

## REQUEST FOR PROPOSAL (RFP) FACILITIES CONSTRUCTION

RFP#45-829-JJ Seneca, Newnham Building K  
Lab 3170 Renovation

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### DETAILS AND IMPORTANT EVENTS TABLE

<b>RFP NUMBER</b>	45-829-JJ
<b>RFP NAME</b>	Seneca, Newnham Building K Lab 3170 Renovation
<b>ISSUE DATE</b>	April 15, 2024
<b>SENECA CONTACT</b>	Jose Justino Senior Procurement Specialist <a href="mailto:Jose.justino@senecapolytechnic.ca">Jose.justino@senecapolytechnic.ca</a> (437) 424-1034
<b>CONSORTIUM PERMITTED</b>	No
<b>FORM OF AGREEMENT</b>	<ul style="list-style-type: none"><li>CCDC-2 2020 Stipulated Price Contract</li></ul>
<b>SUPPLEMENTARY CONDITIONS FOR FORM OF AGREEMENT TO BE PROVIDED</b>	<ul style="list-style-type: none"><li>Supplementary Conditions to CCDC-2 2020 Stipulated Price Contract</li></ul>
<b>PROPOSER SITE VISIT (Mandatory)</b>	April 24, 2024 at 11:00 AM Seneca, Newnham Campus Address: 1750 Finch Avenue East, Toronto, Ontario Meeting Place: Building A lobby, across from the security desk
<b>DEADLINE FOR ENQUIRIES</b>	May 7, 2024 at 2:00 PM
<b>Deadline for Issuing Addenda</b>	May 15, 2024
<b>PROPOSAL SUBMISSION DEADLINE</b>	May 22, 2024 at 2:00 PM
<b>PROPOSAL AND ENQUIRIES SUBMISSION – BID PORTAL</b>	<a href="https://senecacollege.bonfirehub.ca/">https://senecacollege.bonfirehub.ca/</a>
<b>AGREEMENT NEGOTIATION PERIOD</b>	June 2024
<b>ANTICIPATED AGREEMENT AWARD PERIOD</b>	June 2024
<b>INITIAL TERM OF AGREEMENT</b>	Anticipated schedule is from June 2024 to completion date of August 19, 2024
<b>SENECA PROCUREMENT POLICY</b>	<a href="https://www.senecapolytechnic.ca/about/policies/procurement-policy.html">https://www.senecapolytechnic.ca/about/policies/procurement-policy.html</a>

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<b>SENECA POLICIES AND DIRECTIVES</b>	<a href="https://www.senecapolytechnic.ca/about/policies.html">https://www.senecapolytechnic.ca/about/policies.html</a>
<b>RESTRICTED PARTIES</b>	None

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Appendix “A”– Scope of Work

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Appendix “B2”-Seneca College - Lab NH K3170 - Architectural – IFT

Appendix “B3”-Seneca College - Lab NH K3170 - Electrical – IFT

Appendix “B4”-Seneca College - Lab NH K3170 - Mechanical – IFT

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Appendix "B5"-AV Specifications Binder

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Appendix "E" – Submissions Instructions

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Appendix "G" – Form of Offer Submission Form

Appendix "H" – Form of Agreement

Appendix "H.2" – Supplementary Conditions for Form of Agreement

Appendix "I" – Intended Service Level Provisions N/A

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Appendix "L" – Construction and Demolition Tracking

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### 1.0 INTRODUCTION AND PROCUREMENT PROCESS OVERVIEW

#### 1.1 Introduction

- 1.1.1 Seneca is multi campus public college offering full and part-time degree, diploma and graduate certificate programs on campuses in Greater Toronto Area and Peterborough with approximately 25,000 full-time and 70,000 part-time students enrolled. Seneca's size and diversity give students the advantage of partnerships with industry leaders, the latest in hands-on computer technology, a variety of class sizes, and full-time, part-time and continuing education options. Education should be flexible and accessible, so Seneca also employs various methods of teaching – from in-class lectures and online learning to co-op and field placements – in programs related to applied arts, business, financial services and technology. Seneca's three strategic objectives are: Great Teaching and Learning; Great Student Experiences; and Great Foundations. More information regarding Seneca can be found at: [www.senecacollege.ca](http://www.senecacollege.ca).
- 1.1.2 Seneca is inviting prospective Proponents to submit Proposals for the provision of goods and services to Seneca at its various campuses. In doing so, Seneca is seeking to satisfy the following objectives:
- (a) obtain best overall value;
  - (b) obtain the highest quality delivery, installation, warranty, and/or maintenance services in respect of any goods or services procured;
  - (c) ensure compatibility with Seneca's existing property and/or current goods and services; and
  - (d) enhance customer satisfaction and improvements in goods and services.

#### 1.2 Term of Agreement

- 1.2.1 The initial term of the Agreement will be as provided in the Details and Important Events table.
- 1.2.2 Proponent(s) awarded any contract will grant to Seneca the number of irrevocable extension option(s) as provided in the Details and Important Events table to extend the Agreement under the same rates and/or prices, terms and conditions.

#### 1.3 Scope of Goods and/or Services

- 1.3.1 A description of the scope of goods and/or services to be acquired is set out in Appendix "A" – Scope of Work.

#### 1.4 Additional Scope and Requirements; No Guarantee

- 1.4.1 Not all Proponents who meet the requirements of this procurement process will be offered the opportunity to participate as a Shortlisted Proponent or Preferred Proponent.

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- 1.4.2 If Seneca conducts a shortlisting or “down-select” process for this procurement (to determine one or more Shortlisted Proponent(s) and/or Preferred Proponent(s)), the maximum number of Shortlisted Proponents and/or Preferred Proponent(s) that may be selected to continue to participate in this procurement process or to receive a contract will be identified in Appendix “D” – Evaluation Process (“**Maximum Number of Shortlisted Proponents**” or “**Maximum Number of Preferred Proponent(s)**”), subject to Seneca’s rights to adjust this number. Only Proponents who are Shortlisted Proponent(s) or Preferred Proponent(s) will receive notification from the Seneca Contact.
- 1.4.3 Seneca may amend or extend this procurement process at any time and will do so by posting a notice on the Bid Portal. Seneca may also cancel this procurement process, in whole or in part, at any time by posting a notice on the Bid Portal.
- 1.4.4 The issuance of a procurement document or the qualification of any Proponent as a Shortlisted Proponent or Preferred Proponent is not to be considered in any way a commitment by Seneca to continue this procurement process or award agreements(s), nor as authority to undertake any work that could be charged to Seneca. Pre-qualification under any or shortlisting process does not assure or guarantee that any Proponent will be successful in this procurement process or awarded an Agreement or that any goods and/or services will be acquired by Seneca.
- 1.4.5 A Proponent under this procurement process must continue to meet those requirements that were required to be met to be considered shortlisted (if a shortlisting process was conducted) or to be declared a Shortlisted Proponent or Preferred Proponent
- 1.4.6 Seneca will not be responsible for any costs or expenses incurred by any party responding to this procurement process or participating in any activities related to the procurement process, including Proponent meetings, demonstrations and negotiations.

### 1.5 Timetable

- 1.5.1 The timeline provided in the Details and Important Events table for the procurement process is an estimate only. Seneca may adjust deadlines at its discretion by providing notice on the Bid Portal or by email from the Seneca Contact. If Proponents have been downselected to Shortlisted Proponents or Preferred Proponents, any communication will be provided only to Shortlisted Proponents or Preferred Proponents, as applicable, by the Seneca Contact.

### 1.6 Use of Third-Party Portal

- 1.6.1 Seneca utilizes the Bid Portal to post notices of solicitation and for its procurements, including posting the procurement document(s), Addenda and accepting and evaluating Proposals. Instructions and tutorials for using the Bid Portal are available on the Bonfire website ([gobonfire.com](http://gobonfire.com)) or Proponents may contact Bonfire directly at 1-800-354-8010 ext. 2.
- 1.6.2 Seneca does not provide technical support for use of the Bid Portal and Seneca staff will not provide any technical support, information or instructions for its use. Proponents are required to contact the Bid Portal at 1-800-354-8010 ext. 2 or [Support@GoBonfire.com](mailto:Support@GoBonfire.com) for technical questions related to the Bid Portal or they may visit the Bid Portal.

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### 1.7 Seneca Confidential Information

- 1.7.1 If not specifically identified in the Details and Important Events table, at any stage of the procurement process, Seneca may require Proponents to execute a Seneca-provided Non-Disclosure Agreement, to receive Seneca confidential information (which includes third party confidential information). Only those Proponents that submit the Non-Disclosure Agreement will be granted access to any Seneca confidential information provided under this procurement process.
- 1.7.2 If, during any stage of the procurement process, a Proponent is disqualified, terminates its participation, withdraws its Proposal, or breaches the provision of any non-disclosure agreement, all access to Seneca confidential information will be terminated.

### 1.8 Definitions and Interpretation

- 1.8.1 If not otherwise defined in this procurement document, capitalized terms and expressions shall have the same meaning provided in Schedule 1: *Definitions and Interpretation*.

