



**REQUEST FOR PROPOSALS (RFP)**

**RFP NO. CW557218**

**FOR**

***GENERAL PARKING LOT REPAVING***

**ISSUE DATE: MAY 27, 2019**

**CLOSING TIME: 12:00 PM LOCAL TORONTO TIME ON**

**JUNE 18, 2019**

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# REQUEST FOR PROPOSAL (“RFP”)

RFP NO: CW557218

## Article 1 Introduction

### 1.1 Definitions

The following definitions apply:

- (a) “**Agreement**” has the meaning ascribed in Section 1.3 (Agreement);
- (b) “**Applicable Law**” and “**Applicable Laws**” means any common law requirement and all applicable and enforceable statutes, regulations, directives, policies, administrative interpretations, orders, by-laws, rules, guidelines, approvals and other legal requirements of any government and/or regulatory authority in effect from time to time;
- (c) “**Bid Administrator**” means the individual identified in Section **Error! Reference source not found.** (Bid Administrator); and
- (d) “**Business Day**” or “**Business Days**” means Monday to Friday between the hours of 9:00 a.m. to 5:00 p.m., except when such a day is a public holiday, as defined in the *Employment Standards Act* (Ontario), or as otherwise agreed to by the parties in writing;
- (e) “**Closing Time**” means the Proposal submission date and time as set out in this RFP and as may be amended from time to time in accordance with the terms of the RFP;
- (f) “**Conflict of Interest**”, has the meaning ascribed in the Unfair Advantage and Conflict of Interest Statement, includes, but is not limited to, any situation or circumstance where, in relation to the performance of its obligations under the Agreement, the Proponent’s other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its obligations under the Agreement;
- (g) “**Customer**” means any of the following hospitals: Campbellford Memorial Hospital, Haliburton Highlands Health Service, Mackenzie Health, Markham Stouffville Hospital, Northumberland Hills Hospital, Peterborough Regional Health Centre, The Ross Memorial Hospital, Royal Victoria Regional Health Centre, Southlake Regional Health Centre and Stevenson Memorial Hospital;
- (h) “**Days**” means calendar days;
- (i) “**Eligible Proposal**”, has the meaning ascribed in Article 4 (Evaluation Process), means a Proposal that meets or exceeds a prescribed requirement, allowing it to proceed to the next phase;

- (j) **“Evaluation Team”** means the individuals who have been selected by Plexxus to evaluate the Proposals;
- (k) **“FIPPA”** means the *Freedom of Information and Protection of Privacy Act (Ontario)*;
- (l) **“Mohawk Client”** means any of the following hospitals: Brant Community Healthcare System, Cambridge Memorial Hospital, Grand River Hospital Corp, Groves Memorial Community Hospital, Guelph General Hospital, Hamilton Health Sciences Corp. (including West Lincoln Memorial), Health Services North, Hotel Dieu Shaver Health & Rehabilitation Centre, Joseph Brant Hospital, McMaster University, Mohawk College, Niagara Health System, North Hamilton Community Health Centre, North Wellington Health Care Corp, St. Joseph’s Health Centre Guelph, St. Joseph’s Healthcare Hamilton, St. Mary’s General Hospital, St. Michael’s Hospital and West Haldimand General Hospital;
- (m) **“Personal Information”** means recorded information about an identifiable individual or that may identify an individual as provided in FIPPA;
- (n) **“Plexxus”** means Hospital Administrative Services, c.o.b. as Plexxus
- (o) **“Preferred Proponent”** means the Proponent(s) that Plexxus has identified as the highest-ranked Proponent(s) in accordance with the evaluation process;
- (p) **“Plexxus Member Hospital”** means any of the following hospitals: Holland Bloorview Kids Rehabilitation Hospital, Lakeridge Health, North York General Hospital, Scarborough and Rouge Hospital, Sinai Health System, St. Joseph’s Health Centre, Sunnybrook Health Sciences Centre, Toronto East Health Network, University Health Network and Women’s College Hospital;
- (q) **“Proponent”** or **“Proponents”** means an entity that submits a Proposal in response to this RFP and, as the context may suggest, refers to a potential Proponent;
- (r) **“Proposal”** or **“Proposals”** means all of the documentation and information submitted by a Proponent in response to the RFP;
- (s) **“Purchaser”** or **“Purchasers”** means the hospitals that are participating in the RFP process, as administered by Plexxus;
- (t) **“Request for Proposals”** or **“RFP”** means this Request for Proposals issued by Plexxus for the supply of Services, and all addenda thereto;
- (u) **“Record”**, for the purposes of the RFP, means any recorded information in the custody or control of the Purchaser, including any Personal Information, in any form:
  - i. provided by the Purchaser to the Proponent, or provided by the Proponent to the Purchaser, for the purposes of the RFP; or
  - ii. created by the Proponent with respect to the RFP;

- (v) **“Services”** means the services intended to be procured pursuant to this RFP;
- (w) **SSW client”** means any of the following hospitals: Baycrest, Collingwood General & Marine, Edgewater Gardens, ErinoakKids, Georgian Bay General Hospital, Haldimand War Memorial Hospital, Halton Healthcare Services, Headwaters Health Care Centre, Runnymede Healthcare Centre, Trillium Health Partners, West Park Healthcare Centre and William Osler Health System;
- (x) **“Unfair Advantage”**, has the meaning ascribed in the Unfair Advantage and Conflict of Interest Statement and in relation to the RFP process, means any conduct, direct or indirect, by a Proponent that may result in gaining an unfair advantage over other Proponents, including but not limited to (i) possessing, or having access to, information in the preparation of its Proposal that is confidential to Plexxus and which is not available to other Proponents, (ii) communicating with any person with a view to influencing, or being conferred preferred treatment in, the RFP process, or (iii) engaging in conduct that compromises or could be seen to compromise the integrity of the RFP process and result in any unfairness.

