



Australian Government
Department of Industry,
Science and Resources

Request for Tender NEB-ATM_2024_0975

Northern Endeavour Decommissioning: Project Execution Advisory Team (PEAT)

Any questions regarding this RFT should be sent to:
PEATProcurement@industry.gov.au

Lodgement of tenders

RFT Closing Time: Tenders must be lodged by close of business 14 February 2025 at 2pm (AEDT).

Tenders must be lodged electronically using AusTender.

Tenderers may wish to refer to the *Selling to Government Guide*, available from <https://sellingtogov.finance.gov.au/>

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General Information

1. Background to this RFT

- (a) The Northern Endeavour Branch (**NEB**) was established within the Department of Industry, Science, and Resources (the **Department**) in March 2020 to investigate and progress a long-term handling strategy for the Northern Endeavour Floating Production System and Offloading (**FPSO**) unit and associated infrastructure. With Phase 2 and 3 decommissioning works due to commence in 2025, the Department is seeking to procure technical advisory services to support the Northern Endeavour FPSO decommissioning program (the **Program**).
- (b) Accordingly, the Department is conducting an open tender approach and invites suppliers to submit a tender for the provisioning of suitably qualified advisors to meet the Department's requirements in accordance with this RFT.
- (c) It is anticipated that the successful tenderer's team will form part of the Northern Endeavour Phase 2/3 Project Delivery Team who are responsible for managing the plugging and abandonment of the wells, recovery of subsea infrastructure and recycling/disposal of associated material.
- (d) The Project Execution Advisory Team (PEAT) must provide reliable and timely information and assurance services to enable effective project management, decision making, and approvals by the Commonwealth Representative for the Program.
- (e) The Department's requirements and role descriptions in relation to each member of the PEAT team is set out in more detail in the Statement of Work.
- (f) Tenderers should note that if they are engaged as the successful Tenderer, they will need to obtain the Department's prior written approval before participating in any future procurements conducted by the Department in relation to, or for the purposes of, the Program. The Department reserves the right in its absolute discretion to refuse to give such approval; and, if it gives such approval, the right in its absolute discretion to impose conditions on any such approval.

2. About this document

- a) This RFT is made up of:
 - (i) clauses 1 - 43 of the RFT, which set out the conditions applying to the RFT process;
 - (ii) **Schedule 1** which sets out the Statement of Work;
 - (iii) **Schedule 2** Tenderer Deliverables (including its Attachments), which set out the information Tenderers are required to include in their tenders; and
 - (iv) **Schedule 3**, which is the Draft Form of Contract.
- b) A checklist is provided at Attachment 1 of Schedule 2 to assist Tenderers in preparing and submitting their tenders.
- c) The glossary in clause 43 provides definitions of words and phrases used in this RFT.
- d) When this RFT provides that the Department 'may' do a thing, it may do so in its absolute discretion.

- e) If there is any inconsistency between any part of this RFT, a descending order of precedence must be given to:
- (v) clauses 1- 43 of this RFT (other than the schedules and attachments); and then
 - (vi) Schedule 1 (Statement of Work); and then
 - (vii) Schedule 2 (and all Attachments); and then
 - (viii) Schedule 3 (Draft Form of Contract),
- so that the provision in the higher ranked document prevails to the extent of the inconsistency.
- f) Any amendment to this RFT published, via an Addendum, through the AusTender website will take precedence over any other version of this RFT or earlier amendment to this RFT to the extent of any inconsistency.

3. AusTender, the Australian Government Tender System

- a) AusTender is the Australian Government procurement information system. Access to and use of AusTender is subject to terms and conditions. In participating in this RFT process, Tenderers must comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender at <https://www.tenders.gov.au/infolinks/termsfuse>.
- b) All queries and requests for technical or operational support must be directed to:
- AusTender Help Desk
Telephone: 1300 651 698

International: +61 2 6215 1558
Email: tenders@finance.gov.au

The AusTender Help Desk is available between 9am and 5pm ACT Local Time, Monday to Friday (excluding ACT and national public holidays).

4. Further information about this RFT

- a) Tenderers should direct any questions arising during the preparation of a tender or requests for clarification in writing to the Contact Officer email address:
PEATProcurement@industry.gov.au
- b) The Department may refuse to answer any question received after the nominated Clarification Closing Time, and may in its absolute discretion decline to answer questions received at any time.
- c) If appropriate, the Department will circulate questions and answers to all other Tenderers without disclosing the source of the questions or revealing the substance of a proposed tender or a Tenderer's confidential information.
- d) If a Tenderer finds any discrepancy, error or omission in this RFT, it should notify the Department in writing before the Clarification Closing Time.

5. Registered Tenderers and Notices

- a) If the Department elects to vary or supplement this RFT or change the conditions of tender, it will make reasonable efforts to inform Tenderers in accordance with this clause 5.
- b) Tenderers may be informed by notices and other information issued as addenda posted on the page for this RFT on AusTender.
- c) Tenderers who have registered and downloaded the tender documentation will be notified by AusTender via email of any addendum issuance. It is in the interests of Tenderers to ensure they have correctly recorded their contact details prior to downloading tender documentation. If Tenderers have not recorded their details correctly, they should amend their details and download the tender documentation again.
- d) Tenderers are required to log in to AusTender and collect addenda as notified.
- e) The Commonwealth will accept no responsibility if a Tenderer fails to become aware of any addendum notice which would have been apparent from a visit to the AusTender page for this RFT.
- f) If a Tenderer has obtained tender documentation other than from AusTender, they must visit AusTender, register as a user and download the tender documentation for this RFT.

6. Form of Contract

- a) The successful Tenderer(s) will be required to enter into a Contract for the provision of the Services.
- b) Any Contract entered into as a result of this RFT process will be based on the Draft Form of Contract. However, the Department may vary the terms and conditions of the Draft Form of Contract as set out in Schedule 3 (see clause a)).
- c) The Department intends that the Contract entered into with any successful Tenderer will be in substantially the same form as the Draft Form of Contract as set out in Schedule 3 and, subject to clause a), does not intend to enter into detailed negotiations with any preferred Tenderer(s).
- d) The successful Tenderer will be required to provide the Services specified in Schedule 1 (Statement of Work) on and from the Commencement Date.
- e) The initial term of the Contract is until March 2027, with four options to extend for a further twelve (12) months each, which may be exercised at the Commonwealth's absolute discretion.

7. RFT Timeline

- (a) The Department provides an indicative timeline for the information of Tenderers.

Activity	Date / duration
RFT release date	20 December 2024
RFT closing date	14 February 2025 at 2.00pm (AEDT)
Clarification close	31 January 2025
Expected Contract execution	30 April 2025

- (b) The Department may change these dates at its sole discretion at any time and without issuing any addenda or giving any other notice to Tenderers (other than the RFT Closing Time and Clarification Closing Time). The Department may change the RFT Closing Time or Clarification Closing Time by issuing an addendum in accordance with this RFT.

What Tenderers need to do

8. Tenderer behaviour

- (a) Tenderers must not, and must ensure that their officers, employees, agents, and advisors do not, in relation to the preparation, lodgement or assessment of tenders:
 - (i) make false or misleading claims or statements;
 - (ii) improperly obtain information;
 - (iii) receive improper assistance;
 - (iv) engage in collusive tendering, anti-competitive conduct or other similar conduct with any other Tenderer or other person; or
 - (v) attempt to improperly influence an officer of the Department or approach any Commonwealth officer other than in the manner set out in clause a).
- (b) The Department may exclude a tender from consideration if, in the Department's opinion, the Tenderer has failed to comply with these requirements (in accordance with the Department's rights pursuant to clause 16).

9. Seek own advice

This RFT is not business, investment, legal or tax advice. Tenderers should seek their own independent professional advice in respect of all matters in connection with this RFT.

10. Bear own costs

- a) All expenses and costs incurred by a Tenderer in connection with this RFT, including but not limited to, preparing and lodging a tender, providing the Department with further information, giving presentations, attending interviews and participating in any subsequent negotiations, are the sole responsibility of the Tenderer.
- b) The Department is not liable for any costs or other compensation in relation to the consideration of this RFT, lodgement of any tender or participation in the RFT process by any Tenderers, including if the Department takes any action permitted under this RFT, including any exercise of the Department's rights under clause 26.

11. Satisfy the Conditions for Participation

- a) Tenderers must satisfy the Conditions for Participation (i.e. mandatory requirements). If a Tenderer does not satisfy all of the Conditions for Participation, the tender will be excluded from consideration (see clause b)).
- b) The Conditions for Participation are set out in the following table:

No.	Conditions for Participation
1.	The Tenderer and any subcontractors proposed in its tender must not be insolvent, bankrupt, in liquidation, or under administration or receivership as at the RFT Closing Time.
2.	The Tenderer and any subcontractors proposed in the tender must not be named as non-compliant with the <i>Workplace Gender Equality Act 2012</i> (Cth) by the Workplace Gender Equality Agency as at the RFT Closing Time.
3.	<p>a. The Tenderer must exist as a legal entity at the RFT Closing Time.</p> <p>b. The Tenderer must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not satisfied any resulting order.</p> <p>c. The Tenderer, its personnel, and any Subcontractors proposed in the Tender must not, at the RFT Closing Time, be listed as terrorists under section 15 of the <i>Charter of the United Nations Act 1945</i> (Cth).</p> <p>d. The Tenderer (and any Subcontractor proposed in its Tender) must not be named in the Consolidated list referred to in Regulation 40 the <i>Charter of United Nations (Dealing with Assets) Regulations 2008</i> (Cth).</p>
4.	The Tenderer must hold all Valid and Satisfactory Statements of Tax Record required for its entity type, by the RFT Closing Time;

12. What the tender needs to include

12.1. Satisfy the Minimum Content and Format Requirements

- a) Tenders must satisfy the Minimum Content and Format Requirements (i.e. mandatory requirements). Subject to clause c), if a submitted tender does not satisfy the Minimum Content and Format Requirements, it will be excluded from consideration (see clause b)).
- b) The Minimum Content and Format Requirements are set out in the following table:

No.	Minimum Content and Format Requirements
1.	<p>The Tenderer must substantially complete and submit:</p> <ol style="list-style-type: none"> i. the Tenderer Response Form substantially in the form provided at Attachment 2 of Schedule 2; and ii. the Tenderer's Deed substantially in the form provided at Attachment 3 of Schedule 2.
2.	<p>The Tender must meet the following requirements:</p> <ol style="list-style-type: none"> i. all language, including in all attachments and supporting technical data, must be written in English;

	<p>ii. unless otherwise specified in the Statement of Work, all measurement must be expressed in Australian legal units of measurement; and</p> <p>iii. all prices must be stated in Australian dollars.</p>
3.	<p>The Tender must include all Valid and Satisfactory Statements of Tax Record relevant to the tenderer's business. <i>[Note to Tenderers: If the Commonwealth considers a Tenderer's failure to comply with the Minimum Content and Format Requirement relating to the submission of STR(s) was due to an Unintentional Error of Form and elects to provide the Tenderer with an opportunity to correct the error, any such error must be corrected within 10 business days of the date of the request from the Commonwealth.]</i></p>
4.	<p>The Tenderer must submit the Tenderer's Deed and include a statement in its tender that confirms, as at the RFT Closing Date, in dealing with its employees and independent contractors, the Tenderer has due regard to Commonwealth laws applicable to the engagement of workers and that the Tenderer complies with all applicable Commonwealth laws applicable to the engagement of workers, including obligations under the <i>Work Health and Safety Act 2011</i> (Cth) and relevant work health and safety laws.</p> <p><i>[Note to Tenderers: The Tenderer's Deed (Attachment 3 of Schedule 2) required to be submitted by the Tenderer, includes this statement.]</i></p>

[Note to Tenderers: Tenderers should apply for all relevant Statements of Tax Record for their entity type as soon as possible, and within sufficient time to meet the applicable Minimum Content and Format Requirement and Conditions for Participation]

Attachment 10 of Schedule 2 to this RFT sets out additional information to assist Tenderers to comply with the applicable Minimum Content and Format Requirements and the Conditions for Participation. Tenderers should ensure that they read and understand Attachment 10 of Schedule 2.

Tenderers should note that the Statement of Tax Record required to be requested from the Australian Taxation Office and provided in response to this RFT depends on the type of entity that is responding to this RFT. Tenderers may be required to request and provide more than one Statement of Tax Record.

Tenderers should also read and understand the requirements for obtaining a Statement of Tax Record and any other relevant information specified on the Australian Taxation Office website – see <http://www.ato.gov.au/STR>.]

12.2. Submission of Attachments

- a) Tenderers should include a completed checklist in the form of Attachment 1 of Schedule 2 - Tenderer Deliverables, with its submitted tender;
- b) Tenderers should include the information required by each Attachment to this RFT. If the information is not provided, this may impact the Department's ability to

evaluate the Tenderer's tender and the Tenderer's score or other assessment of the Tenderer during evaluation.

- c) If the Tenderer does not include a document addressing the information on insurance as required by Attachment 7 of Schedule 2 – Tenderer Deliverables, the Tenderer is taken to confirm that it and any subcontractors can meet the proposed insurance requirements set out in Attachment 7 of Schedule 2.
- d) If the Tenderer does not include a document addressing the information on compliance as required by Attachment 8 of Schedule 2 – Tenderer Deliverables, the Tenderer is taken to agree with all provisions of the Draft Form of Contract (as set out in Schedule 3).
- e) If the Tenderer does not include a document addressing the information on confidentiality as required by Attachment 9 of Schedule 2 – Tenderer Deliverables, the Tenderer is taken to agree that it does not require any information to be kept confidential under the Contract.

12.3. Partial tenders

- a) The Department reserves the right to consider tender responses from Tenderers for all or some of the identified positions (a Partial Tender) provided that the Partial Tender complies with the requirements of this RFT. If a Tenderer submits a Partial Tender, the advantages, disadvantages, limitations, and capabilities of the Partial Tender should be clearly stated in the tender.
- b) The Department may, in its absolute discretion, obtain the Services from more than one Tenderer and reserves the right to accept some, or all, the resources nominated by a Tenderer.

12.4. Joint and consortium tenders

- a) The Department only intends to enter a Contract with a single legal entity. The Department does not intend to consider a joint tender from two or more separate legal entities (but may do so).
- b) A consortium should submit a tender on the basis that one legal entity will take full responsibility under any resultant Contract (e.g. with other members of the consortium being engaged under subcontracting arrangements). The Tenderer should provide full details of the legal entity that will take full responsibility under any resultant Contract, the consortium arrangement, and any proposed subcontractors.

13. RFT Closing Time

- a) Tenders must be lodged before the RFT Closing Time through AusTender.
- b) The RFT Closing Time will also be displayed on the relevant AusTender webpage together with a countdown clock that displays in real time the amount of time until RFT Closing Time (for more information please see AusTender Terms of Use). For the purposes of determining whether a tender has been lodged before the RFT Closing Time, the countdown clock will be conclusive.
- c) Only tender files which have been uploaded in full and lodged with the tender by the RFT Closing Time will be considered. Tenderers should allow sufficient time to ensure that all files are successfully uploaded and lodged before the RFT Closing Time.
- d) Any tender (or part of a tender) lodged after the RFT Closing Time or received via any mechanism other than through AusTender will be deemed to be a late tender

unless the tender is late solely because of the Department's own mishandling. The Department reserves the right to accept a late tender.

14. How to lodge the tender

14.1. Electronic lodgement

Tenders must be lodged electronically via AusTender at <https://www.tenders.gov.au> before the RFT Closing Time and in accordance with the tender lodgement procedures set out in this RFT and on AusTender.

14.2. File format, name and size

- a) **File format:** The Department will accept tender responses lodged in Microsoft Word, Microsoft Excel or PDF format.
- b) **File names:** The tender file name/s:
 - (i) should incorporate the Tenderer's name;
 - (ii) should reflect the various parts of the bid tender represent, if the tender comprises multiple files;
 - (iii) should not consist of more than 100 characters including spaces; and
 - (iv) should not include any special characters.
- c) **Scanned or Imaged Material, including Statutory Declarations:** The Tenderer may be required by the Department to courier or security post the originals of the signature and/or initialled pages to the Department.
- d) Tender files should not exceed a combined file size of 50 megabytes per upload.

15. After lodging the tender

15.1. Correcting tenders or providing additional information

- a) If, after lodgement and before the RFT Closing Time, a Tenderer becomes aware of any discrepancy, error or omission in its tender, it may submit a correction or provide additional information. The correction or additional information must be provided by the RFT Closing Time by lodging it electronically using AusTender.
- b) If a Tenderer becomes aware of any discrepancy, error or omission in its tender after the RFT Closing Time, the Tenderer may notify the Contact Officer in writing of the discrepancy, error or omission. The Department is not obliged to consider any corrections or information that materially alters the tender provided after the RFT Closing Time but may do so if the Department considers it is appropriate to do so in the circumstances.

15.2. Tender Validity Period

- a) In lodging a tender, the Tenderer acknowledges that its tender remains valid and open for acceptance by the Department for a period of six months from the RFT Closing Time.
- b) The Department may request an extension to the Tender Validity Period by notice to the Tenderer.
- c) If this procurement is suspended under the Government Procurement (Judicial Review) Act 2018 (Cth) (GP(JR) Act), the Tender Validity Period is extended by the period of suspension, up to a further 3 months period.

15.3. Ownership of tender documents

- a) All tender documents become the property of the Department on lodgement. However, subject to clause 15.3b), ownership of the intellectual property in the tender documents will remain unchanged.
- b) Tenderers submit documents in response to this RFT on the basis that the Commonwealth may use, retain, and copy the information contained in those documents for the purposes of:
 - (i) the conduct of this RFT process, including the evaluation of any tender, and the negotiation, preparation, and management of any resultant Contract in respect of this RFT.
 - (ii) verifying the currency, consistency and adequacy of information provided under any other RFT process conducted by the Commonwealth.
 - (iii) the development of any other RFT process conducted by the Commonwealth; and
 - (iv) any matter related to this RFT, the Services or any resultant Contract, including audit requirements, complying with the Freedom of Information Act 1982 (Cth), any complaints or disputes regarding this RFT, the RFT process or the Contract (if any), and complying with governmental and parliamentary reporting requirements including request for information by Parliament or Parliamentary Committees.
- c) Subject to clause 25.4, the Commonwealth may disclose tender documents or any part of the tender documents to a third party for the purposes of assisting the Commonwealth in the conduct of the activities specified in clause 15.3b).
- d) Tenderers represent and warrant that they can give the licences and permissions to give effect to the Department's rights in clause 15.3b).

15.4. Publicity

Tenderers must not furnish any information, make any statement, or issue any document or other written or printed material concerning this RFT for publication in any media without the prior written approval of the Department.

15.5. Complaints

- a) The Department will apply timely, equitable and non-discriminatory complaint handling procedures.
- b) Any complaints arising out of this RFT process should be lodged in writing by sending the complaint to procurement.complaints@industry.gov.au.
- c) A complaint lodged by a Tenderer should set out:
 - (i) that it is a complaint made under this clause 15.5;
 - (ii) a clear description of the Tenderer's complaint;
 - (iii) copies of, or references to, any evidence or information to support the Tenderer's complaint; and
 - (iv) a statement as to what the Tenderer's desired outcome is from the complaint process.

