Laws” means means all requirements under or prescribed by the common law, and all applicable federal, provincial, regional, local or municipal laws, statutes, codes, acts, permits, licenses, ordinances, orders, by-laws, rules and regulations, which may now, or at any time hereafter be applicable to and enforceable in relation to the matters to which this Agreement relates;

“Change Order” has the meaning set out in Section 21;

“Confidential Information” means all information of ONTC that is of a confidential nature, including all confidential information in the custody or control of ONTC, 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 Service Provider in connection with the Agreement. For greater certainty, Confidential Information shall:

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

“Conflict of Interest” means any actual or potential conflict of interest including, but not limited to:

- (a) situations or circumstances that could compromise the ability of the Service Provider to perform its obligations under the Agreement; and,
- (b) the offer or giving of a benefit of any kind by or on behalf of the Service Provider to anyone employed by or otherwise connected with ONTC.

“Environmental Laws” means all applicable federal, provincial, territorial, municipal and local laws, statutes, ordinances, by-laws and regulations, judgments, decrees, common laws and principles thereof, and orders, directives and decisions rendered or issued by any governmental authority relating to Environmental Contaminants or the protection of human health, natural resources or the environment;

“Environmental Contaminants” means any substance, material or waste defined, regulated, listed or prohibited by Environmental Laws;

“Equipment” means all machinery and equipment, either operated or not operated, that is required for performing the Services but is not incorporated into the Work Product;

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

“Force Majeure” means an event or a cause beyond the control of a party, which may include war, interference by civil or military authorities, civil insurrection, local or national emergency, blockade, seizure, riot, sabotage, vandalism, terrorism, earthquake, flood, act of God, accident, fire, nuclear or other explosion, disease, epidemic, pandemic, quarantine restriction, strike, lockout or other labour disturbance, supply chain disruptions, governmental embargo, or changes to any acts, orders, legislation, regulations, directives, or priorities of any government or other public authority; provided such event is not caused by the affected party’s negligence or failure to exercise reasonable diligence. A Force Majeure event or cause does not include an inability to pay or a lack of financial resources unless it is due to a failure of the province to approve the appropriation from the Consolidated Revenue Fund for the Services.

“Intellectual Property” means any improvement, invention or discovery, whether or not patented or patentable, any technical data, know-how or trade secret, any design, any computer software or any work subject to copyright, whether or not such design or copyright is registered or registrable and all Intellectual Property rights contained, embedded or disclosed in the Services;

“Loss” or “Losses” means loss, liability, damage, cost, legal cost and disbursement whatsoever arising out of or related to the Services or this Agreement, whether in contract, tort or otherwise;

“ONTC Parties” includes ONTC and its officers, directors, employees, contractors and agents and those for whom ONTC is in law responsible;

“Service Provider Parties” includes the Service Provider and its officers, directors, employees, contractors and agents for whom it is at law responsible;

“Services” has the meaning set out in Section 5;

“Standard of Care” has the meaning set out in Section 14;

“Term” means the Original Term and any Renewal Term, as those terms are defined in Section 9; and

“Work Product” means all information in any form prepared by or for the Service Provider as part of the Services including without limitation the deliverables described in Schedules A and B.

2. **Construing this Agreement.** This Agreement is to be construed and interpreted with all changes in number and gender as may be required by the context. The obligations of

the parties contained in this Agreement have, where applicable, the status of representations, warranties and covenants by the respective obligated party. Time is of the essence of this Agreement, including if any extension of time is permitted.

3. **Precedence.** Subject to any contrary intention elsewhere in this Agreement, in case of any inconsistency or conflict among the Schedules and the body of this Agreement, the documents shall prevail in the following order, but only to the extent necessary to resolve the conflict or inconsistency:
 - (a) the body of this Agreement;
 - (b) Schedule A (Scope of Work);
 - (c) Schedule B (Service Provider's Submission); and
 - (e) any other documents incorporated by reference in any of the foregoing.

If the Service Provider's terms and conditions are supplied to ONTC in respect of the Services (including without limitation in any submission in response to a request for proposal or quote) those terms and conditions will be of no legal effect and will not constitute part of this Agreement (even if any representative of ONTC signs those terms and conditions or annexes them to the Agreement) unless ONTC expressly agrees in writing to be bound by all or any of the terms and conditions.

PARTICULARS OF THIS AGREEMENT

4. **Retainer.** ONTC hereby retains the Service Provider to provide the Services, and the Service Provider shall provide those Services to ONTC under the general direction and control of ONTC and subject to the provisions of this Agreement. This retainer is non-exclusive and ONTC may retain other service providers to provide similar services.
5. **Services.** The Services which are the subject of this Agreement are the ultrasonic rail fault detection testing of approximately 660 miles of track, as more particularly described in Schedule A (the "**Services**"). The Services shall be provided as required by ONTC. ONTC is not guaranteeing any minimum level of use of the Services.
6. **Fees.** The fees which are the subject of this Agreement are **XXX**.
7. **Disbursements.** The fees include all costs, expenses and disbursements required to perform the Services. ONTC will not pay any additional amount for disbursements unless the disbursements are approved in writing in advance by ONTC. The Service Provider

acknowledges that travel expenses will only be approved in accordance with the Management Board of Cabinet Travel, Meal & Hospitality Expenses Directive, January 2020 (<https://www.ontario.ca/page/travel-meal-and-hospitality-expenses-directive-2020>).

8. **Maximum.** The maximum amount payable by ONTC to the Service Provider under this Agreement, excluding Harmonized Sales Tax, is: **\$XXX** CAN.
9. **Term.** This Agreement shall commence on the Effective Date and shall continue for a period of three (3) years unless terminated early in accordance with this Agreement (the “**Original Term**”). ONTC shall have the option to renew this Agreement for two (2) further periods of one (1) year each (a “**Renewal Term**”) exercisable in its sole discretion by providing written notice to the Service Provider at least 30 days prior to the end of the Original Term or Renewal Term as the case may be.

PROVISION OF THE SERVICES

10. **Equipment.** The Service Provider will supply Equipment that is in good repair and meets all safety standards and regulations. The Service Provider shall be responsible for all costs and expenses for the Equipment including, but not limited to, repair, maintenance, replacement, insurance and fuel. In the event the Equipment fails to operate correctly during provision of the Services, the Service Provider shall be responsible for all costs relating to any delay in the work of the Personnel, including compensation for the Personnel. In no event will ONTC be charged for any costs relating to the Personnel or the Equipment if the Personnel are unable to work due to Equipment failure or breakdown.
11. **Personnel.** The Service Provider shall provide the Services using the Service Provider Parties proposed in their submission attached as Schedule B. The Service Provider shall not change the personnel providing the Services without ONTC’s prior written approval. The Service Provider shall coordinate the activities of their personnel and be solely responsible for payment of all costs associated with the personnel. The Service Provider shall be responsible for every act or omission of the personnel providing Services to ONTC.
12. **Workplan.** The Service Provider shall provide the Services in accordance with a workplan approved by ONTC.
13. **Timeline.** The Service Provider shall provide the Services within the time specified in the workplan and for all costs of meeting such timing, unless otherwise agreed by ONTC. If costs higher than set out in this Agreement become necessary to ensure delivery of the Services by the deadlines in the workplan, then the Service Provider (and not ONTC) shall be fully responsible for such higher costs. If the Service Provider fails to meet the

timeline set out in the workplan, ONTC may, at the sole cost of the Service Provider, retain other persons to complete the Services, and deduct the cost of such retention from any money payable by ONTC to the Service Provider.

