

CIHI Services Agreement for Contractor with No Access



Canadian Institute
for Health Information
Institut canadien
d'information sur la santé

CIHI SERVICES AGREEMENT

Contract No. C12328

This CIHI Services Agreement is entered into,

BETWEEN:

CANADIAN INSTITUTE FOR HEALTH INFORMATION, a not-for-profit corporation continued under the *Canada Not-for-Profit Corporations Act*, having its head office at 495 Richmond Road, Suite 600, Ottawa, Ontario, K2A 4H6 ("**CIHI**"),

AND:

Visualization for Transparency Foundation — Visualització per a la Transparència (ViT)— a foundation incorporated under the laws of Catalonia (Spain), having its place of business in Girona, Spain ("**Contractor**"),

RECITALS

1. CIHI requires Data Visualization Consulting;
2. CIHI wishes to engage Contractor to provide these services and Contractor is willing to accept this engagement; and
3. CIHI and Contractor wish to enter into this Agreement to govern the terms and conditions for the provision of services by Contractor to CIHI.

NOW THEN in consideration of the mutual covenants and obligations contained in this agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, CIHI and Contractor agree as follows:

SECTION 1. DEFINITIONS

1.1 Definitions. In this Agreement, the following terms will have the following meanings:

- 1.1.1 "**Acts**" means collectively all applicable provincial and territorial privacy and health information legislation;
- 1.1.2 "**Agreement**" means this agreement, all Schedules attached to this agreement, including the Statement of Work, and any documents incorporated by reference, as each may be amended from time to time in accordance with the terms of this agreement;
- 1.1.3 "**Business Day**" means any day other than Saturday, Sunday or a statutory holiday in the Province of Ontario;
- 1.1.4 "**CIHI Confidential Information**" means any information which is confidential in nature, or that is treated as being confidential by CIHI, regardless of whether it is marked as, or otherwise indicated to be confidential and regardless of the manner or the form in which it is received or transmitted and includes all notes, records and copies of this information.

CIHI Confidential Information also includes, but is not limited to, trade secrets, financial or business information, personal information about CIHI employees or any other person, analyses of health information, health facility information, provider information, and electronic network or system information such as by way of example only, technical documentation, log files, information about CIHI's hardware or software security codes, or source code, client information, user names and passwords. CIHI Confidential Information excludes any data or information that Contractor can show:

- a) is or becomes publicly available or known through no breach of this Agreement or a breach of any other obligation of confidence to CIHI;
- b) is already known to, or in the possession of, Contractor prior to disclosure by CIHI and is not subject to any obligation of confidentiality to CIHI, which includes Contractor's own data and information;
- c) is disclosed to Contractor by a third party on a non-confidential basis without breach by the third party of any obligation of confidentiality to CIHI; or
- d) is required to be disclosed by law;

1.1.5 **"Deliverables"** means the items to be developed for and delivered to CIHI by Contractor as set out in a Statement of Work;

1.1.6 **"Effective Date"** means the date on which this Agreement has been executed by both parties;

1.1.7 **"Fees"** means the amounts to be charged by Contractor to CIHI for the performance of the Work as specified in Schedule "B" to this Agreement;

1.1.8 **"Intellectual Property Right"** means any right that is or may be granted or recognized under any Canadian or foreign legislation regarding patents, copyrights, moral rights, trade-marks, industrial designs and any other statutory provision or common or civil law principle regarding intellectual and industrial property, whether registered or unregistered, and including rights in any application for any of the above;

1.1.9 **"Legislation"** means collectively all applicable laws and regulations including all federal, provincial, territorial, municipal and local laws, ordinances, by-laws and regulations as well as any rules, orders, policies and regulations of applicable governmental agencies and governing bodies;

1.1.10 **"Notice"** means any demand, notice or other communication to be given in connection with this Agreement;

1.1.11 **"Services"** means the services to be performed by Contractor for CIHI as set out in a Statement of Work;

1.1.12 **"Statement of Work"** means Schedule "A" attached to this Agreement detailing the specifics of the Services;

1.1.13 **"Statutory Remittances"** has the meaning given to this term in subsection 11.4;

1.1.14 **"Term"** has the meaning given to this term in subsection 2.1;

1.1.15 **"Travel Policy"** means CIHI's Travel Policy – External Travellers attached to this Agreement as Schedule "C"; and

1.1.16 **"Work"** means the Services and the Deliverables.