- d) The Department will acknowledge receipt of the complaint and will seek to address the complaint with the relevant Tenderer as soon as practicable.
- e) Where requested by the Department, a Tenderer must do all things reasonably necessary to cooperate with the Department (including providing information or answering questions) in the investigation and attempted resolution of any complaint in respect of this RFT process.
- f) This RFT process is a covered procurement for the purposes of the GP(JR) Act.
- g) Information on any public interest certificate that may be issued under the GP(JR) Act in relation to this RFT process will be available at: <https://www.industry.gov.au/about-us/public-interest-disclosure/public-interest-certificate-log>
- h) If a supplier makes a complaint under the GP(JR) Act and at the time of the complaint no public interest certificate is in force in relation to this RFT process, the Department may suspend this RFT process by notice to all registered Tenderers.

15.6. Notification of changes

Tenderers should promptly notify the Contact Officer of any changes to the Tenderer's:

- a) corporate or ownership structure;
- b) ability to deliver the Services; or
- c) any other circumstances that alter any of the information or assurances that the Tenderer has given in its tender, although the Department is not obliged to consider any additional information provided but may do so if the Department considers it is appropriate to do so in the circumstances.

Department's evaluation process

16. Initial Screening

- a) The Department will screen all tenders and will exclude a tender from consideration if:
 - (i) subject to clause d), the tender is lodged after the RFT Closing Time;
 - (ii) the Tenderer does not satisfy the Conditions for Participation; or
 - (iii) subject to clause c), the tender does not satisfy the Minimum Content and Format Requirements.
- b) Tenderers should be aware that the Department may at any time exclude a tender from consideration if:
 - (i) the tender is incomplete;
 - (ii) prices are not clearly and legibly stated;
 - (iii) it considers that the Tenderer is not fully capable of undertaking a contract in the form of the Draft Form of Contract;
 - (iv) in the view of the Department, the tender is clearly uncompetitive;
 - (v) the tender includes electronic files that cannot be read or decrypted;
 - (vi) the tender is lodged electronically and is found to contain a virus, worm, or other disabling feature; or

- (vii) the Department is of the view that the tender potentially contains any virus, malicious code, or anything else that might compromise the integrity or security of AusTender and/or the Department's computing environment.

17. Evaluating tenders

- a) Tenders that pass initial screening will be evaluated against the Evaluation Criteria with a view to determining the tender(s) that represent the best value for money.
- b) Value for money is a comprehensive assessment that takes into account the financial and non-financial costs and benefits of each tender, including but not limited to the:
 - (i) quality of the services;
 - (ii) fitness for purpose of the proposal;
 - (iii) relevant experience and performance history;
 - (iv) flexibility of the tender (including innovation and adaptability over the lifecycle of the procurement);
 - (v) environmental sustainability of the proposed goods and services; and
 - (vi) whole of life costs.
- c) In evaluating the Tenderers' proposed pricing, the Department may determine the total actual or estimated tender price over the Term on a whole-of-life basis and may undertake modelling or normalising of tendered prices to ensure that all tenders are assessed on as common a financial basis as possible.
- d) Tenderers should address each of the Evaluation Criteria specified in Table 2 in their tender, including by providing the information specified in the Attachments to this RFT. The Department may use information tendered in response to one Evaluation Criteria in the evaluation of other Evaluation Criteria and consider additional information not provided by a Tenderer in relation to any Evaluation Criteria.
- e) The Evaluation Criteria are set out below:

Table 2 – Evaluation Criteria

<p>Evaluation Criterion 1 – Capability</p> <p>The extent to which the Tenderer has the demonstrated capability to provide the Services, in accordance with the Statement of Work as set out in Schedule 1 to the RFT.</p> <ul style="list-style-type: none"> a. The extent to which the Tenderer can demonstrate relevant past performance – demonstrated capacity, skills and experience within the nominated personnel and proposed resourcing strategy. b. Previous experience in the delivery of services of similar scope, scale, and complexity
<p>Evaluation Criterion 2 – Capacity</p> <p>The extent to which the Tenderer has the demonstrated capacity to provide the Services in accordance with the Statement of Work including the Tenderer's staffing strategy for the Services, approach to recruiting and retaining staff and ability to provide the Services within the Department's required timeframe and location.</p>

Particular attention will be paid to how the Tenderer has articulated it will react to changes in personnel, and how the Tenderer will react to changes in scope that may require additional support to be sourced and provided.

Evaluation Criterion 3 - Personnel

For each of the identified resources in the Statement of Work, the Tenderer must provide a Curriculum Vitae (CV) that includes:

- i. Information on the person's role, relevant experience and past performance on projects of a similar nature and complexity.
- ii. Information on the person's relevant skills and qualifications to perform the Services specified in the Statement of Work, including confirmation that the person holds (or is willing to hold) all relevant security clearances, licenses, approvals, certifications or other qualifications required.
- (iii) Contact details for at least two referees for each nominated resource.

Note: CVs should be no longer than 3 pages each. The Tenderer's response to this Evaluation Criterion 1 should not be longer than 5 A4 pages, not including any CVs provided..

Evaluation Criterion 4 - Price

The Tenderer's proposed pricing (i.e. all costs, fees, allowances and charges associated with the implementation and completion of contract obligations), including pricing compliance, transparency and competitiveness, and any associated risk.

Evaluation Criterion 5 – Risk

Any risks inherent in the tender not taken into account in the assessment of the tender against the other Evaluation Criteria, including:

- (i) The extent to which the Tenderer complies with the RFT and the overall level of commercial risk represented by the Tenderer's response;
- (ii) Compliance with the Draft Form of Contract;
- (iii) Compliance with applicable Commonwealth policies;
- (iv) any actual or perceived conflict of interest; and
- (v) the adequacy of insurance proposed by the Tenderer.

Evaluation Criterion 6 – Social Impact and Benefit to the Australian Economy

Social responsibility initiatives the Tenderer supports directly and indirectly which are related to the Statement of Work including:

- (i) employment and engagement opportunities and strategies; and
- (ii) environmental and sustainability initiatives.
- (iii) The extent to which the tender provides benefits to the Australian economy; and

- | |
|---|
| (iv) The Tenderer's Indigenous Procurement Plan and its impact on Indigenous entrepreneurship and business development by providing Indigenous Australians with more opportunities to participate in the economy. |
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- f) The Evaluation Criteria are not weighted or specified in any order of importance.
- g) Tenders will be evaluated using the following approach:
 - i. assessment of the technical worth of tenders using Evaluation Criteria 1 (Capability) and 2 (Capacity), 3 (Personnel) and 5 (Risk).
 - ii. financial assessment of tendered prices;
 - iii. risk;
 - iv. social impact considerations and benefit to the Australian economy; and
 - v. assessment of best value for money, in accordance with clause 17b.
- h) The Department is not obliged to accept the lowest priced tender. Value for money involves assessing various factors over the entire procurement cycle.

18. Additional steps

18.1. Clarification, additional information and corrections

- a) After the RFT Closing Time, the Department may engage in any discussions with, or seek clarification on any matter from, any Tenderer.
- b) The Department may require a Tenderer to submit additional information (but not to materially improve its tender).
- c) If the Department considers that there is an unintentional error of form in a tender, the Department may give the Tenderer an opportunity to correct the error. If the Department gives a Tenderer an opportunity to correct the unintentional error of form, it will give the same opportunity to all Tenderers in the same position. The Department will not accept any information purporting to correct an unintentional error of form which makes a material change to the tender.

18.2. Independent inquiries

- a) The Department may make independent enquiries about any of the matters that may be relevant to the evaluation of any tender.
- b) The Department reserves the right to contact Tenderers' referees, or any other person, directly and without notifying Tenderers.

18.3. Short listing

The Department may short list tenders at any time.

18.4. Presentations, interviews, site visits and samples

- a) Some or all Tenderers may be required to give a presentation.
- b) Some or all Tenderers may be required to attend an interview.

18.5. Security, probity, and financial checks

- a) The Department may conduct such security, probity and financial (including credit) checks as it deems necessary on Tenderers, their partners, associates, or related entities (including consortium members) or their officers or employees, for the purpose of evaluating tenders or at any other stage of the RFT process. These checks may require individuals to sign forms verifying information relating to that individual and authorising the provision of confidential or personal information.
- b) Tenderers must provide, at their own cost, all reasonable assistance required by the Department in undertaking and conducting the security, probity, and financial checks.
- c) The Department reserves the right to request financial statements and other information relevant to determining the financial viability of Tenderers, their partners, associates, or related entities including consortium members.

18.6. Revised tenders

Without limiting clause a), the Department may, at any time, request Tenderers to submit revised tenders. Such requests for revised tenders may be made to one or more the Tenderers. Any such request will state the terms on which Tenderers are to submit their revised tenders.

18.7. Tender Prices

Tenders must clearly identify all costs, fees, allowances, and charges for the provision of the Services. Tendered prices will be deemed to include all costs of providing the Services and doing all other activities required for the proper performance of the Services, except where clearly specified in a tender.

18.8. Offers and acceptance of offer.

- a) Lodging a tender will constitute an offer by the Tenderer to provide the Services on the terms and conditions set out in the Draft Form of Contract, subject to its response to Attachment 8 of Schedule 2.
- b) A tender will not be taken to have been successful until a Contract, substantially in the form of Schedule 3, has been executed by the Tenderer(s) and the Department. Notice by the Department to any Tenderer that it is, or is not, a preferred or successful Tenderer(s) will not constitute an acceptance or rejection of any tender.

19. Negotiations with Tenderers

- a) After the RFT Closing Time, the Department may enter negotiations with and/or seek a 'best and final offer' from any one or more Tenderers.
- b) Without limiting clause a)), during the negotiations the Department may engage in detailed discussions with the goal of maximising the benefits to the Department, as measured using the Evaluation Criteria.
- c) Without limiting its other rights under this RFT, if in the Department's view during negotiations or requests for best and final offer a Tenderer retracts, or attempts to retract, representations made in its tender or agreements under which material business, financial, technical and legal issues were resolved during negotiations, the Department may reject the preferred Tenderer's tender, discontinue negotiations with that Tenderer, re-enter negotiations with other Tenderers (including or excluding any preferred Tenderer), and exercise any other right the Department has under this RFT, at law or otherwise.

- d) All communications between the Department and a Tenderer during the negotiations should be kept confidential by the Tenderer.

20. Execution of contract

- a) Nothing in this RFT, or the submission of any tender in response to it, or any conduct or statement whether before or after the issue of this RFT constitutes a contract, express or implied, with the Department. The Department intends that no contract will be formed with a Tenderer unless and until a contract is executed with that Tenderer. Any conduct or statement whether prior to or subsequent to the issue of this RFT is not, and must not be construed, interpreted, or relied upon, whether by expression or implication, as an offer capable of acceptance by any person, or as creating any form of contractual (including a process contract), quasi-contractual, restitutionary or promissory estoppel rights, or rights based upon similar legal or equitable grounds.
- b) The Department will require the execution of a formal contract and a preferred Tenderer must, within seven days after being required in writing by the Department to do so, execute such an instrument based on the Draft Form of Contract.
- c) If the circumstances of the RFT process give rise to a pre-award contract, contrary to clause 20a), the Department's liability for breaching the pre-award contract is limited to expenditure reasonably and directly incurred by the relevant Tenderer in tendering in response to this RFT, and does not include liability for any loss of profits or opportunity, or any other losses of the Tenderer.

21. Notification to unsuccessful Tenderers and opportunity for debriefing

After the end of the RFT process, the Department will notify each unsuccessful Tenderer that its tender has not been accepted. The Department will offer all Tenderers the opportunity for a debriefing (at the time and in the manner the Department reasonably determines). Tenderers will be debriefed against the Evaluation Criteria.

General conditions

22. Ownership of RFT documents

- a) All documents comprising this RFT remain the property of the Department. Each Tenderer is permitted to use them for the purpose only of preparing a tender and, where relevant, negotiating the terms of the Contract with the Department.
- b) All copyright and other intellectual property rights contained in this RFT are and remain vested in the Department and any third party who has given the Department permission to incorporate them in this RFT.
- c) All Tenders (including paper and electronic copies) become the property of the Department upon submission.
- d) Without prejudice to anything agreed in any Agreement, clause c) does not affect any intellectual property rights that may exist in the Tender, which will remain the property of the Tenderer.

23. Return or destruction of Department's information.

The Department may, at any stage, require all written or electronically stored information (whether confidential or otherwise and without regard to the type of media on which such

information was provided to any Tenderer) provided to Tenderers (and all copies of such information made by Tenderers) to be:

- a) returned to the Department – in which case the Tenderer must, at the Tenderer's cost, promptly return all such information to the address identified by the Department; or
- b) destroyed by the Tenderer – in which case the Tenderer must, at the Tenderer's cost, promptly destroy all such information and provide the Department with written certification that the information has been destroyed.

24. Important notices about this RFT

- a) Tenders are submitted to the Department on the basis that each Tenderer acknowledges that:
 - i. it has examined the RFT, any documents referred to in it, and any other information made available in writing by the Department to Tenderers for the purpose of participating in the RFT process;
 - ii. this RFT is designed to summarise information concerning the Department's requirement only and is not necessarily a comprehensive description of it;
 - iii. it has relied entirely on its own enquiries and has not relied on any statement or other conduct by or on behalf of the Department except as expressly provided in this RFT process or in an addendum issued by the Department;
 - iv. it has made its own independent assessments of actual workload requirements under any resultant Contract and all prices will be presumed by the Department to have been based upon the Tenderer's own independent assessments;
 - v. to the maximum extent permitted by law, neither the Department, nor its employees, advisers or agents will in any way be liable to any person or body for any cost, expense, loss, claim or damage of any nature arising in any way out of or in connection with the statements, opinions, projections, forecasts or other representations, actual or implied, contained in or omitted from this RFT or by reason of any reliance on them by any person or body;
 - vi. it has sought and examined all necessary information which is obtainable by making reasonable enquiries relevant to the Department's requirement including the risks and other circumstances which may affect a tender;
 - vii. in lodging its tender, it did not rely on any express or implied statement, warranty, or representation, whether oral, written, or otherwise made by or on behalf of the Department other than as expressly contained in this RFT or an addendum to this RFT issued by the Department;
 - viii. it did not use the improper assistance of Departmental employees;
 - ix. it has satisfied itself as to the correctness and sufficiency of its tender; and
 - x. it will comply with the terms and conditions set out in this RFT.
- b) The Department believes the contents of this RFT to be accurate at the date of publication of this RFT. The accuracy of any statements, opinions, projections, forecasts, representations, or other information (Statements) contained in this RFT may change. Where any Statement relates to future matters, no steps have been taken to verify that the Statement is based on reasonable grounds, and, to the maximum extent permitted by law, no representation or warranty, expressed or

implied, is made by the Department, or any of its officers, employees, advisers, or agents that the Statement is accurate.

25. Disclosure of tender information

25.1. Freedom of information

Tenderers should be aware that the Department is subject to the operation of the Freedom of Information Act 1982 (Cth), which allows public access to Commonwealth government documents. The Act provides avenues for submissions to be made that particular information about the business, commercial or financial affairs of an entity or undertaking should not be disclosed.

25.2. Disclosure of contracts

The Department is subject to a number of specific requirements, which support internal and external scrutiny of its tendering and contracting processes. These include:

- a) the requirement to publish details of its agreements, Commonwealth contracts and standing offers with an estimated liability of \$10,000 or more on AusTender;
- b) the requirement to report a list of contracts valued at \$100,000 or more and to identify confidentiality requirements in accordance with the Senate Order on Entity Contracts; and
- c) the requirement to publish information about certain procurements in annual reports.

25.3. Sub-contractors

- a) The Department is required under the Commonwealth Procurement Rules to disclose the details of any subcontractors engaged by a contractor in relation to the performance of a Commonwealth contract.
- b) In submitting a response to this RFT, each Tenderer confirms that it consents to the public disclosure of the name, ABN and address of, and work to be performed by, a subcontractor, and that all proposed subcontractors have consented to the disclosure of this information, if the Tenderer is selected to enter into a Contract with the Department for the provision of the Services described in this RFT.

25.4. Confidentiality

- a) Tenderers may specify information contained in their tender that they consider to be confidential information, and subject to this clause 25.4, the Department will treat such information as confidential.
- b) The Department may, without the need to notify any Tenderer, disclose or allow the disclosure of, at any time, any information provided by Tenderers, including their tenders:
 - i. to the Department's advisers or employees in order to evaluate or otherwise assess the tender or to otherwise perform activities in relation to this RFT process;
 - ii. to the Department's internal management personnel for purposes related to the RFT process;
 - iii. to the responsible Minister;

- iv. in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
 - v. within the Department, or with another department or entity, where this serves the Commonwealth's legitimate interests;
 - vi. where information is authorised or required by law to be disclosed; or
 - vii. where the information is in the public domain otherwise than by a Commonwealth disclosure.
- c) Following contract award, the Department will only keep the terms of the contract, including parts of the contract drawn from the tender, confidential in accordance with the terms of the Contract.
- d) Tenderers should indicate in their tender (see Attachment 9 of Schedule 2) what information they consider should be protected as confidential information following contract award, if selected as successful, and the reasons why they consider that information is confidential. Tenderers should understand that Commonwealth policy is that information should not be subject to an obligation of confidence unless there is a good reason to do so. In this regard, Tenderers should have regard to the Department of Finance's criteria set out in the 'Confidentiality Test' (available at <https://www.finance.gov.au/government/procurement/buying-australian-government/confidentiality-throughout-procurement-cycle>)
- e) Information that the Department agrees to keep confidential following contract award will be described in the Contract entered into with the successful Tenderer.

25.5. Australian National Audit Office

- a) The attention of Tenderers is drawn to the Auditor-General Act 1997 (Cth), which provides the Auditor-General or an authorised person with a right to have, at all reasonable times, access to information, documents, and records.
- b) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the Auditor-General Act 1997 (Cth) on their participation in the RFT process.

26. Department's rights

Without limiting its rights in this RFT, at law or otherwise, the Department may:

- a) amend this RFT;
- b) suspend or discontinue the RFT process (including during negotiations), if the Department considers that:
 - i. it is in the public interest to do so;
 - ii. no tender meets the Minimum Content and Format Requirements;
 - iii. no Tenderer meets the Conditions for Participation;
 - iv. no Tenderer is fully capable of undertaking a contract in the form of the Draft Form of Contract; or
 - v. no tender represents value for money.

- c) before selection of preferred Tenderer(s) (with or without short listing) enter into negotiations with one or more Tenderers (including parallel negotiations with more than one Tenderer or negotiations with all Tenderers);
- d) discontinue negotiations with any Tenderer at any time for any reason;
- e) require additional information or clarification from any Tenderer or anyone else and forward any clarification to other Tenderer's on a non-attributable basis and without disclosing any confidential information of a Tenderer;
- f) provide additional information or clarification;
- g) negotiate with any person who is not a Tenderer and enter into a deed with that person on such terms as the Department in its absolute discretion accepts, in circumstances where limited tendering is permitted by the Commonwealth Procurement Rules;
- h) add to, alter, delete or exclude the Department's requirements;
 - i) publish or disclose the names of Tenderers (whether successful or unsuccessful);
 - j) allow or not allow a related body corporate to take over a tender in substitution for the original Tenderer;
- k) change the structure and timing of the RFT process;
 - l) vary or extend any time or date in this RFT at any time and for such period as the Department in its absolute discretion considers appropriate. The Department will issue an addendum notifying any decision to extend;
- m) enter into any contractual arrangements or arrangements which will best meet the Department's needs;
- n) conduct a subsequent procurement process or processes and, subject to the Commonwealth's intellectual property and non-disclosure obligations, utilise information gained in this RFT process for that purpose;
- o) terminate, suspend, or defer any activity in this RFT process including clarification discussions, or negotiations being conducted at any time with any Tenderer for any reason;
- p) suspend or restart this RFT process (including as required under, or in accordance with, the GP(JR) Act;
- q) request, attend or observe any demonstration, trial or test;
- r) accept a tender on such terms as the Department at its discretion accepts, without prior notice to any other Tenderer; and
- s) require the Tenderer to substantiate any of the claims in relation to any of the Services by providing appropriate information and data.