14. **Standard of Care.** The Service Provider shall carry out the Services in conformity with the standard of care, skill and diligence normally provided by a well-qualified and experienced professional person in the performance of similar services for a similar project at the time and place the Services are being provided. The Service Provider shall give ONTC the full benefit of its skills, qualification, experience, knowledge and professional expertise (the “**Standard of Care**”). Any Services provided by Service Provider Parties shall meet or exceed the Standard of Care and the Service Provider shall be fully responsible therefor.
15. **Vendor Performance Policy.** ONTC has a Vendor Performance Policy which requires ONTC to complete an evaluation of the Service Provider’s performance of its obligations under this Agreement. The performance evaluation of the Service Provider for the supply of these Services will be used in the assessment of the Service Provider’s proposals in response to future procurements. The performance evaluation may also result in the Service Provider being disqualified from submitting proposals in response to future procurements in accordance with the terms of the policy. The policy can be found at <http://ontarionorthland.ca/en/requests-tenders>.
16. **Inadequate Services.** ONTC shall be the sole judge of the adequacy of the Services received and their value. If ONTC determines that any Services are not in conformity with the terms and conditions of this Agreement, including the Standard of Care and Environmental Laws, ONTC shall advise the Service Provider who shall, except as otherwise provided in this Agreement, immediately correct at its own cost and expense the inadequate Services, except to the extent such non-conforming Services were caused by a person who is not a Service Provider Party. Provided that if the quality of the Services is such that ONTC determines that the Service Provider is not able to provide the Services in accordance with the Standard of Care or within the terms of this Agreement, ONTC may terminate this Agreement in accordance with the early termination provisions of this Agreement.
17. **Progress Reports.** The Service Provider shall, upon request by ONTC, provide reports to ONTC on the Services, including opinions regarding the progress and resolution of the Services.
18. **Discontinuance of Services.** Despite anything to the contrary contained in this Agreement, ONTC may at any time, for any reason, discontinue part of the Services.

ONTC shall pay the Service Provider for the chargeable amounts for the discontinued part of the Services up to the date that ONTC gives the Service Provider notice of its decision to discontinue the Services, or a later date if work, already commenced by the Service Provider, cannot reasonably be discontinued until such later date. This shall be the only remedy of the Service Provider for discontinuance of part of the Services. The Service Provider shall not be entitled to make any claim for loss of profit on the discontinued Services.

19. Obligations of the Service Provider. The Service Provider shall:

- (a) provide the Services in compliance with all Applicable Laws, as amended from time to time;
- (b) obtain all permits required to provide the Services and provide them to ONTC upon request;
- (c) ensure that it and its personnel have all certifications required to provide the Services, keep such certifications in good standing, and provide evidence of the requisite certifications to ONTC upon request.
- (d) while being on ONTC's property, comply with ONTC's policies, including its Fit for Duty Policy;
- (e) perform and cause the Service Provider Parties to perform the Services with diligence and in a courteous and business-like manner;
- (f) not subcontract the provision of any of the Services without the written consent of ONTC;
- (g) avoid any Conflict of Interest during the performance of the Services; and
- (h) disclose to ONTC any Conflict of Interest the Service Provider has or potentially has that arises during the performance of the Services.

20. Conflict of Interest. If a potential or actual Conflict of Interest of the Service Provider arises during the Service Provider's performance of the Services,

- (a) ONTC has the sole right to determine whether any situation or circumstance constitutes a Conflict of Interest;
- (b) ONTC has the right to prescribe the manner in which the Service Provider should resolve the Conflict of Interest; and

- (c) ONTC may terminate the Agreement immediately upon notice to the Service Provider if the Service Provider fails to disclose any actual or potential Conflict of Interest, if the Service Provider fails to resolve its Conflict of Interest as directed by ONTC or if ONTC determines that the Conflict of Interest cannot be resolved.

CHANGES

21. **Changes.** Changes of any kind to the scope of the Services shall only be made by the Service Provider upon receipt of a written change order signed by an authorized member of each Party (each, a “**Change Order**”) or a Change Directive (as defined below). ONTC may at any time by issuing a Change Order or Change Directive make any change in the Services to be provided by the Service Provider. The Change Order shall specify the details of the change in scope of the Services, any agreed adjustment to the Price in respect of the change in scope of the Services and any agreed adjustment to the time for performance of the Services, whether an increase or reduction. A Change Order shall represent full payment for all costs and any adjustment to the schedule associated with the change or changes for which it was issued.
22. **Change Directive.** Prior to finalization of a Change Order, ONTC may instruct the Service Provider to proceed with additional or changed work by issuing a directive signed by an authorized member of ONTC (each, a “Change Directive”). Upon receipt of a Change Directive, the Service Provider shall immediately proceed with the changes to the Services as identified therein. The Parties shall then seek to finalize a Change Order as soon as commercially reasonable. Prior to the finalization of the relevant Change Order, the Service Provider shall be entitled to payment for pre-approved, reasonable documented costs incurred in respect of a Change Directive, determined by using the hourly rates in Schedule C with any additional pre-approved proven reasonable expenses incurred pursuant to a Change Directive charged at cost.
23. **Unauthorized Changes.** ONTC shall have no liability whatsoever for any claim for payment for additional services provided or costs incurred by the Service Provider which have not been authorized in advance by ONTC by way of a Change Order or a Change Directive.

ENVIRONMENTAL OBLIGATIONS

24. **Environmental Laws.** The Service Provider shall comply with all Environmental Laws in the provision of the Services. If the Service Provider fails to comply with Environmental Laws relating to the provision of the Services, the Service Provider shall be solely responsible for all costs, claims, fines, fees or other expenses arising from the failure by
- Page 8 of 21

the Service Provider to comply with the Environmental Laws in the provision of the Services.

25. **Environmental Contaminants.** The Service Provider shall not cause or permit any Environmental Contaminants to be located, stored, disposed of, produced, processed, deposited, released, discharged or incorporated in, on or under any part of ONTC's land except as required to provide the Services. The Service Provider shall remove from ONTC's land, immediately upon demand, at its cost, any Environmental Contaminants introduced thereto by the Service Provider that are not required to provide the Services. If there is remediation work required on ONTC's land or adjacent land or watercourse due to environmental contamination that occurred as a result of the Service Provider's entry onto ONTC's land to provide the Services, the Service Provider shall be responsible for all costs incurred to complete remediation work on ONTC's land and adjacent land or watercourse and shall reimburse ONTC or any public authority or any third party for any reasonable costs incurred as a result of the requirement to complete the remediation work.
26. **Ownership of Environmental Contaminants.** Notwithstanding any provision of law to the contrary, any Environmental Contaminants placed or permitted on or under ONTC's land by the Service Provider shall remain the property of the Service Provider.
27. **Spills and Releases.** All spills and releases of Environmental Contaminants in the course of the work must be immediately reported by the Service Provider to ONTC and the Ministry of the Environment, Conservation & Parks ("MOECP") Spills Action Centre ("SAC"). If the ONTC Representative is not available, the Service Provider shall report the incident to the MOECP SAC and the ONTC RTC at 800-558-4129 X 141.
28. **Mitigation of Spills.** The Service Provider shall take immediate steps to mitigate the damage to the environment and contain the spill or release. If the Service Provider does not take timely action or, if the Service Provider is not available, ONTC may direct others to remedy the situation.
29. **Expenses for Spills.** If the spill or release was the fault of the Service Provider, the remedial work shall be completed at the cost of the Service Provider and with no additional cost to ONTC and ONTC shall be entitled to seek reimbursements for all costs associated with the remedial work including the cost of work done by third parties. If the spill or release was not the fault of the Service provider, ONTC shall pay for the remedial work.
30. **DFO Notification.** Pursuant to section 38(4) of the *Fisheries Act*, the Service Provider has an obligation to notify the Department of Fisheries & Oceans ("DFO") when the Services result in the unauthorized death of fish or a harmful alteration, disruption or destruction ("HADD") of fish habitat or where there is imminent danger that the death of

fish or HADD of fish habitat could occur. The Service provider shall also notify ONTC of any such incidents. In accordance with the *Fisheries Act*, notification must be made without delay to DFO after the Service Provider ensures the immediate health and safety risks are managed at the work site. Updates to DFO may be provided at a later time, if required.