SECTION 2.**TERM AND WORK**

- 2.1 **Term.** The term of this Agreement (the “**Term**”) will commence on the Effective Date and expire on **April 30, 2021**, unless earlier terminated in accordance with the terms of this Agreement.
- 2.2 **Performance.** Contractor covenants and agrees to perform the Work in accordance with the terms and conditions of this Agreement.
- 2.3 **Changes.** CIHI may, at any time and from time to time, request amendments to the Statement of Work. Within ten (10) Business Days of receipt of CIHI's request, Contractor will provide Notice to CIHI indicating either: (i) that it accepts CIHI's requested amendments; or (ii) the additional amendments Contractor would require in order to accommodate CIHI's request. No amendments will be binding on either party unless in writing signed by both parties.
- 2.4 **Non-Compliant Work.** After completion of the Work or, if applicable, any milestone specified in the Statement of Work, CIHI may conduct any tests as it reasonably deems necessary to determine whether the completed Work complies with the terms and conditions of this Agreement. Without limiting any other legal remedy which may be available to CIHI, in the event CIHI, acting reasonably, determines that the Work, or any part of it, is non-compliant, CIHI will not be liable to make any payment in connection with non-compliant Work and any Fees paid in connection with non-compliant Work will be refunded to CIHI by Contractor upon demand. At CIHI's option, Contractor may be required to re-perform the Work within the timeframe and subject to the terms as CIHI may reasonably require. If the re-performed Work is satisfactory to CIHI acting reasonably, Contractor will be paid the applicable Fees. Any expense incurred by Contractor as a result of being required to re-perform the Work will be at Contractor's own cost. Deadlines prescribed by CIHI for completion of any non-compliant Work may not be extended without CIHI's prior written consent not to be unreasonably withheld. CIHI may at its sole option perform the non-compliant Work or cause it to be performed on its behalf, and Contractor will reimburse CIHI upon demand for CIHI's costs and expenses in connection with this performance. CIHI will have a right of set-off for these costs and expenses against any amount owed by CIHI to Contractor pursuant to this Agreement.

SECTION 3.**FEES AND PAYMENT**

- 3.1 **Fees.** The Fees will be firm for the Term and payable in accordance with the payment schedule set out in Schedule “B”.
- 3.2 **Invoicing.** CIHI will issue a purchase order to Contractor to facilitate the payment of invoices. Contractor will invoice CIHI for the Fees as provided for in Schedule “B” and otherwise in accordance with the invoicing requirements as CIHI may establish from time to time. To assist CIHI in the processing of invoices, Contractor must include the purchase order number on each invoice it generates under this Agreement. Contractor will only invoice CIHI for completed milestones after Contractor has provided CIHI with evidence, satisfactory to CIHI, acting reasonably, of completion of each milestone as set out in the Statement of Work. Invoices must be accompanied by a progress report or timesheet that details hours worked, by individual contractor employee and/or subcontractor employee (if applicable) against the Services and Deliverables in the Statement of Work's project plan. Each invoice must be accompanied by all supporting documentation as CIHI may require in its sole discretion, and sent to Finance, CIHI, 495 Richmond Road, Suite 600, Ottawa, Ontario, K2A 4H6. Invoices will be payable by CIHI as set out on the purchase order, subject to acceptance by CIHI of the Work done. Despite anything to the contrary in this Agreement, in the event of any inconsistency or conflict between a CIHI purchase order and (i) the applicable Contractor invoice; or (ii) the Statement of Work, the purchase order will prevail.
- 3.3 **Taxes.** The Fees exclude applicable taxes which will be indicated separately on each invoice issued to CIHI. Except as otherwise provided for in this section, it is the sole responsibility of Contractor to remit any taxes or other similar amounts payable as a result of Contractor's receipt of any payment associated with this Agreement to the proper authority or authorities. CIHI will be entitled to withhold from payments to Contractor all applicable withholding taxes and remit same to the relevant taxing authorities as required by law.