### 1.9 Communications & Enquiries

- 1.9.1 All communications for this procurement process will be made only to the Proponents registered on the Bid Portal who remain qualified to participate in this procurement process ("**Proponent Contact**") and only from the Seneca Contact. Notwithstanding any other provision of this procurement document, communications to Proponents may be provided by email or through the Bid Portal, at Seneca's discretion; all provisions of this procurement document shall be read and understood to provide this discretion to Seneca, whether or not expressly set out herein.
- 1.9.2 Seneca will send communications to Proponent Contacts by email using the email address registered by the Proponent and assumes no obligation to ensure that any particular Proponent Contact email address is correct or that any particular Proponent Contact is aware of or has received any or all such communications.
- 1.9.3 To ensure the integrity of the procurement process, the following applies to all enquiries and other communications regarding this procurement (each an "**Enquiry**"):
- (a) Proponents are to submit Enquiries to the Seneca Contact using the Bid Portal;
  - (b) directing an Enquiry to anyone other than the Seneca Contact may result in a Proposal being disqualified;
  - (c) significant Enquiries and Seneca's written response will be provided to all Proponents by posting on the Bid Portal;
  - (d) Enquiries should be submitted in a form that can be distributed to all Proponents, and not marked as 'confidential' or 'proprietary'. If Seneca receives an Enquiry marked as 'confidential', 'proprietary' or similar, Seneca may, in its discretion, (i) give the Proponent one (1) Business Day to resubmit the Enquiry in a form that can be shared with all Proponents,



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or (ii) choose to revise the question to remove the information designated as confidential or proprietary to enable it to be shared with all Proponents (including if the Proponent does not resubmit the Enquiry per (i) and the Enquiry is of a general nature or would provide a significant clarification of the procurement or its processes to Proponents);

- (e) Enquiries must be submitted by the Deadline for Enquiries or, if no date is specified, then not less than eight (8) Business Days before the Proposal Submission Deadline.

- 1.9.4 Information obtained from sources other than the Seneca Contact with regard to this procurement is not official, may be inaccurate, and must not be relied upon. Only Seneca, through the Bid Portal or the Seneca Contact may provide official information with respect to this procurement.

### 1.10 Amendments to the procurement document

- 1.10.1 This procurement document shall only be amended by way of an Addendum. Seneca may, in its discretion, amend the procurement document at any time by issuing an Addendum, or an amended and restated RFP that integrates all prior Addenda. No amendment of any kind to the procurement document is effective or may be relied upon unless it is contained in an Addendum or an amended and restated procurement document that is provided by Seneca. Each Addendum forms an integral part of the procurement document.
- 1.10.2 If Seneca issues an Addendum following the Proposal Submission Deadline, the Addendum will provide a specified period of time within which Proponents may elect to amend or replace, in full, their Proposals. If a Proponent does not amend or replace its Proposal, the original Proposal as submitted by the Proponent for the Bid Submission Deadline will be evaluated.
- 1.10.3 Not all Appendices (nor all parts of an Appendix) to this procurement document may be provided on the Issue Date. Seneca may issue additional Appendices (or parts of an Appendix) through an Addendum.
- 1.10.4 No communication whether written or oral, including written responses to Enquiries as may be provided from time to time, information provided at any industry days, Proponent Information Sessions (if held), or information exchanged with or provided by any party, will be included in or in any way amend the procurement document.
- 1.10.5 In the event of a discrepancy between documents posted on the Bid Portal and documents otherwise provided by the Seneca Contact, the documents posted on the Bid Portal will prevail.

### 1.11 Site Visits and Proponent Information Sessions

- 1.11.1 Proponents should visit the site for the scope of goods and/or services as set out in Appendix "A" – Scope of Work to familiarize themselves with the existing site conditions and take any measurements as required. No claims for extras will be considered on account of conditions which were apparent or could have been predicted at the time of

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submitting a Proposal. The Proponent shall be responsible for locating and verifying the viability of utility services on or adjacent to the site, as applicable.

- 1.11.2 Seneca may elect to hold one or more Proponent information session for Proponents (“**Proponent Information Session(s)**”) to provide further information about the procurement process. Proponent Information Sessions may be held with all Proponents together or with individual Proponents, at Seneca’s discretion. The Proponent Information Session is not a commercially confidential meeting.
- 1.11.3 For any Proponent Information Session, Proponents may be asked to provide to the Seneca Contact, by email, a written list of the proposed attendees (including individual name, title, and firm name). Seneca may, in its discretion, limit the number of attendees.
- 1.11.4 If Seneca elects to do so, the date, time, and location of a schedule site visit or Proponent Information Sessions, as well as whether the event is optional or mandatory, will be set out in the Details and Important Events table or provided via a Notice. If a site visit or Proponent Information Session is identified as mandatory, non-attendance by a Proponent may result in disqualification.

### 1.12 **Proposal Confidentiality and Disclosure; No Publicity**

- 1.12.1 All Proposals become the property of Seneca and will not be returned to the Proponent.
- 1.12.2 A Proponent should identify any information in its Proposal or any accompanying documentation supplied in confidence for which the Proponent desires that confidentiality is to be maintained by Seneca. Generally, only specific portions of a Proposal should be identified; listing the entire Proposal is not a useful means of distinguishing confidential from non-confidential information.
- 1.12.3 All information received will be held in confidence by Seneca, and other external procuring entities if participating in a joint procurement process (collectively, “**Procuring Entities**”), subject to the disclosure provisions of the *Freedom of Information and Protection of Privacy Act* (Ontario), or any other disclosure obligations imposed upon Seneca at law including, but not limited to, any request, requirement, decision or order of a regulatory body with jurisdiction over Seneca such as the Ontario Privacy Commissioner.
- 1.12.4 By submitting a Proposal, including any personal information, Proponents agree to the use of such information by Procuring Entities for the evaluation process, for any audit of this procurement process, and for contract management purposes, and confirms that it has received and recorded all required consents and permissions to the disclosure of such personal information. Personal information shall be treated as follows in the procurement process:
  - (a) The Proponent should not submit as part of its Proposal any information related to the qualifications or experience of its personnel and Team Members unless specifically requested. Procuring Entities shall maintain any information provided for a period of seven years from the time of collection. Should Procuring Entities request such information, Procuring Entities will treat this information in accordance with the provisions of this Section.

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- (b) Any personal information as defined in the *Personal Information Protection and Electronic Documents Act* (Canada) that is requested from each Proponent by Seneca shall only be used by Procuring Entities for the evaluation process, for any audit of this procurement process, and for contract management purposes.

1.12.5 It is the responsibility of each Proponent to obtain the consent of such individuals prior to providing the information to Seneca. Procuring Entities will consider that the appropriate consents have been obtained for the disclosure to and use by Procuring Entities of the requested information for the purposes described.

1.12.6 The Proponent (including any Key Personnel or Team Member) will not make any public announcement or make any reference to Seneca, the procurement document or the procurement process without the prior written consent of Seneca.

### 1.13 Trade Agreements

1.13.1 The procurement is subject to the Canadian Free Trade Agreement, the Ontario-Quebec Trade and Cooperation Agreement, the Canada-EU Comprehensive Economic and Trade Agreement and the Canada-UK Trade Continuity Agreement, where the value of the goods or services meets or exceeds the financial thresholds or is not otherwise excluded from the coverage of any trade agreement.

## 2.0 RESPONDENT INSTRUCTIONS

### 2.1 Submission of Proposals

2.1.1 Information with respect to this procurement may be provided at different stages of the procurement process. Not all Appendices will be made available initially, and certain Proposal forms may not be made available in a modifiable form until a certain stage of the procurement process has been completed.

2.1.2 Proposals must be submitted electronically using the Bid Portal on or before the Proposal Submission Deadline. Immediately at the Proposal Submission Deadline, Proponents will be unable to submit Proposals and any transmissions that are not completed at the Proposal Submission Deadline will be terminated. Seneca does not accept Proposals in hard copy or via means other than electronic submission using the Bid Portal.

2.1.3 Proposals that are not fully uploaded as of the Proposal Submission Deadline will be deemed incomplete and will be rejected.

2.1.4 For Proposals, the date and time will be finally and conclusively determined in accordance with the Bid Portal's procedures as are in effect from time to time, and such recording shall conclusively be deemed to be correct as of the date and time of delivery.

2.1.5 It is strongly recommended that Proponents review the instructions for the Bid Portal well in advance of the applicable Submission Deadline and allow sufficient time before the Submission Deadline to upload documents and finalize their Proposal, and to understand any file size limits, system requirements, recommended time periods for document uploading or other limitations.

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- 2.1.6 Only the Proposal content submitted by the Proposal Submission Deadline will be evaluated.

### 2.2 Proposal Format

- 2.2.1 Proponents are required to respond to all requirements of the procurement document and its Schedules and Appendices including Appendix "B" – Proposal Content as are made available on the Bid Portal.
- 2.2.2 If Proponents must complete a Mandatory Form as part of the procurement process, Proponents must use the specified Mandatory Form for the applicable portion of their Proposal. Proponents are not to modify the Mandatory Form except to include the information required by the Mandatory Form and any modifications not in compliance with the foregoing are of no force or effect, even if the Mandatory Form is accepted by Seneca.
- 2.2.3 In the event of a discrepancy between submission forms that are made available by Seneca in PDF and Word (or other) format, the PDF format will prevail.
- 2.2.4 All information must be included within the Proposal, external content such as websites, hyperlinks or other external sources, will not be considered to form part of the Proposal and will not be evaluated. Documents should not be embedded within uploaded files, as the embedded files will not be accessible or evaluated.
- 2.2.5 All Proposals and communications must be in English. Seneca will not accept and will not translate into English, any Proposal or other communication in any language other than English. Any parts of a Proposal not in English will be deemed non-responsive and will not be evaluated.
- 2.2.6 If a maximum Proposal length is specified, or if a maximum size is specified for portions of the Proposal (for example, resumes), Seneca may only evaluate the first set of pages up to the maximum number of pages so specified, and will only determine a score based upon this information. Information provided in any additional pages will not be evaluated.

