



REQUEST FOR PROPOSAL

**BUSINESS CONSULTANCY FIRM TO LEAD
BUSINESS RESEARCH, MODELING, AND STRATEGIC
RECOMMENDATIONS FOR
SPECIAL PROJECT ON
CREDIT CARD BALANCE PROTECTION INSURANCE**

**FOR
CANADIAN ASSOCIATION OF FINANCIAL
INSTITUTIONS IN INSURANCE (CAFII)**

MARCH 2019

**CAFII Request for Proposal for Business Consultancy Firm to Lead
Business Research, Modeling, and Strategic Recommendations
for the Special Project
on Credit Card Balance Protection Insurance**

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Confidential

CANADIAN ASSOCIATION OF FINANCIAL INSTITUTIONS IN INSURANCE

REQUEST FOR PROPOSAL FOR BUSINESS CONSULTANCY FIRM TO LEAD BUSINESS RESEARCH, MODELING, AND STRATEGIC RECOMMENDATIONS FOR SPECIAL PROJECT ON CREDIT CARD BALANCE PROTECTION INSURANCE

Executive Summary

The Canadian Association of Financial Institutions in Insurance (CAFII) is currently seeking proposals from business consultancy firms to lead the business research, business modeling, and business strategic recommendations for a special project on credit card balance protection insurance (CCBPI).

CCBPI has been the subject of attention by some regulators, including the Financial Consumer Agency of Canada (FCAC). There are signals that Canadian insurance regulators may focus increased attention on this product. There has also been heightened media focus on this product recently, for example the 9 November, 2018 CBC Marketplace story on CCBPI.

It is important for the industry to be prepared for such developments, to be able to articulate and provide evidence of the consumer value proposition of this product.

CAFII is the industry Association most directly focused on CCBPI and it intends to play a leadership role articulating the interests of the industry around this product. CAFII needs to put itself and its Members in a position of poised readiness to present positive information about the product to regulators, media, consumer groups, and other stakeholders.

This RFP, in its entirety, provides a detailed explanation of the nature and purpose of this special project. In summary, however, CAFII, on behalf of its Members, seeks to identify the concerns that CCBPI has caused among regulators and consumer advocacy groups in other countries and compare them to the situation in Canada; to identify where those situations are the same or different than the situation in Canada, and propose, if applicable, enhancements to address the concerns of regulators and advocacy groups.

CAFII's first step in this project was to solicit law firms to bid on a Request for Proposal (RFP). We sought to engage a law firm with a national and international insurance and financial services regulatory presence who could take the lead in two areas: as subject matter experts on the research component of this effort, and to provide a competition law lens on the entire project.

The overarching reason why CAFII chose to engage a law firm as the first step in this project is to have a competition law lens oversee the entire process, to ensure that at no time would CAFII and its Members inadvertently stray into conversations or actions that are prohibited

under the Competition Act or be otherwise inappropriate. As well, while we now seek a business consultancy firm to lead the research effort, the business modeling, and the strategic recommendations, we would expect the law firm to be a subject matter expert with input into the research and strategic recommendations, especially with respect to consistency with the regulatory framework (e.g. any business recommendations have to be consistent with the federal Bank Act; the federal Insurance Business (Banks and Bank Holding Companies) Regulations; and provincial insurance legislation and regulations).

The law firm that we have chosen is Stikeman Elliott, with leading insurance advisory lawyer Stuart Carruthers as the quarterback for Stikeman Elliott, and competition lawyers Michael Kilby and Michael Laskey as a key part of the legal team on this project. The chosen business consultancy firm and Stikeman Elliott are expected to work collaboratively together, with the law firm leading all elements of this project to ensure complete compliance with the Competition Act, to ensure that the resulting recommendations are feasible in terms of substantive insurance and banking law requirements, and to maintain client-solicitor and litigation privilege.

Now that we have a law firm in place, we are seeking a business consultancy firm to lead the research, modeling, and strategic recommendations components of this project.