- 3.4 Expenses. Unless set out in the Statement of Work, CIHI will not be obligated to pay any expenses incurred by Contractor in performing the Work. If CIHI agrees in the Statement of Work to pay Contractor expenses, Contractor will use commercially reasonable efforts to minimize these expenses and ensure that they are in compliance with the Travel Policy. CIHI will not be liable for: (i) any expenses not set out in the Statement of Work; nor (ii) any expenses above the amount set out in the Statement of Work; nor (iii) any expenses in breach of the Travel Policy.
- 3.5 Currency. All amounts referred to in this Agreement are in Canadian dollars and are payable in Canadian dollars, unless otherwise specified in Schedule "B" hereto.
- 3.6 Audit Rights.
- 3.6.1 Audit of compliance of Agreement by Contractor:
- a) CIHI will, upon ten (10) Business Days' Notice, have the right to audit Contractor's premises, as well as Contractor's books of account, records and supporting and underlying documents and materials pertaining to this Agreement, in whatever form they may be kept, whether written, electronic or other, in order to verify Contractor's compliance with the terms of this Agreement.
 - b) Contractor will make its books of account, records, supporting and underlying documents and materials available for inspection at CIHI – Ontario, Canada office indicated on the first page of this Agreement
- 3.6.2 Conduct of Audits:
- a) Any audit contemplated under this subsection 3.6 will be conducted during Contractor's regular business hours and may be conducted by CIHI or by a third party appointed by CIHI.
 - b) Contractor will ensure that CIHI, or CIHI's agent as applicable, has access to Contractor's premises and personnel as required to facilitate the audits contemplated under this subsection 3.6. Contractor will inform CIHI's representatives prior to the audit about Contractor's facility safety and security rules. Following an audit by CIHI, Contractor will if required, participate in any exit conference conducted by CIHI.
 - c) Each party will bear its own expenses relating to any audit under this subsection 3.6, except where an audit indicates any overpayment by CIHI and/or a breach in Contractor's obligations under this Agreement, in which event Contractor will reimburse CIHI for the overpayment, if applicable, as well as CIHI's audit expenses, within ten (10) days of completion of the audit.

SECTION 4. REPRESENTATIONS, WARRANTIES AND COVENANTS

- 4.1 Representations, Warranties and Covenants. Contractor represents, warrants and covenants to CIHI as follows and acknowledges that CIHI is relying on the accuracy and completeness of the following representations, warranties and covenants in entering into this Agreement:
- 4.1.1 Contractor possesses the knowledge, skill and experience necessary for the performance and completion of the Work in accordance with the terms of this Agreement and will perform, or cause to be performed (including through appropriate supervision and inspection), the Work, and otherwise fulfill its obligations under this Agreement, honestly and in good faith, in a professional manner and in accordance with recognized professional and industry standards and practices;
- 4.1.2 each employee furnished by Contractor will be competent, qualified and properly trained under industry standards and practices to perform the Work in accordance with this Agreement;

- 4.1.3 the Work will comply with this Agreement including without limitation the Statement of Work;
 - 4.1.4 neither the Work, nor any part of it, will violate or in any way infringe upon the Intellectual Property Rights of any person or entity;
 - 4.1.5 Contractor has obtained and paid for, and is in good standing with respect to, all permits, licenses and regulatory approvals applicable to, or necessary for, the performance and completion of the Work;
 - 4.1.6 Contractor and its employees will comply with Legislation, including without limitation Legislation concerning the environment, workers compensation, health and safety, employment, and the Acts;
 - 4.1.7 no Legislation or agreements with third parties prohibit Contractor from complying with this Agreement or impose any restriction on Contractor's ability to enter into, or perform its obligations under, this Agreement;
 - 4.1.8 Contractor has the necessary corporate power, authority and capacity to perform its obligations under this Agreement, and Contractor's execution of this Agreement has been duly authorized by all necessary corporate action on behalf of Contractor; and
 - 4.1.9 this Agreement is a valid and binding obligation of Contractor enforceable against it in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency and other legislation affecting creditors' rights generally.
- 4.2 The foregoing representations, warranties and covenants will be true and correct throughout the Term and will survive termination and expiry of this Agreement.

SECTION 5. CONTRACTOR SUBCONTRACTOR(S)

- 5.1 Subcontractors. Contractor will not subcontract all or any part of the Work without CIHI's prior written consent, which consent can be withheld at CIHI's sole discretion. In the event CIHI consents to a subcontract, this consent will, at a minimum, be conditional upon the following: (a)) subcontractor entering into CIHI's then current form of confidentiality agreement for subcontractors; and (b) Contractor and subcontractor entering into a written agreement consistent with the applicable confidentiality terms and conditions imposed on Contractor under this Agreement and the Statement of Work. Upon CIHI's request, Contractor will provide CIHI with a copy of the agreement with the subcontractor. Without limiting the generality of the above, no subcontract will relieve Contractor of its obligations under this Agreement and Contractor will be responsible for the acts and omissions of the subcontractor as if they were the acts and omissions of Contractor.