## 1.2 Rules of Interpretation

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

- (a) Unless the context otherwise requires, wherever used herein the plural includes the singular, the singular includes the plural, and each of the masculine and feminine includes the other gender.
- (b) Words in the RFP shall bear their natural meaning.
- (c) References containing terms such as “includes” and “including”, whether or not used with the words “without limitation” or “but not limited to”, shall not be deemed limited by the specific enumeration of items but shall, in all cases, be deemed to be without limitation and construed and interpreted to mean “includes without limitation” and “including without limitation”.
- (d) In construing the RFP, general words introduced or followed by the word “other” or “including” or “in particular” shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- (e) Unless otherwise indicated, time periods will be strictly applied.
- (f) The following terminology applies in the RFP:
  - (i) Whenever the terms “must” or “shall” are used in relation to Plexxus or the Proponents, such terms shall be construed and interpreted as synonymous and shall be construed to read “Plexxus shall” or the “Proponent shall”, as the case may be.

- (ii) The term “should” relate to a requirement which Plexxus would like the Proponent to address in its Proposal.
- (iii) The term “will” describe a procedure that is intended to be followed.

### 1.3 Agreement

The Preferred Proponent shall be required to enter into the agreement (“Agreement”) based on Appendix G – CCDC 2 (2008) with Supplemental Conditions. The Agreement will be signed after such required approvals from Plexxus and the Purchaser are obtained. No obligation on the part of the Purchaser shall arise until such time as the Agreement is duly executed.

Scarborough Health Network (“Purchaser” / “SHN”) makes no guarantee of the value or volume of work, if any, to be assigned to any Proponent(s). Any contract to be executed with a successful Proponent will not be an exclusive contract for the provision of the services and/or deliverables, as applicable. Scarborough Health Network may contract with any third party for the same or similar services and/or deliverables to those described in this RFP or subsequently issue a call for Proposals/submissions or may obtain the same or similar services and/or deliverables internally.

### 1.4 Purpose

This Request for Proposal is issued for the purpose of soliciting Proposals from interested Proponents for the provision of CW557218 on behalf of the Purchasers listed in the table below:

Scarborough Health Network – General Hospital (SHN)  
3050 Lawrence Avenue East  
Scarborough, ON  
M1P 2V5

### 1.5 Objectives

#### 1.5.1 Plexxus Objectives

Plexxus is seeking to satisfy the following objectives in issuing the RFP:

- (a) to identify a single Proponent for the supply of Services as further detailed in this RFP;
- (b) achieve the best solution for the needs of the Purchaser(s);
- (c) obtain quality Services at best overall value;
- (d) enhance customer satisfaction and improvements in services; and

#### 1.5.2 Purchaser Objectives

The Purchaser wishes to engage the services of a contractor to provide services under the CCDC 2 Agreement to be entered into by Scarborough Health Network and the contractor

(“**Contractor**”). The Contractor will report to the Capital Planning and Redevelopment department or other departments as may be directed by the Capital Planning and Redevelopment department. The Contractor and the Contractor’s subcontractors would form the team providing the services to the Purchaser for the term of the agreement.

Key engagements under this agreement will include the following:

The above ground parking structure at the Scarborough Hospital, General campus was built in 1993. A recent evaluation of the parking garage determined the suspended parking slabs and columns of the parking garage were exhibiting signs of localized corrosion. Additionally, the evaluation included a detailed podium deck review as signs of localized leaking cracks and corrosion related deteriorations were reported.

This project will involve the localized concrete restoration, installation of new expansion joint seals, and the replacement of all caulking. This work will be carried out while the parking garage is in use.

### **1.5.3 Entering into an Agreement**

The Preferred Proponent shall be required to enter into an agreement (“Agreement”) substantially in the form of the draft agreement attached in the Form of Agreement Schedule. No obligation on the part of any Purchaser shall arise until such time as the Agreement is signed (provided that the terms of the RFP shall apply between Purchaser and each compliant Proponent). This Agreement shall commence on the Effective Date and end on such date as directed in the Agreement (the “Term”).

All Proponents who submit bids in response to this RFP agree to hold the then current contract pricing firm up to a period of six (6) months beyond the expiry date.

The Preferred Proponent may be contacted on an “as, if and when requested” basis and may be contacted directly and/or asked to quote on opportunities for the provision of future Services at the absolute discretion of the Purchaser.

The Purchaser may not necessarily select the Preferred Proponent offering the lowest rates and may also review the qualifications or other criteria required for a specific project.

### **1.5.4 Standardization of Services**

Intentionally deleted.