PAYMENT FOR THE SERVICES

31. **Invoices.** The Service Provider shall provide invoices to ONTC monthly. Invoices shall be sent to the ONTC contact person for the Services and to pay.inv@ontarionorthland.ca. ONTC shall pay the Service Provider the properly charged amounts incurred by the Service Provider in providing the Services within 30 days of receipt of the invoice, subject to any dispute or right of set off by ONTC.

CONFIDENTIAL INFORMATION

32. **General Confidentiality Requirements.** The Service Provider shall:

- (a) ensure that all Service Provider Parties comply with all the provisions of this Agreement relating to Confidential Information and the Service Provider shall be responsible for any failure by any Service Provider Party to do so;
- (b) use Confidential Information only for the purposes of providing the Services;
- (c) not copy or transcribe into another form, any Confidential Information received from ONTC except as reasonably necessary; and,
- (d) upon the termination of this Agreement, or earlier upon the request of ONTC, promptly destroy or return (as directed by ONTC) all Confidential Information disclosed to the Service Provider.

33. **Keeping Confidential Information Confidential.** Except as provided in this Agreement, the Service Provider shall keep confidential all Confidential Information collected on behalf of ONTC or disclosed to it by ONTC and shall protect the Confidential Information disclosed to it by ONTC, in the same manner and to the same extent that it protects its own Confidential Information. This obligation shall survive the termination of this Agreement.

34. **Disclosing Confidential Information.** The Service Provider may disclose Confidential Information if:

- (a) ONTC approves the disclosure in writing;
- (b) the Service Provider is required by law to disclose it, in which case it shall promptly notify ONTC to allow ONTC the opportunity to intervene to prevent the disclosure;
- (c) the Confidential Information is generally and publicly available; or
- (d) the Confidential Information was disclosed to the Service Provider on a non-confidential basis from a source other than ONTC which the Service Provider believes is not prohibited from disclosing such information as a result of an obligation in favour of ONTC;
- (e) is developed by the Service Provider independently of, or was known by the Service Provider prior to, any disclosure of such information made by ONTC; or
- (f) to the extent required by an order of a court of competent jurisdiction, administrative agency or governmental body, or by any law, rule or regulation, or by subpoena, summons or other administrative or legal process, or by applicable regulatory or professional standards or in connection with any judicial or other proceeding relating to Service Provider's Services to ONTC or this Agreement.

35. **FIPPA.** The Service Provider specifically acknowledges that ONTC is subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31, as amended ("**FIPPA**") and that ONTC may be compelled by law to disclose certain information provided by the Service Provider. Where the Service Provider is collecting Personal Information (as that term is defined in FIPPA) on behalf of ONTC, the Service Provider must comply with the provisions in FIPPA regarding the collection, retention, use, disclosure and disposal of Personal Information.
36. **Breach of Confidentiality.** The Service Provider acknowledges and expressly agrees that any breach by it of this Agreement which does or may result in loss of confidentiality of the Confidential Information or an unauthorized release of Personal Information would cause ONTC irreparable harm for which damages would not be an adequate remedy. If the Service Provider breaches the confidentiality provisions of this Agreement, ONTC shall have the right to seek injunctive relief against the continuing or further breach by the Service Provider, without the necessity of proof of actual damages. The right to seek injunctive relief without the necessity of proof of damages shall be in addition to any other right which ONTC may have under this Agreement or otherwise in law or in equity. This section shall continue to bind the Service Provider after the expiry or termination of this Agreement.

INTELLECTUAL PROPERTY

37. **Intellectual Property.** The Service Provider has developed and uses certain Intellectual Property in respect of the provision of the Services (the “**Background Intellectual Property**”). ONTC acknowledges that the Background Intellectual Property is the sole and exclusive property of the Service Provider and ONTC shall not acquire any right, title or interest therein other than the right to use and access the Background Intellectual Property during the Term. For greater certainty, ONTC is specifically prohibited from reproducing or recreating any such Background Intellectual Property either during the Term or at any time thereafter.

38. **Licence. [Intentionally Deleted].**

39. **Work Product.** All information in any form prepared by or for the Service Provider as part of the Work Product is, unless approved by ONTC in writing to the contrary, the sole property of ONTC and ONTC shall own all Intellectual Property rights in it. If the Service Provider or any Service Provider Parties owns any Intellectual Property rights in any Work Product, it shall promptly transfer and assign such Intellectual Property rights to ONTC. The Service Provider shall sign all documents and take all actions that may be necessary to ensure that ONTC owns the Work Product and the Intellectual Property rights in the Work Product.

INDEMNITY AND LIMITATION OF LIABILITY

40. **General Indemnity.** The Service Provider shall indemnify and hold harmless ONTC and ONTC Parties from and against all Losses which may arise by reason of the exercise of the responsibilities and obligations contained herein by the Service Provider or as a result of any breach of the terms of this Agreement by the Service Provider or by any act or omission of the Service Provider or Service Provider Parties, including all legal costs and expenses reasonably incurred by ONTC in connection with the defence or settlement of any such Loss, unless such Loss is caused by the negligent act or omission of ONTC or ONTC Parties. The Service Provider shall, at ONTC’s election, either assume the defence of every proceeding brought in respect of such Loss, or cooperate with ONTC in the defence, including providing ONTC with prompt notice of any possible Loss and providing ONTC with all information and material relevant to the possible Loss. For the purpose of enforcement of this indemnity, ONTC is acting as agent and trustee for the ONTC Parties.

41. **Specific Indemnities.** The Service Provider shall indemnify and hold harmless ONTC and ONTC Parties from and against all Losses incurred by ONTC arising from:

- (a) any decision or interpretation by any court or governmental authority that: (i) any of the Service Provider Parties is an employee of ONTC; or (ii) ONTC is liable to pay statutory contributions or deductions in respect of any of the Service Provider Parties

under any Laws, including employment insurance, provincial health insurance, income tax or other employment matters;

(b) any health, medical disability or similar claims which the Service Provider or Service Provider Parties may have during or after the Term of this Agreement;

(c) any claim by any third party against ONTC alleging that the Work Product and its use by ONTC infringes any Intellectual Property rights;

(d) any claim against ONTC arising from the failure of the Service Provider to protect the confidentiality of Confidential Information;

(e) safety infractions committed by the Service Provider under health and safety legislation, regulations, guidelines or orders, including the *Occupational Health and Safety Act*.