### 2.3 Form of Agreement

- 2.3.1 If Seneca provides Proponents with a Form of Agreement (which may be a Purchase Order) as a basis for negotiations with any Preferred Proponent, Proponents may submit proposed revisions to the Form of Agreement as part of the Proposal submission as directed by Seneca. The Proponent must (i) provide the proposed revisions in a separate document; (ii) identify the section for which it is proposing a revision; (iii) provide a detailed explanation of the reason for the proposed revision; and (iv) provide an accompanying redline (e.g., mark up) of any proposed revisions. If no proposed revisions are submitted, Proponents are deemed to have accepted the Form of Agreement.
- 2.3.2 Proponents must not provide proposed revisions to the Form of Agreement in any other part of their Proposal other than in the proposed revisions document. Proposed revisions included in any other part of a Proposal will not be considered, may render the Proposal non-responsive, and may result in disqualification.

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### 2.4 Financial Bid

- 2.4.1 Proponents must provide all costs associated with providing the goods and/or services to Seneca in accordance with the Appendix "F" – Pricing Submission Form instructions. Appendix "F" – Pricing Submission Form must be submitted as a separate file. Proponents should identify this submission with the file name Appendix F – Pricing Submission Form.
- 2.4.2 Proponents must not provide pricing in any other part of their Proposal. Pricing information provided other than in Appendix "F" – Pricing Submission Form may render the Proposal non-responsive and result in disqualification.

### 2.5 Proponent Team Members and Key Personnel

- 2.5.1 If Proponents are required in this procurement to identify their Team Members or Key Personnel in their Proposal, then unless otherwise provided or permitted in this procurement document and subject to Seneca's rights to require removal, Proponents are not permitted to withdraw, substitute, add to or otherwise change their Team Members or Key Personnel after the Proposal Submission Deadline. If Proponents are permitted to change their Team Members or Key Personnel after the Proposal Submission Deadline, they must be of equivalent level of skills, qualification and experience as determined by Seneca in its discretion and Seneca may conduct a further re-evaluation (including associated scoring changes). Proponents should provide references for each of the foregoing in accordance with the requirements of this procurement process. The withdrawal, substitution, addition or change of any Team Members or Key Personnel may result in the Proposal being deemed no longer responsive and the Proponent may be disqualified.
- 2.5.2 If a Proponent has provided the experience or qualifications of any entity, including any subcontractor, Team Member or Key Personnel to meet any requirement of this procurement process (for example, proof of past experience), then, whether or not this procurement document expressly requires that the Proponent identify such entity, such entity (i) must be set out in Annex "A" to Appendix "G" – Form of Offer Submission Form; and (ii) subject to Seneca's rights to require removal as provided in this procurement document, must not be withdrawn, substituted, added or otherwise changed after the Proposal Submission Deadline. The withdrawal, substitution, addition or change of such entity may result in the Proposal being deemed no longer responsive and the Proponent may be disqualified. If the requirement for which the entity was proposed remains a requirement in the later stages of the procurement process or the resulting Agreement, all such entities must remain Team Members, subcontractors and Key Personnel following Agreement execution and fulfill the work for which they were proposed.

### 2.6 Certifications and Legal Capacity

- 2.6.1 Proponent must provide (a) those certifications, licenses or other verifications or proof (collectively, "**certifications**") as required within the time period or by the date specified (either in this procurement document or as required by the Seneca Contact); and (b) if requested by the Seneca Contact, a statement and any requested supporting documentation indicating the laws under which it is registered or incorporated together with the registered or corporate name and place of business and evidence that the Proponent is in good standing (proof of legal capacity).

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- 2.6.2 If a certification or proof of legal capacity is not provided within the time period or by the date specified, it shall be deemed not to have been delivered.

### 2.7 Amending or Withdrawing Proposals; Late Submissions

- 2.7.1 Proponents may submit part or all of a Proposal or amend part or all of a Proposal in advance of the Proposal Submission Deadline by modifying or deleting and resubmitting their Proposal through the Bid Portal in accordance with the instructions on the Bid Portal website. The Proposal in whole or in part will not be accessible to Seneca until the Proposal Submission Deadline.
- 2.7.2 Information contained in the most recent Proposal submitted via the Bid Portal and received prior to the Proposal Submission Deadline will take precedence over the information contained in any previously submitted Proposal from the Proponent.
- 2.7.3 Proposals that are not submitted in full by the Proposal Submission Deadline, and do not otherwise comply with the requirements will be rejected.
- 2.7.4 Notwithstanding the foregoing, a Proposal submitted after the Proposal Submission Deadline will not be rejected where the Proponent is able to provide evidence to substantiate to the satisfaction of Seneca that its Proposal was not fully uploaded before the Proposal Submission Deadline solely as a result of delays occurring outside of the Proponent's control and which could not have been reasonably foreseen or prevented.
- 2.7.5 At any time before an Agreement is executed, a Proponent may withdraw its Proposal and terminate its participation in the procurement by notifying the Seneca Contact by email. To withdraw a Proposal prior to the Proposal Submission Deadline, the Proponent should delete its Proposal through the Bid Portal. To withdraw a Proposal after the Proposal Submission Deadline, a notice of withdrawal must be sent to the Seneca Contact and must be signed by an authorized representative of the Proponent.

### 2.8 Restricted Parties

- 2.8.1 As a result of their involvement in the planning and development of this procurement process and its requirements, the entities and their respective directors, officers, partners, employees, and Affiliates, including current directors, officers, partners and employees and any of the foregoing who leave that employment or engagement (each a "**Restricted Party(ies)**") as set out in the Details and Important Events table are prohibited from submitting a Proposal in response to this procurement, participating as a member of a Proponent team, whether for this procurement or advising a Proponent or any member of the Proponent's team on its Proposal or the negotiation of any Agreement – and no Proponent shall consult, include, or seek advice from any Restricted Party in connection with a Proposal to this procurement process or the negotiation of any Agreement. The list of Restricted Parties may be modified by Seneca from time to time in its discretion. Any Proponent that is in violation of this Section may be deemed at Seneca's discretion, to be in a conflict of interest and, Seneca may in its sole discretion:
- (a) require the Proponent to remove or replace any Team Member or individual, as applicable, if the Team Member or individual, or the Team

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Member's subcontractors, or any of the foregoing entity's directors, officers, employees or Affiliates, is a Restricted Party;

- (b) disqualify a Proponent from this procurement process if the Proponent, any of its Team Members or their subcontractors, or any of their respective directors, officers, employees or Affiliates, is a Restricted Party; or
- (c) if a Proponent has been awarded an Agreement, terminate the Agreement for the Proponent's (as Supplier) default.

2.8.2 By submitting a Proposal, the Proponent represents and warrants that the Proposal was prepared without violation of this Section.

### 2.9 Sanctioned Persons

2.9.1 Persons in Canada, and Canadians outside of Canada, are bound by economic and political sanctions imposed by Canada. In addition, certain persons and activities in Canada may be subject to the application of U.S. law related to sanctions.

2.9.2 By submitting a Proposal, Proponent:

- (a) represents and warrants that (i) its Team Members, the Affiliates of it and its Team Members, and any of the directors, officers or employees of any of the foregoing are not a Sanctioned Person or a Sanction Linked Person or an Affiliate of a Sanctioned Person or a Sanction Linked Person; (ii) no Sanctioned Person or Sanction Linked Person has, directly or indirectly, an Economic Interest in any of them; and (iii) the Proponent, its Team Members and the Affiliates of it and its Team Members are in compliance with all applicable laws related to sanctions;
- (b) represents and warrants that it has conducted, and shall continue to conduct, all necessary investigations and assessments to ensure that the representation and warranty provided in (a) remains true;
- (c) covenants that it shall immediately notify Seneca should the representation or warranty provided in (a) or (b) no longer be true; and
- (d) acknowledges and agrees that if at any time a Proponent Team Member or an Affiliate of the Proponent or a Team Member, or any of the directors, officers or employees of any of the foregoing becomes or Seneca reasonably determines could be a Sanctioned Person or a Sanction Linked Person, Seneca may, at its discretion (without incurring any liability of any nature whatsoever): (i) require that Proponent remove or replace such entity or individual; or (ii) terminate its qualification as a Proponent and further participation in the procurement process.

### 2.10 Participation in Multiple Proposals

2.10.1 If any Proponent, consortium member, or any Affiliate of any of the foregoing, is participating in more than one Proposal, Seneca may determine that this constitutes a

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conflict of interest and, at its discretion, require that Proponent withdraw one or more of those Proposals or notify the Proponent that it will only evaluate the Proposal that was first submitted, in full, on the Bid Portal. Seneca reserves the right to further query Proposals where a Team Member is a Team Member in multiple Proposals.