27. Caretaker conventions

- a) Tenderers should note that, without limiting any other right in this RFT, the Department reserves the right, at its discretion, to suspend or terminate this RFT process at no penalty to the Department or Commonwealth, at any time including during the Australian Government caretaker period or as a result of a change in Australian Government policy following the next federal election.

- b) Once an election has been called and the caretaker period is in effect, the Government will assume a “caretaker role”. This practice recognises that, with the dissolution of the House of Representatives, the Executive cannot be held accountable for its decisions in the normal manner, and that every general election carries the possibility of a change of Government. The caretaker period continues until the election result is clear or, if there is a change of Government, until the new Government is appointed.
- c) If an election has been called and the caretaker period comes into effect, without limiting its other rights under this RFT, the Department may suspend, defer, or terminate the current RFT process if it is considered that conclusion of the process may involve:
 - i. making a major policy decision that is likely to commit an incoming Government;
 - ii. making a significant appointment; or
 - iii. entering a major contract or undertaking.
- d) Further Information on the caretaker conventions can be found at:
<https://www.pmc.gov.au/resource-centre/government/guidance-caretaker-conventions>.

28. Relevant laws

- a) The law applying in the Australian Capital Territory applies to this RFT and to the RFT process.
- b) Each Tenderer must comply with all relevant laws and Commonwealth policy in preparing and lodging its tender and taking part in the RFT process.

29. Workplace Gender Equality Act 2012 (Cth)

- a) Commonwealth policy prevents the Commonwealth from entering into contracts with suppliers who are non-compliant under the Workplace Gender Equality Act 2012 (Cth) (the WGE Act). The Draft Form of Contract requires that, a successful Tenderer must:
 - i. comply with its obligations, if any, under the WGE Act; and
 - ii. if the term of the Contract exceeds 18 months, the successful Tenderer must provide a current letter of compliance within 18 months from the Commencement Date of that Contract and following this, annually to the Department or as otherwise specified in the Contract.
- b) Successful Tenderers should note that if during the term of any Contract, the successful Tenderer becomes non-compliant with the WGE Act, the successful Tenderer must notify the Department or as otherwise specified in the Contract. For further information about coverage of the WGE Act, contact the Workplace Gender Equality Agency on (02) 9432 7000 or 1800 730 233.
- c) Tenderers must indicate as part of the Tenderer’s response at Attachment 3 of Schedule 2 – Tenderer’s Deed, whether or not the Tenderer’s organisation is a ‘relevant employer’ under the WGE Act and, if applicable, provide a current letter of compliance as part of the tender’s submission, or prior to entering into the Contract.

30. Conflict of interest

- a) A conflict of interest means any matter, circumstance, interest, or activity affecting the Tenderer (including the officers, employees, agents and subcontractors of the Tenderer) which may impair, or may appear to impair, the ability of the Tenderer to participate in the RFT process or perform the Contract diligently and independently.
- b) A conflict of interest may exist if:
 - i. Tenderers or any of their personnel have a relationship (whether professional, commercial or personal) with any of the Department's personnel involved in the preparation of this RFT or the evaluation of tenders; or
 - ii. Tenderers have a relationship with, and obligations to, an organisation which would affect the performance of the Contract or would bring disrepute to or embarrass the Department.
- c) If at any time prior to entering into any Contract, an actual potential or perceived conflict of interest concerning itself or a related entity arises, may arise, or is perceived to arise for any Tenderer, that Tenderer should immediately notify the Contact Officer.
- d) If a conflict of interest arises, the Department may:
 - i. exclude the tender from further consideration.
 - ii. enter into discussions to seek to resolve the conflict of interest; or
 - iii. take any other action, or request the Tenderer to take such other action, as the Department considers appropriate.
 - iv. Tenderers will be required to submit a Conflict of interest declaration form as part of their response to the tender.

31. Payment Times Procurement Connected Policy

- a) The Payment Times Procurement Connected Policy (PT PCP) applies to this procurement and requires large businesses (defined as Reporting Entities in the Payment Times Reporting Act 2020 (Cth)) that are awarded government contracts valued over \$4 million (GST inclusive) with non-corporate Commonwealth entities to:
 - i. pay subcontracts of up to \$1 million (GST inclusive) that contribute to those large Commonwealth contracts in 20 calendar days; and
 - ii. flow down these payment times requirements to subcontract(s) that contribute to the Commonwealth contract and which are:
 - o valued over \$4 million (GST inclusive); and
 - o awarded to a Reporting Entity; and
 - iii. require subcontractors that are Reporting Entities to also flow down the payment times requirement to any of their subcontractors who meet the above requirements.
- b) The policy is available to view in full from the Department of Finance's website at: <https://www.finance.gov.au/government/procurement/buying-australian-government/procurement-connected-policies#:~:text=The%20policy%20requires%2C%20from%201,million%20within%2020%20calendar%20days> .
- c) The Draft Form of Contract includes clauses to give effect to the Government's policy.

32. Application of law and Commonwealth Policy

- a) Tenderers should familiarise themselves with all relevant Commonwealth legislation and policies relating to the RFT process and the provision of the Services including:
 - i. Division 137.1 of the *Criminal Code Act 1995 (Cth)* which makes it an offence to knowingly provide false or misleading information to a Commonwealth entity;
 - ii. the *Ombudsman Act 1976 (Cth)* which authorises the Ombudsman to investigate the administrative actions of Australian Government departments and agencies and to investigate the actions of certain Australian Government contractors;
 - iii. the *Privacy Act 1988 (Cth)* which aims to ensure that contractors and their subcontractors do not engage in an act or practice that would breach an *Australian Privacy Principle under the Privacy Act 1988 (Cth)* if done by the Commonwealth. The *Privacy Act 1988 (Cth)* may also impose obligations directly on contractors and subcontractors;
 - iv. the *Work Health and Safety Act 2011 (Cth)* which requires a person conducting a business or undertaking to ensure the health and safety of all workers; and
 - v. the *Public Interest Disclosure Act 2013 (Cth)* which aims to promote the integrity and accountability of the Commonwealth public sector.
- b) More information on Commonwealth policies relevant to the Services is set out in the Draft Form of Contract as set out in Schedule 3.
- c) The Department will not enter into a Contract with Tenderers:
 - i. who are subject to a judicial decision against them relating to employee entitlements, not including decisions under appeal, and have not paid the claim; or
 - ii. who are listed as a designated entity by the Minister for Foreign Affairs by notice in the Gazette under s15 of the Charter of the *United Nations Act 1945 (Cth)* or who intend to engage subcontractors who are listed as a designated entity by the Minister for Foreign Affairs by notice in the Gazette under s15 of the Charter of the United Nations Act 1945 (Cth).
- d) The Tenderer should comply with, and ensure its officers, employees, agents and subcontractors comply with the Commonwealth Supplier Code of Conduct. More information about the Supplier Code of Conduct can be found at <https://www.finance.gov.au/government/procurement/commonwealth-supplier-code-conduct/commonwealth-supplier-code-conduct>

33. Fraud Control

The Tenderer's attention is drawn to the Australian Government's position on fraud control, set out in the Commonwealth Fraud and Corruption Control Framework 2024 <https://www.counterfraud.gov.au/library/framework-2024>).

34. Australian Industry Participation (AIP) plan

Potential Tenderers should note that subject to advice from the Department, the Australian Industry Participation National Framework principles, including an AIP plan requirement, may apply to the Contract resulting from this RFT process or to any contracts issued under that Contract. More information on AIP plan requirements can be found at <https://www.industry.gov.au/regulations-and-standards/australian-industry-participation>

35. Code of Conduct

- a) Tenderers must ensure that its Personnel engaged in delivering the Tender comply with the APS Values and Code of Conduct while at the Commonwealth's premises and while liaising with the Commonwealth's Personnel or members of the public in connection with the Tender.
- b) Tenderers must provide all reasonable assistance to the Commonwealth with any investigation of a report of a breach of the APS Code of Conduct by the Tenderer's Personnel.
- c) In this clause 3535, 'APS Values' and 'Code of Conduct' have the same meaning as they have in the *Public Service Act 1999 (Cth)*.

36. Fraud and corruption

36.1. Compliance with the Commonwealth Fraud Control Framework

- a) Tenderers must comply with the Commonwealth Fraud and Corruption Control Framework 2024, as amended from time to time at <https://www.ag.gov.au/integrity/counter-fraud> ;
- b) Tenderers must:
 - i. take reasonable steps to prevent, detect and respond to any actual or perceived fraud or corruption that has occurred or is likely to occur in relation to this Contract (including by the Tenderer or its Personnel); and
 - ii. notify the Commonwealth if the Tenderer knows or has reason to suspect that any fraud has occurred, is occurring, or is likely to occur in relation to this Contract (including by its Personnel and subcontractors).

36.2. National Anti-Corruption Commission Act

- a) National Anti-Corruption Commission Act 2022 (Cth) Requirements
 - i. Tenderer acknowledges that in providing the Tender to the Commonwealth under the Contract, it is a contracted service provider for the purposes of the National Anti-Corruption Commission Act 2022 (Cth) (NACC Act).
 - ii. Tenderer must comply with any reasonable request, policy or direction issued by the Commonwealth and otherwise cooperate with the Commonwealth in relation to any action taken by the Commonwealth required or authorised by the NACC Act.

37. Sanctions and Terror Organisations

37.1. Tenderer Warranty

- a) In this clause 37.1, 'Inappropriate Person' means any person or organisation that is listed on one or more of the following lists:
 - i. 'Regulation 8 Consolidated List' maintained by the Australian Government Department of Foreign Affairs and Trade (<https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx#list>); and
 - ii. 'List of Terrorist Organisations' maintained by the Australian government <https://www.nationalsecurity.gov.au/what-australia-is-doing/terrorist-organisations/listed-terrorist-organisations>

- b) Tenderer represents and warrants, on the Commencement Date and on each Contract Start Date, that it is not and none of its Personnel or subcontractors are listed as an Inappropriate Person, or a member of an entity that is an Inappropriate Person.

38. Illegal Workers

38.1. Engaging Illegal Workers

- a) It is Commonwealth policy not to contract with providers engaging Illegal Workers
- b) The Tenderer's Declaration in Attachment 2 contains a statement from the Tenderer confirming that it meets this obligation, and that it will comply with this policy, if it is successful.

39. Indigenous Procurement Policy

- a) The Indigenous Procurement Policy applies to this procurement. The Tenderer must:
 - i. include a signed Tenderer declaration substantially in the form of the document contained at Attachment 2; and
 - ii. include an Indigenous Participation Plan in its Tender response as per Attachment 5 of Schedule 2.
- b) The indigenous procurement plan will be assessed as part of criteria 6 – social impact and benefit to the Australian economy.
- c) For further information please consult with the National Indigenous Australians Agency via email at IndigenousProcurement@niaa.gov.au or go to <https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>

40. Shadow Economy Procurement Connected Policy

- a) From 1 July 2019 (as revised from 1 October 2024), the Shadow Economy Procurement Connected Policy requires businesses seeking to tender for Australian Government procurement contracts over \$4 million (including GST) to provide all relevant Statements of Tax Record (STR) for its entity type from the Australian Taxation Office showing they have a satisfactory tax record.
- b) The satisfactory STR(s) needs to be valid at Closing Time.

41. Modern Slavery

41.1. Compliance with the *Modern Slavery Act 2018* (Cth)

- a) Tenderers should note that the Contract will require the successful Tenderer to comply with obligations, and to provide all assistance reasonably requested by the Department to comply with its obligations, under the *Modern Slavery Act 2018* (Cth).
- b) Under the Modern Slavery Act 2018 (Cth), the Australian Government is required to report annually on modern slavery risks across whole-of-government procurement and investments. The Australian Government is committed to ensuring that its supply chains are not linked to modern slavery and to addressing and mitigating risks that are identified. More information on the Australian Government's response to modern slavery risks is available at

<https://modernslaveryregister.gov.au/statements/file/dba35028-74c5-4324-8b41-4cd553a66f2e/>

- c) Tenderers should provide details of how they will identify, assess and address risks of Modern Slavery practices in the operations and supply chains that will be used in the provision of the Services when completing Schedule 2 Tender Deliverables.

42. Child Safety

- a) If any part of the Services involves the Contractor employing or engaging a person (whether as an officer, employee, contractor, or volunteer) that is required by State or Territory law to have a working with children check to undertake the Services or any part of the Services, the Contractor agrees:
- i. to comply with all State, Territory or Commonwealth laws relating to the employment or engagement of people who work or volunteer with children in relation to the Services, including mandatory reporting and working with children checks however described; and
 - ii. if requested, provide the Commonwealth at the Contractor's cost, an annual statement of compliance with this clause 42, in such form as may be specified by the Commonwealth.
- b) When Child Safety obligations may be relevant to a Subcontract, the Contractor must ensure that any subcontract entered into by the Contractor for the purposes of fulfilling the Contractor's obligations under the contract imposes on the Subcontractor the same obligations regarding Child Safety that the Contractor has under the Contract. Each subcontract must also require the same obligations (where relevant) to be included by the Subcontractor in any secondary subcontracts.

43. Glossary

In this RFT, unless the contrary intention appears:

Shadow Economy Procurement Connected Policy	means the Shadow economy – increasing the integrity of government procurement: Procurement connected policy guidelines October 2024 available at https://treasury.gov.au/publication/p2019-t369466 .
Business Day	a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory.
RFT Closing Time	means the RFT Closing Time specified in clause 1.1(a) of this RFT, as amended by any addendum in accordance with clause 5.
Condition for Participation	means a Condition for Participation set out in clause b).
Contact Officer	means the single point of contact for all enquiries or requests regarding this information as specified in clause a).
Department	means the Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources.
Draft Form of Contract	means the draft contract provided at Schedule 3 of this RFT.
Evaluation Criteria	means the Evaluation Criteria set out in clause e).

Minimum Content and Format Requirement	means a minimum content and format requirement set out in clause a)a.b).
Pricing Response Template	means Annex A to Attachment 6 of Schedule 2, Tenderer Deliverables.
Request for Tender or RFT	means this request for tender, including all Attachments, Schedules, Annexes and Appendices.
Satisfactory	means meets the conditions set out in Part 6.b of the Shadow Economy Procurement Connected Policy or, if the circumstances in Part 6.c of the Shadow Economy Procurement Connected Policy apply, the conditions set out in Part 8.b of the Shadow Economy Procurement Connected Policy
Services	means the services as described in the Statement of Work (Schedule 1).
Statement of Work	means Schedule 1 to this RFT.
Statement of Tax Record	means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR .
Tenderer	means any entity which submits a tender in response to this RFT, or if the context requires, may submit a tender.
Tender Validity Period	means the period set out in clause 15.2a) or otherwise determined in accordance with this RFT.
Valid	means valid in accordance with Part 7.e of the Shadow Economy Procurement Connected Policy.

Any other capitalised terms have the same meaning as set out in the Draft Form of Contract unless otherwise specified.

Department of Industry, Science and Resources

Contract for the Provision of a Project Execution Advisory Team

NEB_ATM_2024_0975

Commonwealth of Australia (**Commonwealth**)

[Insert name of Contractor] (**Contractor**)

Note to the Contractor:

This Contract outlines the rights and obligations of you and the Commonwealth (represented by the Department of Industry, Science and Resources) (**the Department**) in relation to the performance of the Services.

If this Contract has been issued following a tender process, the terms and conditions contained in clauses 1 to 47 should be the same as those in the draft contract provided as an attachment to the Request for Tender document, other than any amendments agreed between you and the Commonwealth during contract negotiations. Please read any amended provisions (such as the descriptions of the Services and the Milestone Dates and Performance Criteria (if any)) carefully to ensure that they are correct.

The Government's Supplier Pay On-Time or Pay Interest Policy may apply to this Contract. Full details of the policy can be found in Resource Management Guide No. 417 at <http://www.finance.gov.au/publications/rmgs/pay-on-time-policy.html>.

The effect and purpose of the clauses in this Contract are explained in the User Notes available on the Department's website at <https://www.industry.gov.au/data-and-publications/contract-for-the-provision-of-services-user-notes>. Where relevant, the User Notes contain a description of the purpose and operation of specific clauses.

The Commonwealth Representative specified in this Contract is prepared to discuss any aspect of this Contract with you, but cannot provide you with legal advice. If you are unsure about any aspect of this Contract you should seek independent legal advice before signing.

Note also as per clause 47.9, this Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

This Contract has been sent to you in duplicate. If the Contract is acceptable, please complete the signing page at the end of the Contract and return both signed copies to the Department. The Commonwealth will then sign and date the copies and return one original copy to you. This process must be completed before work may commence.

Contract Information

Date

_____/_____/_____
day month year

Parties

Name The Commonwealth of Australia as represented by
the Department of Industry, Science and Resources

Short form name **Commonwealth**
ABN 75 599 608 295

Name Department of Industry, Science and Resources

Short form name **Contractor**
ABN [insert Contractor's ABN]

Overview

- A The Commonwealth requires the provision of the Services specified in Schedule 2 and the Contractor is required to meet the Milestone Dates and provide the Deliverables specified.
- B The Contractor has agreed to provide the Services on the terms and conditions contained in this Contract.
- C The Commonwealth has agreed to pay the Contractor the Service Charges in accordance with Schedule 3.
- D The Commonwealth has agreed to engage the Contractor to provide the Services on the terms and conditions contained in this Contract.