Clarification questions on this RFP can be sent directly to CAFII Co-Executive Director Keith Martin at keith.martin@cafii.com. All questions will be collected into one document and a consolidated document with all the answers will be sent to all organizations who indicate that they will be responding to this RFP. The identity of the organization posing a question will not be disclosed. The deadline for submitting clarification questions is **5:00 PM, Tuesday, 19 March, 2019**; and CAFII will distribute a consolidated response document by **Friday, 22 March, 2019**.

The deadline for submission of proposals is **5:00 PM, Thursday, 28 March, 2019**. Each firm submitting an RFP response will then be invited to present their proposal in a meeting with a Selection Committee of the CAFII Board of Directors. We anticipate that presentation meetings will occur on **Monday, 1 April, 2019**. Proposals should be submitted electronically through an email sent to keith.martin@cafii.com.

Introduction and Background on CAFII

The Canadian Association of Financial Institutions in Insurance

CAFII is a not-for-profit industry Association dedicated to the development of an open and flexible insurance marketplace. Our Association was established in 1997 to create a voice for financial institutions involved in selling insurance through a variety of distribution channels. Our members provide insurance through client contact centres, agents and brokers, travel agents, direct mail, branches of financial institutions, and the internet.

CAFII believes consumers are best served when they have meaningful choice in the purchase of insurance products and services. Our members offer travel, life, health, property and casualty, and creditor's group insurance across Canada. In particular, creditor's group insurance and travel insurance are the product lines of primary focus for CAFII as our Members' common ground.

CAFII's diverse membership enables our Association to take a broad view of the regulatory regime governing the insurance marketplace. We work with government and regulators (primarily provincial/territorial) to develop a legislative and regulatory framework for the insurance sector that helps ensure Canadian consumers get the insurance products that suit their needs. Our aim is to ensure appropriate standards are in place for the distribution and marketing of all insurance products and services.

CAFII is currently the only Canadian Association with members involved in all major lines of personal insurance. Our Members are the insurance arms of Canada's major financial institutions – BMO Insurance; CIBC Insurance; Desjardins Financial Security; RBC Insurance; ScotiaLife Financial; TD Insurance; and National Bank Insurance – along with major industry players American Express, Assurant, Canadian Premier Life Insurance Company, CUMIS Services Incorporated, Manulife (The Manufacturers Life Insurance Company), and The Canada Life Assurance Company.

Timelines

CAFII has identified the following timelines for this RFP:

- 11 March, 2019 – Distribution of NDA; after signed NDA is received, firm will be sent RFP
- 19 March, 2019 (5.00P PM)—Deadline for submission of RFP clarification questions
- 22 March, 2019—CAFII circulates consolidated responses document to answer RFP clarification questions
- 28 March, 2019 (5:00 PM) – Deadline for RFP Submissions
- 1 April, 2019 – Presentations by respondent firms to CAFII Board of Directors
- Post 4 April, 2019 – CAFII's Selection Decision Announced
- 8 Weeks Following Selection Decision—Deadline for Submission of final outputs with winning firm presenting to Board of Directors

Confidentiality and Access to Information

All data and information which firms participating in this RFP gather from CAFII or its Members must be managed in a strictly confidential manner and be maintained on computer programs in a secure and encrypted manner and in a manner that protects and maintains privilege. All firms bidding on this RFP are to have pre-signed an NDA. Any third-party firms which the bidding firm seeks to engage in this RFP, and with whom it shares any information contained in the RFP, is expected to sign an NDA with the bidding firm prior to any information being shared with that third-party.

Detailed Requirements

Work with Law Firm to Ensure Competition Law Lens Throughout the Project

Because part of the CCBPI discussions which CAFII Members may engage in includes the consumer value proposition of the product and potential enhancements to it, and because we must remain fully compliant with Canada's Competition Act, we have retained the services of Stikeman Elliott based on its recognized expertise in both competition law and insurance law, and to maintain privilege where possible. Stikeman Elliott will be the lead on the areas of permissible discussion and those which must be avoided and on steps to be followed in order for privilege to be maintained. Initially, CAFII will provide background on the types of activities we seek to engage in, to obtain general competition law advice throughout this process to ensure that discussions, the work product and final product are prepared in a manner that does not create competition law concerns. For that reason, and to maintain privilege, the law firm engaged will lead the entire process including any outsourcing to special expertise firms to be engaged by the law firm with respect to some of the outputs we seek.