42. Bodily Injury and Property Damage. The Service Provider shall make full and complete compensation for any bodily injury or death to any person while providing the Services and for any damage caused to ONTC's physical property by an act or omission of the Service Provider or a Service Provider Party.

43. Service Provider Losses. The Service Provider shall be liable for any claims arising from any personal injuries to or death of any of the Service Provider Parties or from any loss of or damage to any property belonging to the Service Provider or Service Provider Parties during the provision of the Services unless caused by the negligent act or omission of ONTC or ONTC Parties.

44. Waiver. The Service Provider waives against ONTC and ONTC Parties any claims of any kind whether directly or indirectly arising out of or connected with the existence of this Agreement or for any injury to or death of any person or for any loss of or damage to any property belonging to the Service Provider or Service Provider Parties and for any loss or damage of the Service Provider unless caused by the negligent act or omission of ONTC or ONTC Parties.

45. Limitation of Liability. Notwithstanding any other provision of this Agreement,

(a) ONTC shall not be responsible for indirect, consequential, special, incidental or contingent damages of any nature whatsoever, including loss or revenue or profit or damages resulting from interruption of service or transmission. This limitation shall apply regardless of the form of action, damage, claim, liability, cost, expense or loss, whether in Agreement (including fundamental breach), statute, tort (including negligence), or

otherwise, and regardless of whether ONTC has been advised of the possibility of such damages; and,

- (b) any express or implied reference to ONTC providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of ONTC, whether at the time of execution of this Agreement or at any time during the Term, shall be void and of no legal effect in accordance with s.28 of the *Financial Administration Act*, R.S.O. 1990, c. F.12.

46. Survival. The sections in this part “Indemnity and Limitation of Liability” shall survive the expiry or termination of this Agreement.

INSURANCE

47. Insurance. The Service Provider shall obtain, and for as long as this Agreement is in effect, maintain, pay for and, upon request by ONTC from time to time, provide evidence, satisfactory to ONTC, of the following insurance coverages, all taken out with insurers licensed to transact insurance business in Ontario, bearing original signatures of authorized insurance representatives and satisfactory to ONTC:

- (a) Commercial General Liability Insurance to a limit of not less than five million dollars (\$5,000,000) inclusive per occurrence, including “Ontario Northland Transportation Commission” as an additional insured, with no limitations on or exclusions from coverage arising from working on or around railway property, covering bodily injury, personal injury, death and damage to property, including loss of use of such property, containing cross liability coverage and preclude subrogation claims by the insurer against ONTC and endorsed to provide ONTC with not less than thirty (30) days’ notice, in advance, of any cancellation, change or amendment restricting coverage; and
- (b) Automobile Liability Insurance with a limit of not less than two million dollars (\$2,000,000) inclusive per occurrence, including bodily injury, death and damage to property, endorsed to provide “Ontario Northland Transportation Commission” with not less than thirty (30) days’ notice, in advance, of any cancellation, change or amendment restricting coverage and in the following forms: standard owner’s form automobile policy providing third party liability and accident benefits insurance and covering licensed vehicles owned or operated by or on behalf of the Service Provider, and standard non-owned automobile form policy including standard contractual liability endorsement.

48. The Service Provider shall ensure that all the insurance is primary and does not call into contribution any other insurance coverage available to ONTC. The Service Provider shall not do or omit to do anything which would impair or invalidate the insurance policies.

FORCE MAJEURE

49. **Force Majeure.** Whenever and to the extent either party is unable to fulfil, or is delayed or restricted in fulfilling, any of its obligations under this Agreement by reason of a Force Majeure event, the time for fulfilling such obligation is extended for such reasonable time as may be required by that party to fulfil such obligation, provided that any such inability, delay or restriction does not relate to any extent to any act or omission by that party. No extension of time will be given unless the party seeking the extension submits to the other party within five business days after the date on which the party ought reasonably to have been aware of the Force Majeure event a notice requesting the extension of time, the cause of the Force Majeure event, the expected duration of the extension and mitigation efforts being undertaken by the party.

TERMINATION

50. **Early Termination.** This Agreement may be terminated early as follows:

- (a) by the mutual written agreement of the parties;
- (b) by ONTC immediately upon written notice to the Service Provider if the Service Provider is in default or breach in respect of any condition or provision of this Agreement;
- (c) by ONTC, for any reason, upon not less than ten (10) days' prior written notice; or,
- (d) by the Service Provider upon written notice to ONTC, where ONTC has failed to observe or perform any of its obligations under this Agreement, and such failure has not been remedied to the reasonable satisfaction of the Service Provider within thirty (30) days of providing written notice to ONTC detailing the nature of such failure and requiring that such failure be remedied.

51. **Immediate Termination.** This Agreement will terminate immediately upon:

- (a) the winding up or dissolution of the Service Provider; or
- (b) subject to the provisions of the *Bankruptcy and Insolvency Act*, RSC 1985, c. B-3, the Service Provider making an assignment for the benefit of its creditors, becoming

bankrupt or insolvent, undergoing reorganization, making a proposal to its creditors, or otherwise becoming financially unable to perform its obligations under this Agreement.

52. If this Agreement is terminated early for any reason other than those described in section 51(a) or (d), then:

- (a) ONTC is excused from further performance under this Agreement;
- (b) any money payable by the Service Provider to ONTC is immediately due and payable;
- (c) ONTC shall not be responsible for paying any amount over and above the chargeable amounts, including payment on a pro-rated basis if applicable, incurred up to the effective date of such termination, or a later date if work, already commenced by the Service Provider, cannot reasonably be discontinued until such later date;
- (d) ONTC shall retain any rights, powers and remedies it has or may have against the Service Provider; and
- (e) ONTC may enter an agreement with another person to provide the balance of the Services. The Service Provider shall be liable for all costs incurred by ONTC in having the Services completed by another person(s).

GENERAL

53. **Assignment.** Neither party may assign their respective rights and obligations under this Agreement without first obtaining the written consent of other party, provided, however, that either party may assign this Agreement to an affiliate or the successor of its business upon written notice to the other party. This Agreement shall enure to the benefit of, and be binding upon, the parties and their respective successors (including any successor by reason of amalgamation, merger or statutory arrangement of any party) and permitted assigns.

54. **Notice.** Any notice under this Agreement shall be given in writing and delivered personally or by email or prepaid courier addressed as follows:

To ONTC at:
Ontario Northland Transportation Commission
555 Oak Street
North Bay ON P1B 8L3

Attention:

T:

E:

And to:
Legal Services & Corporate Governance
Legal@ontarionorthland.ca

To the Service Provider at:

Attention:

T:

E:

or at such other address or addresses as ONTC and the Service Provider may designate from time to time. The date of receipt of a notice if sent by email or personal delivery shall be the date of delivery and if sent by prepaid courier shall be the second day after pick-up by the courier.

55. **No Waiver.** No waiver by a party of any breach by the other party of any of its covenants, agreements or obligations in this Agreement shall be a waiver of any subsequent breach or the breach of any other covenants, agreements or obligations, nor shall any forbearance by a party to seek a remedy for any breach by the other party be a waiver by the party of its rights and remedies with respect to such breach or any subsequent breach.
56. **Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties nor by any third party as creating the relationship of principal and agent, landlord and tenant, or of partnership or of joint venture between the parties.
57. **Governing Law.** This Agreement shall be governed by and constituted in accordance with the laws in force in the Province of Ontario, excluding any conflict of laws principles. The Parties hereby irrevocably attorn to the exclusive jurisdiction of the courts of the Province of Ontario for any legal proceedings arising out of this Agreement or the performance of the obligations hereunder.
58. **Severability.** Should any section or part or parts of any section in this Agreement be illegal or unenforceable, it or they shall be considered separate and severable from the Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall be binding upon ONTC and the Service Provider as though such section or part or parts thereof had never been included in this Agreement.

59. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding of the parties and supersedes all prior understandings, discussions, negotiations, commitments, representations, warranties, and agreements, written or oral, express or implied between them with respect to the subject of this Agreement. No amendment, variation or change to this Agreement shall be binding unless the same shall be in writing and signed by the parties.
60. **Survival.** In addition to those provisions which are expressly stated to survive the termination or expiration of this Agreement, the provisions of this Agreement that are by their nature intended to survive termination or expiration of this Agreement shall continue in full force and effect subsequent to and notwithstanding termination or expiration until or unless they are satisfied.
61. **Counterparts and Electronic Delivery.** This Agreement may be executed and delivered by electronic transmission of a .pdf of the executed Agreement and the parties may rely upon the .pdf document as though the .pdf document was an original hard copy of the Agreement. This Agreement may be executed in any number of counterparts and all such counterparts shall, for all purposes, constitute one agreement binding on the parties.

[signature page follows]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement.

**ONTARIO NORTHLAND
TRANSPORTATION COMMISSION**

Per _____

Name:

Title:

Date _____

I have authority to bind the corporation.

XXXX

Per _____

Name:

Title:

Date _____

I have authority to bind the corporation.

Schedule “A”

Scope of Work

Schedule B
Service Provider's Submission

APPENDIX B – RFP PARTICULARS

A. THE DELIVERABLES

ONTC requires ultrasonic testing services covering approximately 660 miles of track, with an additional optional 186 miles. ONTC seeks to establish a three-year agreement under which testing will be performed twice annually, during the Spring and Fall seasons. Additionally, at ONTC's discretion, a summer test may be conducted for the optional 186 miles on the Island Falls Subdivision. ONTC reserves the right to extend the agreement, on identical terms and conditions, for up to two further one-year periods.

The following will apply:

- The spring test is to begin between April 1 and May 31 for each respective year of the contract.
- The fall test is to begin between September 1 and October 31 for each respective year of the contract.
- The optional summer test would be completed at the mid-way point between the spring and fall to not impact the schedule.
- Contractor will have qualified personnel on equipment to ensure there are no delays due to operators not being fully trained.
- In addition to daily reports that will be required to be provided each day to the Track Supervisor and Superintendent Maintenance of Way, the successful proponent will be required to provide an electronic report each week of operation in an acceptable database format, (excel, access dbf or comma separated value.csv) to enable the data to be uploaded into an information system. The data must contain the following fields:

FIELD	TYPE	SIZE	REMARKS
Subdivision	Alpha/Numeric	5	See list on next page.
Date	Date	10	yyyy-mm-dd
Defect #	Numeric	5.1	
Defect Type	Alpha/Numeric	3	
Size	Numeric	5.2	
Mile Post	Numeric	7.4	
Track	Alpha/Numeric	5	Main (MN) or Siding (SD)
Rail	Alpha/Numeric	1	East (E) or West (W)
Latitude	Numeric	10.8	GPS Readings
Longitude	Numeric	10.8	GPS Readings

Weight	Alpha/Numeric	3	
Profile	Alpha/Numeric	5	
MTL	Alpha/Numeric	5	
RC	Alpha/Numeric	2	Rail Construction (W, J)
AL	Alpha/Numeric	2	Alignment (T, H, L)
Mfg Year	Numeric	4.0	
Manufacturer	Alpha/Numeric	5	
Remarks	Alpha/Numeric	100	

SUBDIVISIONS:			
AGRI	Agrium Sub	KAPU	Kapuskasing Sub
DEVN	Devonshire Sub	KIRK	Kirkland Lake Sub
FALL	Island Falls Sub	RAMO	Ramore Sub
IROQ	Iroquois Falls Sub	TMAG	Temagami Sub

B. MATERIAL DISCLOSURES

1. Contractor Health and Safety

The successful proponent must be familiar and comply with the Occupational Health and Safety Act (OHSA) and ONTC's Policies.

C. MANDATORY SUBMISSION REQUIREMENTS

1. Submission Form (Appendix C)

Each proposal must include a Submission Form (Appendix C) completed and signed by an authorized representative of the proponent.

2. Pricing (Appendix D)

Each proposal must include pricing information that complies with the instructions set out below in Section G of this Appendix B.

D. MANDATORY TECHNICAL REQUIREMENTS

Not Applicable.

E. PRE-CONDITIONS OF AWARD

The selected proponent must satisfy the following conditions and provide the following information with ten (10) days of the notice of selection:

- (a) Certificates of insurance as specified in the Draft Agreement;
- (b) Executed Contractors Health and Safety Responsibility Agreement;
- (c) Respondent's Health and Safety, and Environmental Policies; and
- (d) A current Clearance Certificate issued by the Workplace Safety and Insurance Board, if applicable.

F. EVALUATION CRITERIA

The following sets out the categories, weightings, and descriptions of the rated criteria of the RFP. Proponents who do not meet a minimum threshold score for a category may not proceed to the next stage of the evaluation process.

Technical Proposal	Weighting (Points)	Minimum Threshold
i. Experience and Qualifications	25	15
ii. Technical Capability & Methodology	15	9
iii. Support and Responsiveness	20	12
iv. Information Technology and Data Management	10	6
v. Innovative Approaches	5	3
Pricing Proposal (See Section G below)	25	n/a
Total Points	100	n/a

Proposal Content for Technical Proposal:

Each proponent should provide the following in its proposal:

i. Experience and Qualifications

(a) Company Profile & Relevant Experience (5 points):

Proponents must provide a concise overview of their organization, highlighting relevant experience in ultrasonic rail testing and similar infrastructure projects. Include years in

business, geographic reach, and any notable industry certifications. Describe experience operating in northern Ontario or similar environments, including adaptation to climatic and logistical challenges.

(b) Personnel Qualifications & Roles (5 points):

Identify all key personnel and subcontractors who will be assigned to the project. For each, provide their role, qualifications, certifications, and relevant experience. Attach resumes or profiles as appropriate.

(c) Environmental Policy & Compliance (5 points):

Submit your organization's written environmental policy and evidence of compliance with Ontario's environmental regulations. Highlight any sustainability initiatives.

(d) Project Profiles (10 points):

Provide at least three (3) project profiles from the past five (5) years, demonstrating successful completion of similar work. Each profile must include:

- i. Client name and contact information
- ii. Project scope and value
- iii. Scheduled vs. actual start/end dates
- iv. Description of work performed and use of subcontractors
- v. Outcomes (e.g., completed on schedule/budget)
- vi. Safety record and incident statistics, if available

ONTC may, in its sole discretion, confirm the Respondent's experience in the projects identified by contacting the named contacts above.

ii. Technical Capability & Methodology

(a) Testing Methodology (5 points):

Describe the ultrasonic testing process, including calibration procedures, standards followed, and quality assurance protocols.

(b) Equipment Specifications (5 points):

Provide details on the equipment to be used, including type, age, maintenance schedule, and redundancy plans.