## **1.6 Project Information and Background**

### **1.6.1 Background and Current State**

At the Scarborough Health Network, the patient experience comes first. With three hospital sites (Birchmount, General, and Centenary) and five satellite sites, SRH provides a broad spectrum of health services to one of the most diverse communities in Canada.



Created through a merger of The Scarborough Hospital's Birchmount and General sites and Rouge Valley Health System's Centenary site in December 2016, SHN is committed to delivering the highest quality patient and family-centred care, with a focus on enhancing access to services for the Scarborough community.

Patient services include a full-service Emergency department at each site, advanced maternal and neonatal care in state-of-the-art birthing centres, and specialized paediatric care. In addition, SHN is home to a number of regional programs serving the central east Greater Toronto Area and beyond, including nephrology, cardiac care, vascular surgery, and vision care, and is recognized as a centre of excellence in orthopaedic surgery, cancer care, and mental health.

SHN has anticipated projects which will require the services of a Prime Architect. It is anticipated that the successful Proponent of this RFP will provide those services during the term of the contract.

### **1.6.2 Future/Desired State**

The intention with this RFP is:

- To make the following award: the provision of Parking Structure Rehabilitation Contractor Services on behalf of the Purchaser: Scarborough Health Network
- To identify a qualified Proponent to provide of Parking Structure Rehabilitation services at competitive pricing levels that maintains and/or improves current service levels.
- To enter into an agreement with the Preferred Proponent that can provide but is not limited to the following:
  - Obtains the highest quality of services to the Purchaser;
  - Achieves efficiencies in processes and services;
  - Ensures compliance with Purchaser Terms and Conditions;
  - Enhances customer satisfaction and improvements in service;
  - Compliance with requirements and regulations as outlined in the RFP and contract; and
  - Detailed monthly invoices and reports.

Proponent is expected to supply these services as required by the Purchaser as per the service level requirements outlined in the RFP.

Purchaser will request service from the Preferred Proponent.

The scope of work of this RFP is outlined in **Appendix H**. The term of the Agreement is outlined in 1.5.3 above.

## 1.7 Affiliation Agreement

Plexxus is a party to an affiliation agreement (the “**Affiliation Agreement**”) with Mohawk Shared Services Inc. (“**Mohawk**”) and Shared Services West (“**SSW**”). Mohawk and SSW are both shared service organizations that provide procurement, strategic sourcing, logistics and information technology services to their respective members. SSW has three (3) member Hospitals and eight (8) customer Hospitals in the Mississauga Halton and Central West LHINs (collectively, the “**SSW Clients**”). Mohawk has eighteen (18) member organizations in the Waterloo-Wellington, Hamilton Niagara Haldimand Brant and Central Toronto LHINs (collectively, the “**Mohawk Clients**”). Pursuant to the Affiliation Agreement Plexxus agreed that Mohawk Clients and SSW Clients would be permitted to: (i) participate in competitive procurements managed by Plexxus; and (ii) leverage supplier awards that result from competitive procurements managed by Plexxus.

Plexxus is issuing this RFP and will administer the RFP procedure set forth herein for the immediate benefit, and on behalf of the Hospitals named in Section **Error! Reference source not found. Error! Reference source not found.** However, please note that notwithstanding any other terms of this RFP, if a definitive agreement is entered into by any or all of the named Hospitals in Section **Error! Reference source not found. Error! Reference source not found.** as a result of this RFP, each of the other Plexxus Member Hospitals or Customers, Mohawk Clients and SSW Clients shall have the right, at any time during the term of such definitive agreement, to enter into one or more agreements (each an “**Additional Agreement**”) for the purchase of the Goods (as defined in Section **Error! Reference source not found.** of this RFP) from the successful Proponent on the same pricing terms as the definitive agreement. For clarity, Plexxus Member Hospitals or Customers, Mohawk Clients and SSW Clients shall have the right, during the term of the definitive agreement, to purchase Goods pursuant to an Additional Agreement without the need for a subsequent competitive procurement process to be carried out in respect of such a purchase.

St. Joseph’s Health Centre (Plexxus Member Hospital) has amalgamated with St. Michael’s Hospital (a Mohawk client) and Providence Healthcare. Providence shall have the right, during the term of the definitive agreement, to purchase Goods pursuant to an Additional Agreement without the need for a subsequent competitive procurement process to be carried out in respect of such a purchase.

## Article 2 RFP Terms and Procedures

### Part A Procedure

#### 2.1 Bid Administrator

##### 2.1.1 Contact Information

**All communications regarding any aspect of this RFP must be directed to the Bid Administrator via secure messaging functionality: For audit and transparency purposes please use the Secure Messaging area to communicate with the Bid Administrator at all times.**

Name: Sabrina Anam

Title: Sourcing Specialist

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

- (a) any employee or agent of Plexxus (other than the Bid Administrator);
- (b) any employee or agent of any Purchaser;
- (c) any member of the Evaluation Team;
- (d) any expert or advisor assisting the Evaluation Team;
- (e) any member of the Purchasers' governing bodies (such as Board of Governors, Board of Directors, Board of Advisors or Trustees); and
- (f) any elected official of any level of government, including any advisor to any elected official.