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Agreed Terms

Part 1 – Services

1. Definitions and interpretation

1.1 Definitions

In this Contract, except where the contrary intention is expressed, the following definitions are used:

Accounting Standards	means the standards of that name maintained by the Australian Accounting Standards Board (created by section 226 of the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)) or other accounting standards which are generally accepted and consistently applied in Australia.
Advisers	(a) the financial or legal advisers of a party; and (b) the respective officers and employees of those financial or legal advisers.
Agreed Terms	clauses 1 to 47 of this Contract, which set out terms and conditions agreed by the parties.
Australian Government Protective Security Policy Framework	the <i>Australian Government Protective Security Policy Framework</i> , as amended or replaced from time to time.
Authorised Investigator	has the meaning given under clause 39.5 of this Contract.
Business Day	a day that is not a Saturday, Sunday, public holiday or bank holiday in the Australian Capital Territory.
Business Hours	from 8.30am to 5.00pm on a Business Day, unless specified otherwise in item 5 of the Contract Details.
Child Safety	Child safety encompasses matters related to protecting all children from child abuse, managing the risk of child abuse, providing support to a child at risk of child abuse, and responding to incidents or allegations of child abuse.
Commencement Date	the date on which this Contract commences, as specified in item 6 of the Contract Details.
Commonwealth	the Commonwealth as specified in item 1 of the Contract Details.
Commonwealth Material	any Material provided or made available to the Contractor by the Commonwealth, including: (a) the Material (if any) specified in item 15 of the Contract Details; and

	(b) any Material that the Contractor or its Personnel have access to through, or by using, the Department's information and communications systems.
Commonwealth Representative	the person identified in item 3 of the Contract Details.
Confidential Contract Provisions	the provisions identified in Schedule 5.
Confidential Information	<p>information that is by its nature confidential and:</p> <p>(a) is designated by a party as confidential and is described in Schedule 5 of this Contract; or</p> <p>(b) a party knows or ought to know is confidential, but does not include:</p> <p>(c) information that is or becomes public knowledge otherwise than by breach of this Contract or any other confidentiality obligation; and/or</p> <p>(d) has been independently developed or acquired as established by written evidence.</p>
Contract	this agreement between the Commonwealth and the Contractor, as amended from time to time in accordance with clause 47.2 and/or reduced in scope from time to time in accordance with clause 44.1(a), and includes its schedules and any attachments.
Contract Details	the details set out in Schedule 1.
Contract Material	any Material created by the Contractor on or following the Commencement Date, for the purpose of or as a result of performing its obligations under this Contract and includes any modifications that may be required under clause 12.7(b).
Contractor	the party specified in item 2 of the Contract Details and includes its subcontractors and Personnel.
Contractor Representative	the person identified in item 4 of the Contract Details.
Contract Period	the Initial Contract Period plus any extension in accordance with clause 3.2.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Cyber Incident	<p>any of the following suspected or threatened actions taken through the use of computer networks or any unauthorised access or use that may result in an actual or potentially adverse effect on any or all of the following:</p> <p>(a) the Contractor's or its subcontractor's information and communication systems or the ability to use the</p>

	<p>Contractor's or its subcontractor's information and communication systems as intended;</p> <p>(b) the Commonwealth's information and communications systems or the ability to use the Commonwealth's information and communication systems as intended; and</p> <p>(c) Commonwealth Material residing on the Contractor's or its Personnel's information and communication systems or residing on the Commonwealth's information and communication systems and accessible by the Contractor's or its subcontractor's systems or equipment.</p>
Deliverable	any Contract Material or other item or element of a Service to be provided by the Contractor under this Contract.
Department	the Department of Industry, Science and Resources.
Entity	<p>(a) a body corporate or an unincorporated body established or constituted for a public purpose by Commonwealth legislation, or an instrument made under that legislation (including a local authority);</p> <p>(b) a body established by the Governor-General or by a Minister of the Commonwealth including departments; or</p> <p>(c) an incorporated company over which the Commonwealth exercises control.</p>
Harmful Code	any virus, disabling or malicious device or code, worm, Trojan, time bomb or other harmful or destructive code.
Illegal Worker	<p>A person who:</p> <p>(a) has unlawfully entered and remains in Australia;</p> <p>(b) has lawfully entered Australia, but remains in Australia after his/her visa has expired; or</p> <p>(c) is working in breach of their visa conditions.</p>
Initial Contract Period	the period of time for which this Contract is intended to continue, as specified in item 7 of the Contract Details.

Intellectual Property Rights	<p>all intellectual property rights, including:</p> <ul style="list-style-type: none"> (a) copyright, patents, trademarks, designs, trade secrets, know how, and any right to have confidential information kept confidential; (d) any application or right to apply for registration of any of the rights referred to in paragraph (a); and (e) all rights of a similar nature to any of the rights in paragraphs (a) and (b) which may subsist in Australia or elsewhere, <p>whether or not such rights are registered or capable of being registered.</p>
Law	any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes the common law and rules of equity as applicable from time to time.
Letter of Compliance	issued by the WGEA, this letter demonstrates that a potential supplier has complied with their obligations under the WGE Act. This letter is supplied at the time of registering with the WGEA, and then annually each time the relevant employer submits a compliant report to the WGEA.
Material	includes property, information, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property Rights.
Milestone Date	any fixed date to be met by the Contractor in performing any of its obligations under this Contract, as specified in Schedule 2.
Modern Slavery	has the same meaning as it has in the <i>Modern Slavery Act 2018</i> (Cth).
Moral Rights	the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the <i>Copyright Act 1968</i> (Cth).
New Agency	has the meaning given by clause 47.16 of this Contract.
Nominated Entity	an entity, listed in item 10 of the Contract Details, which may require the provision of Services under this Contract.
Notice	a notice, demand, consent, approval or communication issued under this Contract.
Notifiable Incident	has the meaning in the WHS Act or corresponding State or Territory legislation.

Order Form	the form specified by the Commonwealth.
Performance Criteria	the requirements set out in item 4 of Schedule 2 for each Service and Deliverable (if any) or, if none are set out, the requirements in clauses 6.1(b), 6.1(c) and 6.1(e).
Personal Information	has the meaning given to that term in section 6 of the <i>Privacy Act 1988</i> (Cth)
Personnel	in relation to a party, any natural person who is an employee, officer, agent, or professional advisor of that party, and in the case of the Contractor, of any subcontractor.
Pre-existing Material	Material owned by a party before execution of this Contract, including the Material specified in Schedule 6.
Privacy Act	the <i>Privacy Act 1988</i> (Cth).
Relevant employers	employers to whom Part VI of the WGE Act applies for reporting purposes, being a non-public sector employer that: <ul style="list-style-type: none"> - is a higher education institution; or - a natural person; or - a body or association (whether incorporated or not); that employs a total of 100 or more employees in Australia, across all subsidiaries within an organisation structure.
Resolution Institute	the dispute resolution association with that name and the Australian Business Number 69 008 651 232.
Schedules	the schedules to this Contract.
Service Charges	the charges payable to the Contractor in accordance with Schedule 3.
Services	the services to be provided by the Contractor, as specified in Schedule 2 and includes the provision of the Deliverables.
Specified Personnel	the Contractor's subcontractors, Personnel and other representatives and agents specified in item 14 of the Contract Details.
Third Party Material	Material owned by a third party that is: <ul style="list-style-type: none"> (a) included, embodied in or attached to the Contract Material; or (b) used as part of the performance of the Services.
WGEA	the Workplace Gender Equality Agency
WGE Act	the <i>Workplace Gender Equality Act 2012</i> (Cth)
WHS Act	the <i>Work Health and Safety Act 2011</i> (Cth) and any corresponding WHS law as defined in that Act.

WHS Laws	the WHS Act, regulations made under the WHS Act and any Code of Practice approved for the purpose of the WHS Act.
WHS Worker	<p>Personnel of the Contractor who are <i>workers</i> (as defined in the WHS Act):</p> <ul style="list-style-type: none"> (a) engaged, or caused to be engaged by the Commonwealth; or (b) whose activities in carrying out work are influenced or directed by the Commonwealth <p>while at work (wherever occurring) in the Commonwealth's business or undertaking.</p>

In this Contract, except where the contrary intention is expressed:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph or schedule is to a clause or paragraph of, or schedule to, this Contract, and a reference to this Contract includes any schedule;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Canberra, Australia time;
- (g) a reference to a party is to a party to this Contract, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Contract or any part of it;

- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (p) headings are for ease of reference only and do not affect interpretation.

1.2 Completion of Schedules

To the extent that the parties have not completed items in a Schedule, unless otherwise stated in the Schedule, those items will be taken to be 'not applicable' for the purpose of this Contract.

2. Priority of Contract documents

If there is inconsistency between any of the documents forming part of this Contract, those documents will be interpreted in the following order of priority to the extent of any inconsistency:

- (a) Agreed Terms;
- (b) Schedules;
- (c) any attachments to the Schedules; and
- (d) any documents incorporated by reference in this Contract.

3. Duration of Contract

3.1 Initial Contract Period

This Contract begins on the Commencement Date and continues for the duration of the Contract Period unless terminated in accordance with clause 41.3 or clause 44.

3.2 Option to extend Contract Period

- (a) The Contract Period may be extended by the Commonwealth for further period(s), specified in item 8 of the Contract Details (each an **Option Period**), on the terms and conditions then in effect, by giving written notice to the Contractor. Such notice must be given at least:
 - (i) 30 days; or
 - (ii) such other period specified in item 9 of the Contract Details (**Option Notice Period**),
before the end of the current Contract Period.
- (b) Any extension in accordance with this clause 3.2 takes effect from the end of the then current Contract Period.

4. Services to other Agencies

4.1 Obligation to provide Services

The Contractor offers to provide the Services to any Nominated Entity in accordance with the requirements set out in this clause 4.

4.2 Request

A Nominated Entity may request the supply of Services in accordance with clause 4.1, by giving the Contractor a completed Order Form.

4.3 Separate contracts

Each Order Form agreed with the Contractor in accordance with this Contract will create a separate contract between the Contractor and:

- (a) the Commonwealth represented by the Nominated Entity (where that entity is subject to the *Public Governance, Performance and Accountability Act 2013* (Cth)); or
- (b) the Nominated Entity,

as the case requires, for the supply by the Contractor of the requested Services to the Nominated Entity. For the sake of clarity, the terms and conditions governing each such separate contract will be the same as the provisions of this Contract.

5. General obligations of the Contractor

The Contractor must, at all times:

- (a) act reasonably in performing its obligations and exercising its rights under this Contract; and
- (b) diligently perform its obligations under this Contract.

6. Provision of Services

6.1 Service obligations

The Contractor must perform the Services:

- (a) to the reasonable satisfaction of the Commonwealth Representative;
- (b) efficiently and with due skill and care and to the best of the Contractor's knowledge and expertise, provided that the standard must not be lower than the standard that would be expected of an experienced and professional provider of similar services;
- (c) to a high standard and in accordance with the professional standards of conduct applying to the relevant industry;
- (d) in accordance with the Performance Criteria;
- (e) in accordance with relevant Australian industry standards, best practice and guidelines or where none apply, relevant international industry standards, best practice and guidelines, including any specified in item 11 of the Contract Details;
- (f) using the Specified Personnel (if any);
- (g) in accordance with all applicable Laws;
- (h) in accordance with any directions in relation to the Services given by the Commonwealth from time to time;
- (i) so as to meet the Milestone Dates and other project plan requirements, and where no Milestone Dates or project plan requirements are specified, promptly and without delay;
- (j) in accordance with the same standards and obligations that are imposed on Commonwealth Personnel under the WHS Act and any specific legislative requirements set out at item 11 of Schedule 1;
- (k) so as to keep accurate and auditable records relating to the performance of the Services; and

- (l) otherwise in accordance with the provisions of this Contract.

6.2 Contractor warranties

The Contractor represents and warrants that:

- (a) it has the right to enter into this Contract;
- (b) it has all rights, title, licences, interests and property necessary to lawfully perform the Services;
- (c) it and its subcontractors and Personnel, including its Specified Personnel, have the necessary experience, skill, knowledge, expertise and competence to perform the Services and (where appropriate) will hold such licences, permits or registrations as are required under any State, Territory or Commonwealth legislation to perform the Services, and are fit and proper people;
- (d) the Services will be fit for the purpose as set out in Schedule 2;
- (e) the Services will be complete and accurate;
- (f) any materials that the Contractor incorporated in the Services are free from defects in design, performance and workmanship;
- (g) all work performed under this Contract will be carried out and completed in a proper and workmanlike manner and in the most cost-effective manner and using materials suitable for the purpose;
- (h) all insurance policies required to be held by the Contractor under this Contract:
 - (i) will remain in effect as provided for in this Contract; and
 - (ii) will not be varied by the Contractor without the Commonwealth's written consent;
- (i) if the Contractor is a trustee, it enters this Contract personally and in its capacity as trustee and has the power to perform its obligations under this Contract; and
- (j) it will comply with the *Workplace Gender Equality Act 2012 (Cth)* (**WGE Act**) and:
 - (i) if it becomes non-compliant with the WGE Act during the Term of the Contract, the Contractor will notify the Commonwealth as soon as practicable.
 - (ii) if the term of this Contract exceeds 18 months, the Contractor must provide a current letter of compliance under the WGE Act within 18 months from the Contract Commencement Date and, following this, annually to the Commonwealth; and
 - (iii) compliance with the WGE Act does not relieve the Contractor from its responsibility to comply with its other obligations under this Contract.

6.3 Access to Commonwealth's premises

The Commonwealth must cooperate with the Contractor by providing access to its premises and facilities as reasonably necessary to enable the Contractor to provide the Services.

6.4 Conduct at Commonwealth's premises

Without limiting clauses 35 and 37, the Contractor must, if using or accessing the Commonwealth's premises or facilities, comply with all reasonable directions and procedures relating to work health and safety and security in operation at those premises

or facilities whether specifically drawn to the attention of the Contractor or as might reasonably be inferred from the circumstances.

6.5 Cultural Diversity

The Contractor should be aware of the Charter of Public Service in a Culturally Diverse Society. The Contractor must be sensitive to cultural diversity and, where the Services involve the provision of services to the public, must have regard to the principles set out in that charter.

6.6 Subcontracting

(a) The Contractor must:

- (i) not subcontract any aspect of the provision of the Services other than to those entities set out in item 13 of the Contract Details without the prior written approval of the Commonwealth, which will not be unreasonably withheld;
- (ii) not, in any event, enter into a subcontract under this Contract with a subcontractor named by the Director of Workplace Gender Equality in a report to the responsible Minister as an employer currently not complying with the reporting requirements of the WGE Act;
- (iii) ensure that any subcontractor approved under this Contract complies with:
 - (A) clause 17 (Laws and policies);
 - (B) clause 18 (Code of Conduct);
 - (C) clause 19 (Fraud and Corruption);
 - (D) clause 20 (Sanctions and Terror Organisations);
 - (E) clause 21 (Illegal Workers);
 - (F) clause 22 (Modern Slavery);
 - (G) clause 23 (Child Safety);
 - (H) clause 24 (Workplace Gender Equality);
 - (I) clause 25 (Shadow Economy Procurement Connected Policy);
 - (J) clause 29 (Insurance);
 - (K) clause 30 (Confidentiality);
 - (L) clause 31 (Protection of personal information);
 - (M) clause 35 (Work health and safety);
 - (N) clause 36 (Conflict of interest);
 - (O) clause 37 (Security);
 - (P) clause 39 (Audit and access);
 - (Q) clause 40 (Access to documents);
- (iv) ensure that any subcontract entered into for the purpose of this Contract contains a provision requiring the subcontractor to comply with all applicable Laws in the performance of the subcontract.

- (b) The Contractor is fully responsible for the performance of the Services even if the Contractor subcontracts any aspect of the provision of the Services.
- (c) The Contractor agrees that the Commonwealth may publicly disclose the names, Australian Business Numbers and addresses of the subcontractors approved under this Contract and their role in fulfilling this Contract.

The Contractor must ensure that any subcontract entered into for the purpose of this Contract contains an equivalent provision to clause 6.6(c) permitting the Commonwealth to disclose the information specified in that clause.

7. Co-operation with Personnel and contractors

The Contractor must in the performance of the Services under this Contract:

- (a) fully co-operate with the Commonwealth's Personnel and other contractors;
- (b) use its best efforts to coordinate its activities so as to support and facilitate, in the Commonwealth's best interests, the timely and efficient completion of all work and other activities to be performed for the Commonwealth by any person; and
- (c) consult, co-operate and co-ordinate activities with Commonwealth Personnel and other contractors to address overlapping work health and safety duties and ensure, so far as is reasonably practicable, the health and safety of workers and workplaces.

8. Monitoring progress

8.1 Progress meetings

The parties will meet at the times and manner set out in Schedule 2 (or otherwise as agreed in writing between the parties) to discuss any issues in relation to the provision of the Services. The Contractor must ensure that the Contractor Representative, and the Commonwealth must ensure the Commonwealth Representative, is reasonably available to attend such meetings and answer any queries relating to the provision of the Services raised by either party.

8.2 Reporting

The Contractor must provide the Commonwealth with reports in accordance with Schedule 2.

9. Performance assessment

9.1 Assessment of Services

- (a) Without limiting any other obligation of the Contractor, each element of the Services is subject to assessment by the Commonwealth against, and the Contractor must meet or exceed, the relevant Performance Criteria.
- (b) The Contractor acknowledges and agrees nothing in this clause limits the Commonwealth's rights or remedies arising from any defective performance under this Contract.

9.2 Notice of non-compliant Services

If the Commonwealth considers that all or part of the Services do not meet the Performance Criteria, the Commonwealth must provide the Contractor with notice of that fact and include reasons for the Services not meeting the Performance Criteria.

9.3 Rectification of non-compliant Services

If the Commonwealth notifies the Contractor that:

- (a) all or part of the Services do not meet the Performance Criteria; or
 - (b) the Contractor has not performed the Services in accordance with this Contract,
- the Contractor must:
- (c) investigate and determine the underlying causes of the failure to meet the Performance Criteria or requirements of this Contract;
 - (d) take all necessary steps to ensure that the Services are promptly corrected, to prevent any failure to meet the Performance Criteria from re-occurring, and to ensure that the Contractor meets the requirements of this Contract;
 - (e) give notice to the Commonwealth when the Services have been corrected or notify the Commonwealth of the steps that the Contractor will take to prevent the failure to meet the Performance Criteria from re-occurring, and to ensure that the Contractor meets the requirements of this Contract;
 - (f) provide the Commonwealth with a sufficiently detailed remediation plan on how the Contractor will remedy the non-compliant services, if required by the Commonwealth; and
 - (g) allow the Commonwealth to repeat the assessment of all or part of the Services against the Performance Criteria, if required by the Commonwealth,

within five Business Days after the date of the notice or such other time as agreed between the parties in writing.

9.4 Right to terminate

If any part of the Services does not meet the Performance Criteria on two or more occasions, the Commonwealth may terminate this Contract immediately under clause 44.2 by giving the Contractor written notice.

9.5 Other Rights

Clauses 9.2, 9.3 and 9.4 do not limit in any way any other right, remedy or recourse of the Commonwealth.

10. Personnel

10.1 Use of Specified Personnel

The Contractor must:

- (a) provide the Services or any part of the Services to which their particular expertise relates, with the active involvement of, and using the expertise of, the Specified Personnel;
- (b) ensure Specified Personnel provide the Services specified for that Specified Personnel on a full time basis or on such other period specified in Item 14 of Schedule 1;
- (c) not replace any Specified Personnel without the prior consent of the Commonwealth;
- (d) ensure that each of the Specified Personnel is aware of and complies with the Contractor's obligations in providing the Services;

- (e) if requested by the Commonwealth, provide evidence (including the provision of CV's) at any time during the delivery of Services under a Contract that the Specified Personnel (and any other Personnel) the Contractor is proposing to use, or is using, to deliver the Services have the appropriate skills and experience and hold the appropriate qualifications; and
- (f) only use the Specified Personnel approved by the Commonwealth to deliver the Services and not replace, reduce or supplement them without the Commonwealth's prior written approval.

10.2 If the Specified Personnel are not available

Where one or more of the Specified Personnel is or will become unable or unwilling to be involved in providing the Services, the Contractor must notify the Commonwealth immediately. The Contractor must:

- (a) if requested by the Commonwealth, provide a replacement person of suitable ability and qualifications at no additional charge and at the earliest opportunity; and
- (b) obtain the Commonwealth's written consent prior to appointing any such replacement person. The Commonwealth's consent will not be unreasonably withheld.

10.3 Commonwealth may request replacement of Personnel

The Commonwealth may at any time request the Contractor to remove from work in respect of this Contract any of the Specified Personnel or any of the Contractor's subcontractors or Personnel. The Contractor must promptly arrange for the removal of such subcontractors or Personnel and their replacement in accordance with the process outlined in clause 10.2.

10.4 Employer Obligations

- (a) The Contractor is responsible for compliance with, and must ensure that it complies with:
 - (i) all Laws and obligations relating to payments of employment related taxes or levies imposed upon an employer which arise in respect of any amounts paid to the Contractor under this Contract; and
 - (ii) all other requirements imposed on an employer under relevant Laws,
 - (iii) and upon request, the Contractor must demonstrate to the Commonwealth that it has complied with those obligations.
- (b) Without limiting clause 10.4(a), the Contractor must:
 - (i) comply with all applicable Laws and other requirements relating to the security of payments that are due to persons;
 - (ii) ensure that payments made by the Contractor, including to subcontractors, are made when due; and
 - (iii) as far as practicable, ensure that disputes about any payments, whether to subcontractors or Contractor Personnel, are resolved in a reasonable, timely, and cooperative way.
- (c) If, despite clause 10.4(a), the Commonwealth is held to be liable for any amounts referred to in clause 10.4(a) or any superannuation payments, payroll tax, other taxes, other statutory charges and any penalties or legal costs in relation to the

Contractor's Personnel, the Contractor indemnifies the Commonwealth for any such amounts required to be paid by the Commonwealth.