SECTION 6. CONFIDENTIALITY

- 6.1 Confidentiality Obligations. Contractor covenants and agrees to comply with the following confidentiality obligations pertaining to CIHI Confidential Information:
- 6.1.1 subject to subsection 6.1.5, Contractor will keep confidential all CIHI Confidential Information and will not disclose any CIHI Confidential Information to any person or any entity;
 - 6.1.2 Contractor will not access or use any CIHI Confidential Information for any purpose other than, and to the extent necessary, to perform the Work for CIHI unless CIHI has given prior permission in writing, or unless required to do so by law;
 - 6.1.3 in no event will Contractor maintain, use, disclose, allow access to, or store CIHI Confidential Information outside Canada except with the prior written authorization of CIHI;

- 6.1.4 Contractor will not make any attempt to identify or contact individuals or health facilities or other entities whose information is contained within the CIHI Confidential Information;
 - 6.1.5 notwithstanding the generality of subsections 6.1.1 and 6.1.2, Contractor will be permitted to disclose and provide access to and use of the CIHI Confidential Information to its employees and permitted subcontractors, as contemplated under subsection 5.1, having a need to know to perform the Work;
 - 6.1.6 upon expiry or termination of this Agreement, or at any time upon CIHI's request, Contractor will promptly securely destroy all CIHI Confidential Information;
 - 6.1.7 if at any time Contractor needs to know or is unsure of which information is CIHI Confidential Information, Contractor acknowledges that the onus rests with Contractor to promptly address any questions or concerns with the appropriate person at CIHI; and
 - 6.1.8 Contractor agrees to inform its employees and permitted subcontractors involved in performing the Work, if any, of the obligations under this Agreement and Contractor agrees to ensure performance of the Work in compliance with the terms of this Agreement.
- 6.2 Breach of Confidentiality Obligations. Immediately upon becoming aware of a breach or potential breach of the above confidentiality obligations or any other provision of this Agreement relating to confidentiality, Contractor will immediately notify CIHI verbally and confirmed in writing by email to the address indicated in subsection 11.7. Despite any other provision of this Agreement, a breach by Contractor or any Contractor employee or permitted subcontractor, if any, of any obligation of confidentiality under this Agreement, will constitute a material breach of this Agreement and, in addition to all other rights and remedies available to CIHI at law or in equity or under this Agreement (including but not limited to the remedies set out in subsection 6.3 below), CIHI will have the right to immediately terminate this Agreement.
- 6.3 Remedies. Contractor agrees that CIHI may be irreparably injured by a breach of this Section 6 and that CIHI will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court to prevent breaches of this Section 6 and to enforce specifically the terms and provisions of this Agreement in any action instituted in any court having subject matter jurisdiction, in addition to any other remedy to which CIHI may be entitled at law or in equity or under this Agreement in the event of any breach of these confidentiality provisions.

SECTION 7.

PROPRIETARY RIGHTS

- 7.1 Restrictions on Use of CIHI's Name and Marks. Contractor may not use in its communications, including press releases, publicity or marketing materials, CIHI's name or any of its trade-marks or official marks, may not reference the fact that it has signed this Agreement with CIHI, or any information which may reasonably be seen to imply that Contractor has entered into an agreement with, has received any approval, endorsement, or authorization in respect of a product or service from, or has a relationship with CIHI without first obtaining CIHI's written approval.
- 7.2 Ownership. Except as otherwise specifically provided in this Agreement, or as otherwise agreed to by the parties in writing, the Deliverables that have been prepared, created, written or recorded in relation to the provision and completion of the Work by: (a) Contractor; (b) CIHI; or (c) Contractor and CIHI jointly, together with any Intellectual Property Rights in these Deliverables will be owned by CIHI. Upon completion of the Work, Contractor assigns all rights, title and interest it may have from time to time in the Deliverables to CIHI.
 - 7.2.1 Additionally, and without limiting the generality of subsection 4.1.4, Contractor agrees that it will not make use of, or incorporate into the Work, any Intellectual Property Rights or confidential information of any third party without the written consent of CIHI in which case Contractor will procure all necessary rights for CIHI to sub-license, make, use, sell, reproduce and otherwise fully exploit the Work in accordance with this Agreement.