### **2.1.2 Notice**

Proponents are advised that from the date of issue of the RFP through any award notification:

- (a) only the Bid Administrator is authorized by Plexxus to amend or waive the requirements of the RFP pursuant to the terms of this RFP;
- (b) as noted above, Proponents must not contact any officer, director, employee, agent of Plexxus, any Purchaser or the Purchaser's governing body (such as Board of Governors, Board of Directors, Board of Advisors or Trustees), except for the Bid Administrator, unless instructed to do in writing by the Bid Administrator;
- (c) under no circumstances shall a Proponent rely upon any information or instruction from any officer, director, employee, agent of Plexxus, any Purchaser or the Purchaser's governing body (such as Board of Governors, Board of Directors, Board of Advisors or Trustees) unless the information or instruction is provided in writing by the Bid Administrator; and
- (d) no officer, director, employee, agent of Plexxus, any Purchaser or the Purchaser's governing body (such as Board of Governors, Board of Directors, Board of Advisors or Trustees) shall be responsible for any information or instructions provided to the Proponent, with the exception of information or instructions provided in writing by the Bid Administrator.

## 2.2 RFP Tentative Schedule

The following is a summary of the key dates in the RFP process:

Event	Date
RFP Issue Date	<i>May 27, 2019</i>
<b><u>Mandatory</u></b> Site Visit (Date/Time/ Location)	<i>Friday, May 31, 2019 @ 10:00 a.m. Location: Medical mall building ground floor by Tim Hortons</i>
Deadline for Questions to be Submitted in Writing (see Section 2.4.1 (Submission))	<i>June 4, 2019</i>
Deadline for Issuing Addenda	<i>June 7, 2019</i>
Closing Time	<i>June 18, 2019 @ 12:00:00 p.m.</i>
Evaluation Period	<i>June 19 – June 26, 2019</i>
Contract Award Date	<i>Week of July 2, 2019</i>
Approximate Contract Start Date	<i>Upon Contract Award</i>
Substantial Project Completion Date	<i>December 2, 2019</i>

- (a) The above timelines are subject to change at the sole discretion of Plexxus. In the event a change is made to any of the above dates, Plexxus will post any such change on the Ontario Tenders Portal.
- (b) It is mandatory that Proponents attend the Site Meeting.
- (c) Only those Proponents in attendance (who may also be an authorized representative of the Proponent at the site meeting) will be considered for award of the Contract. Attendees will be asked to sign an attendance sheet (“Site Meeting Log”) and identify the name of the contractor they are representing
- (d) Bids received from Proponents who failed to either attend the mandatory site meeting or be represented by an authorized representative at the mandatory site meeting as determined from the “Site Meeting Log” shall be declared as non-compliant and rejected
- (e) The purpose of this meeting is to review full extent of the Project, conduct an inspection of existing premises and to discuss any questions regarding this Project
- (f) Neither Plexxus, the Purchaser nor the Purchaser’s Consultant will be responsible for verbal instructions or comments made during the bidding period and during any site meeting(s). Instructions stemming from verbal discussions will be contained in written, issued addenda
- (g) In addition to any mandatory meeting(s), Proponents shall visit the Place of the Work as required to become fully conversant with conditions which will be met in performing the Work of the Contract. Claims for extra payment and extensions to Contract Time will not be considered in respect to conditions which could have been ascertained by an inspection of the Place of the Work prior to Submission Close.

- (h) Plexxus may amend any timeline, including the Closing Time, without liability, cost or penalty, and within its sole discretion.
- (i) In the event of any change in the Closing Time, the Proponents shall thereafter be subject to the extended timeline.

## **2.3 Information**

### **2.3.1 Proponent to Review**

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

### **2.3.2 Proponent to Notify**

In the event a Proponent has any reason to believe that any of the circumstances listed in Section 2.3.1 (Proponent to Review) exist, the Proponent must notify the Bid Administrator via Messaging functionality prior to submitting a Proposal. The Bid Administrator will then clarify for the benefit of all Proponents.

Proponents shall not:

- (a) after submission of a Proposal, claim that there was any misunderstanding or that any of the circumstances set out in Section 2.3.1 (Proponent to Review) were present with respect to the RFP; or
- (b) claim that Plexxus is responsible for any of the circumstances listed in Section 2.3.1 (Proponent to Review) of the RFP.

## **2.4 Clarification and Questions**

### **2.4.1 Submission**

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

- (a) Proponents must submit requests for clarification by Messaging functionality to the Bid Administrator, or as may otherwise be directed by the Bid Administrator.
- (b) Where a question relates to a specific section of this RFP, reference should be made to the specific section number and page.
- (c) Requests for clarification must be submitted via Messaging functionality at least seven (7) Days prior to the Closing Time.

## **2.4.2 Questions and Answers**

Plexxus will provide Proponents with written responses to questions that are submitted in accordance with Section 2.4.1 (Submission), subject to the provisions of this section. Questions and answers will be distributed in numbered Addenda to Proponents by posting such Addenda in the Messages section of the Ontario Tenders Portal. In answering a Proponent's questions, Plexxus will set out the question(s), but without identifying the Proponent that submitted the question(s) and may, in its sole discretion:

- (a) edit the question(s) for clarity;
- (b) exclude questions that are either unclear or inappropriate; and
- (c) answer similar questions from various Proponents only once.

Where an answer results in any change to the RFP, such answer will be formally evidenced through the issue of a separate Addendum for this purpose.