- (d) For the avoidance of doubt, the Contractor may not recover the cost of any employee entitlements from the Commonwealth.

11. Commonwealth Material

- (a) The Commonwealth will provide to the Contractor the Commonwealth Material and the Contractor must ensure that the Commonwealth Material is used strictly for the purposes of providing the Services, in accordance with any terms and conditions or restrictions specified in item 15 of the Contract Details and any direction given by the Commonwealth from time to time.
- (b) The Contractor must immediately notify the Commonwealth of any loss or unauthorised use, modification or disclosure of Commonwealth Material, or if the Contractor becomes aware of a breach of any obligation concerning Commonwealth Material.

12. Intellectual Property Rights

12.1 Pre-existing Material and Third Party Material

This clause 12 does not affect the ownership of the Intellectual Property Rights in any Pre-existing Material or Third Party Material.

12.2 Third Party Material

The Contractor must obtain all necessary copyright and other Intellectual Property Rights permissions before including any Third Party Material in the Contract Material or using Third Party Material as part of the Services.

12.3 Selecting an ownership model for Intellectual Property Rights in Contract Material

- (a) This Contract sets out a framework for the parties to select between the following ownership models for Intellectual Property Rights in Contract Material:
 - (i) **first model:** Intellectual Property Rights in Contract Material vest in the Commonwealth, who provides a licence to the Contractor as set out in clause 12.4; or
 - (ii) **second model:** Intellectual Property Rights in Contract Material vest in the Contractor, who provides a licence to the Commonwealth as set out in clause 12.5.
- (b) The ownership model for Intellectual Property Rights in Contract Material is the model set out in item 16 of the Contract Details.
- (c) If no ownership model is, or both ownership models are, selected in item 16 of the Contract Details, clause 12.4 applies and clause 12.5, in its entirety, does not apply to this Contract.
- (d) Each party must, at its own cost, do all things and execute all documents necessary or convenient to give effect to the ownership model.

12.4 First model: Commonwealth ownership of Intellectual Property Rights in Contract Material

- (a) All Intellectual Property Rights in the Contract Material vest in the Commonwealth on creation.
- (b) Unless otherwise specified in item 17 of the Contract Details, to the extent that:
 - (i) the Commonwealth needs to use any of the Pre-existing Material or Third Party Material provided by the Contractor to receive the full benefit of the Services (including the Contract Material), the Contractor grants to, or must obtain for, the Commonwealth for the period specified in item 17 of the Contract Details, a world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate that Pre-existing Material or Third Party Material;
 - (ii) the Contractor needs to use any of the:
 - (A) Commonwealth Material; or
 - (B) Contract Material,for the purpose of performing its obligations under this Contract, the Commonwealth grants to the Contractor, subject to any conditions or restrictions specified in item 15 of the Contract Details and any direction by the Commonwealth, a world-wide, royalty-free, non-exclusive, non-transferable licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate such Material solely for the purpose of providing the Services.
- (c) The licence granted to the Commonwealth under clause 12.4(b)(i) does not include a right to exploit the Pre-existing Material or Third Party Material for the Commonwealth's commercial purposes.

12.5 Second model: Contractor ownership of Intellectual Property Rights in Contract Material

- (a) If specified in item 16 of the Contract Details, all Intellectual Property Rights in the Contract Material vest in the Contractor on creation.
- (b) Unless otherwise specified in item 18 of the Contract Details, to the extent that:
 - (i) the Commonwealth needs to use any of the:
 - (A) Pre-existing Material or Third Party Material provided by the Contractor; or
 - (B) Contract Material,to receive the full benefit of the Services, the Contractor grants to, or must obtain for, the Commonwealth for the period specified in item 18 of the Contract Details a world-wide, royalty free, non-exclusive licence (including the right to sublicense) to use, reproduce, adapt, modify, distribute and communicate that Material; or
 - (ii) the Contractor needs to use any of the Commonwealth Material for the purpose of performing its obligations under this Contract, the Commonwealth grants to the Contractor, subject to any conditions or restrictions specified in item 15 of the Contract Details and any direction by the Commonwealth, a world-wide, royalty-free, non-exclusive, non-

transferable licence (including the right to sublicense) to use, reproduce, adapt, modify and communicate such Material solely for the purpose of providing the Services.

- (c) The licence granted to the Commonwealth under clause 12.5(b)(i) does not include a right to exploit the Pre-existing Material, Third Party Material or the Contract Material for the Commonwealth's commercial purposes.

12.6 Warranty

The Contractor warrants that:

- (a) the Pre-existing Material, Third Party Material, the Deliverables and the Contract Material (**Warranted Materials**) and the Commonwealth's use of the Warranted Materials will not infringe the Intellectual Property Rights of any person;
- (b) it has the necessary rights to vest the Intellectual Property Rights and grant the licences as provided for in this clause 12; and
- (c) unless specified at item 11 of the Contract Details, the Warranted Materials are compliant with the Web Content Accessibility Guidelines (WCAG) 2.0 to an AA rating.

12.7 Remedy for breach of warranty

If someone claims, or the Commonwealth reasonably believes that someone is likely to claim, that all or part of the Warranted Materials infringe their Intellectual Property Rights, the Contractor must, in addition to the indemnity under clause 16 and to any other rights that the Commonwealth may have against it, promptly, at the Contractor's expense:

- (a) use its best efforts to secure the rights for the Commonwealth to continue to use the affected Warranted Materials free of any claim or liability for infringement; or
- (b) replace or modify the affected Warranted Materials so that the Warranted Materials or the use of them does not infringe the Intellectual Property Rights of any other person without any degradation of the performance or quality of the affected Warranted Materials.

12.8 Delivery of Contract Material

On the expiry or termination of this Contract or on such earlier date as may be specified by the Commonwealth, the Contractor must deliver to the Commonwealth Representative all Contract Material.

13. Moral Rights

13.1 Obtaining consents

To the extent permitted by applicable Laws and for the benefit of the Commonwealth, the Contractor must:

- (a) give, where the Contractor is an individual, in a form acceptable to the Commonwealth;
- (b) use its best endeavours to ensure that each of the Personnel used by the Contractor in the production or creation of the Contract Material gives, in a form acceptable to the Commonwealth; and
- (c) use its best endeavours to ensure that any holder of Moral Rights in Third Party Material included in the Contract Material gives,

genuine consent in writing to the use of the Contract Material for the Specified Acts, even if such use would otherwise be an infringement of their Moral Rights.

13.2 Specified Acts

- (a) In this clause 13, unless otherwise specified in item Error! Reference source not found. of the Contract Details, **Specified Acts** means:
 - (i) falsely attributing the authorship of any Contract Material, or any content in the Contract Material (including without limitation literary, dramatic, artistic works and cinematograph films within the meaning of the *Copyright Act 1968* (Cth));
 - (ii) materially altering the style, format, colours, content or layout of the Contract Material and dealing in any way with the altered Contract Material;
 - (iii) reproducing, communicating, adapting, publishing or exhibiting any Contract Material; and
 - (iv) adding any additional content or information to the Contract Material.
- (b) For the purposes of clause 13.2(a), **Contract Material** includes any Pre-existing Material and Third Party Material to the extent that it is included in, forms part of or is attached to the Contract Material.

Part 2 – General requirements

14. Payment

14.1 Obligation to pay charges

Subject to this clause 14 and the Services meeting the requirements of this Contract including the Performance Criteria, the Commonwealth must pay to the Contractor the Service Charges as set out in Schedule 3.

14.2 Contractor to provide invoice

The Contractor must:

provide a correctly rendered invoice to the Commonwealth for the Service Charges in accordance with the requirements specified in Schedule 3; and

not submit any invoice for:

- (i) Services which were not provided, either at all or in a manner which is required by any Contract; or
- (ii) if a Contract specifies a maximum amount, any amounts which would cause that maximum amount to be exceeded.

in a day.

14.3 Due date for payment

Unless otherwise specified in Schedule 3, the Commonwealth must make payment of a correctly rendered invoice within 20 days after receiving the invoice. If this period ends on a day which is not a Business Day, payment is due on the next Business Day.

14.4 Incorrect invoices, under/over payment

- (a) If an invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available means, may be offset against any amount subsequently due by the Commonwealth to the Contractor under this Contract.
- (b) If an overpayment by the Commonwealth occurs at any time and for any reason the Commonwealth may issue the Contractor with a written notice requiring repayment of the full amount of the overpayment. The Contractor must pay to the Commonwealth the full amount of the overpayment specified in the notice in the manner specified in the notice, and within 20 Business Days of the date of notice.

14.5 Right to defer payment

The Commonwealth is entitled (in addition and without prejudice to any other right it may have) to defer payment or reduce the amount of any payment if and for so long as the Contractor has not completed, to the satisfaction of the Commonwealth, that part of the Services to which the payment relates. If the Commonwealth exercises this right under clause 14.5, the Contractor must continue to perform any obligations under the Contract unless the Commonwealth directs otherwise in writing.

14.6 Expenses

Unless specified otherwise in Schedule 3, the Contractor must not charge the Commonwealth for any fees, charges or expenses (including travel and accommodation, document reproduction, transportation and courier charges, and telecommunications

charges) in addition to the Service Charges. The Commonwealth is under no obligation to pay any amount in excess of the Service Charges.

14.7 Taxes

The Contractor must pay all:

- (a) stamp duty (including penalties and interest) assessed or payable in respect of this Contract and the undertaking of the Services; and
- (b) subject to clause 15, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Contract.

14.8 Interest

Interest is payable by the Commonwealth to the Contractor in the circumstances set out in Schedule 3.

15. GST

15.1 Interpretation

In this clause 15, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that Act.

15.2 GST gross up

If a party (**Supplier**) makes a supply under or in connection with this Contract in respect of which GST is payable, the recipient of the supply (**Recipient**) must pay to the Supplier an additional amount equal to the GST payable on the supply (**GST Amount**).

15.3 Reimbursements

If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with clause 15.2.

15.4 Exclusion of GST from calculations

If a payment is calculated by reference to or as a specified percentage of another amount or revenue stream, that payment will be calculated by reference to or as a specified percentage of the amount or revenue stream exclusive of GST.

15.5 Adjustments

- (a) If the GST payable by a Supplier on any supply made under or in connection with this Contract varies from the GST Amount paid or payable by the Recipient under clause 15.2 such that a further amount of GST is payable in relation to the supply or a refund or credit of GST is obtained in relation to the supply, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient.
- (b) Any payment, credit or refund under this clause 15.5 is deemed to be a payment, credit or refund of the GST Amount payable under clause 15.2.
- (c) If an adjustment event occurs in relation to a supply, the Supplier must issue an adjustment note to the Recipient in relation to that supply within 14 days after becoming aware of the adjustment.

15.6 Tax invoice

A party need not make a payment for a taxable supply made under or in connection with this Contract until it receives a tax invoice for the supply to which the payment relates.

16. Indemnity

16.1 Indemnity

- (a) The Contractor will at all times indemnify and hold harmless the Commonwealth, its officers and employees (referred to in this clause 16.1 as those indemnified) from and against any loss or liability, including:
- (i) loss of, or damage to, property of the Commonwealth (including Contract Material);
 - (ii) claims by any person in respect of personal injury or death;
 - (iii) claims by any person in respect of loss of, or damage to, any property; and
 - (iv) costs and expenses including the costs of defending or settling any claim referred to in clause 16.1(a)(ii) or clause 16.1(a)(iii),
- arising out of or as a consequence of:
- (v) an infringement, or an alleged infringement, of the Intellectual Property Rights of any person, which occurred by reason of an act done by the Commonwealth in relation to any part of the Services;
 - (vi) any actual, likely or threatened breach of the Contractor's or subcontractor's obligations under clause 37 or relating to Confidential Information or Personal Information; or
 - (vii) without limiting the preceding paragraphs, any breach of this Contract by the Contractor, or negligence on the part of the Contractor, its Personnel or subcontractors or wrongful or unlawful act or omission on the part of the Contractor, its Personnel or subcontractors.
- (b) The Contractor's liability to indemnify those indemnified under clause 16.1(a) will be reduced proportionally to the extent that any negligent act or omission of those indemnified contributed to the loss.
- (c) The Contractor will at all times indemnify, hold harmless the Commonwealth against any compensation, remuneration or other amount payable to a third party for the use or exploitation of the Contract Material (or any of it), or exercise of any Intellectual Property Right of a third party embodied in the Contract Material, by the Commonwealth (or any person authorised by the Commonwealth) in circumstances where that use, exploitation or exercise is permitted under legislation without infringing the third party's Intellectual Property Right, and against all loss, liability, cost and expense arising out of or in connection with a claim for payment of any such compensation, remuneration or other amount.

16.2 Right to Conduct Proceedings

For the avoidance of doubt, the Commonwealth shall have the exclusive control over the conduct of any legal or quasi-legal proceedings before institutions including but not limited to: courts, governmental authorities or tribunals.

17. Laws and policies

In performing the Services in accordance with any Contract, the Contractor must comply with:

- (a) all Laws; and
- (b) all applicable policies of the Commonwealth which are publicly available, which are specified in an Order, or which are Notified to the Contractor by the Commonwealth that are applicable to the Services.

18. Code of Conduct

- (a) The Contractor must ensure that its Personnel engaged in delivering the Services comply with the APS Values and Code of Conduct while at the Commonwealth's premises and while liaising with the Commonwealth's Personnel or members of the public in connection with the delivery of the Services.
- (b) The Contractor should comply with, and ensure its officers, employees, agents and subcontractors comply with the Commonwealth Supplier Code of Conduct. More information about the Supplier Code of Conduct can be found at <https://www.finance.gov.au/government/procurement/commonwealth-supplier-code-conduct/commonwealth-supplier-code-conduct>
- (c) The Contractor must provide all reasonable assistance to the Commonwealth with any investigation of a report of a breach of the APS Code of Conduct by the Contractor's Personnel.
- (d) In this clause 18, 'APS Values' and 'Code of Conduct' have the same meaning as they have in the *Public Service Act 1999* (Cth).

19. Fraud and corruption

19.1 Compliance with the Commonwealth Fraud Control Framework

- (a) The Contractor must comply with the Commonwealth Fraud Control Framework, as amended from time to time at <https://www.ag.gov.au/integrity/counter-fraud>;
- (b) The Contractor must:
 - (i) take reasonable steps to prevent, detect and respond to any actual or perceived fraud or corruption that has occurred or is likely to occur in relation to this Contract (including by the Contractor or its Personnel); and
 - (ii) notify the Commonwealth if the Contractor knows or has reason to suspect that any fraud has occurred, is occurring, or is likely to occur in relation to this Contract (including by its Personnel and subcontractors).

19.2 National Anti-Corruption Commission Act

- (a) National Anti-Corruption Commission Act 2022 (Cth) Requirements
 - (i) The Contractor acknowledges that in providing the Goods and/or Services to the Commonwealth under the Contract, it is a contracted service provider for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).
 - (ii) The Contractor must comply with any reasonable request, policy or direction issued by the Commonwealth and otherwise cooperate with the Commonwealth in relation to any action taken by the Commonwealth required or authorised by the NACC Act.

20. Sanctions and Terror Organisations

20.1 Contractor Warranty

- (a) In this clause 20, 'Inappropriate Person' means any person or organisation that is listed on one or more of the following lists:
 - (i) 'Regulation 8 Consolidated List' maintained by the Australian Government Department of Foreign Affairs and Trade (<https://dfat.gov.au/international-relations/security/sanctions/Pages/consolidated-list.aspx#list>); and
 - (ii) 'List of Terrorist Organisations' maintained by the Australian government (<http://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/default.aspx>).
- (b) The Contractor represents and warrants, on the Commencement Date and on each Contract Start Date, that it is not and none of its Personnel or subcontractors are listed as an Inappropriate Person, or a member of an entity that is an Inappropriate Person.

21. Illegal Workers

21.1 Engaging Illegal Workers

- (a) The Contractor must not engage Illegal Workers in any capacity to carry out any work under or in connection with this Contract.
- (b) If it becomes aware of the involvement of an Illegal Worker, the Contractor must:
 - (i) promptly notify the Commonwealth; and
 - (ii) immediately remove, or cause to be removed, the Illegal Worker and promptly arrange for their replacement at no cost to the Commonwealth.
- (c) If requested in writing by the Commonwealth, the Contractor must provide evidence within 10 Business Days that it has taken all reasonable steps to ensure that it has complied and is complying with its obligations in respect of Illegal Workers.

22. Modern Slavery

22.1 Compliance with the *Modern Slavery Act 2018 (Cth)*

- (a) The Contractor must take reasonable steps to identify, assess and address risks of Modern Slavery practices in the operations and supply chains used in the provision of the Services.
- (b) If at any time the Contractor becomes aware of Modern Slavery practices in the operations and supply chains used in the performance of the Contract, the Contractor must as soon as reasonably practicable take all reasonable action to address or remove these practices, including where relevant by addressing any practices of other entities in its supply chains.
- (c) The Contractor must ensure that each subcontract imposes obligations on the subcontractor equivalent to the obligations under this clause 22.

23. Child Safety

- (a) If any part of the Services involves the Contractor employing or engaging a person (whether as an officer, employee, contractor, or volunteer) that is required by State or Territory law to have a Working with Children Check to undertake the Services or any part of the Services, the Contractor agrees:
 - (i) to comply with all State, Territory or Commonwealth laws relating to the employment or engagement of people who work or volunteer with Children in relation to the Services, including mandatory reporting and Working with Children Checks however described; and
 - (ii) if requested, provide the Commonwealth at the Contractor's cost, an annual statement of compliance with this clause 23, in such form as may be specified by the Commonwealth.
- (b) When Child Safety obligations may be relevant to a Subcontract, the Contractor must ensure that any subcontract entered into by the Contractor for the purposes of fulfilling the Contractor's obligations under the contract imposes on the Subcontractor the same obligations regarding Child Safety that the Contractor has under the Contract. Each subcontract must also require the same obligations (where relevant) to be included by the Subcontractor in any secondary subcontracts.

23.1 Definitions

- (a) In this Agreement:

Child means an individual(s) under the age of 18 years and Children has a similar meaning;

Child-Related Personnel means officers, employees, contractors, agents and volunteers of the Contractor involved with the Services who as part of that involvement may interact with Children;

Legislation means a provision of a statute or subordinate legislation of the Commonwealth, or of a State, Territory or local authority;

National Principles for Child Safe Organisations means the National Principles for Child Safe Organisations, endorsed by the Council of Australian Governments as published by the Commonwealth Government (available at:

<https://www.humanrights.gov.au/about/news/coag-endorses-national-principles-child-safe-organisations>);

Relevant Legislation means Legislation in force in any jurisdiction where any part of the Services may be carried out;

Working With Children Check or WWCC means the process in place pursuant to Relevant Legislation to screen an individual for fitness to work with Children.

23.2 Relevant Checks and Authority

- (a) The Contractor must:
 - (i) comply with all Relevant Legislation relating to the employment or engagement of Child-Related Personnel in relation to the Services, including all necessary Working with Children Checks however described; and

- (ii) ensure that Working with Children Checks obtained in accordance with this clause 23.2 remain current and that all Child-Related Personnel continue to comply with all Relevant Legislation for the duration of their involvement in the Services.