Key Research Output—Outline and Explain Similarities and Differences Between Canada and Other Markets; and the Consumer Value Proposition of CAFII Members' CCBPI

As a key output of this special project, CAFII seeks an internationally-focused comparative research project. This is not intended to be technical or legalistic analysis. Rather, we are trying to compare Canada to four jurisdictions, in particular: Australia, U.K., U.S., and Ireland, along the following dimensions: what was it about CCBPI that was or concern to regulators and consumer groups in those jurisdictions? Are those concerns the same here in Canada? What is different here in Canada? Are there any learnings from those other jurisdictions that we should consider in Canada?

More specifically, following is an illustrative, and not exclusive, list of some of the questions that a research program might be able to address:

- How do the features of CCBPI in other jurisdictions (such as, but not necessarily limited to, Australia, the UK, the US, and Ireland) differ from the features of CCBPI in the Canadian marketplace?
- How do the concerns of regulators and consumer groups in Australia, the UK, the US and Ireland differ from the concerns of regulators and consumer groups in Canada?
- What is the consumer value proposition of the CCBPI product in Canada? What are the major benefits to consumers as CCBPI is currently structured in this country?
- What are the major criticisms levelled at the product in Canada by regulators, media, and consumer groups?
- How does the product differ among different CAFII Members? (This could be a table showing, based entirely on public information, how each product differs in terms of

price, exclusions, limitations, eligibility, claims approach (what is paid out if a claim is made) etc.)

- What features of the Canadian CCBPI marketplace are different from the environments in other jurisdictions (such as the regulatory environment, controls, compliance, training, adherence to the fair treatment of customers, etc.)?
- Is there a specified CCBPI loss ratio in other jurisdictions?
- What are the similarities and differences in the CCBPI regulatory environment in Canada versus those in the four other jurisdictions?
- What are the differences and similarities between Canadian business culture and support for the fair treatment of customers, relative to the four other jurisdictions?
- What are the similarities and differences around CCBPI controls / training / monitoring / sales incentives in Canada relative to those in the four other jurisdictions?

Criticisms of CCBPI

By way of further clarity on the issues that the research should explore, following are some of the complaints that have been made about CCBPI in various jurisdictions by regulators, media, and consumer groups:

- Aggressive/high-pressure sales tactics;
- Consumers enrolled in the product without giving express consent;
- CCBPI typically offers bundled insurance coverages, parts of which the customer may not be eligible for: e.g. a retiree signs up for a bundled package which includes job loss insurance;
- Financial Institutions / distributors enrol consumers who are not eligible (for example, job loss coverage for unemployed people);
- Not clear on pre-existing conditions / exemptions / exclusions;
- Too many exemptions / exclusions;
- “Post-claims underwriting” with a high percentage of claims denials;
- Difficulty to make a claim – high claims denial rate;
- Too expensive / low loss ratio;
- Profit machine for the banks;
- Consumers not aware of the “free look” review period during which they can cancel coverage and receive a full refund of premiums paid to that point in time;
- Free look/review period used as leverage in a high-pressure sales process; and
- Employees are incented to sell the product and have sales targets, which results in a conflict with the consumer’s best interests.

Research Methodology

We will leave it to the firms bidding on this RFP to determine what is/are the best methodology(ies) to answer the research questions, but we believe that the following could be among the methods used:

- Review of public documents;

- Review of website information;
- Review of academic and government studies;
- Other publicly available documents;
- Interviews with experts including CAFII Members, business people in the other jurisdictions, and experts within the law or business consultancy firms themselves or outsourced firms who have knowledge of these matters; and
- We would expect Stikeman Elliott to be a Subject Matter Expert that could provide valuable input into this research effort.