## **2.4.3 Issued Addenda**

Before submitting a Proposal, a Proponent shall be responsible to verify that it has received all of the Addenda that have been issued, which shall be posted on the Ontario Tenders Portal at least seven (7) Days prior to the Closing Time, unless it is an Addendum that extends the Closing Time.

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

## **2.5 Proposal Submission**

### **2.5.1 General**

To be eligible for consideration in this RFP process:

- ) Proponents are required to submit the responses online on the Ontario Tenders Portal (OTP). The Proponent must click "Submit Response" once they have completed their response. Failure to submit a response will result in your bid not being visible to the Bid Administrator. Please note, "Saving" your response does not mean you have submitted. Saving your response without submitting will not make it visible to the Bid Administrator. Online Bid Submission via OTP is required to eliminate direct and indirect costs associated with the production, delivery/receipt, storage and management of traditional paper bids incurred by Proponents. Bids submitted via the OTP tools also promote environmental conservation and preservation by eliminating printed materials as well as fossil-fuel consumption associated with delivery. All Proponents must submit Responses online using tools available on OTP only.

Proposals received after the Closing Time shall not be considered.

A Proponent must answer all questions in the RFP in order to submit their response. If any questions are not answered, a Proponent will not be able to submit their bid. OTP will direct Proponents to complete any unanswered questions.

Proponents are advised that there are a number of occasions where they will be required to upload documents to OTP to complete their response. It is important that Proponents be aware of any size limitations that may exist in OTP. Proponents should test document uploading well in advance of the Closing Date to ensure their response can be successfully submitted. Unless OTP is unavailable at the Closing Time Plexxus is not obligated to extend the Closing Time of an RFP for Proponents who are experiencing technical issues with OTP.

Proponents are to contact OTP support should any issues arise with respect to uploading documents as part of their response.

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

### **2.5.2 Receipt**

Every Proposal that has been successfully submitted electronically through OTP will be so acknowledged via a system generated time stamp indicating the time and date of submission.

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

### **2.6 Withdrawal of Proposal**

A Proponent may withdraw its Proposal only by using the 'Delete Response' option within the Ontario Tenders Portal. A response may be withdrawn before the Closing Time. A Proposal may not be withdrawn after the Closing Time.

### **2.7 Amendment of Proposal**

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

### **2.8 Completeness of Proposal**

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

## 2.9 **Proponent's Proposals**

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

## 2.10 **Proposal Irrevocability**

Subject to a Proponent's right to withdraw a Proposal in accordance with the procedure described in Section 2.6 (Withdrawal of Proposal), a Proposal shall be irrevocable by the Proponent for six (6) months from the Closing Time.

Proposals will not be opened publicly.

## 2.11 **Acceptance of RFP**

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

## 2.12 **Amendments to the RFP**

Subject to Section 2.2 (RFP Tentative Schedule) and Section 2.4.3 (Issued Addenda), Plexxus shall have the right to amend or supplement this RFP in writing prior to the Closing Time. No other statement, whether written or oral, shall amend this RFP. The Proponent is responsible to ensure it has received all Addenda.

## 2.13 **Clarification of Proponent's Proposal**

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

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

## 2.14 **Verification of Information**

Plexxus shall have the right, in its sole discretion, to:

- (a) verify any Proponent's statement or claim made in the Proponent's Proposal or made subsequently in an interview, site visit, oral presentation, demonstration or discussion by whatever means Plexxus may deem appropriate, including contacting persons in addition to those offered as references, and to reject any Proponent statement or claim, if such statement or claim or its Proposal is patently unwarranted or is questionable; or



- (b) access the Proponent's premises where any part of the work is to be carried out to confirm Proposal information, quality of processes, and to obtain assurances of viability.

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

#### **2.15 Proposal Acceptance**

The lowest price Proposal or any Proposal shall not necessarily be accepted. While price is an evaluation criterion, other evaluation criteria, as set out in Article 4 (Evaluation Process), will form a part of the evaluation process.

#### **2.16 Substantial Compliance**

Plexxus shall be required to reject Proposals which are not substantially compliant.

#### **2.17 No Publicity or Promotion**

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

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

#### **2.18 Debriefing**

Not later than 60 Days following the date of posting of a contract award notification in respect of the RFP, a Proponent may contact the Bid Administrator in writing requesting a debriefing from Plexxus, and Plexxus shall conduct such debriefing.

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

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

#### **2.19 Bid Protest Procedure**

In the event that a Proponent wishes to review the decision of Plexxus in respect of any material aspect of the RFP process, and subject to having attended a debriefing, the Proponent shall submit a protest in writing to Plexxus within 10 Days from such a debriefing.

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

A protest in writing shall include the following:

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

A Proponent is also entitled to submit a complaint to the Director of Supply Chain Ontario in accordance with the process established by the Ministry of Government and Consumer Services. See: <https://www.doingbusiness.mgs.gov.on.ca/mbs/psb/psb.nsf/EN/bid-dispute>

## **Part B Additional Terms**

### **2.20 Confidentiality**

#### **2.20.1 Confidential Information of Plexxus and the Purchaser**

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

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

#### **2.20.2 Confidential Information of the Proponent**

Except as provided otherwise in this RFP, or as may be required by Applicable Laws, Plexxus shall treat the Proponents' Proposals and any information gathered in any related process as confidential, provided that such obligation shall not include any information that is or becomes generally available to the public other than as a result of disclosure by Plexxus.