23.3 National Principles for Child Safe Organisations and other action for the safety of Children

- (a) The Contractor agrees in relation to the Services to:
 - (i) implement the National Principles for Child Safe Organisations;
 - (ii) ensure that all Child-Related Personnel implement the National Principles for Child Safe Organisations;
 - (iii) complete and update, at least annually, a risk assessment to identify the level of responsibility for Children and the level of risk of harm or abuse to Children;
 - (iv) put into place and update, at least annually, an appropriate risk management strategy to manage risks identified through the risk assessment required by this clause 23.3;
 - (v) provide training and establish a compliance regime to ensure that all Child-Related Personnel are aware of, and comply with:
 - (A) the National Principles for Child Safe Organisations;
 - (B) the Contractor's risk management strategy required by this clause 23.3;
 - (C) Relevant Legislation relating to requirements for working with Children, including Working with Children Checks; and
 - (D) Relevant Legislation relating to mandatory reporting of suspected child abuse or neglect, however described;
 - (vi) provide the Commonwealth with an annual statement of compliance with clauses 23.2 and 23.3, in such form as may be specified by the Commonwealth.
- (b) With reasonable notice to the Contractor, the Commonwealth may conduct a review of the Contractor's compliance with this clause 23.3.
- (c) The Contractor agrees to:
 - (i) notify the Commonwealth of any failure to comply with this clause 23;
 - (ii) co-operate with the Commonwealth in any review conducted by the Commonwealth of the Contractor's implementation of the National Principles for Child Safe Organisations or compliance with this clause 23; and
 - (iii) promptly, and at the Contractor's cost, take such action as is necessary to rectify, to the Commonwealth's satisfaction, any failure to implement the National Principles for Child Safe Organisations or any other failure to comply with this clause 23.
- (d) When Child Safety obligations may be relevant to a Subcontract, the Contractor must ensure that any subcontract entered into by the Contractor for the purposes of fulfilling the Contractor's obligations under the contract imposes on the

Subcontractor the same obligations regarding Child Safety that the Contractor has under the Contract. Each subcontract must also require the same obligations (where relevant) to be included by the Subcontractor in any secondary subcontracts.

24. Workplace Gender Equality

24.1 Compliance with *Workplace Gender Equality Act 2012* (Cth)

- (a) Clause 24 applies only to the extent that the Contractor is a 'relevant employer' for the purposes of the WGE Act.
- (b) The Contractor must comply with its obligations, if any, under the WGE Act. If the Contractor becomes non-compliant with the WGE Act, the Contractor must notify the Commonwealth Representative in writing.
- (c) If the Contract Period exceeds 18 months, the Contractor must provide a current letter of compliance within 18 months of the Contract start date and following this, annually, to the Commonwealth Representative.
- (d) Compliance with the WGE Act does not relieve the Contractor from its responsibility to comply with its other obligations under this Contract.

25. Shadow Economy Procurement Connected Policy

25.1 Compliance with the Shadow Economy Procurement Connected Policy

- (a) In this clause 25.1, the following terms have the meaning given below:
 - (i) 'Shadow Economy Procurement Connected Policy' means the Shadow economy – increasing the integrity of government procurement: Procurement connected policy guidelines October 2024 available at <https://treasury.gov.au/publication/p2019-t369466>;
 - (ii) 'Satisfactory' means meets the conditions set out in Part 6.b of the Shadow Economy Procurement Connected Policy or, if the circumstances in Part 6.c of the Shadow Economy Procurement Connected Policy apply, the conditions set out in Part 8.b of the Shadow Economy Procurement Connected Policy;
 - (iii) 'Statement of Tax Record' means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR; and
 - (iv) 'Valid' means valid in accordance with Part 7.e of the Shadow Economy Procurement Connected Policy.
- (b) The Contractor warrants in relation to any first tier Subcontractor that delivers goods and/or services as part of a contract resulting from a procurement with an estimated value of \$4 million or more, (GST inclusive) that the Contractor either:
 - (i) at the time of responding to the approach to market that resulted in the entry of this contract, obtained all Valid and Satisfactory Statements of Tax Record required for the Subcontractor's entity type under Part 10 of the Shadow Economy Procurement Connected Policy; or

- (ii) obtained at the time of entry into the subcontract, all Valid and Satisfactory Statements of Tax Record required for the Subcontractor's entity type under Part 10 of the Shadow Economy Procurement Connected Policy.
- (c) The Contractor must, on request by the Commonwealth, provide to the Commonwealth a copy of any such Statement of Tax Record.
- (d) If the Contractor is a partnership, the Contractor will ensure that if a new partner joins the partnership that a Valid and Satisfactory Statement of Tax Record for the partner is provided to the Commonwealth as soon as possible after they become a partner to the partnership.
- (e) The Contractor warrants that at the Commencement Date it holds all Valid and Satisfactory Statements of Tax Record required for its entity type under Part 10 of the Shadow Economy Procurement Connected Policy.
- (f) The Contractor must hold all Valid and Satisfactory Statements of Tax Record required for its entity type under Part 10 of the Shadow Economy Procurement Connected Policy at all times during the Contract Period (including any extension) and, on request by the Commonwealth, provide to the Commonwealth a copy of any such Statement of Tax Record.
- (g) Without limiting its other rights under this Contract or at law, any failure by the Contractor to comply with the requirements outlined in clauses 25.1(e) and (f) will be a breach of this Contract.

26. Indigenous Procurement Policy

- (a) It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see <https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp> as authored by the National Indigenous Australians Agency for further information)
- (b) The Contractor must use its reasonable endeavours to increase its:
 - (i) purchasing from Indigenous enterprises; and
 - (ii) employment of Indigenous Australians in the delivery of the Goods and/or Services.

27. Archives Act

- (a) The Contractor must:
 - (i) not destroy or arrange for, nor effect, a transfer of custody or ownership of any Commonwealth record, as that term is defined in the *Archives Act 1983* (Cth), without the prior written approval of the Commonwealth and the National Archives of Australia;
 - (ii) not remove any Commonwealth record, except in accordance with arrangements agreed to by the National Archives of Australia; and
 - (iii) otherwise comply with the *Archives Act 1983* (Cth) when dealing with Commonwealth records.
- (b) The Contractor must comply with any direction given by the Commonwealth in relation to any Commonwealth records.

- (c) The Contractor must at all times:
 - (i) permit the Commonwealth to access all Commonwealth records in the custody or control of the Contractor or its Personnel;
 - (ii) on or before the date of termination or expiry of this Contract, deliver all Commonwealth records in the Contractor's or its Personnel's possession or under the Contractor's or its Personnel's control to the Commonwealth or its nominee.
- (d) The Contractor must ensure that its Subcontractors comply with the obligations under this clause 27 as if it were the Contractor.

28. Offences under the Criminal Code

The Contractor acknowledges that:

- (a) unauthorised disclosure of security classified information may be an offence. Legislation (including, but not limited to, under Part 10.7 of the *Criminal Code Act 1995 (Cth)*) contains provisions relating to the protection of prescribed official information and sets out the penalties for the unauthorised disclosure of that information;
- (b) it is an offence under Division 137 of the *Criminal Code Act 1995 (Cth)* to give false and misleading information to the Commonwealth or its Representatives; and
- (c) publication or communication of any fact or document by a person which has come to their knowledge or into their possession or custody through the performance of a Contract (other than to a person to whom the Contractor is authorised to publish or disclose the fact or document) may be an offence under section 122.4A of the *Criminal Code Act 1995 (Cth)*, the maximum penalty for which is five years' imprisonment.

29. Insurance

29.1 Obligation to maintain insurance

- (a) In connection with the provision of the Services, the Contractor must have and maintain:
 - (i) for the Contract Period, valid and enforceable insurance policies for:
 - (A) public liability;
 - (B) either professional indemnity or errors or omissions (as required by the Commonwealth having regard to the nature of the Services);
 - (C) workers' compensation as required by Law; and
 - (D) any additional types specified in item 19 of the Contract Details; and
 - (ii) for seven years following the expiry or termination of this Contract, valid and enforceable insurance policies for either professional indemnity or errors or omissions, in the amounts specified in item 19 of the Contract Details, or if no amounts are specified, for reasonable amounts.
- (b) The Contractor must promptly notify the Commonwealth if, in relation to any insurance policy referred to in clause 29.1(a)(i):

- (i) the limit of insurance policy is materially depleted during the Contract Period, by claims unrelated to this Contract;
- (ii) any material claims are made under the insurance policy; and
- (iii) any claims are made under the insurance policy which could involve the Commonwealth.

29.2 Insurance for subcontracts

The Contractor must ensure any subcontract it enters into for the purposes of providing the Services has the same insurance requirements as specified in clause 29.

29.3 Certificates of currency

The Contractor must, on request by the Commonwealth, provide current relevant confirmation of insurance documentation from its insurers or insurance brokers certifying that it has insurance as required by clause 29.1.

29.4 Performance guarantee

If requested by the Commonwealth, the Contractor must, at its own expense, provide to the Commonwealth a performance guarantee in a form acceptable to the Department within the timeframes requested by the Commonwealth, which has been properly executed by an entity agreed by the Commonwealth, which guarantees the performance of the Contractor's obligations under this Contract.

29.5 Survival

This clause 29 survives the expiry or termination of this Contract.

30. Confidentiality

30.1 Prohibition on disclosure

- (a) Subject to clause 30.4, the Contractor must not, without the prior written consent of the Commonwealth disclose any Commonwealth Confidential Information to a third party.
- (b) Subject to clause 30.4, the Commonwealth must not, without the prior written consent of the Contractor disclose any Contractor Confidential Information to a third party.

30.2 Conditions of approval

In giving written consent to use or disclose Commonwealth Confidential Information, the Commonwealth may impose such terms or conditions as it thinks fit. The Contractor must comply with any term or condition imposed by the Commonwealth under this clause 30.2.

30.3 Advisers and third parties

The Commonwealth may at any time require the Contractor to arrange for:

- (a) its Advisers;
- (b) its Personnel and other employees and subcontractors engaged in the performance of the Services; or
- (c) any other third party, to whom Commonwealth Confidential Information may be disclosed pursuant to clause 30.4(a) or clause 30.4(b),

to give a written undertaking relating to the use and non-disclosure of the Commonwealth's Confidential Information substantially in the form set out in Schedule 4.

30.4 Exceptions to obligations

The obligations on each party under clause 30.1 or 30.10 will not be taken to have been breached to the extent that Confidential Information of the other party:

- (a) is disclosed by a party to its Advisers or employees solely in order to comply with obligations, or to exercise rights, under this Contract;
- (b) is disclosed to a party's internal management personnel, solely to enable effective management or auditing of activities related to this Contract;
- (c) is disclosed by the Commonwealth to the responsible Minister;
- (d) is disclosed by the Commonwealth, in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia;
- (e) is shared by the Commonwealth within the Department or with the Department's Personnel, or with another entity, where this serves the Commonwealth's legitimate interests;
- (f) is disclosed by the Commonwealth to the Auditor General, the Ombudsman or an Information Officer or any Authorised Investigator;
- (g) is required by Law, to be disclosed; or
- (h) is in the public domain otherwise than due to a breach of this Contract.

30.5 Obligation on disclosure

Where a party discloses Confidential Information of the other party to another person:

- (a) pursuant to clauses 30.4(a), (b) or (e), the disclosing party must:
 - (i) notify the receiving person that the information is Confidential Information; and
 - (ii) not provide the information unless the receiving person agrees to keep the information confidential, including in the case of Commonwealth Confidential Information, the receiving person giving the Commonwealth a legally binding undertaking to that effect substantially in the form set out in Schedule 4; or
- (b) pursuant to clauses 30.4(c) and (d), the disclosing party must notify the receiving party that the information is Confidential Information of the other party.

30.6 Additional confidential information

- (a) The parties may agree in writing after the date of this Contract that certain additional information is to constitute Confidential Information for the purposes of this Contract.
- (b) Where the parties agree in writing after the date of this Contract that certain additional information is to constitute Confidential Information for the purposes of this Contract, this documentation is incorporated into, and becomes part of this Contract, on the date by which both parties have signed this documentation.

30.7 Period of confidentiality

The obligations under this clause 30 continue, notwithstanding the expiry or termination of this Contract:

- (a) in relation to an item of information described in Schedule 5, for the period set out in that schedule in respect of that item; and
- (b) in relation to any information which the parties agree in writing after the date of this Contract is to constitute Confidential Information for the purposes of this Contract, for the period agreed by the parties in writing in respect of that information.

30.8 No reduction in privacy obligations

Nothing in this Contract derogates from any obligation which either party may have under the Privacy Act as amended from time to time, in relation to the protection of Personal Information or information that is protected by the *Census and Statistics Act 1905* (Cth), or any other Act, regulation or other legislative instrument requiring secrecy or confidentiality in dealing with information.

30.9 Return of information

At the Commonwealth's request or on the expiry or termination of this Contract, the Contractor must promptly return all of the Commonwealth's physical and written records containing Commonwealth Confidential Information, and all documentation relating to that Commonwealth Confidential Information (including copies), to the Commonwealth in a form reasonably requested by the Commonwealth. Alternatively, if requested by the Commonwealth, the Contractor must destroy such items in the manner specified by the Commonwealth and promptly certify to the Commonwealth in writing that it has done so.

30.10 Confidential Contract Provisions

Notwithstanding any other provision of this Contract, the Commonwealth may disclose the provisions of this Contract except the Confidential Contract Provisions.

31. Protection of Personal Information

31.1 Definitions

In this clause 31, the terms 'entity', 'Australian Privacy Principle' (**APPs**), 'APP privacy policy', 'Australian Privacy Principle Code' (**APP code**), 'personal information' and 'contracted service provider' have the same meaning as they have in section 6 of the Privacy Act.

31.2 Application of this clause

This clause 31 applies only where the Contractor deals with Personal Information when, and for the purpose of, providing Services under this Contract.

31.3 Obligations

- (a) The Contractor acknowledges that it is a 'contracted service provider' and agrees in respect of the provision of Services under this Contract to take all necessary measures to ensure that Personal Information in its possession or control in connection with this Contract is protected against loss and unauthorised access, use, disclosure or modification.
- (b) The Contractor must, on request from the Commonwealth, provide to the Commonwealth:

- (i) a copy of the Contractor's and any subcontractor's APP privacy policy which is compliant with APP 1;
 - (ii) copies of the Contractor's and any subcontractor's security and data protection policies upon request by the Commonwealth; or
 - (iii) details of the Contractor's and any subcontractor's processes and procedures implemented to ensure compliance with the Privacy Act.
- (c) The Contractor agrees in respect of the provision of Services under this Contract:
- (i) not to collect Personal Information unless the information is necessary, directly or indirectly, to discharge an obligation of this Contract;
 - (ii) to use or disclose Personal Information obtained during the course of providing Services under this Contract, only for the purposes of this Contract;
 - (iii) not to do any act or engage in any practice that would breach an APP contained in schedule 1 of the Privacy Act, which if done or engaged in by an entity, would be a breach of that APP;
 - (iv) to carry out and discharge the obligations contained in the APPs as if it were an entity under the Privacy Act;
 - (v) if requested by the Commonwealth, to notify individuals whose Personal Information the Contractor holds, or who complain about acts or practices of the Contractor, that acts or practices of the Contractor may be investigated by the Privacy Commissioner who has power to award compensation against the Contractor in appropriate circumstances;
 - (vi) not to use or disclose Personal Information or engage in an act or practice that would breach APP 7 (direct marketing) or a registered APP Code which is applicable to the Contractor, unless the use or disclosure is necessary, directly or indirectly, to discharge an obligation of this Contract;
 - (vii) to follow any reasonable directions given by the Commonwealth to ensure compliance with the Privacy Act;
 - (viii) must not transfer or transmit personal information outside of Australia except with the prior written approval of the Commonwealth, which will not be unreasonably withheld. In giving its approval the Commonwealth may impose such terms and conditions as it thinks fit. The Contractor must comply with any term or condition imposed by the Commonwealth under this clause 31.3(c)(viii);
 - (ix) to disclose in writing to any person who asks, the content of the provisions of this Contract (if any) that are inconsistent with an APP or a registered APP code which is binding on a party to this Contract;
 - (x) to immediately notify the Commonwealth if the Contractor becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause 31, whether by the Contractor or any subcontractor (including any complaints made about acts or practices of the Contractor in connection with Personal Information or any complaint or investigation by the Privacy Commissioner);
 - (xi) to notify the Commonwealth of any subpoena, warrant, order, demand or request made by a foreign court or other authority for the disclosure of

Personal Information to which the Privacy Act applies and to not disclose such information without the prior written approval of the Commonwealth, which will not be unreasonably withheld. In giving its approval the Commonwealth may impose such conditions as it thinks fit. The Contractor must comply with any term or condition imposed by the Commonwealth under this clause 31.3(c)(xi);

- (xii) to comply with any directions, guidelines, determinations or recommendations of the Privacy Commissioner, notified to the Contractor by the Commonwealth to the extent that they are not inconsistent with the requirements of this clause 31; and
- (xiii) to ensure that any employee of the Contractor who is required to deal with Personal Information for the purposes of this Contract is made aware of the obligations of the Contractor set out in this clause 31.

31.4 Handling of Complaints

Any complaints relating to this procurement should sent to:

Procurement.Complaints@industry.gov.au.

A complaint alleging an interference with the privacy of an individual in respect of any Services performed under this Contract will be handled in accordance with the following procedures:

- (a) if the Commonwealth receives a complaint alleging an interference with the privacy of an individual by the Contractor or any subcontractor, it must immediately notify the Contractor of only those details of the complaint necessary to minimise any breach or prevent further breaches of the privacy provisions of this Contract;
- (b) if the Contractor receives a complaint alleging an interference with the privacy of an individual by the Contractor or any subcontractor, it must immediately notify the Commonwealth of the details of the complaint;
- (c) after the Commonwealth has given or been given Notice in accordance with clause 31.4(a) or 31.4(b) above, the Commonwealth will take such action as it considers necessary to resolve the complaint and will keep the Contractor informed of all progress with the complaint as related to the actions of the Contractor in connection with the allegation of an inference with the privacy of an individual; and
- (d) the Commonwealth will give the Contractor 10 Business Days written Notice of any intention to assume a liability, loss or expense in accordance with this clause 31.4 **Error! Reference source not found.**, including in that notice an explanation of how that liability, loss or expense was assessed and the Contractor's proposed share of the liability.

31.5 Subcontracts

The Contractor must ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under this clause 31, including the requirement in relation to subcontracts.

31.6 Indemnity

The Contractor agrees to indemnify the Commonwealth in respect of any loss or liability suffered or incurred by the Commonwealth which arises directly or indirectly from a

breach of any of the obligations of the Contractor under this clause 31, or a subcontractor under the subcontract provisions referred to in clause 31.5.