Benchmarking

We will ask the business consultancy firm to bid on a benchmarking study, although we will consider outsourcing this component of the project to a separate business firm. This effort entails consulting with CAFII about the dimensions we seek to benchmark, and then anonymously and confidentially collecting information about these attributes across the CAFII membership in a manner that is fully compliant with competition laws, and in a manner that maintains privilege. The aggregated, anonymized results can then be assembled and shared subject to competition law oversight. Individual CAFII members can, on a proprietary basis, have access to their individual results so as to make comparative analysis, but any analysis or recommendations at a proprietary level will be paid for individually by interested CAFII members and will not be funded at an industry level as part of the budget for this Special Project.

We may for this component of the project only go to an external consultant that specializes in benchmarking. **As such, we would ask that bidding firms call out the specific costs for this component of the project, and also indicate their total costs with this component included and excluded.**

Benchmarking List of Components

Following are items to capture in the benchmarking effort. This study is limited to credit card balance protection insurance, for all products and also broken out for: life, critical illness, disability, and job loss; figures would be both totals and for 2018 only. Again, the information would at all times be handled in compliance with relevant competition laws.

<u>Benchmarking Component</u>	<u>Metric</u>
Total in-force policies	#
Total premium (overall and per policy)	\$
Total claims made	#
Total claims paid	\$
Percentage claims paid	%
Loss ratio	%
Applications approved	%
Applications denied	%
Total employees	#
Complaints made	#
Cancellation of the Product within XX months	#
Complaints escalated to ombudsperson	#

Fact Pack

Coming out of our learnings from this effort, we propose to develop simple and easy-to-understand explanations of how CAFII Members' CCBPI products work, including key facts about the products and their sales/distribution (such as number of employees involved, number of protected policy-holders etc.). Some of this could be presented in consumer-friendly, graphical form and would be a useful educational tool for insurance regulators and policy-makers.

What is the Credit Card Balance Protection Insurance Value Proposition?

This output would involve developing a detailed explanation of the value proposition of the CCBPI product for Canadian consumers. This would provide CAFII members with a deeper understanding of what is beneficial about the product. What are the concerns expressed by consumer advocates, regulators, policy-makers, and media about the value proposition, and what practical measures could be taken at an industry and at a proprietary level to address these concerns?

Business Strategy Options

This effort would provide options, for consideration, of ways to enhance the CCBPI product. The range of options provided, not all of which might be recommended, should constitute an extensive list of possible options.

We would expect that Stikeman Elliott will carefully review the business strategy options to ensure they are realistic. Options must be consistent with the federal Bank Act; the federal Insurance Business (Banks and Bank Holding Companies) Regulations; and provincial insurance legislation and regulations.

Business Strategy Recommendations -- Final Report to Include Strategy Recommendations Including Possible Enhancements to the CCBPI Product

Based on the research effort, we would expect the business consultancy firm **to develop possible enhancements on industry-level and individual company proprietary-level**. This output would allow CAFII and its Members to make decisions on enhancements that can be adopted at an industry-level or at an individual company proprietary-level.

Industry-level CAFII funding will be for industry level implementations only; proprietary, individual company implementations, to the extent they require the involvement of a business consultancy firm, will be separately funded by the individual firms themselves with each individual firm ultimately responsible for its own proprietary level decision-making in relation to CCBPI.

As noted above, a key objective of this research is to identify where there may be risks for the Canadian CCBPI product and the industry which offers it. However, another objective is to identify where the criticisms and concerns levelled in other jurisdictions may not be relevant and applicable in Canada. Out of these research findings, we also seek **expert strategy recommendations** on what are the risks and opportunities for the Canadian industry, including possible enhancements that could demonstrate that the industry is being proactive and responsive to the concerns of insurance regulators and policy-makers; and consumer advocacy groups. Some of those enhancements could be at an industry level (for example, one option would be CAFII Guidelines similar in nature to existing CLHIA Guidelines); others might be changes made at a proprietary level within individual companies. **In all cases, it is critical that this component of the effort include a competition law lens that ensures that all discussions, and any actions taken, fully comply with obligations under the Competition Act.**

Business Modeling

This output would develop different models of changes that could be made at an individual company proprietary-level to enhance the CCBPI product. The models developed would illustrate how those changes could be implemented in an institution. The effort would be to develop “generic” models that could involve modifications to the CCBPI product and/or its distribution. For illustrative purposes only, at an industry level, such a model could suggest that to increase the loss ratio of the product, the premium could decline, the claims payout rate could increase, the limitations and exceptions could be modified, etc.