Notwithstanding any other provisions in this RFX regarding confidentiality, the Canadian Free Trade Agreement implemented July 1, 2017 requires the total value of the contract be published in an award notice. By submitting a response to the RFX the Proponent agrees to the publishing of the total value of the contract should they win the award.

During any part of this RFP process, Plexxus or any Purchaser, or any of their representatives or agents, shall be under no obligation to execute a confidentiality agreement.

In the event that a Proponent refuses to participate in any required stage of the RFP (such as an oral presentation) because Plexxus or any Purchaser has refused to execute any such confidentiality agreement, the Proponent shall receive no points for that particular stage of the evaluation process.

### **2.20.3 Proponent's Submission**

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

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

### **2.20.4 Personal Information**

Personal Information shall be treated as follows:

- (a) **Submission of Information** - The Proponent should not submit as part of its Proposal any information related to the qualifications or experience of persons who will be assigned to provide services unless specifically requested. All such information shall be maintained for a period of 7 years from the time of collection. Should Plexxus request such information from the Preferred Proponent during the evaluation process to finalize any Agreement that may be awarded from this RFP, Plexxus will treat this information in accordance with the provisions of this section.
- (b) **Use** - Any personal information as defined in the *Personal Information Protection and Electronic Documents Act*, S.C. 2005, c.5 that is requested from each Proponent by Plexxus shall only be used to select the qualified individuals to undertake the project/services and to confirm that the work performed is consistent with these qualifications.
- (c) **Consent** - It is the responsibility of each Proponent to obtain the consent of such individuals prior to providing the information to Plexxus. As set out in Section 2.21 (*Freedom of Information and Protection of Privacy Act* (Ontario)), Plexxus will consider that the appropriate consents have been obtained for the disclosure to and use by Plexxus of the requested information for the purposes described.

### **2.20.5 Non-Disclosure Agreement**

Plexxus reserves the right to require any Proponent to enter into a non-disclosure agreement satisfactory to Plexxus.

## 2.21 Freedom of Information and Protection of Privacy Act (Ontario)

As of January 1, 2012, the *Freedom of Information and Protection of Privacy Act* (Ontario) (“FIPPA”) will apply to information provided by Proponents. Proposals are received in confidence subject to the disclosure requirements of FIPPA. Each Proponent should identify any portions of its Proposal that it believes constitutes a trade secret or scientific, technical, commercial, financial or labour relations information that would harm the Proponent’s competitive position if disclosed. The confidentiality of such information will be maintained by the Purchaser, except as otherwise required by law or by order of a court or tribunal.

By submitting a Proposal, including any Personal Information requested in this RFP, the Proponents agree to the use and disclosure of such information for the evaluation process, for any audit of this procurement process and for contract management purposes. The Purchaser may assume that the Proponent has obtained any necessary consent in the event that any Personal Information is submitted.

If a Proponent has any questions about the collection and use of Personal Information pursuant to this RFP, questions are to be submitted to the Bid Administrator.

## 2.22 Accessibility for Ontarians with Disabilities Act (AODA)

### **Compliance with Accessibility Standards**

As part of its response to this RFP, the Proponent should describe how the proposed Services will be in compliance with applicable accessibility standards under the *Accessibility for Ontarians with Disabilities Act, 2005* and its regulations, including any policies and personnel training that have been or will be implemented by the Proponent in respect thereof.

## 2.23 Competition Act

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

## 2.24 Trade Agreements

Proponents should note that procurements coming within the scope of either Chapter 5 of the Canadian Free Trade Agreement or Chapter 19 of the Canada-European Union Comprehensive Economic and Trade Agreement (“CETA”) or within the scope of the Trade and Cooperation Agreement between Quebec and Ontario are subject to such agreements, although the rights and obligations of the parties shall be governed by the specific terms of this RFP. For more information, please refer to the Canadian Free Trade Agreement website at <https://www.cfta-alec.ca/> or to the CETA website at <http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/toc-tdm.aspx?lang=eng> or the Trade and Cooperation Agreement between Quebec and Ontario at <http://www.ontario.ca/business-and-economy/trade-and-cooperation-agreement-between-ontario-and-quebec>

## **2.25 Permits, Licences and Approvals**

### **2.25.1 General**

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

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

## **2.26 Intellectual Property**

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

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

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

## **2.27 Rights of Plexxus – General**

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

- (a) after the RFP closing time and prior to award, request all Proponents to re-submit with their Best and Final Offer (BAFO);
- (b) make public the names of any or all Proponents;
- (c) request written clarification or the submission of supplementary written information from any Proponent and incorporate such clarification or supplementary written information into the Proponent's Proposal, at Plexxus' discretion, provided that any clarification or submission of supplementary written information shall not be an opportunity for the Proponent to correct errors in its Proposal or to change or enhance the Proponent's Proposal in any material manner;
- (d) waive formalities and accept Proposals that substantially comply with the requirements of this RFP, in Plexxus' sole discretion;