### 2.11 Consortiums

- 2.11.1 Any Proponent that submits a Proposal as a consortium is to indicate clearly that it is a consortium and provide the information requested in the Form of Offer Submission Form. If the information is not clearly provided in the Proposal, the Proponent must provide the information on request from the Seneca Contact.
- 2.11.2 A Proponent that is a consortium must appoint a Participant-in-Charge for the purposes of the procurement process, who must be authorized by the other consortium participants to incur liabilities and receive instructions for and on behalf of any and all members of the consortium. The Participant-in-Charge will act as the sole representative of the consortium and will appoint the Proponent Contact. Seneca shall have no obligation to communicate with any other member of the consortium or to ensure that any other member of the consortium has received any information. Any communication to the Participant-in-Charge shall be deemed communication to all members of the consortium.
- 2.11.3 The Seneca Contact may, at any time, require each member of the consortium to confirm that the Participant-in-Charge has been appointed with full authority to act as its representative for the purposes of the procurement process or any resulting Agreement.
- 2.11.4 If an Agreement is awarded to a consortium: (i) that Agreement must be signed by all the members of that consortium unless the Seneca Contact has agreed, in writing, that one member may be appointed as the Participant-in-Charge; and (ii) all members of the consortium will be jointly and severally liable for the performance of any resulting Agreement.
- 2.11.5 If a consortium qualified as a Proponent under any shortlisting process or pre-qualification process, it must remain the Proponent for the entire procurement process. Any material change to the consortium shall result in the disqualification of the consortium as Proponent and from participation in this procurement process.
- 2.11.6 The Participant-in-Charge will be deemed to be the Participant-in-Charge for the entirety of this procurement process unless a new Participant-in-Charge is appointed by the members of the consortium, and Seneca is provided with prior written notice and any additional information required by Seneca. Until such time as Seneca has confirmed the new Participant-in-Charge, the former Participant-in-Charge remains the entity to whom Seneca will provide any communications.

## 3.0 EVALUATION OF PROPOSALS

### 3.1 General

- 3.1.1 Proposals will be evaluated against all of the requirements of the procurement (the “**Evaluation Criteria**”) as provided in Appendix “D” – Evaluation Process.



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- 3.1.2 The stages and the Overall Points allocated to each stage of the evaluation process are as provided in Appendix "D" – Evaluation Process. Subject to Seneca's rights to waive requirements or stages, Proponents must meet the requirements of each stage to progress to the next stage. If optional stages are provided for, Proponents should note that these stages are at the discretion of Seneca and one or more stages may not be implemented by Seneca.
- 3.1.3 If a minimum score is required to advance to any subsequent stage, subject to Seneca's right to waive minimum required scores, Proposals not meeting any minimum required scores (whether in the aggregate or on a per-requirement basis, as applicable) for a stage will be deemed non-responsive, will not proceed to the next stage and will not be considered further.
- 3.1.4 A Proposal must meet all Mandatory Requirements and obtain any minimum score identified for point-rated criteria to be declared responsive. Compliance with any mandatory requirements is a Condition Precedent to any Agreement award.
- 3.1.5 The Evaluation Team will determine the Shortlisted Proponents based on those Proponents that meet the requirements of Stage I – Mandatory Forms, up to the Maximum Number of Shortlisted Proponents (if any), subject to Seneca's discretion as provided in this procurement document.
- 3.1.6 Based on the results of the evaluation, the Evaluation Team will recommend one or more Shortlisted Proponents following the completion of Stage III – Pricing to proceed to Stage IV. Only Shortlisted Proponents will participate after the optional Stage IV - Supplemental Evaluation Stage. Only Preferred Proponent(s) will be invited to participate in Stage V - Final Evaluation and Selection - Negotiation and Award.
- 3.1.7 A Proponent shall only be considered to be a Preferred Proponent if notified in writing by Seneca.
- 3.1.8 Seneca intends to complete Stage V - Final Evaluation and Selection - Negotiation and Award within the Agreement Negotiation Period. If there is more than one Preferred Proponent, Seneca, in its discretion, will determine the order of negotiations. Seneca may in its discretion amend the Agreement Negotiation Period by providing notice to the Preferred Proponent(s).

### 3.2 Mandatory and Rated Requirements

- 3.2.1 Any requirement that is identified specifically with the words "shall", "must" or "mandatory" is a mandatory requirement.
- 3.2.2 A Proposal must meet all of the mandatory requirements. If a Proposal does not meet all of the mandatory requirements, that Proposal may be rejected.
- 3.2.3 If a Proponent is required to confirm "yes" or "no" that they meet a mandatory requirement and must also explain how they meet such mandatory requirement, the explanation shall not qualify or modify the confirmation that the mandatory requirement is or will be met by the Proponent. If Seneca determines, in its discretion, that an explanation qualifies an affirmative response for a mandatory requirement, Seneca may (i) deem that the Proposal

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does not meet that mandatory requirement; or (ii) seek clarification from the Proponent that the explanation is not a qualification that would prevent that mandatory requirement from being met. If a Proponent fails to provide any such clarification to Seneca within the time period provided by the Seneca Contact, the Proposal shall be deemed non-responsive to the mandatory requirement.

- 3.2.4 Rated Requirements will be evaluated using point-rated criterion scales as more fully described in Appendix "D" – Evaluation Process.

### 3.3 Evaluation Process – Maximum Number of Shortlisted Proponents

- 3.3.1 If a Maximum Number of Shortlisted Proponents has been identified in Appendix "D" – Evaluation Process, then if the evaluation process:

- (a) results in a number of Shortlisted Proponents that is below the Maximum Number of Shortlisted Proponents, Seneca is under no obligation to qualify any additional Proponents. Seneca at its discretion may: (i) conduct the procurement process with only those Shortlisted Proponents; (ii) if Seneca has set a minimum score or ranking that must be achieved for a Proponent to be considered a Shortlisted Proponent, waive one or both requirements in order to enable Seneca to assure a sufficient roster of Shortlisted Proponents (up to the Maximum Number of Shortlisted Proponents); (iii) reissue this procurement document to seek out additional Proponents; or (iv) cancel this procurement process; or
- (b) results in a number of Proponents who meet the requirements of this procurement process that is greater than the Maximum Number of Shortlisted Proponents, then the Maximum Number of Shortlisted Proponents will be comprised of the Proponents with the highest Proposal scores up to the Maximum Number of Shortlisted Proponents (subject to Seneca's discretion to otherwise modify the Maximum Number of Shortlisted Proponents as provided herein).

- 3.3.2 Notwithstanding the Maximum Number of Shortlisted Proponents, based on the results of the evaluation Seneca may decrease the Maximum Number of Shortlisted Proponents by one (1) if the difference between the lowest scoring Proponent and the next highest scoring Proponent in the Maximum Number of Shortlisted Proponents that meet the requirements of this procurement process is ten (10) points or more – provided that Seneca may revisit any decision made in reliance upon this Section if there is any subsequent change in the number or composition of the other Shortlisted Proponents.

- 3.3.3 Regardless of the scores for any Proposal, Seneca will not exceed the Maximum Number of Select Proponents.

- 3.3.4 If, on completion of the evaluation process, there is a tie amongst Proponents that meet the requirements that would, based upon scores, result in the Maximum Number of Shortlisted Proponents being exceeded and Seneca has not otherwise eliminated such Proponents, the Proponent having the highest score for the Stage III - Pricing, will be selected. If a tie remains, then Seneca shall select the Proponent which in Seneca's discretion, represents the best value to Seneca.

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### 3.4 Reference Checks

- 3.4.1 Reference checks will be conducted by Seneca at Stage II – Evaluation of Rated Requirements as described in Appendix “D” – Evaluation Process.
- 3.4.2 Proponent is required to provide the number of references from organizations similar in size and scope to Seneca for which the Proponent has provided the same or similar scope of work within the past number of years, all as identified in Appendix “D” – Evaluation Process.
- 3.4.3 Seneca, in its sole discretion, will confirm the Proponent’s experience and or ability to provide the scope of work required and described in its Proposal by checking the Proponent’s references and the provision of the references by the Proponent is deemed to be consent to such confirmation/contact with the references.
- 3.4.4 Seneca reserves the right to adjust the Proponent’s scores at Stage II – Evaluation of Rated Requirements based on information learned during reference checks.

### 3.5 Maintaining Qualifications

- 3.5.1 Meeting the qualification requirements under which a Proponent was selected as a Shortlisted Proponent or Preferred Proponent is a deemed Condition Precedent to participating in any further Stages, whether or not expressly provided for in any notice of selection letter.
- 3.5.2 If a Proponent has failed to meet any requirements or maintain its qualifications, Seneca may, in its discretion, choose to permit the Proponent to meet such requirements or reobtain such qualifications (within a time frame as determined by Seneca, including any extensions permitted by Seneca), or may disqualify the Proponent as a Proponent (or the Shortlisted Proponent as a Shortlisted Proponent, or the Preferred Proponent as a Preferred Proponent, as applicable), and exercise any rights it has, including the right to invite the next highest-scoring Proponent that meets the requirements of this procurement process to be a Shortlisted Proponent or the next highest-scoring Shortlisted Proponent that meets the requirements of this procurement process to be a Preferred Proponent, as the case may be.
- 3.5.3 All Proponents are required to provide immediate written notice to Seneca if they are no longer qualified or if any of the information provided in their Proposals is no longer accurate or has changed.
- 3.5.4 A Shortlisted Proponent or Preferred Proponent shall no longer be considered to be a Shortlisted Proponent or Preferred Proponent if: (a) it withdraws its Proposal or otherwise terminates its participation in the procurement process; or (b) Seneca determines that it is no longer qualified, including due to a change in information provided in its Proposal or other circumstances affecting that Shortlisted Proponent or Preferred Proponent, or a determination that the Proposal contained inaccurate or misleading information. Seneca reserves the right, in its discretion, to provide a Shortlisted Proponent or Preferred Proponent that is no longer qualified with a rectification period within which to remedy such issues and be qualified or to disqualify that Proponent. During Stage V – Evaluation, Negotiation and Award Seneca may also elect to terminate or suspend negotiations with

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the Preferred Proponent and commence negotiations with the next highest-scoring Shortlisted Proponent.