Contractor will advise CIHI in writing of any Intellectual Property Rights created by Contractor which it can show was created prior to, or independent of, this Agreement and that is included in the Work, in which case Contractor grants to CIHI an irrevocable, perpetual, world-wide, non-exclusive, paid-up license, with the right to sub-license, make, use, sell, reproduce and otherwise fully exploit these Intellectual Property Rights as part of the Work.

- 7.3 Waiver of Moral Rights. Contractor will promptly and without cost to CIHI obtain from all individuals (except those employed by CIHI) involved in the development of the Deliverables an express and irrevocable waiver in favour of CIHI and any entity authorized by CIHI to use the Deliverables, of any and all moral rights arising under the *Copyright Act* (Canada) as amended (or any successor legislation of similar force and effect) or under similar legislation in other jurisdictions or at common law that Contractor or these individuals, as authors, have with respect to the Deliverables.
- 7.4 Further Assurances. Contractor will promptly and without cost to CIHI procure all consents, waivers and assignments and other matters that are required from all individuals (except those employed by CIHI) involved in the Work in order to enable it to fully vest title to the Deliverables and all Intellectual Property Rights therein in CIHI or its designate. Contractor will, from time to time, execute and deliver and cause all individuals (except those employed by CIHI) involved in the Work to execute and deliver, all documents and instruments (including instruments of conveyance and waivers of moral rights) and do all other acts and things as CIHI may reasonably require to meet the requirements of this Agreement.

SECTION 8. INDEMNITY AND LIMITATION OF LIABILITY

- 8.1 Indemnity by Contractor. Contractor assumes all risks and liability inherent in the performance of its obligations under this Agreement and those of its employees, subcontractors, agents and suppliers and will take all necessary measures to avoid any damage to CIHI or to third parties. Contractor agrees to defend, fully indemnify and hold harmless CIHI, its directors, officers, employees, agents, and representatives from and against any and all claims (including third party claims), losses, damages, demands, suits, actions, causes of action, liability, costs and expenses including legal fees and disbursements and court costs, of any kind whatsoever resulting directly or indirectly from or relating to: (i) any injury to persons (including injury resulting in death) or loss of or damage to property, caused by the negligent or wilful acts or omissions of Contractor, its employees, agents, subcontractors or suppliers arising in connection with this Agreement; (ii) any claim that any Work constitutes an infringement, violation or misappropriation of any third party's right, including any Intellectual Property Right; (iii) any breach or inaccuracy in any representation or warranty of Contractor under this Agreement; or (iv) any failure of Contractor to perform or fulfill, or cause to be performed or fulfilled, any obligation under this Agreement.
- 8.2 Procure/Replace/Modify. In addition to subsection 8.1, where an injunction has been granted by a court in respect of an infringement claim in relation to any Work, or where an infringement claim has been substantiated and determined by a court or arbitrator to constitute an actionable infringement, violation or misappropriation of any Intellectual Property Right, Contractor will at its entire expense and at CIHI's sole option: (i) procure for CIHI the right to continue any activity giving rise to the infringement claim; or (ii) replace all affected Work in the use, possession or under the control of CIHI, with other products or services that will not be so enjoined or constitute an actionable infringement, violation or misappropriation, provided that the replaced products or services are of equivalent functionality and performance to those contracted for, that the other products or services have been tested before replacement and accepted by CIHI as satisfactory in accordance with any acceptance provisions contained in this Agreement, and that CIHI's operations are not interrupted or are only minimally interrupted as determined by CIHI in its sole discretion; or (iii) modify all affected Work in the use, possession or under the control of CIHI so that the modified Work will not be so enjoined or constitute an actionable infringement, violation or misappropriation, provided that the modified products or services are of equivalent functionality and performance to those contracted for, and that CIHI's operations are not interrupted or are only minimally interrupted as determined by CIHI in its sole discretion.

8.3 LIMITATION OF LIABILITY.

IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF BUSINESS OR REVENUE OR LOSS OF PROFITS, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, INCLUDING FUNDAMENTAL BREACH, OR IN TORT INCLUDING NEGLIGENCE OR STRICT LIABILITY, EVEN IF ADVISED OF THE POSSIBILITY OF THESE DAMAGES. THIS SECTION WILL NOT APPLY TO LIMIT CONTRACTOR'S LIABILITY FOR: (A) ANY OBLIGATIONS OF INDEMNIFICATION SET OUT IN THIS AGREEMENT; (B) ANY BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT; (C) ANY INFRINGEMENT BY CONTRACTOR OF INTELLECTUAL PROPERTY RIGHTS; OR (D) ANY INTENTIONAL HARM INFLICTED BY CONTRACTOR.