- (e) verify with any Proponent or with a third party any information set out in a Proposal, as described in Section 2.14 (Verification of Information);
- (f) check references other than those provided by Proponents;
- (g) disqualify any Proponent whose Proposal contains misrepresentations or any other inaccurate or misleading information, or any Proponent whose reasonable failure to cooperate with Plexxus impedes the evaluation process, or whose Proposal is determined to be non-compliant with the requirements of the RFP;
- (h) disqualify a Proposal where the Proponent has previously breached a contract with any Purchaser, the Proponent has been charged or convicted of an offence in respect of a contract with any Purchaser, or the Proponent reveals a Conflict of Interest or Unfair Advantage in its Proposal or a Conflict of Interest or evidence of any Unfair Advantage is brought to the attention of Plexxus;
- (i) disqualify any Proposal of any Proponent who has breached any Applicable Laws or who has engaged in conduct prohibited by this RFP, including where there is any evidence that the Proponent or any of its employees or agents colluded with any other Proponent, its employees or agents in the preparation of the Proposal;
- (j) identify a specific question, or specific questions, which require a Proponent to achieve a minimally acceptable score in order to qualify for the award;
- (k) make changes, including substantial changes, to this RFP provided that those changes are issued by way of addenda in the manner set out in this RFP;
- (l) accept or reject a Proposal if only one Proposal is submitted;
- (m) reject a subcontractor proposed by a Proponent within a consortium;
- (n) select any Proponent other than the Proponent whose Proposal reflects the lowest cost to Plexxus;
- (o) cancel this RFP process at any stage and issue a new RFP for the same or similar requirements, including where
  - (i) Plexxus determines it would be in the best interest of Plexxus and/or the Purchasers not to award an Agreement;
  - (ii) the Proposal prices exceed the bid prices received by Plexxus for services acquired of a similar nature and previously done work;
  - (iii) the Proposal prices exceed the costs the Purchasers would incur by doing the work, or most of the work, with its own resources;
  - (iv) the Proposal prices exceed the funds available for the proposed Services; or

- (v) the funding for the acquisition of the proposed Services has been revoked, modified, or has not been approved;

and where Plexxus cancels this RFP, Plexxus may do so without providing reasons, and Plexxus may thereafter issue a new request for Proposals, request for qualifications, sole source or do nothing;

- (p) discuss with any Proponent different or additional terms to those contained in this RFP or in any Proponent's Proposal; and
- (q) reject any or all Proposals in its absolute discretion, including where a Proponent has launched legal proceedings against Plexxus and/or the Purchasers or is otherwise engaged in a dispute with Plexxus and/or the Purchasers.

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

## **2.28 Rights of Plexxus – Preferred Proponent**

In the event that the Preferred Proponent fails or refuses to execute the Agreement within ten (10) Business Days from being notified of its position as the Preferred Proponent, Plexxus may, in its sole discretion:

- (a) extend the period for concluding the Agreement, provided that if substantial progress towards executing the Agreement is not achieved within a reasonable period of time from such extension, Plexxus may, in its sole discretion, terminate the discussions;
- (b) exclude the Preferred Proponent's Proposal from further consideration and begin discussions with the next highest-ranked Proponent without becoming obligated to offer to negotiate with all Proponents; and
- (c) exercise any other applicable right set out in this RFP, including but not limited to, cancelling the RFP and issuing a new RFP for the same or similar Services.

Plexxus may also cancel this RFP in the event the Preferred Proponent fails to obtain any of the permits, licences and approvals required pursuant to this RFP.

## **2.29 Proponent's Costs**

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

- (a) the preparation, presentation and submission of its Proposal;
- (b) the Proponent's attendance at any meeting in relation to the RFP process, including any oral presentation and/or demonstration;

- (c) the conduct of any due diligence on its part, including any information gathering activity;
- (d) the preparation of the Proponent's own questions prior to the Closing Time; and
- (e) any discussion and/or negotiation, if any, in respect of the Agreement.

### **2.30 No Liability**

The Proponent agrees that:

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

The Proponent further agrees that if Plexxus commits a material breach of this RFP (that is a material breach of Contract A), the liability to the Proponent, and the aggregate amount of damages recoverable against Plexxus for any matter relating to or arising from that material breach, whether based upon an action or claim in contract, warranty, equity, negligence, intended conduct or otherwise, including any action or claim arising from the acts or omissions, negligent or otherwise, of Plexxus, shall be no greater than the Proposal preparation costs that the Proponent seeking damages from Plexxus can demonstrate.

### **2.31 Assignment**

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

### **2.32 Entire RFP**

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

### **2.33 Priority of Documents**

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

### **2.34 Governing Law**

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



## Article 3 General Requirements

The General Requirements set out in the Response Envelopes will be scored and failure by a Proponent to meet any requirement will affect the Proponent's evaluation and final score under Article 4 (Evaluation Process). **Every Proponent should provide its responses to the requirements using the Response Envelopes, including any Exhibits attached thereto or as otherwise directed.**

### 3.1 Proposal Format

#### 3.1.1 General

**Every Proponent must provide its responses to the RFP using the Response Envelopes available in the 'My Response' area of the Proposal, including any Exhibits attached thereto or as otherwise directed to be attached within the corresponding attachment requirement questions.**