- 3.5.5 Unless the context otherwise requires, for clarity and not by way of limitation, a reference in this Section to a “Proponent” means a Proponent, Shortlisted Proponent or Preferred Proponent.

### 3.6 Selection and Negotiation of Agreement

- 3.6.1 At the conclusion of Stage III or Stage IV (if applicable), Seneca will forward a notice of selection letter to the Preferred Proponent(s). The notice of selection letter will contain further information with respect to Stage V – Evaluation, Negotiation and Award, including the commencement date and allocated time period.
- 3.6.2 Seneca has provided for a negotiation stage, as more fully described in Appendix “D” – Evaluation Process, Stage V – Evaluation, Negotiation and Award.
- 3.6.3 If a Shortlisted Proponent is issued a Preferred Proponent selection letter, Shortlisted Proponent (as the Preferred Proponent) understands that it must be ready to commence and conclude Stage V – Evaluation, Negotiation and Award with Seneca within the Agreement Negotiation Period.

### 3.7 Conditions Precedent

- 3.7.1 In addition to any other requirement (including Conditions Precedent contained in any award letter), the following are Conditions Precedent to any Agreement award:
- (a) Seneca and the Preferred Proponent must have come to full and final agreement with respect to the Agreement within the Agreement Negotiation Period, unless such date is otherwise extended by Seneca or Seneca has determined at any time that it will be unable to conclude acceptable terms with the Preferred Proponent, in its discretion;
  - (b) the Proponent has replaced any subcontractor rejected by Seneca, with a subcontractor acceptable to Seneca having the skills, expertise, knowledge and experience that meet the requirements of this procurement process and to perform the work for which they are proposed;
  - (c) If notified by Seneca in the Preferred Proponent notification, the Preferred Proponent must complete registration and adhere to Seneca’s Comply Works Program throughout the term of the Agreement. Proof of registration must be provided within five (5) days of notification of Agreement award. Appendix “M” – ComplyWorks Program provides additional information on registration;
  - (d) the Preferred Proponent has provided proof of the insurance required by Appendix “B” – Proposal Content at Preferred Proponent’s (as Supplier) sole cost and expense;

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- (e) Seneca reserves the right, at its discretion, to incorporate a service level agreement into any Agreement entered into with a Preferred Proponent to ensure that the Preferred Proponent's performance in the provision of work as set out in Appendix "A" – Scope of Work meets Seneca's ongoing requirements;
- (f) if a financial assessment is required, that the assessment is acceptable to Seneca, in Seneca's discretion;
- (g) Preferred Proponent shall be required to execute and deliver to Seneca a Contractor OHS Sign-Off Form, in the form attached as Appendix "K" – Contractor OHS Sign-Off Form, concurrently with the execution and delivery of a Contract. As set out in the Agreement, the Preferred Proponent shall perform the duties and obligations of the "Constructor" in accordance with the *Occupational Health and Safety Act* (Ontario); and
- (h) Preferred Proponent shall deliver a report in the form attached as Appendix "L" – Construction and Demolition Tracking in respect of waste generated in connection with the Deliverables in accordance with Seneca's waste management program and Ontario Regulation 103/94: Industrial, Commercial and Institutional Source Separation Program under the *Environmental Protection Act* (Ontario).

3.7.2 For clarity and not by way of limitation, Seneca is not required to wait until the end of any Agreement Negotiation Period or Conditions Precedent Period to disqualify a Preferred Proponent if it has failed to meet a Condition Precedent, or to terminate negotiations with such Preferred Proponent.

3.7.3 Once Seneca has successfully negotiated an Agreement with a Preferred Proponent Seneca will forward an award letter to the Preferred Proponent. The award letter will provide any Conditions Precedent and the corresponding Conditions Precedent Period(s) that the Preferred Proponent must meet in order to be eligible for Agreement award.

3.7.4 If a Preferred Proponent has failed to meet a Condition Precedent within the applicable Conditions Precedent Period, including after an award letter has been issued, Seneca may, in its discretion, extend the Conditions Precedent Period or may disqualify the Preferred Proponent as a Preferred Proponent, and exercise any rights it has, including the right to notify the next highest-ranked Shortlisted Proponent that it is a Preferred Proponent, and commence negotiations with that Proponent.

### 3.8 Agreement Award

3.8.1 Upon all Conditions Precedent being met, as determined in Seneca's discretion, Seneca shall, subject to this Section, prepare a final Agreement for execution by the parties and the Preferred Proponent shall deliver a fully executed Agreement to Seneca within 15 (fifteen) Business Days of delivery thereof. The award of any Agreement by Seneca is at all times subject to Seneca obtaining appropriate approvals to proceed, notwithstanding the fact that any or all of the Conditions Precedent have been met.

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- 3.8.2 Seneca may make those amendments to the Form of Agreement to reflect the final agreed-to goods and/or services including pricing, minor changes, contact details, additions or modifications to those provisions that are identified as requiring administrative completion or finalization.

### **3.9 Debriefing**

- 3.9.1 If an unsuccessful Proponent wishes to request a debriefing, it must submit its request to the Seneca Contact within sixty (60) calendar days from date of notification of contract award arising out of this procurement process. Requests submitted after this time may not be considered. Seneca may provide the debriefing orally, in person, or in writing, at its discretion. Seneca will not provide any information with respect to the Proposal of any other Proponent or any Agreement executed with any other Proponent.

### **3.10 Proponent's Obligations**

- 3.10.1 It is the Proponent's responsibility to:

- (a) ensure it has the appropriate and necessary minimum system requirements or any other technological requirements to use the Bid Portal and monitor the Bid Portal for information relating to the procurement;
- (b) ensure that it has downloaded the complete procurement document, including any and all Addendum and/or restated and amended procurement documents;
- (c) report any errors, omissions or ambiguities and/or obtain clarification of the requirements contained in the procurement document, if necessary, before the Deadline for Enquiries;
- (d) prepare its Proposal in accordance with the instructions contained in the procurement document;
- (e) submit a complete Proposal on or before the Proposal Submission Deadline in compliance with the Proposal submission requirements;
- (f) ensure that the Proponent has clearly identified itself within the Proposal; and
- (g) provide a comprehensible and sufficiently detailed Proposal that will permit a complete evaluation in accordance with the criteria set out in the RFP. No commentary provided by Seneca at any time, including in any Proponent Information Session or commercially confidential meeting or negotiation shall be considered to be advice with respect to how a Proponent should prepare or modify its Proposal, and Proponents remain at all times responsible for their Proposals.

- 3.10.2 The RFP, and its rights and obligations, are not assignable by the Proponent and will result in the disqualification of the Proponent.

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### **3.11 Seneca Reserved Rights in the Conduct of the Evaluation**

3.11.1 In addition to any other rights of Seneca, at any time during the procurement process, Seneca may, but will have no obligation to, do the following:

- (a) seek clarification or verification from Proponents regarding any or all information provided by them with respect to the RFP;
- (b) contact any or all references supplied by Proponents;
- (c) request specific information with respect to Proponents' legal status;
- (d) conduct a survey of Proponents' facilities and/or examine their technical, managerial, and financial capabilities to determine if they are adequate to meet the requirements of the RFP or any Agreement;
- (e) verify any information provided by Proponents through independent research, use of any government resources or by contacting third parties;
- (f) interview, at the sole costs of Proponents, any Proponents and/or any or all of the resources proposed by Proponents to fulfill the requirement of the RFP or any Agreement;
- (g) require one or more Proponents to provide presentations of their proposed goods and/or services;
- (h) correct any error in the extended pricing of Proposals by using unit pricing and any error in quantities in Proposals to reflect the quantities stated in the RFP; in the case of error in the extension of prices, the unit price will govern;
- (i) consult with others including Seneca staff members, third parties and references;
- (j) request correction of unintentional errors of form from any Proponent with respect to its Proposal;
- (k) reject any subcontractor proposed by a Proponent; and
- (l) for presentations conducted for the purposes of permitting Proponents to clarify their Proposals, not request any presentations from Proponents.

3.11.2 Proponents will have the number of days specified in the request by the Seneca Contact to comply with any request related to any of the above items or, if no date is provided, must comply with any request within five (5) Business Days of the request. Failure to comply with the request may result in the Proposal being rejected.

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### 4.0 GENERAL TERMS AND CONDITIONS

#### 4.1 Use of Third-Party Portal

- 4.1.1 Any use of third-party portals, including the Bid Portal, is subject to the terms and conditions of the site provider. Seneca bears no responsibility and is not liable for any errors or omissions in a Proponent's Proposal due to a Proponent's failure to obtain information available on the Bid Portal. Proponents are responsible for ensuring that they meet the minimum system requirements for use of the Bid Portal and for use of any other on-line communication platforms used (for example, for virtual Proponent Information Sessions).