SECTION 9.

INSURANCE

- 9.1 Required Insurance. Contractor has, and will maintain all times during the Term, a commercial general liability insurance, with coverage of €600,000 (Approx. \$Cdn914,000.00), which covers its activities under this Agreement.
- 9.2 Workers Compensation Coverage. In addition to the foregoing, Contractor will throughout the Term purchase and maintain all applicable workers compensation coverage for its employees and subcontractors, if any.

SECTION 10.

TERMINATION

- 10.1 Termination by CIHI. In addition to all other rights and remedies available to CIHI at law, in equity or under this Agreement, CIHI may terminate this Agreement, as follows:
- 10.1.1 for convenience upon giving Contractor ten (10) days written Notice. CIHI will pay Contractor for the Work provided to the date of termination, these amount(s) to be payable within forty-five (45) days of receiving undisputed invoices;
 - 10.1.2 immediately and without Notice if Contractor is in default of any material provision of this Agreement, including without limitation, for breach of or inaccuracy in any of Contractor's representations, warranties or covenants; or
 - 10.1.3 immediately and without additional Notice if Contractor is in default of any non-material provision of this Agreement and has failed to cure it within twenty (20) days receipt of written Notice setting out the details of the default.
- 10.2 Termination by Contractor. Contractor may terminate this Agreement immediately if CIHI is in default of any material provision of this Agreement and has failed to cure it within twenty (20) days receipt of written Notice setting out the details of the default.
- 10.3 Termination by Either Party. Either party may terminate this Agreement immediately upon written Notice to the other party if the other party initiates proceedings for its winding up, liquidation, or dissolution, or takes any action to become a voluntary bankrupt, or consents to the filing of bankruptcy proceedings against it or files a petition or answer or consent seeking reorganization, readjustment, arrangement, composition, or similar relief under any bankruptcy law or consents to the filing of a petition or consents to the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency or makes an assignment for the benefit of creditors or admits in writing its inability to pay its debts generally as they become due or commits any other act of bankruptcy or suspends transaction of its usual business, or any action is taken against that party by a third party relating to any of the above and this action by a third party is not dismissed within thirty (30) days.
- 10.4 Completion of Work. In the event of termination of this Agreement by CIHI (except termination for convenience), CIHI may at its sole discretion complete the Work or have the Work completed on its

behalf, and Contractor will reimburse CIHI, upon demand, for CIHI's additional costs and expenses in connection with completion of the Work.

- 10.5 Right of Set-Off. If at any time during the Term, there is any amount owing to CIHI by Contractor, then CIHI may set off this amount from any monies, including without limitation the Fees, owed to Contractor pursuant to this Agreement.

SECTION 11.

GENERAL PROVISIONS

- 11.1 General. This Agreement is governed by the laws of Ontario and the applicable laws of Canada without regard to principles of conflicts of law. The parties irrevocably and unconditionally attorn to the exclusive jurisdiction of the courts of the Province of Ontario for all matters arising in connection with this Agreement, or any of the transactions contemplated under this Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter and cancels and supersedes any prior oral or written communications, understandings and agreements between the parties with respect to this subject matter. If any part of any provision of this Agreement is held to be invalid or otherwise unenforceable by a court having jurisdiction over this Agreement, the affected part of the provision will be deemed severed from this Agreement and the remainder of the provision will continue in full force and effect. No failure or delay by either party in exercising any right, power or privilege under this Agreement will operate as a waiver of that right, power or privilege. Each party will execute and deliver all documents and instruments and do all acts and things as the other party may reasonably require to carry out the full intent and meaning of this Agreement. Sections 2.4, 3.6, 4, 5.1, 6, 7, 8 and 11.4 (as well as any other provisions which by their terms are to survive) will survive termination or expiry of this Agreement and will continue in full force and bind the parties, their respective successors and permitted assigns.
- 11.2 Amendments. Except as otherwise specified in this Agreement, amendments to this Agreement must be in writing, signed by both parties.
- 11.3 Binding Effect, Assignment. This Agreement may not be assigned by either party without the prior written consent of the other. This Agreement will enure to the benefit of and be binding on the parties, their respective successors and permitted assigns.
- 11.4 Independent Contractors and Payments, Deductions and Remittances Required under Legislation. The parties are independent contractors and nothing contained in this Agreement will be construed to create or imply an agency, partnership, joint venture or employment relationship between the parties. For greater certainty and without limiting the generality of the above, Contractor and its employees will not, in any sense be considered employees or agents of CIHI, nor will Contractor be eligible or entitled to any compensation, benefits or privileges other than what is contained in this Agreement. Neither party will have the power to obligate or bind the other party in any manner. Without limiting the generality of subsection 4.1.6, Contractor will have sole responsibility, as an independent contractor, to remit all payments, deductions, remittances and taxes required by Legislation ("**Statutory Remittances**"), including without limitation, requirements under the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), the *Employment Insurance Act*, S.C. 1996, c. 23, the *Employer Health Tax Act*, R.S.O. 1990, c. E.11, and the *Canada Pension Plan*, R.S.C. 1985, c. C-8. Contractor agrees that CIHI will have no liability or responsibility for Statutory Remittances in connection with any amounts paid by CIHI under this Agreement to Contractor. Contractor agrees to repay CIHI in the event CIHI is obligated to pay any Statutory Remittances as a result of Contractor's failure to pay these remittances under this section or otherwise in connection with this Agreement.
- 11.5 Time of Essence. Time is of the essence in this Agreement.
- 11.6 Order of Precedence. In the event of any inconsistency or conflict among the contents of the following documents, the documents will take precedence and govern in the following order: a) the body of this Agreement; b) the Statement of Work; and c) the terms of any purchase order.