(c) Quality Assurance & Risk Management (5 points):

Outline your QA/QC processes, error rates, corrective action protocols, and risk management strategies for field operations.

iii. Support and Responsiveness

(a) Support Services (10 points):

Detail the support ONTC can expect, as part of the overall service.

(b) Responsiveness & On-Site Availability (10 points):

Explain how your organization will ensure timely response and on-site presence as per the RFP schedule. Include average response times and contingency plans to ensure timely completion of the testing.

iv. Information Technology and Data Management

(a) Technology Used (5 points):

Describe the technology and software used for testing, data collection, and reporting. Include samples of reports and any additional features (e.g., GPS integration, predictive analytics).

(b) Data Security & Integration (5 points):

Explain measures for secure handling and transmission of sensitive data, and describe how reports will be formatted for seamless integration with ONTC's information systems.

v. Innovative Approaches

(a) Innovative Approaches (5 points):

Proponents are encouraged to describe any innovative technologies, methodologies, or practices that could improve efficiency, accuracy, or safety.

G. PRICE EVALUATION METHOD

The ranking of proponents will be based on the total score calculated by adding the pricing points to the total points from the technical proposal.

Pricing is worth 25 points of the total score.

Pricing will be scored based on a relative pricing formula using the rates set out in the pricing form. Each proponent will receive a percentage of the total possible points allocated to price, which will be calculated in accordance with the following formula:

$$\text{lowest price} \div \text{proponent's price} \times \text{weighting} = \text{proponent's pricing points}$$

Instructions on How to Provide Pricing

- (a) Proponents should submit their pricing information by completing the attached pricing form at Appendix D and including it in their proposal.
- (b) Rates must be provided in Canadian funds, inclusive of all applicable duties and taxes except for HST, which should be itemized separately.
- (c) Unless otherwise indicated in the requested pricing information, rates quoted by the proponent must be all-inclusive and must include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.

APPENDIX C – SUBMISSION FORM

1. Proponent Information

Please fill out the following form, naming one (1) person to be the proponent's contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	
Any Other Relevant Name under which Proponent Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Company Website (if any):	
Proponent Contact Name and Title:	
Proponent Contact Phone:	
Proponent Contact Email:	

2. Sub-Contractors

The Bidder shall state all Subcontractor(s) and type of Work proposed to be used for this project. Bidders shall not indicate "TBD" (To Be Determined) or "TBA" (To Be Announced) or similar wording and shall not indicate multiple choices of Subcontractor names for any Subcontractor category in their list of Subcontractors.

List of Sub-Contractors

In the spaces provided below, please list those subcontractors you intend to use:

☐ By checking this box, I confirm that there are no Subcontractor(s) and the Bidder shall perform the project with their **"OWN FORCES"**.

Item	Organization	Contact Name	E-mail	Phone
1				
2				
3				
4				
5				

3. Bill S-211

ONTC adheres to, and reports under the Government of Canada's Bill S-211 Fighting against Forced Labour and Child Labour in Supply Chains Act.

1. Is your company required to report under the Government of Canada's Bill S-211 Fighting against Forced Labour and Child Labour in Supply Chains Act? Yes ☐ No ☐
2. Is your company compliant with the Government of Canada's Bill S-211 Fighting against Forced Labour and Child Labour in Supply Chains Act? Yes ☐ No ☐
3. Has your company been involved in forced and/or child labour in the past? Yes ☐ No ☐

If yes, please provide details including date and action taken to mitigate.

4. Building Ontario Businesses Initiative

A - "Ontario business" means:

A supplier, manufacturer or distributor of any business structure that conducts its activities on a permanent basis in Ontario which:

- i. Has its headquarters or main office in Ontario, or
- ii. Has at least 250 full-time employees in Ontario at the time of the applicable procurement process.

Please select one of the following correct statement/s that describes your organization:

- ☐ Yes, my organization is an "Ontario business" as defined above.
- ☐ No, my organization is not an "Ontario business" as defined above.

B - "Canadian business" means:

- i. A corporation or limited partnership existing pursuant to the Laws of Canada or any of the provinces or territories thereof, and which has ongoing commercial activities in Canada; or
- ii. An individual (including sole proprietors) or a general partnership which has a business address in Canada, and which has ongoing commercial activities in Canada.

Please select one of the following correct statement/s that describes your organization:

- ☐ Yes, my organization is a "Canadian business" as defined above.
- ☐ No, my organization is not a "Canadian business" as defined above.

C - "Canadian Trade Partner Country" means:

A country that is signatory to one or more of the following trade agreements:

- Comprehensive Economic and Trade Agreement (CETA);
- World Trade Organization's Agreement on Government Procurement (WTO-GPA);
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP); or,
- Canada-UK Trade Continuity Agreement (Canada-UK TCA)

Please select one of the following correct statement/s that describes your organization:

- ☐ Yes, my organization is an “Canadian Trade Partner Country” as defined above.
- ☐ No, my organization is not an “Canadian Trade Partner Country” as defined above.

D - “U.S. business” means:

A supplier, manufacturer or distributor of any business structure (including a sole proprietorship, partnership, corporation or other business structure) that:

- has its headquarters or main office located in the U.S., and
- has fewer than 250 full-time employees in Canada at the time of the applicable procurement process.

If a Respondent is a subsidiary of another corporation, part 1 of the definition above is met if that Respondent is controlled by a corporation that has its headquarters or main office located in the U.S.

Please select one of the following correct statement/s that describes your organization:

- ☐ Yes, my organization is a “U.S. business” as defined above.
- ☐ No, my organization is not a “U.S. business” as defined above.

If the proponent has not demonstrated eligibility with a “No” response to being a U.S. Business, ONTC reserves the right, in its sole discretion, to disqualify the proponent.

4. Offer

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables 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, and offers to provide the Deliverables in accordance therewith at the rates set out in its proposal.

5. Rates

The proponent has submitted its rates in accordance with the instructions in the RFP. The proponent confirms that it has factored all of the provisions of Appendix A, including insurance and indemnity requirements, into its pricing assumptions and calculations.

6. Addenda

The proponent is deemed to have read and accepted all addenda issued by ONTC prior to the Deadline for Issuing Addenda. The onus is on proponents to make any necessary amendments to their proposals based on the addenda.

7. Communication with Competitors

For the purposes of this RFP, the word "competitor" includes any individual or organization, other than the proponent, whether or not related to or affiliated with the proponent, who could potentially submit a response to this RFP.

Unless specifically disclosed below under Disclosure of Communications with Competitors, the proponent declares that:

- (a) it has prepared its proposal independently from, and without consultation, communication, agreement, or arrangement with any competitor, including, but not limited to, consultation, communication, agreement, or arrangement regarding:
 - (i) prices;
 - (ii) methods, factors, or formulas used to calculate prices;
 - (iii) the quality, quantity, specifications, or delivery particulars of the Deliverables;
 - (iv) the intention or decision to submit, or not to submit, a proposal; or
 - (v) the submission of a proposal which does not meet the mandatory technical requirements or specifications of the RFP; and
- (b) it has not disclosed details of its proposal to any competitor and it will not disclose details of its proposal to any competitor prior to the notification of the outcome of the procurement process.

Disclosure of Communications with Competitors

If the proponent has communicated or intends to communicate with one (1) or more competitors about this RFP or its proposal, the proponent discloses below the names of those competitors and the nature of, and reasons for, such communications:

8. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP.