Individual firms could test the models against their own financial and other business realities to identify the best mix for themselves from the list of possible changes. Industry-level modeling will be funded by CAFII funds assembled for the Special Project; individual firms seeking to test

a model(s) internally with the help of a business consultancy firm will fund that effort themselves with each individual firm ultimately responsible for its own proprietary level decision-making in relation to CCBPI.

In all cases, it is critical that this component of the effort include a competition law lens that ensures that all discussions, and any actions taken, fully comply with obligations under the Competition Act.

Summary of the Research Outputs and their Benefits

<u>Initiative</u>	<u>Description</u>	<u>Benefit</u>
Comparative international research	Compare Canada to Australia, U.K., U.S., and Ireland, along the following dimensions: what was it about CCBPI that was of concern to regulators and consumer groups in those jurisdictions?; are those concerns the same here in Canada?; and what is different here in Canada?	Provides an evidence-based, research output that gives CAFII and its Members information on where there might be issues from an insurance regulation and/or insurance policy perspective.
Benchmarking	Aggregate CAFII Member-supplied data into anonymized metrics across a series of dimensions (loss ratios, claims payout percentages, complaints data, cancellation levels, premiums collected, etc.)	Gives CAFII useful industry level statistics. CAFII Members could get proprietary information on their own metrics relative to the industry, to let them know whether they are above, below, or at industry norms.
Fact Pack	Develop simple and easy-to-understand explanations of how CAFII Members' CCBPI products work.	Could be shared with regulators as an educational tool.
Value Proposition	Develop a detailed explanation of the value proposition of the CCBPI product to Canadian consumers; and of its shortcomings.	Provides a deeper understanding of what is beneficial about the product, and what could possibly be enhanced.
Strategy options, industry and proprietary	Develop a list of what industry-level and individual company proprietary-level enhancements and adjustments could be made to possibly enhance the value proposition of the CCBPI product.	Provides options, for consideration, of ways to enhance the CCBPI product.
Strategy recommendations	Develop specific, actionable recommendations on industry-level and individual company proprietary-level changes that could be implemented.	Allows CAFII and its Members to make decisions on possible enhancements that can be adopted at an industry-level or at an individual company proprietary-level. Industry-level funding will be for industry level implementations only; proprietary, individual company implementations will be separately funded by individual firms.
Business Modeling	Identify different models of changes that could be made at an individual company proprietary-level to enhance the CCBPI product. Then model how those changes could be implemented in an institution.	Individual firms could test the models against their own financials to identify the best mix for themselves from the list of possible enhancements. Industry-level modeling will be funded by CAFII for the Special Project; individual firms seeking to test the model internally will fund that effort themselves and will at all times make their own individual decisions.

- *All discussions of enhancements or modifications will be made under competition law firm oversight, to ensure compliance with the Competition Act*

Roles and Responsibilities of Law Firm and Business Consultancy Firm

Note: to maintain privilege – the law firm will be the lead in all cases and instruct the business consultancy firm

Initiative	Business Consultancy Firm	Law Firm
Project Management	Develops overall project management plan.	Develops the detailed project management plan relative to the competition law component.
Comparative international research	Is the lead in producing the research, including interviewing international insurance industry knowledge experts and CAFII members.	Is a subject matter expert particularly on legal and regulatory issues.
Benchmarking	Is the lead.	Supports from a Competition Law perspective.
Fact Pack	Is the lead.	No role.
Value Proposition	Is the lead.	Subject matter expert; and supports from a Competition Law perspective.
Strategy options, industry and proprietary	Is the lead.	Detailed engagement and involvement from a competition law perspective.
Strategy recommendations	Is the lead.	Detailed engagement and involvement from a competition law perspective.
Business Modeling	Is the lead.	Detailed engagement and involvement from a competition law perspective.