- 11.7 Notice. Except as otherwise specifically specified in this Agreement, a Notice will be in writing and sent by courier, fax or email and will be deemed received: (a) if sent by courier, on the day it is delivered provided that if that day is not a Business Day, then the Notice will be deemed to have been received on the next Business Day; (b) if faxed, on the day of transmission following acknowledgment of receipt by the recipient's fax machine except if that day is not a Business Day then the Notice will be deemed received, on the next Business Day; or (c) if sent by email, on the Business Day on which the recipient acknowledges receipt by a confirming email to the notifying party's email address provided in this section, an automatic "read receipt" not constituting acknowledgement of receipt of a Notice for the purposes of this section. Notification of change of address will also be governed by these provisions. Notices will be addressed as follows:

- If to CIHI: Canadian Institute for Health Information
495 Richmond Road, Suite 600
Ottawa, Ontario
K2A 4H6
Fax: 613-241-8120
Attention: Chief Privacy Officer and General Counsel

With a copy to the attention of: Manager, Procurement

- If to Contractor:
Attention: **Xaquín G.V.**
xaquin@fundaciovit.org

- 11.8 Execution. This Agreement may be executed in counterparts, each of which will be deemed to be an original, and the counterparts together constitute one and the same instrument. Delivery by facsimile or by electronic transmission of a scanned image in portable document format (PDF) of an executed counterpart of this Agreement is as effective as delivery of an originally executed counterpart of this Agreement.

CIHI Services Agreement for Contractor with No
Access\$C5008f71cb1b\$CF9B80E72ADE48ECAAAC912BB28D48018.docx

AGREED TO AND SIGNED in duplicate by the duly authorized representatives of the parties.

CANADIAN INSTITUTE FOR HEALTH INFORMATION

Per:

Brian Pillar

Printed Name

DocuSigned by:

Brian Pillar

F61823CE0BCA46D...

Signature

Manager, Procurement

Title

3/3/2021

Date

Visualization for Transparency Foundation

Per:

Karma Peiró Rubio

Printed Name

DocuSigned by:

Karma Peiró

7A3E02D3CDFD49E...

Signature

Founder of the ViT Foundation

Title

3/5/2021

Date

Visualization for Transparency Foundation

Per:

Xaquín Veira González

Printed Name

DocuSigned by:

Xaquín Veira González

FAB21ED6AA4A494...

Signature

Co-founder of the ViT Foundation

Title

3/4/2021

Date

SCHEDULE A

STATEMENT OF WORK

1. WORK

a. Services: Data Visualization Consulting

1.1 Project Background

As the leading collector, analyst and communicator of health system data in Canada, CIHI uses a variety of methods and tools to communicate its data and findings, including charts and data visualizations. Currently, CIHI uses a number of different approaches to visualizing its data for various customers, stakeholders and public audiences, from static charts to interactive dashboards, using different applications such as BI tools, to Excel, ArcGIS mapping, and Adobe Illustrator, as well as custom-coded online tools, some using d3.js. Python and R are used by some specialists for advanced analysis. The work outlined in this RFP focuses on standard charts and storytelling-focused visualizations for stakeholders and external audiences, not on dashboards or analytical and advanced visualizations aimed at researchers and data experts.