9. Conflict of Interest

The proponent must declare all potential Conflicts of Interest, as defined in Section 3.4.1 of the RFP. This includes disclosing the names and all pertinent details of all individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of ONTC within twelve (12) months prior to the Submission Deadline.

If the box below is left blank, the proponent will be deemed to declare that (a) there was no Conflict of Interest in preparing its proposal; and (b) there is no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

Otherwise, if the statement below applies, check the box.

- ☐ The proponent declares that there is an actual or potential Conflict of Interest relating to the preparation of its proposal, and/or the proponent foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

If the proponent declares an actual or potential Conflict of Interest by marking the box above, the proponent must set out below details of the actual or potential Conflict of Interest:

10. 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 by order of a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by ONTC to the advisers retained by ONTC to advise or assist with the RFP process, including with respect to the evaluation this proposal.

11. Proposal Irrevocable

The proponent agrees that its proposal shall be irrevocable for the Irrevocability Period specified in the RFP, running from the moment the Submission Deadline has passed.

12. Execution of Agreement

The proponent agrees that in the event its proposal is selected by ONTC, in whole or in part, it will finalize and execute the Agreement in the form set out in Appendix A to this RFP in accordance with the terms of this RFP.

13. Travel

To the extent that travel expenses are expressly provided for under the written agreement for the Deliverables, the proponent hereby acknowledges that travel expenses must be approved in advance by ONTC and must be in compliance with the Management Board of Cabinet Travel,

Meal & Hospitality Expenses Directive, January 2020 (<https://www.ontario.ca/page/travel-meal-and-hospitality-expenses-directive-2020>)."

Signature of Proponent Representative

Name of Proponent Representative

Title of Proponent Representative

Date

I have the authority to bind the proponent.

APPENDIX D – SCHEDULE OF PRICES

This form must be completed as part of the proposal.

Submission by: _____
(Full Legal Name of Company or Individual)

HST Number: _____
(HST Number of Company or Individual)

The proponent having carefully examined and understood the RFP Documents as and Addenda, if applicable, hereby agree to supply the services associated with Ultrasonic Testing as outlined in their submission as per the following:

Item	Unit	2026	2027	2028	2029	2030
Ultrasonic Testing	/hr					
Over-Time	/hr					
Mobilization	/event					
Demobilization	/event					

- Pricing shall be based on an eight (8) hour billable day for Ultrasonic Testing. Overtime rates apply beyond eight hours per day or outside standard working hours.
- All prices are in Canadian Dollars (CAD) and exclude HST. Taxes will be applied as per applicable law.

Signed and submitted for and on behalf of:

Proponent:

(Company or Individual Name)

(Street Address or Postal Box Number)

(City, Province and Postal Code)

Signature:

I have authority to bind the corporation.

Name and Title:

APPENDIX E - HEALTH, SAFETY AND ENVIRONMENTAL

Proponents shall review the attached Health and Safety Policy Statement and shall include the attached Contractor Health and Safety Responsibility Agreement and the attached Contractor Safety Pre-Qualification Form and associated supporting documents with their proposal:

- A. Health and Safety Policy Statement
- B. Contractor Health and Safety Responsibility Agreement
- C. Contractor Safety Pre-Qualification Form

DATE FORMALIZED April 2016 REVISED February 2023	Health and Safety Policy
---	---------------------------------

POLICY STATEMENT

In keeping with our value of *Safety. Full Stop.* Ontario Northland Transportation Commission (ONTC) / Nipissing Central Railway (NCR) is committed to providing a safe and healthy work environment. Safety is core to everything we do. We don't settle for less, for our people or our customers, even when operating pressures make it difficult to do so.

As part of developing a safety culture, we will collectively strive to prevent accidents and incidents through a risk-based approach with the goal to continuously improve. Employees are required to report safety concerns immediately and can do so without fear of reprisal, while management ensures all employees receive quick follow-up.

We will adopt the latest in systems to improve the reporting, investigation, and implementation of corrective actions, close-out, and trend analysis of accidents and incidents. We will communicate safety and encourage engagement at all levels of the organization, such as during tailgates, briefings, and meetings.

The success of ONTC/NCR safety programs will be ensured through the collective and cooperative efforts of all, including management, employees, unions, and Workplace Health and Safety Committees. All ONTC/NCR members will jointly participate in safety, health and loss prevention initiatives to ensure a safe and healthy workplace for all employees.



Chad Evans
President and CEO

CONTRACTOR HEALTH AND SAFETY RESPONSIBILITY AGREEMENT

In submitting this Proposal, I/We, on behalf of, _____

(legal name of company)

certify the following:

- (a) I/We have a health and safety policy and will maintain a program to implement such policy as required by clause 25(2) (j) of the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1, as amended, (the "OHSA").

The requirements in (a) do not apply to employers with five (5) or less employees.

- (b) With respect to the Services being offered in this Proposal, I/We and on behalf of our proposed sub-consultants, acknowledge the responsibility to, and shall:

- (i) fulfill all of the obligations under the OHSA and ensure that all work is carried out in accordance with the OHSA and its regulations;
- (ii) ensure that adequate and competent supervision is provided as required under the OHSA to protect the health and safety of workers; and
- (iii) provide information and instruction to all employees to ensure they are informed of the hazards inherent in the work and understand the procedures for minimizing the risk of injury or illness.

- (c) I/We agree to take precautions reasonable in the circumstances for the protection of worker health and safety, as required under the OHSA.

Dated at _____ this _____ day of _____, 202__

An Authorized Signing Officer

(Key Contact)

(Title)

(Telephone Number)

(Firm's Name)

(Firm's Address)

Contractor Safety Pre-Qualification Form

1. Company Identification:

Company Name:	Telephone:	ONTC Use
Mailing Address:	Fax:	
	E-mail:	

2. Form of Business:

☐ Sole Proprietor
 ☐ Partnership:
 ☐ Corporation

3. Officers:	Years with the Company
President / CEO	
Vice President	
Treasurer	
Who is the manager most responsible for health and safety?	
Name:	Title:

4. How many years has your business operated under its current name?	
5. Under Current Management Since (Date)	

6. Parent Company Information

Parent Name:	
City:	Province / State:
Postal / Zip Code:	
Subsidiaries:	

7. Insurance Contact Information

Title:	Telephone:	Fax:
--------	------------	------

8. Insurance

8. Carriers:	Type of Coverage:	Telephone

9. Organization:

Describe the nature of the work your company specialized in:	
☐	☐
☐	☐
☐	☐
☐	☐
☐	☐

10. Health and Safety Performance

- | | | |
|---|------------------------------|-----------------------------|
| a) Are any of the above services that you perform normally subcontracted to others? | ☐ Yes | ☐ No |
| b) Can you provide a Workplace Safety & Insurance Clearance Certificate? | ☐ Yes | ☐ No |
| c) Is your company experience rated (CAD-7, NEER)? If yes attach CAD-7 reports for the last 3 years and go to item e). If no, complete item d). | ☐ Yes | ☐ No |
| d) Has an employee of your company suffered a fatal accident or "critical injury" as defined by the <u>Ontario Occupational Health & Safety Act</u> ? Please provide for the last 3 years: i) total number of lost time accidents by rate group, ii) total number medical aid accidents, iii) total number of hours worked by each rate group | ☐ Yes | ☐ No |
| e) Has your company ever been subjected to a Workwell Audit? If yes, what was your final score? ____ | ☐ Yes | ☐ No |
| f) Are there judgements, claims or suits pending or outstanding against your company? | ☐ Yes | ☐ No |
| g) Have you received any regulatory (MOL, MOE, etc.) orders and/or prosecutions in the last 3 years? If yes, provide details of all prosecution and fines for the past 3 years on a separate sheet. | ☐ Yes | ☐ No |
| h) Do you have involvement in provincial safety associations such as the Infrastructure Health & Safety Association (IHSA) and/or Workplace Safety & Prevention Services (WSPS)? If yes, please name: | ☐ Yes | ☐ No |