#### 4.2 No Collusion or Conflict of Interest

- 4.2.1 Seneca's Procurement Policy applies to the procurement process and to all Proponents (and their Team Members).
- 4.2.2 Proponents must prepare and submit Proposals independently and without any connection, knowledge, comparison of information or arrangement, direct or indirect, with any other Proponent.
- 4.2.3 A Proponent must not discuss or communicate, directly or indirectly, with any other Proponent, any information whatsoever regarding its own Proposal or the Proposals of other Proponents in a manner contrary to applicable law.
- 4.2.4 Proponents must disclose any potential conflicts of interest and existing business relationships they may have with Seneca and Seneca may consider this information in its assessment of the Proponent(s)' Proposal or the Proponent's participation in this procurement process, whether to the Proponent(s)' advantage or disadvantage.
- 4.2.5 In order to protect the integrity of the procurement process, Proponents are advised that Seneca may reject a Proposal or disqualify a Proponent if the Proponent or any member of the Proponent's team: (a) is a Restricted Party; (b) was involved in any manner in the preparation of the RFP or in any situation of conflict of interest or appearance of conflict of interest; or (c) had access to information related to the RFP that was not available to other Proponents and that would, in Seneca's discretion, give or appear to give the Proponent an unfair advantage.
- 4.2.6 The experience acquired by a Proponent who is providing or has provided the goods and/or services described in the RFP (or similar goods or services) will not, in itself, be considered by Seneca as conferring an unfair advantage or creating a conflict of interest. The Proponent remains, however, subject to the criteria above.
- 4.2.7 The Proponent acknowledges that it is within Seneca's discretion to determine whether a conflict of interest, unfair advantage or an appearance of conflict of interest or unfair advantage exists and requires mitigation measures or reject a Proposal accordingly.
- 4.2.8 Proponents must not "lobby" any Ontario "public office holder", as those terms are defined in the *Lobbyist Registration Act*, 1998, SO 1998, c 27, regarding the RFP, the procurement process or their Proposal. For greater certainty, a public office holder includes any officer,



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director or employee of any public body designated in regulations made under the *Public Service of Ontario Act, 2006*, 2010, c. 25, and includes any officer, director, any member of Seneca's governing body (such as Board of Governors, Board of Directors, Board of Advisors or Trustees) or employee of Seneca but does not include the Seneca Contact. For additional certainty, lobbying consists of communication with any public office holder, other than the Seneca Contact, in an attempt to influence Seneca's administration of the procurement process or Agreement award.

- 4.2.9 Proponents are also prohibited from lobbying any level of government (including municipal or regional government) with respect to Seneca's administration of the procurement process, any procurement process, or Agreement award. This means that no officer, director, employee or agent of a Proponent may communicate with (i) any member of the government at any level (including municipal or regional government) or any person or their staff, (ii) any officer or employee of government at any level (including municipal or regional government) , or (iii) any officer or employee of any entity that participates in the procurement process including any Agreement award, in an attempt to influence Seneca's administration of the procurement process, any procurement process, or Agreement award.
- 4.2.10 For the purpose of this Section, an individual who, for payment, undertakes to lobby on behalf of a Proponent will be considered an agent of the Proponent.
- 4.2.11 This Section applies to Proponents, the consortium, each member of a consortium, and their respective employees, subcontractors, contractors, agents and representatives.

### 4.3 Proponent Acknowledgement and Seneca Limitation of Liability

- 4.3.1 By submitting its Proposal, and participating in the process as outlined in the procurement document, Proponent acknowledges and agrees that:
- (a) the conduct of this procurement process is based upon Seneca's requirements and is at Seneca's discretion. At no time is Seneca under any obligation to offer any additional opportunity to participate in a procurement process to any Proponent;
  - (b) it is solely responsible to ensure that it has received a complete procurement document (including all Addendums) and all Notices;
  - (c) it is solely responsible for all costs and expenses incurred or arising with respect to participation in the procurement process and for conducting all due diligence necessary to fully understand the Proposal requirements and to prepare its Proposal or any other submissions under this procurement process. Nothing in the procurement document or in the procurement process itself will relieve Proponents from forming their own opinions and conclusions with respect to the matters addressed in the procurement;
  - (d) no guarantee, representation or warranty, express or implied, is made with respect to the completeness or accuracy of any information presented in the procurement document or during the procurement process. Seneca or any of its officers, directors, servants, contractors and agents shall not be

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liable to anyone as a result of the use of any information contained in the procurement document or provided during the procurement process;

- (e) the pricing it provides does not guarantee that Seneca will purchase or acquire the level of goods or services quoted;
- (f) This procurement process is not intended to create and will not create a formal, legally binding bidding process and will instead be governed by the law applicable to direct commercial negotiations. For greater certainty and without limitation, (a) the Proponent (including as a Shortlisted Proponent and Preferred Proponent) will have no right to make any claims (in contract, tort, or otherwise) against Seneca with respect to the award of an Agreement, failure to award an Agreement or failure to honour a Proposal; and (b) no contract of any kind (including Contract "A") is formed under, or arises from, the procurement document or the procurement process, prior to the signing of a formal written Agreement;
- (g) Seneca and any of its officers, directors, servants, contractors and agents shall have no liability whatsoever, whether arising at law, in contract or in tort, arising out of Proponent's participation in or exclusion from the procurement process, for or in connection with any action, cause of action, suit, claim, loss, damage, cost or expense of any nature or kind whatsoever incurred or suffered by Proponent as a result of or in connection with, any act, omission, decision or step taken by Seneca or any of its officers, directors, servants, contractors and agents in the exercise of any right or discretion under the procurement document or otherwise relating to or arising out of the procurement process, including where Seneca is in breach of any duty owed at law to Proponent;
- (h) If, notwithstanding the foregoing, Seneca or any of its officers, directors, servants, contractors and agents incur any liability to Proponent arising out of or in connection with the procurement process, the total aggregate liability of Seneca, and its officers, directors, servants, contractors and agents shall under no circumstances exceed the reasonable actual, direct costs incurred by Proponent in the preparation of its Proposal or \$5,000, whichever is less. This limitation of liability shall survive the completion or termination of the procurement process;
- (i) it has and does waive any and all claims against Seneca and its officers, directors, servants, contractors and agents or at all, including without limitation any claims described herein;
- (j) it is responsible for review, understanding and compliance with all of Seneca's policies in effect from time to time as set out on the Seneca website in the [Details and Important Events table](#); and
- (k) Seneca makes no representation or warranty about the conditions of any of the land upon which the Deliverables are to be provided or any of the adjacent lands including, without representation, buildings, utilities, soils,

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land use entitlements or other service, sub-service or legal conditions. Proponents shall make their own conclusions concerning such conditions.

### 4.4 Litigation History

- 4.4.1 Seneca reserves the right to accept or reject any Proposal where a Proponent has launched legal proceedings against Seneca or is otherwise engaged in a dispute with Seneca.

### 4.5 Disabilities Act

- 4.5.1 Seneca is committed to the highest possible standards for accessibility. Proponent(s) must be capable to recommend and deliver, as appropriate the goods and/or services being acquired, accessible and inclusive goods and/or services consistent with the Ontario Human Rights Code (OHRC), the *Ontarians with Disabilities Act, 2001* and *Accessibility for Ontarians with Disabilities Act, 2005* (AODA) and its regulations in order to achieve accessibility for Ontarians with disabilities.
- 4.5.2 In accordance with Ontario Regulation 429-07 made under the AODA (Accessibility Standards for Customer Service), Seneca has established policies, practices and procedures governing the provision of its services to persons with disabilities.
- 4.5.3 Proponents are required to comply with Seneca's accessibility standards, policies, practices, and procedures, which may be in effect during the term of the Agreement and which apply to the goods and/or services to be provided by the Proponent(s) (as Supplier(s)).

### 4.6 General Reservation of Rights – Procurement Process

- 4.6.1 Without derogating from and in addition to any other rights of Seneca, Seneca reserves the right, in its discretion, to:
- (a) determine the composition, from time to time, of the Evaluation Team;
  - (b) extend or amend, from time to time, any date, time period or deadline provided in the procurement document upon written notice to all Proponents;
  - (c) reject any or all Proposals received in response to the procurement;
  - (d) negotiate for and award an Agreement to a Proponent for all of or only part of the goods and/or services identified in the requirements, including if the Proponent submitted a Proposal for all goods and/or services or was qualified as a Proponent, Shortlisted Proponent or Preferred Proponent to provide all goods and/or services;
  - (e) to extend the Agreement Negotiation Period with any Preferred Proponent;
  - (f) to terminate negotiations with any Preferred Proponent including if: (i) the Preferred Proponent has failed to meet a Condition Precedent; (ii) Seneca

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determines that an agreement cannot be reached with the Preferred Proponent on terms acceptable to Seneca; or (iii) the Preferred Proponent seeks to negotiate mandatory requirements;

- (g) cancel the procurement at any time;
- (h) reissue the procurement document; and
- (i) if no responsive Proposals are received and the requirement is not substantially modified, reissue the procurement document by inviting only the Proponents who submitted Proposals to resubmit Proposals within a period designated by Seneca.

### 4.7 Deemed Consent

- 4.7.1 Submission of a Proposal is deemed to constitute the consent of the Proponent(s) and identified subcontractors or Team Members, and their respective directors, officers, shareholders or owners and any other person named in the Proposal, including references (if any) to Seneca's receipt of this information and any exercise of any right reserved to Seneca within the procurement document.