Proprietary Presentations

While CAFII will only be paying for industry level efforts, and individual Members will be paying individually for any work done in their own institutions at a proprietary level, there is one exception. As part of this RFP, CAFII is requesting that the business consultancy firm join the law firm for 12 one-hour, internal presentations within our Member institutions, to present the findings of this research effort and the strategy recommendations. The purpose of this is to have the external experts provide learnings to senior leaders within CAFII Member institutions, and to make the case for why the strategic enhancements should be implemented.

Research Effort and Price Ranges

CAFII is seeking the research output, and the strategy recommendations as outlined in the next section, within 8 weeks of the granting of the contract. As there could be a variety of different types of reports depending on the complexity and depth of analysis, we are open to bidding firms providing cost ranges based on the depth of the analysis—for example, a 25-page report with limited analysis at price A, a 50-page report with more detailed analysis at price B, etc.

As part of the proposal to CAFII, please indicate your expectations around remuneration (paid up front, paid upon completion of project, portion paid up front and remainder paid upon completion etc.).

Engagement of the Wider Industry

This section of the RFP is for background information purposes only. If coming out of this Special Project, there are enhancements contemplated to CCBPI, there are non-members of CAFII whom we may wish to engage in the industry-wide enhancement opportunity. This will be a consideration that CAFII will discuss with its Members. The non-members of CAFII players include Canadian Tire Financial, PC Financial, Walmart Bank, Rogers Bank, HBC, Sears, and Chubb Insurance. As well, as this project moves forward, CAFII would need to find a way to keep the Canadian Bankers Association (CBA) and the Canadian Life and Health Insurance Association (CLHIA) informed of developments.

Possible Phase II of the Special Project on CCBPI

After considering the output of Phase I of this project, CAFII and its Members may consider a Phase II which would involve an RFP to engage a government relations / public relations firm which would develop a GR/PR campaign based on our findings in Phase I, including any possible enhancements that may be made at an industry or proprietary level. This will only be decided upon after the completion of Phase I.

Additional Work Coming out of this Special Project

It is possible that individual CAFII Members will seek the involvement of a business consultancy firm, at their firm's own individual cost, to guide the firm through any proprietary CCBPI enhancements they may engage in coming out of this industry Association-led special project on CCBPI.

Proposal Submission—Required Content

Review all of the detailed requirements as outlined above and provide a written submission detailing how your organization is able to meet or exceed these requirements, including pricing for each of the services required and any and all additional costs you would charge for.

Provide details around how your firm would structure its involvement in this project and the required outputs, and detail the costs associated with each component part as well as the overall cost.

Provide details on what components of this Special Project you would outsource and the process for such outsourcing.

CAFII Evaluation Criteria

<u>Criteria</u>	<u>Weight</u>
Firm has demonstrated a thorough, comprehensive, credible understanding of the project; has demonstrated that it has the required expertise and experience within the firm to lead the project and to successfully produce the required outputs	45%
Firm's price is competitive	25%
Firm has a strong Project Management capability and has demonstrated a Project Management plan to guide the entire project	15%
Firm has demonstrated knowledge of CAFII and its Members, including being an Associate of CAFII, so that CAFII time and effort required for orientation and assistance in climbing learning curve will be minimal. <u>Specifically:</u> CAFII Associates get 3 automatic points in this category All bidding firms are assessed on "demonstrated knowledge of CAFII and its Members," with a maximum possible score on this dimension of 12 points	15%

CAFII Non-Disclosure Agreement (NDA)

Confidentiality and Non-disclosure Obligations.