11. Health and Safety Program and Procedures:

- | | | |
|---|------------------------------|-----------------------------|
| a) Do you have a written health and safety policy? If yes, include a copy. | ☐ Yes | ☐ No |
| b) Do you have a written health and safety program? | ☐ Yes | ☐ No |
| c) If so, are the following elements addressed? | ☐ Yes | ☐ No |
| i. Participation by all levels in the organization | ☐ Yes | ☐ No |
| ii. Accountabilities & responsibilities for managers, supervisors and employees | ☐ Yes | ☐ No |
| iii. Adequate resourcing for meeting health and safety requirements | ☐ Yes | ☐ No |
| iv. Hazard identification and control | ☐ Yes | ☐ No |
| v. Health and safety performance measurement and evaluation | ☐ Yes | ☐ No |
| vi. Corrective actions implementation | ☐ Yes | ☐ No |

12. Health and Safety Program: Does the health and safety program include procedures and practice documents such as:

- | | | |
|---|------------------------------|------------------------------|
| a) Hazardous Energy Control, Lock-out – Tag-out | ☐ Yes | ☐ No |
| b) Confined Space Entry | ☐ Yes | ☐ No |
| c) Working at Heights, Fall Protection | ☐ Yes | ☐ No |
| d) Personal Protective Equipment (PPE) | ☐ Yes | ☐ No |
| e) Portable / Electric Power Tools | ☐ Yes | ☐ Yes |

Contractor Safety Pre-Qualification Form

f) Vehicle Safety	☐ Yes	☐ No	
g) Compressed Gas Cylinders	☐ Yes	☐ No	
h) Electrical Equipment Grounding Assurance	☐ Yes	☐ No	
i) Powered Industrial Vehicles (forklifts, cranes, etc.)	☐ Yes	☐ No	
j) Heavy Construction Equipment (excavators, backhoes, bulldozers, etc.)	☐ Yes	☐ No	
k) Excavation and Trenching	☐ Yes	☐ No	
l) Housekeeping	☐ Yes	☐ No	
m) Accident / Incident Reporting and Investigation	☐ Yes	☐ No	
n) Hazard / Unsafe Condition Identification, Reporting and Communication	☐ Yes	☐ No	
o) Workplace Hazardous Materials information System (WHMIS)	☐ Yes	☐ No	
p) Emergency Action Plan / Evacuation Plan	☐ Yes	☐ No	
q) Spill Response / Reporting	☐ Yes	☐ No	
r) Respiratory Protection	☐ Yes	☐ No	
s) Designated Substances Management	☐ Yes	☐ No	
t) Waste Staging / Disposal	☐ Yes	☐ No	
u) Traffic Control	☐ Yes	☐ No	
v) Hearing Conservation	☐ Yes	☐ No	
13. Do you have a policy/procedure for terminating contracts of subcontractors who do not comply with the requirements of the <u>Occupational Health & Safety Act</u> , associated regulations and / or company safety rules?	☐ Yes	☐ No	
14. Do your employees read, write and understand English to the degree that they can safely perform their tasks without the aid of an interpreter? (<i>If no, provide a description of your plan to assure that they can safety perform their tasks</i>)	☐ Yes	☐ No	
15. Do you have personnel certified in Emergency First Aid and CPR on site? If yes, provide copies of certificates of training for site personnel proposed for the project?	☐ Yes	☐ No	
16. Do you have First Aid kits available to your staff?	☐ Yes	☐ No	
17. Does your company use a formalized Health and Safety Plan for conducting large projects?	☐ Yes	☐ No	
18. Does the company conduct pre-placement medical examinations?	☐ Yes	☐ No	
19. Is task-adequate PPE provided to workers?	☐ Yes	☐ No	
20. Are employees trained in PPE care, use and maintenance?	☐ Yes	☐ No	
21. Do you have a corrective actions process for addressing individual health and safety performance deficiencies	☐ Yes	☐ No	

Contractor Safety Pre-Qualification Form

22. Equipment and Manuals:

- | | | | |
|---|------------------------------|-----------------------------|--|
| a. Do you conduct inspections on operating equipment (e.g. excavators, cranes, forklifts, vehicles, etc.) as per regulatory requirements? | ☐ Yes | ☐ No | |
| b. Do you maintain operating equipment in compliance with regulatory requirements? | ☐ Yes | ☐ No | |
| c. Do you maintain applicable pre-use inspection and maintenance certification records for operating equipment? | ☐ Yes | ☐ No | |
| d. Are records available upon request | ☐ Yes | ☐ No | |

23. Subcontractors

- | | | | |
|--|------------------------------|-----------------------------|--|
| a. Do you use health and safety performance criteria in the selection of contractors? | ☐ Yes | ☐ No | |
| b. Do you require your subcontractor to have a written health and safety program? | ☐ Yes | ☐ No | |
| c. Are your subcontractors included in | ☐ Yes | ☐ No | |
| | ☐ Yes | ☐ No | |
| | ☐ Yes | ☐ No | |
| | ☐ Yes | ☐ No | |
| | ☐ Yes | ☐ No | |
| d. Does the company have a policy for the termination of contracts of subcontractors who do not comply with the Occupation Health and Safety Act, regulations under the Act, contractor rules, programs, protocols policies or procedures? | ☐ Yes | ☐ No | |
| e. Does the company have a progressive discipline policy for employees and subcontractors? | ☐ Yes | ☐ No | |

24. Health and Safety Training

- | | | | |
|---|------------------------------|-----------------------------|--|
| a. Are you aware for the regulatory training requirements for your employees? | ☐ Yes | ☐ No | |
| b. Have your employees received the required health and safety training? | ☐ Yes | ☐ No | |
| c. Do you have specific health and safety training for supervisors? | ☐ Yes | ☐ No | |
| d. Do you keep records of health and safety training for employees? | ☐ Yes | ☐ No | |
| e. Are records of health and safety training available on request? | ☐ Yes | ☐ No | |

25. Job Skills

- | | | | |
|---|------------------------------|-----------------------------|--|
| a. Have employees been trained in appropriate job skills? | ☐ Yes | ☐ No | |
| b. Are employee job skills certified where required by regulation or industry standard? | ☐ Yes | ☐ No | |
| c. Are certificates available upon request? | ☐ Yes | ☐ No | |

26. Health and Safety Supervision

- | | | | |
|--|------------------------------|-----------------------------|--|
| a. Does the company have a health & safety coordinator? | ☐ Yes | ☐ No | |
| b. Who is the highest ranking safety professional in the company | | | |

I agree that the above information is true and correct to the best of my knowledge. I also agree to follow all terms and conditions of the Contractor Safety Program at all times while performing work for ONTC. I understand that supporting documentation may be requested for due diligence verification purposes.

Name: (Please print) _____
 Signature: _____

Title: _____
 Date: _____