### 4.8 Seneca Rights to Reject Proposals

- 4.8.1 In addition to its other rights, Seneca may reject a Proposal (or disqualify a Proponent) in its discretion where any of the following circumstances is present:
  - (a) on the basis of information provided by the Proponent's references;
  - (b) if Seneca determines that the Proposal contains misrepresentations or any other inaccurate or misleading information (including where information is subsequently determined to be no longer accurate or misleading), including with respect to the goods or services to be provided;
  - (c) a Proponent, Team Member or any person included as part of the Proposal ("**identified entity**" or collectively, "**identified entities**"), is (i) a Sanctioned Person or a Sanction Linked Person or their Affiliate is a Sanctioned Person or a Sanctioned Linked Person, or (ii) subject to any restrictions, or has been otherwise prohibited from contracting with Seneca or entering Seneca's premises where the work is to be performed, and which would render the identified entity ineligible to provide the work, or the portion of the work that it is to perform;
  - (d) the Proponent is bankrupt or where, for whatever reason, its activities are rendered inoperable for an extended period;
  - (e) a Proponent or an identified entity has engaged in conduct prohibited by the procurement document or Seneca's policies or directives applicable to this procurement;

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- (f) evidence, satisfactory to Seneca, of fraud, bribery, fraudulent misrepresentation or failure to comply with any law protecting individuals against any manner of discrimination, with respect to a Proponent or an identified entity;
- (g) evidence satisfactory to Seneca that, based on past conduct or behaviour, a Proponent or an identified entity is unsuitable or has conducted itself improperly;
- (h) on grounds of conflict of interest for a Proponent or an identified entity where the Proponent or an identified entity has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including (i) where a Proponent or identified entity is a Restricted Party; (ii) having or having access to confidential information of Seneca in the preparation of its Proposal that is not available to other Proponents; (iii) communicating with any person with a view to influencing preferred treatment in the procurement process (including but not limited to the lobbying of decision makers involved in the procurement process); or (iv) engaging in conduct that compromises or could be seen to compromise the integrity of the procurement process;
- (i) a Proponent has not demonstrated that it has sufficient qualifications, resources, or capabilities to ensure its ability to deliver the work;
- (j) with respect to current or prior transactions with Seneca:
  - (i) a Proponent or an identified entity has failed to satisfactorily meet its contractual obligations to Seneca in any prior contract, including but not limited to breaching a current or prior contract with Seneca or repeated performance deficiencies without satisfactory remedial actions;
  - (ii) Seneca has exercised its contractual remedies of suspension or termination for default with respect to a contract with a Proponent or an identified entity; or
  - (iii) for a Proponent or an identified entity Seneca determines that their performance on other contracts, including the efficiency and workmanship as well as the extent to which it performed the work in accordance with contractual requirements, is sufficiently poor to jeopardize the successful completion of the requirement being contracted for.

4.8.2 Where Seneca intends to reject a Proposal pursuant to subsections I or (h) above, the Seneca Contact will so inform the Proponent and provide the Proponent a period of time within which to make representations, before making a final decision on the Proposal rejection. Any decision by Seneca is considered conclusive and final.

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4.8.3 Seneca reserves the right to apply additional scrutiny, in particular, when multiple Proposals are received from a single Proponent or a consortium. Seneca reserves the right to:

- (a) reject any or all of the Proposals submitted by a single Proponent or consortium if their inclusion in the evaluation has the effect of prejudicing the integrity and fairness of the process; or
- (b) reject any or all of the Proposals submitted by a single Proponent or consortium if their inclusion in the procurement process would distort the solicitation evaluation, and would cause a result that would not reasonably have been expected under prevailing market conditions and/or would not provide good value to Seneca; or
- (c) disqualify a Proponent whose Proposal incorporates unfair pricing practices including, without limitation, lowball pricing, gratis proposals or frontloading of costs.

4.8.4 Proponent (and if awarded an Agreement, the Supplier) acknowledges that Seneca has proceeded with evaluation of a Proponent's Proposal, the designation of the Proponent as a Preferred Proponent, or the award of an Agreement, in reliance upon amongst other things, certifications provided by Proponent.

4.8.5 Seneca may verify compliance with any certification at any time, including during the procurement process, or following any Agreement award. Seneca may request any additional information it deems reasonably necessary to verify certification compliance. Failure to deliver the requested information by the delivery date specified by Seneca may result in disqualification of the Proponent's Proposal, disqualification of the Proponent as a Preferred Proponent, or following Agreement award, be deemed a breach of a material term of the Agreement.

### **4.9 Legal Capacity**

4.9.1 The Proponent must have the legal capacity to contract.

### **4.10 No Greater Rights**

4.10.1 Selected and Preferred Proponents have no greater rights, and Seneca has no additional obligations to Selected or Preferred Proponents except as expressly set out in the procurement document.

### **4.11 Governing Law**

4.11.1 The procurement document and the procurement process shall be governed and construed in accordance with the laws of Ontario and the laws of Canada applicable therein. Each Party consents to venue in the City of Toronto, Ontario, and irrevocably attorns to and submits to the to the exclusive jurisdiction of the Ontario Superior Court of Justice and all courts competent to hear appeals therefrom.

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### 4.12 Bid Dispute Process

- 4.12.1 If a Proponent wishes to dispute a decision made in respect of any material aspect of the procurement process that impacts the Proponent, Seneca will consider the Proponent's written complaint (the "Complaint").
- 4.12.2 The Complaint must be submitted to the Enquiries Contact within ten (10) days of the date of the Proponent's debrief.
- 4.12.3 The Complaint must include, at minimum, the following:
- (a) The name and address of the Proponent;
  - (b) The RFP name and ID number;
  - (c) the specific provision and/or procurement procedure that is alleged to have been breached;
  - (d) a specific description of each act alleged to have breached the provision and/or procurement procedure;
  - (e) a precise statement of other relevant facts;
  - (f) an identification of the issues to be resolved;
  - (g) the Proponent's arguments and supporting documentation; and
  - (h) the Proponent's requested remedy.
- 4.12.4 In carrying out its review and making any final determination of the Complaint, Seneca may consult with those parties it deems appropriate and may request from the Proponent any other information deemed to be reasonably required.
- 4.12.5 Seneca will respond to the Proponent in writing with its final decision within ten (10) days of the completion of its review (the "Complaint Decision").
- 4.12.6 Any Protests not received by the Enquiries Contact within the timeframe or in the manner set out above will not be considered and the Proponent will be notified of same in writing.
- 4.12.7 Complaints submitted in advance of a debrief will not be responded to until a debrief has been provided.

## SCHEDULE 1 DEFINITIONS AND INTERPRETATION

### 1. Definitions

Unless otherwise defined in the procurement document, capitalized terms and expressions used in the procurement document shall have the same meaning provided below:

**“Addendum”** means a written document issued by the Seneca Contact and identified as an Addendum for the purpose of amending the procurement document.

**“Affiliate”** means, in respect of a person, any person controlled by, that controls or that is under common control with such person, with “control” (and its derivations) having the meaning ascribed to it in section 1 of the Business Corporations Act (Ontario).

**“Agreement”** or **“Contract”** means an agreement for the provision of Deliverables by Preferred Proponent(s) to Seneca, which may be negotiated between a Preferred Proponent and Seneca and based on the Form of Agreement.

**“Agreement Negotiation Period”** means that period of time identified by Seneca in the notice of invitation to enter into Stage V – Evaluation, Negotiation and Award as a Preferred Proponent or as otherwise determined by Seneca from time to time, in its discretion.

**“Applicable Law”** shall have that meaning ascribed to it in the Agreement.

**“Bid Portal”** means the Seneca Bonfire portal identified in the Details and Important Events table.

**“Business Day”** means any day other than a Saturday or Sunday or statutory holiday in Ontario.

**“Conflict of Interest”** or **“conflict of interest”** includes any situation or circumstance where a Proponent, or any persons engaged in the development or oversight of development of the Proponent’s Proposal or the Proponent’s participation in this procurement process (including for such persons in their personal capacities), has: (i) other commitments, relationships, financial interests or involvement in any litigation or proceeding that could or could be seen: (a) to exercise an improper influence over the objective, unbiased and impartial exercise of Seneca’s independent judgment; or (b) to compromise, impair or be incompatible with the effective performance of its obligations under any Agreement awarded; (ii) contractual or other obligations to Seneca that could or could be seen to have been compromised or impaired as a result of its participation in the procurement process; or (iii) knowledge of confidential information (other than confidential information disclosed by Seneca in the normal course of the procurement process) of strategic and/or material relevance to the procurement process that is not available to other Proponents and that could or could be seen to give the Proponent an unfair advantage.



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**“Consortium”** or **“consortium”** means a business arrangement of two or more parties proposed for this procurement.

**“Details and Important Events table”** means the table of details and important events for this procurement at page 1 of this document.

**“Economic Interest”** means any right to receive, directly or indirectly and whether in cash or in kind, a payment, repayment, fee, interest, dividend, distribution, redemption or any other consideration of benefit or value to the recipient of any nature whatsoever, but excluding wages, salaries or other employment-related benefits.

**“Enquiry”** shall have that meaning as provided in Section 1.9.3.

**“Evaluation Team”** means the evaluation team appointed by Seneca in its discretion, from time to time for the purposes of evaluating Proposals.

**“FIPPA”** means the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, and any amendments or successor legislation.

**“Form”** or **“form”** means any of the forms that the Proponent is required to complete and submit with its Proposal.

**“Form of Agreement”** means (i) the Form of Agreement as attached as Appendix “H” – Form of Agreement or Purchase Order and the supplementary conditions to the Form of Agreement attached as Appendix “H.2” – Supplementary Conditions for Form of Agreement, or (ii) the Purchase Order as attached as Appendix “H” – Form of Agreement or Purchase Order.