32. Eligible Data Breaches

32.1 Process for managing an Eligible Data Breach

- (a) For the purpose of this clause 32, 'Eligible Data Breach' has the meaning given in the Privacy Act.
- (b) If the Contractor has reasonable grounds to suspect there may have been an event which amounts to an Eligible Data Breach:
 - (i) the Contractor must as soon as possible, but within no more than two Business Days, notify the Commonwealth;
 - (ii) comply with its obligations under the Privacy Act in relation to that event;
 - (iii) provide the Commonwealth with all information requested by the Commonwealth about the event; and
 - (iv) if requested, allow the Commonwealth to participate in the Contractor's assessment of the event and whether it amounts to an Eligible Data Breach.
- (c) If the Contractor, after complying with clause 32.1(b), determines that an Eligible Data Breach has occurred, and Notification of that Eligible Data Breach is required under the Privacy Act:
 - (i) if requested by the Commonwealth, the parties must meet to discuss and endeavour to agree who will issue the Notification (but if the parties are unable to agree, then the Commonwealth will, acting reasonably, decide which party will issue that Notification);
 - (ii) if the Contractor is to issue a Notification, then:
 - (A) the Contractor must as soon as possible, but within no more than 5 Business Days, provide the Commonwealth with a draft of the Notification;
 - (B) make any changes to the draft Notification that are reasonably required by the Commonwealth; and
 - (C) issue the Notification in accordance with the requirements of the Privacy Act (including any applicable time periods); and
 - (iii) if the Commonwealth is to issue the Notification, then:
 - (A) the Commonwealth must as soon as possible, but within no more than 10 Business Days, notify the Contractor and provide a draft of the Notification;
 - (B) make any changes to the Notification that are reasonably required by the Contractor for consistency with the Privacy Act; and
 - (C) issue the Notification in accordance with the requirement of the Privacy Act (including any applicable time periods).
- (d) The Contractor must ensure that:

- (i) it takes all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any of the individuals to whom the Personal Information relates;
 - (ii) it takes all other action necessary to comply with the requirements of the Privacy Act, unless otherwise directed by the Commonwealth;
 - (iii) the Commonwealth is promptly Notified of any investigation or other action taken by the Privacy Commission in connection with any actual or suspected Eligible Data Breach, or Notification in relation to that matter;
 - (iv) the Commonwealth is kept informed in relation to that investigation or other action; and
 - (v) it takes any other action as reasonably directed by the Commonwealth.
- (e) The parties acknowledge and agree that nothing in this clause 32 affects their obligations under the Privacy Act and under this Contract, unless otherwise agreed in writing by the parties.

33. Anti-Money Laundering

The Contractor must comply with any obligations applicable to it contained in any laws arising from the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth).

34. Lobbying code of conduct

The Contractor must, and must ensure that its Personnel, comply with the Lobbying Code of Conduct and the Australian Public Service Commission (APSC) Circular 2008/4, "Requirements relating to the Lobbying Code of Conduct and Post Separation Contact with Government", where their activities fall within the scope of the Lobbying Code of Conduct.

35. Work health and safety

35.1 General safety obligations

- (a) The Contractor must ensure the Services are performed in a safe manner.
- (b) The Contractor must not, and must ensure its Personnel do not, by act or omission place the Commonwealth in breach of its obligations under the WHS Laws.
- (c) The Contractor must, and must ensure its Personnel, if using or accessing the Commonwealth's premises or facilities, comply with all reasonable instructions, directions, policies and procedures relating to work health and safety in operation at those premises or facilities whether specifically drawn to the attention of the Contractor or might reasonably be inferred from the circumstances.

35.2 Definitions

In this clause 35 the words, Inspector, Notifiable Incident, Regulator and WHS Entry Permit Holder have the meanings given in the WHS Act.

Specific safety obligations

- (a) The Contractor must inform itself, and ensure its Personnel inform themselves, of the Commonwealth's work health and safety policies and procedures relevant to the Services.
- (b) The Contractor must, and must ensure its Personnel:
 - (i) comply with the WHS law in relation to the Services performed by WHS Workers;
 - (ii) ensure, so far as is reasonably practicable, that the health, safety and welfare of any persons is not put at risk;
 - (iii) ensure that its Personnel are properly inducted when delivering the Services and also ensure that all those persons are provided with information, instruction, training or supervision to ensure their own health and safety and that their acts or omissions do not adversely affect the health and safety of other persons whilst at a place when delivering the Services;
 - (iv) in relation to Services performed by WHS Workers, comply with all relevant work health and safety policies and procedures of the Commonwealth, or as might reasonably be inferred from the circumstances; and
 - (v) ensure that there are processes in place to identify, assess and proactively control risks in the way that it is delivering the Services;
 - (vi) ensure that a PCBU meets the primary duty of care requirements of section 19 of the Act or corresponding State or Territory legislation;
 - (vii) immediately comply with any direction in relation to Services performed by WHS Workers from any person having authority under the WHS Laws to give directions;
 - (viii) comply, with any direction given by the Commonwealth that the Commonwealth considers reasonably necessary to deal with an event or circumstance that has, or is likely to have, an adverse effect on the health or safety of persons;

- (ix) promptly provide to the Commonwealth, upon request, information or documentation to assist the Commonwealth comply with its duties under WHS Law;
- (x) co-operate fully with any investigation by any government agency, parliamentary inquiry, board of inquiry or coronial inquiry with respect to work health and safety; and
- (xi) ensure the regulator is notified immediately after a Notifiable Incident in accordance with WHS Laws.

35.3 Notifying the Commonwealth

- (a) The Contractor must notify the Commonwealth as soon as practicable of any concern the Contractor has regarding work health and safety in relation to Services performed by WHS Workers.
- (b) The Contractor must immediately notify the Commonwealth of any:
 - (i) breach or suspected breach of WHS Laws in relation to Services performed by WHS Workers;
 - (ii) cessation of work on the Services, or direction to cease work on the Services from any person having authority under the WHS Laws to do so, due to unsafe work;
 - (iii) entry by a WHS Entry Permit Holder or Inspector to any place where Services are being performed by WHS Workers; or
 - (iv) proceedings against, decision by the Regulator in relation to, or request from the Regulator to, the Contractor or its Personnel under the WHS Laws.
- (c) The Contractor must provide to the Commonwealth a copy of any notice issued to the Contractor under the WHS Laws in relation to Services performed by WHS Workers as soon as possible and in any event within 24 hours of receipt.
- (d) If the Contractor is required by the WHS Laws to report a Notifiable Incident to the Regulator in relation to Services performed by WHS Workers, the Contractor must:
 - (i) as soon as practicable in the circumstances, notify the Commonwealth of the Notifiable Incident and, if requested by the Commonwealth, provide a copy of any written notice given to the Regulator; and
 - (ii) if requested by the Commonwealth, provide within the timeframe specified by the Commonwealth a report on the Notifiable Incident, the results of any investigations into its cause, and any recommendations for prevention in the future.

35.4 Investigations

The requirement for, and cooperation with, investigations does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

35.5 Documentation

If the Contractor is required by the WHS Laws to:

- (a) prepare, submit, supply, obtain or review any document (including any management plan, risk assessment, safe work method statement, emergency plan, safety data sheet, notice to the Regulator or register); or
- (b) obtain or sight any licence, permit or authorisation (**Licence**),

in relation to Services performed by WHS Workers, the Contractor must, before commencing or continuing work:

- (c) prepare, submit, supply, obtain or review the document or obtain or sight the Licence as required; and
- (d) provide a copy of the document or Licence to the Commonwealth, allowing sufficient time for the Commonwealth to review the document or Licence and consult as it considers appropriate.

35.6 Sign and barriers

If the Contractor is required by the WHS Laws to display any sign or install any barrier in relation to the Services performed by WHS Workers, the Contractor must do so before commencing or continuing work.

35.7 Suspension

- (a) Without limiting any other right or remedy of the Commonwealth, if the Commonwealth is not satisfied that the Contractor is performing the Services in compliance with its work health and safety obligations under this Contract or relevant legislation, the Commonwealth may direct the Contractor to suspend work on part or all of the Services.
- (b) If the Commonwealth directs the Contractor under clause 35.7(a), the Contractor must suspend work on the Services as directed until the Contractor satisfies the Commonwealth, at the Contractor's expense, that the Services will be performed in compliance with its work health and safety obligations.

35.8 Subcontracts

The Contractor must ensure that any subcontract entered into in relation to Services performed by WHS Workers imposes obligations on subcontractors equivalent to the obligations the Contractor has under clause 20, including this requirement in relation to subcontracts.

35.9 Relationship to other obligations

- (a) Where there is any inconsistency between this clause 35 and the WHS Laws, the WHS Laws prevail to the extent of the inconsistency.
- (b) The Contractor acknowledges that it is responsible for:
 - (i) complying with its obligations under WHS Laws; and
 - (ii) providing the Services in accordance with this Contract,and will not be relieved of that responsibility because of:

- (iii) anything in this clause 35 or in any policy or procedure referred to in this clause 35;
 - (iv) any instruction or direction or failure to give an instruction or direction under this clause 35;
 - (v) any exercise of, or failure to exercise, the Commonwealth's rights under this clause 35; or
 - (vi) any notice or other document or communication from the Contractor under this clause 35.
- (c) To the extent permitted by Law, the Commonwealth is not liable to the Contractor for any Loss in connection with work health and safety in relation to WHS Workers performing Services.

36. Conflict of interest

36.1 Warranty that there is no conflict of interest

The Contractor warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Contract no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract.

36.2 Notification of a conflict of interest

If, during the performance of the Services a conflict of interest arises, or appears likely to arise, the Contractor must:

- (a) notify the Commonwealth immediately in writing;
- (b) make full disclosure of all relevant information relating to the conflict;
- (c) propose steps to take for managing, resolving or otherwise dealing with the conflict of interest; and
- (d) take such steps as the Commonwealth requires, which may include those proposed by the Contractor pursuant to clause 36.2(c), to resolve or otherwise deal with the conflict.

36.3 Provision of Services fairly and independently

The Contractor must not, and must ensure that its Personnel do not, engage in any activity or obtain any interest during the course of the Contract that is likely to conflict with, or restrict, the Contractor providing the Services to the Commonwealth fairly and independently.

37. Security

37.1 Use of Commonwealth Systems

The Contractor must only use the Commonwealth's systems, either in person at Commonwealth premises or through Commonwealth issued remote access, to access and work with any Commonwealth Material in order to provide the Services.

37.2 Protection of Information

- (a) The Contractor must:
 - (i) do all things that a reasonable and prudent entity would do to ensure that all Commonwealth Material:

- (A) in the custody, possession or control of the Contractor or its Personnel; or
 - (B) which is accessed, transmitted or stored using or on the Contractor's or its Personnel's information systems or equipment, is protected at all times from unauthorised access or use by a third party and any misuse, damage or destruction by any person (including through botnet and denial of service attacks and any other phishing emails or related activities, trojan, worm, or malware);
 - (ii) implement protective measures for Commonwealth Material that are no less rigorous than accepted industry standards and commensurate with the consequences and probability of unauthorised access to, or use, misuse or loss of, the Commonwealth Material;
 - (iii) provide any information requested by the Commonwealth about the protective measures the Contractor is using or could use to protect Commonwealth Material; and
 - (iv) use any specific tools or other methodologies the Commonwealth may specify to protect Commonwealth Material (e.g. to block certain categories of emails).
- (b) The Contractor must not, and must ensure that its Personnel do not:
- (i) access any data or other information (including Commonwealth Material) in; or
 - (ii) copy, transmit or remove any data or other information (including Commonwealth Material) from,
- any of the Commonwealths systems without prior written approval of the Commonwealth and must only access such data and information (including Commonwealth Material) for the purposes of performing the Services.
- (c) The Contractor must comply with any:
- (i) direction given by the Commonwealth in respect of any Commonwealth Material from time to time; and
 - (ii) security processes and procedures Notified to the Contractor by the Commonwealth from time to time.
- (d) The Contractor must ensure that all Contractor Personnel are aware of the Commonwealth's security requirements and act in a manner which is consistent with those security requirements.

37.3 Australian Government's Protective Security Policy Framework

The Contractor must comply with the security requirements detailed in the Australian Government's Protective Security Policy Framework as minimum standards (to the extent applicable to the Services), any security requirements specified in item 20 of the Contract Details and any additional requirements advised by the Commonwealth from time to time.

37.4 Harmful Code

- (a) Without limiting this clause 37, the Contractor must take all reasonable endeavours to not, and must take all reasonable endeavours to ensure Contractor Personnel do not, introduce any Harmful Code into the Commonwealth's systems.
- (b) If any Harmful Code is introduced by the Contractor or Contractor Personnel, the Contractor must:
 - (i) report that introduction to Commonwealth as soon as reasonably practicable (and in any event no later than 24 hours after becoming aware of the introduction of any Harmful Code);
 - (ii) if required by the Commonwealth:
 - (A) if the Contractor is in breach of this clause 37.4, promptly and at its own cost, repair any harm or destruction caused by that Harmful Code in accordance with best industry practice (subject to any directions of the Commonwealth); and
 - (B) if the Contractor is not in breach of this clause 37.4, if requested by the Commonwealth in a Notice and at the Commonwealth's cost, repair any harm or destruction caused by that Harmful Code in accordance with best industry practice (subject to any directions of the Commonwealth).

37.5 Security training

- (a) The Contractor must ensure that Contractor Personnel are appropriately trained to a standard that is no less rigorous than accepted industry standards for the type of services that are required to be provided under this Contract in relation to security (including in relation to cyber security risks such as botnet and denial of service attack, phishing emails, trojans, worms, malware, and other related activities and risks).
- (b) The Contractor must, if requested by the Commonwealth, provide evidence to the Commonwealth about the types of security training it requires Contractor Personnel to undertake.

37.6 Security clearances

- (a) If required by the Commonwealth, each of the Personnel engaged by or on behalf of the Contractor must hold and maintain an Australian Government security clearance to the level required by the Commonwealth.
- (b) The Commonwealth will facilitate the obtaining of security clearances. The Contractor must co-operate with the Commonwealth (including by providing any information required by the Commonwealth and proactively preparing any required security clearance documentation), including to facilitate rapid on-boarding of newly appointed Personnel within the timeframes required to meet the requirements of this Contract.
- (c) The cost of security clearances must be borne by the Contractor.

37.7 Security checks

The Commonwealth may undertake any security checks it considers appropriate in relation to the Contractor and any Contractor Personnel. The Contractor must provide the Commonwealth with any information requested by the Commonwealth for the

purposes of conducting such checks within the timeframes reasonably required by the Commonwealth.

37.8 Security breaches

- (a) The Contractor acknowledges that if any Personnel lose their security clearance or causes a security breach, the Commonwealth may:
 - (i) after consultation with the Contractor, require the replacement of that person; or
 - (ii) immediately terminate this Contract for breach.
- (b) The Contractor must notify the Commonwealth immediately on becoming aware of any security incident or security breach. The Contractor agrees that if a security incident or a security breach occurs, the Contractor will immediately comply with all directions of the Commonwealth in order to address the incident or breach and ensure it does not occur again.

37.9 Cyber Security

- (a) Without limiting clause 37.8, if the Contractor becomes aware of any actual or threatened Cyber Incident, or has reasonable grounds to suspect that a Cyber Incident has occurred or may occur, it must take the steps specified in this clause 37.9(a).
- (b) If the circumstances in clause 37.9(a) arise, the Contractor must:
 - (i) notify the Commonwealth in writing promptly (and in any event, no longer than 12 hours after becoming aware of the Cyber Incident) and when required, by telephone as soon as possible after it becomes aware of any Cyber Incident and as soon as practicable (and at least within five Business Days) confirm the details by Notice in writing. A Notice under this clause must provide the Commonwealth with as much time as is reasonably practicable to mitigate any risks arising in connection with the Cyber Incident; and
 - (ii) comply with any directions issued by the Commonwealth in connection with the Cyber Incident (including to resolve the Cyber Incident), including in relation to:
 - (A) notifying the Australian Cyber Security Centre, or any other relevant body, as required by the Commonwealth;
 - (B) obtaining evidence about how, when and by whom the Cyber Incident has or may have compromised any systems or Commonwealth Material, providing that evidence to the Commonwealth on request, and preserving and protecting that evidence for a period of up to 12 months; and
 - (C) implementing any mitigation strategies to reduce the impact of the Cyber Incident or the likelihood or impact of any future similar incident.

37.10 Reduction in Service Charges

- (a) If:
 - (i) a security incident occurs (including a Cyber Incident) which is caused by an act or omission of the Contractor or the Contractor's Personnel; or

- (ii) the Contractor is taking action to prevent or rectify any security incident which is caused by an act or omission of the Contractor or the Contractor's Personnel,

and this prevents the Contractor from providing the Services or the Commonwealth from being able to receive the benefits of the Services as intended by this Contract for any period, the Commonwealth is not obliged to pay the Service Charges for that period.

- (b) Any refunds due to the Commonwealth under clause 37.10 may be set-off against any invoice in accordance with the Contract.

38. Books and records

38.1 Contractor to keep books and records

The Contractor must:

- (a) keep and require its subcontractors to keep adequate books and records, in accordance with Accounting Standards, in sufficient detail to enable the amounts payable by the Commonwealth under this Contract to be determined; and
- (b) retain and require its subcontractors to retain for a period of seven years after the expiry or termination of this Contract all books and records relating to the Services.

38.2 Costs

The Contractor must bear its own costs of complying with this clause 38.

38.3 Survival

This clause 38 applies for the Contract Period and for a period of seven years from the expiry or termination of this Contract.

39. Audit and access

39.1 Right to conduct audits

The Commonwealth or a representative of the Commonwealth may conduct audits relevant to the performance of the Contractor's obligations under this Contract. Audits may be conducted of:

- (a) the Contractor's operational practices and procedures as they relate to this Contract, including security procedures;
- (b) the accuracy of the Contractor's invoices and reports in relation to the provision of the Services under this Contract;
- (c) the Contractor's compliance with its confidentiality, privacy and security obligations under this Contract;
- (d) Material (including books and records) in the possession of the Contractor relevant to the Services or this Contract; and
- (e) any other matters determined by the Commonwealth to be relevant to the Services or this Contract.

39.2 Access by the Commonwealth

- (a) The Commonwealth (or the Commonwealth's representative) may, at reasonable times and on giving reasonable notice to the Contractor:

- (i) access the premises of the Contractor to the extent relevant to the performance of this Contract;
 - (ii) require the provision by the Contractor and its Personnel, of records and information in a data format and storage medium accessible by the Commonwealth (or the Commonwealth's representative) for use of the Commonwealth's existing computer hardware and software;
 - (iii) inspect and copy documentation, books and records, however stored, in the custody or under the control of the Contractor or its Personnel; and
 - (iv) require assistance in respect of any inquiry into or concerning the Services or this Contract. For these purposes an inquiry includes any administrative or statutory review, audit or inquiry (whether within or external to the Commonwealth), any request for information directed to the Commonwealth, and any inquiry conducted by Parliament of the Commonwealth of Australia or any Parliamentary committee.
- (b) The Contractor must provide access to its computer hardware and software to the extent necessary for the Commonwealth (or the Commonwealth's representative) to exercise its rights under this clause 39, and provide the Commonwealth (or the Commonwealth's representative) with any reasonable assistance requested by the Commonwealth (or the Commonwealth's representative) to use that hardware and software.

39.3 Conduct of audit and access

The Commonwealth must use reasonable endeavours to ensure that:

- (a) audits performed pursuant to clause 39.1; and
 - (b) the exercise of the general rights granted by clause 39.2 by the Commonwealth,
- do not unreasonably delay or disrupt in any material respect the Contractor's performance of its obligations under this Contract or its business.

39.4 Costs

Unless otherwise agreed in writing, each party must bear its own costs of any reviews and/or audits.

39.5 Authorised Investigators

The rights of the Commonwealth under clauses 39.1 and 39.2(a)(i) to 39.2(a)(iii) apply equally to the Auditor-General or a delegate of the Auditor-General, an Information Officer or a delegate of an Information Officer, and the Ombudsman or a delegate of the Ombudsman for the purpose of performing the Auditor-General's, the Information Officer's, or Ombudsman's statutory functions or powers (**Authorised Investigators**).