#### 3.1.2 Forms and Schedules

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

#### 3.1.3 Technical Issues

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

- (a) all pages should be numbered;
- (b) avoid using symbols in the file name such as &, #, etc.;
- (c) each document size should not exceed 5 MB; information may be split up into separate documents, if necessary;
- (d) avoid using scanned copies of documents, where possible, which tend to increase the size of the document;
- (e) any embedded literature links within a Proposal should be a direct link to the services page rather than the Proponent's main website. Where literature links are not possible, a PDF document may also be incorporated within the Proposal. PDF literature documents should be named as follows: "Proponent Name – Services Category";
- (f) the Schedules and Exhibits provided, as appropriate, should be used for completing the Proposal;
- (g) the Proposal should be complete in all respects;
- (h) adhere to the Proposal format requirements described above;

- (i) respond to the requirements in Response Envelopes, or as may be directed in this RFP; and
- (j) deliver the electronic copies of the Proposal in the format included in this RFP document – Word or Excel as appropriate. Except for original Proponent product literature, the electronic copy submitted is **NOT** to be a PDF document.

**Article 4 Evaluation Process**

**4.1 General**

The evaluation of the Proposals will be conducted by an evaluation team (the “**Evaluation Team**”) in several stages, as described below. The specific needs and objectives of each Purchaser in respect of the Services may differ slightly from each other and has been documented as such in this RFP, as applicable. Plexxus will determine the membership of the Evaluation Team, in its sole discretion, which may include external consultants and advisors. The stages and the points allocated to each stage of the evaluation process are as follows:

Description and Scoring
<b>Stage I – Mandatory Requirements – Pass/Fail</b>
<b>Stage II – Technical Requirements – 40%</b>
<b>Stage III – Pricing – 60%</b>
<b>Stage IV – Reference Validation – Pass/Fail</b>

Subsequent to the evaluation, the Purchasers, at their sole discretion, may conduct Validation Trials for the highest ranked Proponent for each sub-category to allow the Purchaser to clinically validate the proposed products.

**4.2 Stage I - Review of Mandatory Requirements (Pass/Fail)**

Proposals that do not meet the mandatory requirements will be disqualified. Proponents are to respond to the Mandatory Requirements of this RFP in the Qualification Envelope or as otherwise directed in the RFP.

**4.3 Stage II – Evaluation of Technical Requirements**

Proponents are to respond to the General Requirements of this RFP in the Technical Envelope or as otherwise directed in the RFP.

A minimum score of 60 out of 100 points (60%) must be achieved in Stage II to proceed to the next stage of the procurement process. Notwithstanding the foregoing, if there are less than three (3) Proponents that achieve the minimum score, the Purchaser may, at its sole discretion, select up to four (4) of the highest scoring Proponent Proposals to be moved to Stage III – Pricing.

**4.4 Stage III - Pricing**

Price will be scored based on a pricing formula established by the Evaluation Team on the basis of the information provided in the Response Envelopes. Each Proponent will receive a percentage

of the total possible points allocated to price for the Services. For clarity, the pricing formula is included in the Schedules attached to this RFP.

Financial enhancements that directly impact the price of the Services (e.g., rebates) must be included with the electronic RFP response.

The Proponent with the highest combined score from Stages II and III will be the Preferred Proponent.

#### **4.5 Stage IV – Reference Validation (Pass/Fail)**

The Evaluation Team will validate as many references provided by the Preferred Proponent in the References as the Evaluation Team may deem appropriate, and such references may be conducted in-person, as the Evaluation Team may determine in its sole discretion. References will be assessed on a pass/fail basis as to their satisfaction with the Services delivered, and will serve to validate (or not, as the case may be) the evaluation conducted by the Evaluation Team.

After the references have been successfully validated, Plexxus will notify

- (a) the Preferred Proponent of its position as the Preferred Proponent, and invite it to enter into discussions to finalize the terms of the Agreement, attached in the Form of Agreement Schedule or
- (b) the Preferred Proponent in writing of its intent to award a contract subject to the terms of this RFP.

Subject to the requirements of Section 4.7 (Discussions with Preferred Proponent), Plexxus expects that the Agreement will be executed substantially in the form in which it appears in this RFP.

#### **4.6 Tie Score**

In the event of a tie score between two or more Proposals on completion of the evaluation process, Plexxus shall break the tie by selecting the Proponent with the lowest price as the Preferred Proponent.

#### **4.7 Discussions with Preferred Proponent**

After identifying the Preferred Proponent, if any, Plexxus may attempt to finalize the terms and conditions of the Agreement with the Preferred Proponent, or it may, in its sole discretion,

- (a) prior to making the award, enter into a letter of intent with the Preferred Proponent or enter into an interim purchase order, on terms satisfactory to Plexxus, as an interim measure; and
- (b) negotiate changes, amendments, or modifications to the Preferred Proponent's Proposal.

Plexxus shall at all times be entitled to exercise its rights under Section 2.28 (Rights of Plexxus – Preferred Proponent).

For certainty, Plexxus makes no commitment to the Preferred Proponent that the Agreement will be executed. The Preferred Proponent acknowledges that the commencement of any discussions does not obligate the Purchasers to execute the Agreement.

*[There is a separate document entitled Schedules for RFP No. CW557218 containing schedules for this RFP.]*