**“Key Personnel”** means, as the context requires, those individuals specifically identified by the Proponent: (i) in the Proponent’s Proposal and evaluated by Seneca as part of the Proposal evaluation after the Proposal Submission Deadline; or (ii) specifically identified in the Agreement.

**“Mandatory Form”** means a form identified in Schedule 2 – Mandatory Forms or as may be provided by Seneca from time to time and identified to Proponents as a mandatory form.

**“Notice”** or **“notice”** means any notice posted by Seneca on the Bid Portal concerning this procurement process or otherwise provided by the Seneca Contact to one or more Proponents, Shortlisted Proponents or to Preferred Proponents.

**“Participant-in-Charge”** means the consortium member authorized by the other consortium members to represent the consortium for the purposes of the procurement or any resulting Agreement.

**“Person”** means any individual, partnership, limited partnership, consortium, syndicate, sole proprietorship, company, corporation or body corporate with or without share capital, unincorporated association, trust, trustee, executor, administrator, or other legal personal representative, or governmental authority.

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**“Point-Rated Criterion Scale”** means a point-rated criterion scale as provided in Appendix “D” – Evaluation Process.

**“Preferred Proponent”** means the Shortlisted Proponent (if Seneca uses as shortlisting process or, if not, the Proponent) selected by Seneca to participate in Stage V – Evaluation, Negotiation and Award.

**“Proponent”** means the person or entity (or, in the case of a consortium, the persons or entities who are members of that consortium) submitting a Proposal in response to this procurement. It does not include the Affiliates, Team Members, or subcontractors of such person(s) or entity(ies).

**“Proponent Information Session”** shall have that meaning as provided in Section 1.11.

**“Proponent Contact”** has the meaning as provided in Section 1.9.

**“procurement document”** means the procurement document (whether identified in the title as a request for proposals (RFP), request for qualification (RFQ) or other RFx document) including all schedules, appendices, questionnaires, and/or Forms that are posted on the Bid Portal or otherwise identified by or provided by Seneca, and any Addenda or restatements made by Seneca.

**“procurement process”** means the process being conducted under this procurement document.

**“Proposal”** means a response submitted in response to the procurement document, including any amendments as permitted by the procurement document. For Shortlisted Proponents and Preferred Proponents, a reference to “Proposal” in this procurement document shall include any modifications as permitted in the negotiation process.

**“Rated Requirement”** or **“Point-Rated Requirement”** means any requirement that is evaluated on the basis of a Point-Rated Criterion Scale as described in Appendix “D” – Evaluation Process.

**“Restricted Party(ies)”** means a party identified in Section 2.8, or otherwise identified from time to time by Seneca.

**“Sanctioned Person”** means any person, or any member of a group of persons acting together, any one of which: (i) is subject to any economic or political sanctions imposed by Canada, Ontario, or the U.S. or (ii) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by Canada, Ontario, or the U.S.

**“Sanction Linked Person”** means any person, or any member of a group of persons acting together, any one of which, directly or indirectly, is owned or controlled by, or owns or controls, a Sanctioned Person.

**“Shortlisted Proponent(s)”** means the Proponents selected by Seneca following Stage I – Review of Mandatory Forms in accordance with the provisions of this procurement document.

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**“Seneca”** means Seneca College of Applied Arts and Technology, and its successors and assigns.

**“Seneca Contact”** means the individual identified as the Seneca Contact in the Details and Important Events table, or as otherwise identified to Proponents from time to time.

**“Supplementary Conditions”** means the supplementary conditions to the Form of Agreement, in the form attached as Appendix “H.2” – Supplementary Conditions for Form of Agreement.

**“Taxes”** means all federal, provincial, harmonized or other sales, goods and services, use, excise, *ad valorem*, property, or value added taxes and other similar charges payable by Seneca.

**“Team Member”** means any subcontractors or other party identified in the Proponent’s Proposal, as part of the negotiations, or in the Agreement, that will provide goods or services by or on behalf of the Proponent or as a subcontractor or other provider of the Proponent.

**“Supplier”** means the Preferred Proponent(s) that has (have) been awarded an Agreement by Seneca as a result of this procurement process.

## 2. INTERPRETATION

- 2.1 Any reference in the procurement document to a submission deadline means the noted time to the second, even where seconds are not explicitly noted. For greater certainty, a submission deadline is as of the zero (0) count in seconds of the noted time.
- 2.2 If no time period is specifically provided for in the procurement document or specified in any request or notice from the Seneca Contact, then the time period shall be deemed to run from the date of such request or notice to 11:59:00 PM EST on the third (3rd) Business Day after the date of such request or notice. Notwithstanding the foregoing, if no time period is provided for submissions to the Bid Portal, the time period shall terminate at 3:00:00 PM EST on the third (3rd) Business Day after the date of such request or notice.
- 2.3 In the procurement document, the singular shall include the plural and the plural shall include the singular, except where the context otherwise requires; and words in the singular include the plural and vice-versa and words in one gender include all genders.
- 2.4 All references in the procurement document to (a) Seneca’s “discretion” means Seneca’s sole, absolute and unfettered discretion; (b) to dollar amounts are to the lawful currency of Canada; and (c) “Agreement” shall be deemed to be followed by the phrase “if any, issued by Seneca”.
- 2.5 The words “include”, “includes”, “including”, or any variations shall be deemed to be followed by the phrase “without limitation” and, when following any general term or statement, are not to be construed as limiting the general term or statement to the specific items or matters set forth or to similar items or matters.

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- 2.6 Unless otherwise indicated, all references in the procurement document to any legislation include the regulations thereunder, and any replacement or successor legislation or regulations in effect from time to time.
- 2.7 Unless expressly stated otherwise, (a) any rights of Seneca under this procurement document with respect to Proponents apply *mutatis mutandis* to Shortlisted Proponents and Preferred Proponents; and (b) any obligations of Proponents under this procurement document apply *mutatis mutandis* to Shortlisted Proponent and Preferred Proponents.

**SCHEDULE 2  
MANDATORY FORMS**

**1. Appendix “G” – Form of Offer Submission Form**

- 1.1 Proponents must complete and submit the appended Microsoft Word file entitled Appendix “G” – Form of Offer Submission Form.
- 1.2 The Form of Offer Submission Form must be executed by an authorized signing authority of the Proponent.
- 1.3 Other than inserting the information requested and signing the Form of Offer Submission Form, a Proponent may not make any changes to or qualify the Form of Offer Submission Form in its Proposal. A Proposal that includes conditions, options, variations or contingent statements that are contrary to or inconsistent with the terms set out in the procurement document may be disqualified. If a Proposal is not disqualified despite such changes or qualifications, the provisions of the Form of Offer as set out in this procurement document will prevail over any such changes or Proposals in or to the Form of Offer provided in the Proposal.
- 1.4 The Form of Offer Submission Form should be submitted as a separate file preferably in PDF format.

**2. Appendix “J” – Reference Form**

**3. Appendix “F” – Pricing Submission Form**

- 3.1 Proponents must complete and submit the appended Microsoft Excel file entitled Appendix “F” – Pricing Submission Form.
- 3.2 The Pricing Submission Form must be submitted as a separate file in Microsoft Excel format and may not be retyped or recreated.
- 3.3 Seneca’s standard payment terms are net thirty (30) days of an accepted invoice with payments made by electronic funds transfer. Seneca prefers to make payments by EDI.
- 3.4 Prices for any goods to be provided by Proponent shall be quoted “DAP” (delivered-at-place, as used in Incoterms 2020 published by the International Chamber of Commerce) to Seneca’s receiving dock as specified by Seneca. Proponent should note that Seneca has more than one delivery location.
- 3.5 All prices shall be provided in Canadian dollars and shall include all applicable customs duties, tariffs, overhead, materials, fuel, office support, profit, permits, licenses, labour, carriage, insurance, Workplace Safety Insurance Board premiums, and warranties, none of which may be stated separately, and further shall not be subject to adjustment for fluctuation in foreign exchange rates. Travel, accommodation, parking and other such expenses which would be incurred by a Supplier under the Agreement or in the course of providing the goods or services, shall be at the Supplier’s sole cost expense, and shall not be paid by Seneca, unless otherwise set out in the Agreement.

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- 3.6 All prices shall be quoted exclusive of harmonized sales tax (HST) or other similar taxes, each of which, if applicable, should be stated separately.
- 3.7 Unless otherwise indicated in this procurement document, Seneca reserves the right, during the negotiation of an Agreement with a Preferred Proponent, to treat all prices quoted in a Proposal as firm prices for the whole term of the Agreement negotiated with the Preferred Proponent, and if Seneca so chooses, the Agreement shall be negotiated on this basis.
- 3.8 By submitting its Proposal, the Proponent confirms that it has prepared its Proposal with reference to all of the provisions of this procurement document, that it has factored all of the provisions of the Form of Agreement into its pricing assumptions, calculations and into its proposed pricing and that its pricing is not contingent upon any particular success of any negotiation of any resulting Agreement, even if the Proponent has provided proposed amendments to the Form of Agreement.
- 3.9 A Proposal that includes conditional, optional, contingent or variable rates that are not expressly requested in the Pricing Submission Form may be evaluated with a lower score.