The Digital Innovation Branch within CIHI is responsible for preparing and posting external content and reports aimed at stakeholders, researchers, the media and the public. Within the branch there is expertise in UX, graphic design and formatting, digital content and channel management, digital measurement, and information architecture, among others. The branch works with subject matter experts within CIHI, as well as other teams within the Communications and Client Experience Division, to prepare and disseminate CIHI data and information products.

1.2 Objectives of the work

CIHI is seeking an external vendor to assess and advise on achieving two distinct but closely related goals:

1. Create the internal capacity to produce compelling data visualizations for external audiences in a timely manner. Specifically, these data visualizations will tell a story with a subset of data in order to reveal patterns, trends, and comparisons.
2. Update the tools, skills and processes used to create standard charts, tables and maps to be fully digital so they can be displayed and shared in an HTML environment, and to enable simple user interaction with various aspects of the data being displayed (e.g. view different time spans, choose categories to view).

Both goals will be assessed and developed using CIHI's commitment to publish all external content in both official languages and in compliance with current Accessibility for Ontarians with Disabilities Act (AODA) and WCAG accessibility guidelines. Your bid should describe your expertise in accessibility, or that of a subcontractor with whom you'll be working.

1.3 Scope of work

To achieve these objectives, the successful vendor will assess and advise on a variety of topics including, but not limited to:

- Reviewing, refining and confirming the objectives
- Assessing current skills, processes and technology related to data visualization in order to identify gaps in CIHI's capacity
- Advising on best practices in the creation of data visualizations, including use of current technology and tools, data display and user perception, skillsets and training required, accessibility practices and testing, ideal makeup of teams, and other relevant practices.
- Researching, reviewing and recommending the most appropriate digital charting platform or application for CIHI's goals and capacity to produce them. (note: some work has already been done identifying possible contenders)

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- Considering the pros and cons of producing data visualizations in-house vs. outsourcing
- Creating a roadmap for short-term activation with consideration of longer-term expansion.

Information can be gathered through interviews with relevant CIHI staff, existing and requested documentation and research, current visualization products and examples of desired types of visualizations.

Not in scope:

- BI-style dashboards that allow a high degree of user customization and visualization options. These are being developed for expert users under a different work project.

1.4 Deliverables

- A work plan outlining what resources the vendor require from CIHI to achieve the objectives of the work. Timing: Within 2 weeks of contract award.
- A report and/or detailed presentation that contains the following sections for each of the 2 objectives:
 - Overview of current state of capacity, skills and technology
 - Summary of input from CIHI staff and documentation
 - Recommendations and considerations for, but not limited to, acquiring the skill sets, technology, team makeup and best practices needed to achieve the stated goal. Various technologies should be compared and contrasted for effectiveness, skill level needed, accessibility, and cost.
 - Job description outlining the key skills and experience needed to produce what's outlined in the goal.
 - Considerations for the integration of the two objectives for current and future planning.
 - Timing: First draft by April 16, 2021. Final report and presentation by April 30, 2021.

1.5 Travel requirements

No travel is anticipated.

1.6 Use of Subcontractors

CIHI requires the Bidder to confirm whether they will provide the services identified in this Statement of Work with their own employees or through subcontracting the work to a third party.

Please indicate whether you have internal expertise in data visualization accessibility or whether you will subcontract this.

1.7 Timelines

CIHI requires that all Services and Deliverables described in this Statement of Work be completed by **April 30, 2021**.

2. EXPENSES

MAXIMUM ALLOWABLE TRAVEL EXPENSES:

No travel is expected.

3. CIHI CONTACT

Name: Carl Neustaedter
Position: Manager, Creative and Language Services
Contact Details: 613-866-7210, cneustaedter@cihi.ca

4. PAYMENT SCHEDULE

Milestone	Expected Completion Date	Amount to be Paid for and Upon Completion of Milestone	Notes
Work plan and initial interviews	March 31, 2021	9,730 euros	\$15,000 CDN Currency conversion as of Feb 12
Final report	April 30, 2021	20,150 euros	\$31,000 CDN
Total:		29,880 euros	\$46,000 CDN

5. Amounts payable hereunder shall be payable in EUROS.