1. BIDDING FIRM agrees and undertakes:
 - (a) to maintain in strict confidence any data or information provided pursuant to this agreement by CAFII and/or CAFII Member (whether orally, in writing or in any other form) ("Confidential Information") by virtue of the Initiative, provided that information that is (i) already known to BIDDING FIRM at the time of disclosure; (ii) in the public domain or publicly available; (iii) available from a third party who is under no such obligation of confidentiality; or (iv) independently developed by BIDDING FIRM shall not be considered as 'Confidential Information';
 - (b) to protect all Confidential Information which the other party provides to it against unauthorized access, use, disclosure, destruction, loss or alteration using at least the same degree of care that BIDDING FIRM uses to protect its own confidential and/or proprietary information, but in no event less than a reasonable degree of care;
 - (c) to restrict access to the Confidential Information only to those employees engaged in the Initiative and who have a need to know for the purposes described herein and provided that such employees are bound by obligations of confidentiality that are at least as strict as those set out herein, to the exclusion of any other employees who do not provide services in connection with the Initiative;
 - (d) use the Confidential Information for solely for evaluating and implementing the Initiative (except if required otherwise by applicable laws, court or governmental agency) ("Permitted Purpose");
 - (e) not use or attempt to use the Confidential Information in any way that would be in violation of any applicable law or in any manner that could be deemed anticompetitive;
 - (f) not disclose, make available to, or provide or permit access to or use of any Confidential Information, by a third party except as expressly permitted by this agreement; and
 - (g) establish safeguards to ensure that all data is uniquely identified as to the Initiative participant to whom it belongs, and all Confidential Information will be secure from unauthorized disclosure, access and/or use.

Ownership of Confidential Information

2. All Confidential Information will remain the exclusive property of CAFII and/or applicable CAFII Member, and BIDDING FIRM will have no rights, by license or otherwise, to the Confidential Information except for use as expressly provided in this agreement.

Compelled Disclosure

3. BIDDING FIRM may disclose Confidential Information to its legal advisors to protect its own legitimate interests and to comply with any legal or regulatory requirements. If any court, regulatory authority, professional body or legal process requires the recipient to disclose information covered by this confidentiality obligation, then BIDDING FIRM may make any such disclosure; provided that the BIDDING FIRM will, if permitted by law, advise the CAFII promptly of any such requirement and cooperate, at the CAFII's expense, in responding to it.

Additional Obligations of Bidding Firm

4. BIDDING FIRM represents and warrants that it is familiar with, has complied with, and will comply, in all respects, with applicable competition laws including the provisions of Canada's Competition Act and will implement appropriate policies, conduct appropriate training of its employees and directors, and adopt appropriate processes for meetings and documentation to ensure that it and their employees and directors will remain compliant.
5. BIDDING FIRM will be liable for any failure by its employees to comply with the terms of this agreement. BIDDING FIRM shall indemnify and hold CAFII and CAFII Members and their respective officers, employees, directors, agents and representatives harmless from, and shall pay for, any cost, loss, expense, liability, claim, demand or damage (including reasonable legal fees and the cost of enforcing this indemnity) arising out of or resulting from any unauthorized use or disclosure of the Confidential Information or other breach of this agreement by BIDDING FIRM or its employees.
6. Irrespective of where BIDDING FIRM receives or holds individually identifiable personal information ("Personal Data") on behalf of any of the other parties, BIDDING FIRM confirms that, acting as data processor it will take appropriate technical, physical and organizational/administrative measures to protect that Personal Data against accidental or unlawful destruction or accidental loss or unauthorized alteration, disclosure or access. BIDDING FIRM will only use that Personal Data for the Permitted Purpose, unless permitted otherwise in writing by CAFII or a CAFII Member. The other parties and BIDDING FIRM shall each comply with the provisions and obligations imposed on each of them by applicable data privacy legislation and regulations.
7. Upon written request from CAFII or a CAFII Member, BIDDING FIRM will promptly return or destroy, and verify in writing its destruction of all material, in any form, embodying any Confidential Information, provided that BIDDING FIRM may retain a copy of such Confidential Information only to the extent that it is part of its backup or recovery processes where such Confidential Information is not readily accessible.

Remedies

8. Disclosure or use of Confidential Information provided by CAFII contrary to this agreement, or any other breach of the terms and conditions of this agreement by BIDDING FIRM, will give rise to irreparable injury to CAFII and/or CAFII Member that is not adequately compensable by damages. CAFII and/or CAFII Member may, in addition to any other remedy, enforce the performance of this agreement by way of injunction or specific performance upon application to a court of competent jurisdiction without proof of actual damages (and without the requirement of posting a bond or other security) and, notwithstanding that damages may be readily quantifiable, you agree not to plead sufficiency of damages as a defence in any such proceeding. The rights and remedies provided in this agreement are cumulative and are in addition to, and not in substitution for, any other rights and remedies available at law or equity. All such rights and remedies may be exercised from time to time, and as often and in such order as is deemed to be expedient.
9. In the event of a breach of BIDDING FIRM'S obligations under this agreement or any actual or suspected security breach involving Confidential Information provided by CAFII, BIDDING FIRM will immediately notify CAFII and CAFII Members, immediately allocate required resources to address and cure the breach and implement all reasonable mechanisms to mitigate the risk and prevent future occurrences, including cooperating in all reasonable respects with CAFII and CAFII Members to minimize the impact of the security breach or loss and any damage resulting therefrom.

Miscellaneous

10. Except as otherwise provided in this agreement, the obligations of the parties under this agreement continue and are binding for an indefinite period of time.
11. Any notice, direction or other communication given regarding the matters contemplated by this agreement must be in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed:
to BIDDING FIRM at:

[INSERT]

to CAFII at:

Keith Martin
Co-Executive Director, CAFII
411 Richmond Street East, Suite 200

Toronto, Ontario
M5A 3S5

12. A notice, direction or other communication is deemed to be given and received (i) if sent by personal delivery or courier, on the date of delivery if it is a business day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next business day, or (ii) if sent by facsimile, on the business day following the date of confirmation of transmission by the originating facsimile. A party may change its address for service from time to time by providing a notice in accordance with the foregoing. Any subsequent notice, direction or other communication must be sent to the party at its changed address. Any element of a party's address that is not specifically changed in a notice will be assumed not to be changed.
13. No waiver of any of the provisions of this agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party's failure or delay in exercising any right under this agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.
14. This agreement constitutes the entire agreement between the parties relating to its subject matter and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to such subject matter. This agreement may only be amended, supplemented, or otherwise modified by written agreement signed by all of the parties.
15. Neither this agreement nor any of the rights or obligations under this agreement may be assigned or transferred, in whole or in part, by a party without the prior written consent of the other party.
16. If any provision of this agreement is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this agreement and the remaining provisions will remain in full force and effect.
17. This agreement is governed by, and will be interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein and the parties attorn to the non-exclusive jurisdiction of the courts in the City of Toronto.

18. This agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this agreement.

If BIDDING FIRM services do not conform to the requirements agreed between all parties, BIDDING FIRM will be notified promptly and it shall re-perform any non-conforming services at no additional charge or, at BIDDING FIRM option, refund the portion of the fees paid with respect to such services.

If re-performance of the services or refund of the applicable fees would not provide an adequate remedy for damages, the aggregate liability of BIDDING FIRM and its employees, directors, officers, agents and subcontractors (the “related persons”) to the parties whether in contract, tort (including negligence), breach of statutory duty or otherwise for any losses arising from or in any way connected with our services shall not exceed in aggregate the greater of (a) \$250,000 or (b) the total amount of the fees paid to BIDDING FIRM for the services provided pursuant to this agreement, unless otherwise agreed in writing. Nothing in these terms shall exclude or limit the liability of BIDDING FIRM or its related persons in the case of: (a) death or personal injury resulting from our or our related person’s negligence; (b) willful misconduct; (c) fraud; or (d) other liability to the extent that the same may not be excluded or limited as a matter of law. In no event shall BIDDING FIRM or any of its related persons or affiliates be liable for any incidental, special, punitive, or consequential damages of any kind (including, without limitation, loss of income, loss of profits, or other pecuniary loss).

Where BIDDING FIRM are jointly liable with another party, BIDDING FIRM shall to the extent permitted by law only be liable for those losses that correspond directly with its share of responsibility for the losses in question.

SIGNED BY REPRESENTATIVE OF BIDDING FIRM