39.6 Contractor to comply with Authorised Investigator's requirements

The Contractor must do all things necessary to comply with an Authorised Investigator's or the Authorised Investigator's delegate's requirements, notified under clause 39.2, provided such requirements are legally enforceable and within the power of the Authorised Investigator, or the Authorised Investigator's respective delegate.

39.7 No reduction in responsibility

The requirement for, and participation in, audits does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

39.8 Subcontractor requirements

The Contractor must ensure that any subcontract entered into for the purpose of this Contract contains an equivalent clause granting the rights specified in this clause 39.

39.9 No restriction

Nothing in this Contract reduces, limits or restricts in any way any function, power, right or entitlement of any Authorised Investigator or a delegate of an Authorised Investigator. The rights of the Commonwealth under this Contract are in addition to any other power, right or entitlement of the any Authorised Investigator or a delegate of an Authorised Investigator.

Note: the effect of clause 45(k) of this Contract is that this clause 39 applies for the Contract Period and for a period of seven years from the expiry or termination of this Contract.

40. Access to documents

40.1 Definitions

In this clause, 'document' and 'Commonwealth contract' have the same meaning as in the *Freedom of Information Act 1982* (Cth).

40.2 Application of this clause

This clause 40 only applies where the Contract is a Commonwealth contract.

40.3 Obligations

The Contractor agrees that where the Commonwealth has received a request for access to a document created by, or in the possession of, the Contractor (or any subcontractor) that relates to the performance of this Contract (and not to the entry into the Contract), the Commonwealth may at any time by written notice require the Contractor to provide the document to the Commonwealth, and the Contractor must, at no additional cost to the Commonwealth, promptly comply with the notice.

40.4 Subcontractor requirements

The Contractor must include in any subcontract relating to the performance of this Contract provisions that will enable the Contractor to comply with its obligations under clause 40.

41. Unforeseen events

41.1 Occurrence of unforeseen event

Subject to clause 41.2, a party (**Affected Party**) is excused from performing its obligations under this Contract to the extent it is prevented by circumstances beyond its reasonable control (other than lack of funds for any reason or any strike, lockout and labour disputes in respect of the Contractor only), including acts of God, natural disasters, acts of war, riots and strikes outside the Affected Party's organisation.

41.2 Notice of unforeseen event

When the circumstances described in clause 41.1 arise or are reasonably perceived by the Affected Party as an imminent possibility, the Affected Party must give notice of those circumstances to the other party as soon as possible, identifying the effect they will have on its performance. An Affected Party must make all reasonable efforts to minimise the effects of such circumstances on the performance of this Contract.

41.3 Termination

If non-performance or diminished performance by the Affected Party due to the circumstances under clause 41.1 continues for a period of more than 30 consecutive days or other period as specified in item 21 of the Contract Details, the other party may terminate this Contract immediately by giving the Affected Party written notice.

41.4 Consequences of termination

If this Contract is terminated under clause 41.3:

- (a) each party will bear its own costs and neither party will incur further liability to the other; and
- (b) where the Contractor is the Affected Party, it will be entitled to payment for Services rendered in accordance with this Contract prior to the date of intervention of the circumstances described in clause 41.1.

42. Dispute resolution

42.1 No arbitration or court proceedings

If a dispute arises in relation to the conduct of this Contract (**Dispute**), a party must comply with this clause 42 before starting arbitration or court proceedings (except proceedings for urgent interlocutory relief). After a party has sought or obtained any urgent interlocutory relief that party must follow this clause 42.

42.2 Notification

A party claiming a Dispute has arisen must give the other parties to the Dispute notice setting out details of the Dispute.

42.3 Parties to resolve Dispute

During the 14 days after a notice is given under clause 42.2 (or longer period if the parties to the Dispute agree in writing), each party to the Dispute must use its reasonable efforts through a meeting of CEOs or equivalent (or their nominees) to resolve the Dispute. If the parties cannot resolve the Dispute within that period, they must refer the Dispute to a mediator if one of them requests.

42.4 Appointment of mediator

If the parties to the Dispute cannot agree on a mediator within seven days after a request under clause 42.3, the chairperson of the Resolution Institute or the chairperson's nominee will appoint a mediator.

42.5 Role of mediator and obligations of parties

The role of a mediator is to assist in negotiating a resolution of the Dispute. A mediator may not make a binding decision on a party to the Dispute except if the party agrees in writing. Unless agreed by the mediator and parties, the mediation must be held within 21 days of the request for mediation in clause 42.3. The parties must attend the mediation and act in good faith to genuinely attempt to resolve the Dispute.

42.6 Confidentiality

Any information or documents disclosed by a party under this clause 42:

- (a) must be kept confidential; and
- (b) may only be used to attempt to resolve the Dispute under this clause 42.

42.7 Costs

Each party to a Dispute must pay its own costs of complying with this clause 42. The parties to the Dispute must equally pay the costs of any mediator.

42.8 Termination of process

A party to a Dispute may terminate the dispute resolution process by giving notice to each other party after it has complied with clauses 42.1 to 42.5. Clauses 42.6 and 42.7 survive termination of the dispute resolution process.

42.9 Breach of this clause

If a party to a Dispute breaches clauses 42.1 to 42.8, the other party does not have to comply with those clauses in relation to the Dispute.

43. False or misleading information

43.1 Criminal Code acknowledgement

The Contractor acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule of the *Criminal Code Act 1995* (Cth).

43.2 Subcontracts

The Contractor must ensure that any subcontractor engaged in connection with the Contract acknowledges the information contained in this clause.

Note: Under section 137 of the Criminal Code giving false or misleading information to a Commonwealth entity is an offence, but only if the Commonwealth entity took reasonable steps to inform the person of the offence.

44. Termination

44.1 Termination and reduction for convenience

- (a) The Commonwealth may, at any time, by notice, terminate this Contract or reduce the scope of the Services, including for a machinery of government change or other major government policy changes.
- (b) On receipt of a notice of termination or reduction the Contractor must:
 - (i) acknowledge receipt of the Notice in writing within 24 hours of receipt of the Notice;
 - (ii) stop work as specified in the notice;
 - (iii) take all available steps to minimise loss resulting from that termination and to protect Commonwealth Material and Contract Material; and
 - (iv) continue work on any part of the Services not affected by the notice.
- (c) If this Contract is terminated under this clause 44.1, the Commonwealth is liable only for:
 - (i) payments under clause 14 for Services rendered in accordance with this Contract before the effective date of termination; and
 - (ii) reasonable costs actually incurred by the Contractor and directly attributable to the termination of the Contract and substantiated to the reasonable satisfaction of the Commonwealth.

- (d) If the scope of the Services is reduced, the Commonwealth's liability to pay the Service Charges or to provide Commonwealth Material abates in accordance with the reduction in the Services.
- (e) The Commonwealth is not liable to pay compensation under clause 44.1(c)(ii) for an amount which would, in addition to any amounts paid or due, or becoming due, to the Contractor under this Contract, exceed the total Service Charges payable under this Contract.
- (f) The Contractor is not entitled to compensation for loss of prospective profits.

44.2 Termination for default

- (a) Without limiting any other rights or remedies the Commonwealth may have against the Contractor arising out of or in connection with this Contract, the Commonwealth may terminate this Contract effective immediately by giving notice to the Contractor if:
 - (i) the Contractor breaches a material provision of this Contract where that breach is not capable of remedy;
 - (ii) the Contractor breaches any provision of this Contract and fails to remedy the breach within 14 days after receiving notice requiring it to do so;
 - (iii) in the opinion of the Commonwealth, a conflict of interest exists which would prevent the Contractor from performing its obligations under the Contract; or
 - (iv) an event specified in clause 44.2(c) or clause 37.8(a) happens to the Contractor.
- (b) Without limitation, for the purposes of clause 44.2(a), each of the following constitutes a breach of a material provision:
 - (i) breach of warranty under clause 6.2 (Contractor warranties);
 - (ii) a failure to comply with clause 6.6 (Subcontracting);
 - (iii) a failure to comply with Performance Criteria to the extent required under clause 9.4 (Right to terminate);
 - (iv) a failure to comply with clause 10 (Personnel);
 - (v) a failure to comply with clause 12 (Intellectual Property Rights);
 - (vi) a failure to comply with clause 17 (Laws and policies);
 - (vii) a failure to comply with clause 18 (Code of Conduct);
 - (viii) a failure to comply with clause 19 (Fraud and Corruption);
 - (ix) a failure to comply with clause 20 (Sanctions and Terror Organisations);
 - (x) a failure to comply with clause 21 (Illegal Workers);
 - (xi) a failure to comply with clause 22 (Modern Slavery);
 - (xii) a failure to comply with clause 24 (Workplace Gender Equality);
 - (xiii) a failure to comply with clause 25 (Shadow Economy Procurement Connected Policy);

- (xiv) a failure to comply with clause 27 (Archives Act)
 - (xv) a failure to comply with clause 29 (Insurance);
 - (xvi) a failure to comply with clause 30 (Confidentiality);
 - (xvii) a failure to comply with clause 31 (Protection of personal information);
 - (xviii) a failure to notify the Commonwealth of a conflict of interest under clause 36 (Conflict of interest);
 - (xix) a failure to comply with clause 39 (Audit and Access);
 - (xx) a failure to notify the Commonwealth of a conflict of interest under clause 36 (Conflict of interest) or to manage any conflict of interest to the satisfaction of the Commonwealth;
 - (xxi) a failure to comply with clause 37 (Security); or
 - (xxii) a failure to comply with clause 47.4 (Assignment and Novation).
- (c) The Contractor must notify the Commonwealth immediately if:
- (i) the Contractor being a corporation, there is any change in the direct or indirect beneficial ownership or control of the Contractor;
 - (ii) the Contractor disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
 - (iii) the Contractor ceases to carry on business;
 - (iv) the Contractor ceases to be able to pay its debts as they become due;
 - (v) the Contractor being a company enters into liquidation or has a controller or managing controller or liquidator or administrator appointed;
 - (vi) the Contractor being a natural person is declared bankrupt or assigns his or her estate for the benefit of creditors;
 - (vii) the Contractor is a trustee and the trust is terminated or an event occurs for vesting the trust property; or
 - (viii) where the Contractor is a partnership, any step is taken to dissolve that partnership.

In this clause 44.2, **controller**, **managing controller** and **administrator** have the same meanings as in the Corporations Act.

44.3 After termination

On termination of this Contract the Contractor must:

- (a) stop work on the Services subject to the termination Notice;
- (b) deal with Contract Material in accordance with clause 12.8;
- (c) deal with Commonwealth Material as reasonably directed by the Commonwealth; and
- (d) return all the Commonwealth's Confidential Information to the Commonwealth.

44.4 Termination does not affect accrued rights

Termination of this Contract does not affect any accrued rights or remedies of a party.

45. Survival

The following clauses survive the expiry or termination of this Contract:

- (a) Clause 6.2 (Contractor Warranties);
- (b) Clause 12 (Intellectual Property Rights);
- (c) Clause 13 (Moral Rights);
- (d) Clause 15 (GST);
- (e) Clause 16 (Indemnity);
- (f) Clause 29 (Insurance) to the extent it relates to professional indemnity or errors or omissions insurance;
- (g) Clause 30 (Confidentiality and privacy);
- (h) Clause 31 (Protection of personal information);
- (i) Clause 37 (Security);
- (j) Clause 38 (Books and records);
- (k) Clause 39 (Audit and access) for a period of seven years from the expiry or termination of this Contract; and
- (l) Clause 43 (False or misleading information).

46. Notices and other communications

46.1 Service of notices

A Notice must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post or other electronic means (facsimile and/or email as specified) to the recipient's address for Notices specified in item 22 of the Contract Details, as varied by any Notice given by the recipient to the sender.

46.2 Effective on receipt

A Notice given in accordance with clause 46.1 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the fifth Business Day after the date of posting (or on the tenth Business Day after the date of posting if posted to or from a place outside Australia);
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight Business Hours after the transmission, the recipient informs the sender that it has not received the entire Notice; or
- (d) if sent by email, as provided under sections 14 and 14A of the *Electronic Transactions Act 1999* (Cth),

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

47. Miscellaneous

47.1 Ownership of Contract

All copyright and other Intellectual Property Rights contained in this Contract remain the property of the Commonwealth.

47.2 Variation

No agreement or understanding varying or extending this Contract is legally binding upon either party unless the agreement or understanding is in writing and signed by both parties.

47.3 Approvals and consents

Except where this Contract expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Contract.

47.4 Assignment and novation

A party may only assign its rights or novate its rights and obligations under this Contract with the prior written consent of the other party.

47.5 Novation

A party may only novate its rights and obligations under this Contract by executing a legally valid Deed of Novation.

47.6 Costs

Each party must pay its own costs of negotiating, preparing and executing this Contract.

47.7 Counterparts

This Contract may be executed in counterparts. All executed counterparts constitute one document.

47.8 No merger

The rights and obligations of the parties under this Contract do not merge on completion of any transaction contemplated by this Contract.

47.9 Entire agreement

This Contract constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter.

47.10 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this Contract and any transaction contemplated by it.

47.11 Severability

A term or part of a term of this Contract that is illegal or unenforceable may be severed from this Contract and the remaining terms or parts of the terms of this Contract continue in force.

47.12 Waiver

Waiver of any provision of or right under this Contract:

- (a) must be in writing signed by the party entitled to the benefit of that provision or right; and
- (b) is effective only to the extent set out in any written waiver.

47.13 Relationship

- (a) The parties must not represent themselves, and must ensure that their officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the other party, or as otherwise able to bind or represent the other party.
- (b) This Contract does not create a relationship of employment, agency or partnership between the parties.

47.14 Announcements

- (a) The Contractor must, before making a public announcement in connection with this Contract or any transaction contemplated by it, obtain the Commonwealth's written agreement to the announcement, except if required by Law or a regulatory body (including a relevant stock exchange).
- (b) If the Contractor is required by Law or a regulatory body to make a public announcement in connection with this Contract or any transaction contemplated by this Contract, the Contractor must, to the extent practicable, first consult with and take into account the reasonable requirements of the Commonwealth.

47.15 No disrepute

- (a) The Contractor must not, and must ensure that Contractor Personnel do not, embarrass the Commonwealth or otherwise bring the Commonwealth into disrepute by engaging in any act or omission which is reasonably likely to diminish the trust that the public places in the Commonwealth or the proper performance of its duties, regardless of whether or not such act or omission is related to the Contractor's obligations under this Contract.

47.16 Machinery of Government changes

- (a) If a machinery of government change occurs which results in the transfer of functions or responsibilities from the Commonwealth to another Commonwealth agency (**New Agency**), the Commonwealth may transfer the responsibility for administering:
 - (i) this Contract in its entirety; or
 - (ii) certain parts of this Contract,to the New Agency by giving Notice to the Contractor.
- (b) The Commonwealth may require the Contractor to enter into a deed of variation or a new agreement with the New Agency on substantially the same terms as this Contract to reflect any machinery of government changes or give effect to any amendments to this Contract which may be required as a result of the machinery of government change.

47.17 Governing law and jurisdiction

This Contract is governed by the law of the Australian Capital Territory and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Australian Capital Territory.

Schedule 1 – Contract Details

Item number	Description	Clause Reference	Details
1.	Commonwealth	1.1	Commonwealth of Australia as represented by the Department of Industry, Science and Resources Level 10, Binara Street Canberra ACT ABN 74 599 608 295
2.	Contractor	1.1	[insert name of Contractor] [insert street address] [insert ABN]
3.	Commonwealth Representative	1.1	[insert position and/or name of the Commonwealth's representative]
4.	Contractor Representative	1.1	[insert position and/or name of Contractor's representative]
5.	Business Hours	1.1	[if Business Hours differ from those specified in the definition, specify alternative hours here. Otherwise insert 'not applicable']
6.	Commencement Date	1.1 and 3.1	[insert date Contract is to commence eg, dd/mm/yy]
7.	Initial Contract Period	1.1 and 3.1	[insert the initial period of time for which this Contract will continue eg, 2 years]
8.	Option Period	3.2	[insert Option Period eg, 2 periods each being 1 year in duration. Otherwise insert 'not applicable']
9.	Option Notice Period	3.2	[if Option Notice Period is to be other than 30 days, insert alternative Option Notice Period (eg, 45 days). Otherwise insert 'not applicable']
10.	Nominated Entity	1.1 and 4	[insert name(s) of any Nominated Agencies. Otherwise insert 'not applicable']
11.	Relevant Industry Standards	6.1(e) and 12.6(c)	[insert relevant industry standards, best practice and guidelines (if any). If the contract services involve an Australian Government website then include compliance with the Web Content Accessibility Guidelines (WCAG) 2.0 to a

Item number	Description	Clause Reference	Details
			double A rating here. More information is available at - https://www.dta.gov.au/help-and-advice/digital-service-standard/digital-service-standard-criteria/9-make-it-accessible . Otherwise insert 'no additional standards, practice or guidelines apply']
12.	Specific legislative requirements	6.2(j)	[insert any significant work health and safety issues arising from use by the Department of the goods to be purchased? e.g. any specific legislative requirements.]
13.	Subcontractors	6.6	[insert names and ABNs of any subcontractors. Otherwise insert 'not applicable']
14.	Specified Personnel	1.1 and 10	[insert names and positions of Specified Personnel. Otherwise insert 'not applicable']
15.	Commonwealth Material	1.1 and 11	[insert specific Material to be provided to the Contractor by the Commonwealth (if any) and any restrictions on the use of the Material. Otherwise insert 'not applicable']
16.	Intellectual Property Rights – ownership of Contract Material	12.3(b)	Clause 12.4 (First model: Commonwealth ownership of Intellectual Property Rights in Contract Material) is to apply
17.	Intellectual Property Rights – licences	12.4(b)	<p>Where clause 12.4 (First model: Commonwealth ownership of Intellectual Property Rights in Contract Material) is to apply:</p> <ol style="list-style-type: none"> 1. Period of Commonwealth's licence is: [insert the duration of the Commonwealth's licence to use the Pre-existing Material and Third Party Material provided by the Contractor.] 2. [if the terms of the licence are to differ from that provided in clause 12.4(b) state the position here] <p>[Refer to the Contract User Notes available from the procurement guidance on iCentral.]</p>

Item number	Description	Clause Reference	Details
18.	Intellectual Property Rights – licences	12.5(b)	<p>Where clause 12.5 (Second model: Contractor ownership of Intellectual Property Rights in Contract Material) is to apply:</p> <ol style="list-style-type: none"> Period of Commonwealth's licence is: [insert the duration of the Commonwealth's licence to use the Pre-existing Material and Third Party Material provided by the Contractor, and Contract Material.]
19.	Insurance	29.1	<p>[Note to user: In determining your proposed insurance requirements you should be mindful to limit insurance imposts and embed the principle of risk sharing by better reflecting the actual risk in contractual liability]</p> <p>[\$ insert amount of public liability insurance. See the RFT for details]</p> <p>[\$ insert amount of professional indemnity or errors and omissions. See the RFT for details]</p> <p>[insert any additional types of insurance the Contractor is required to maintain and the amount of that insurance required]</p>
20.	Security	37	[insert any security requirements additional to those specified in clause 37. Otherwise insert 'not applicable']
21.	Unforeseen events termination period	41.3	[if a termination period other than 14 days will apply in the event of an 'unforeseen event,' specify it here. Otherwise insert 'not applicable']

Item number	Description	Clause Reference	Details
22.	Address for Notices	46.1	<p>Commonwealth: [insert name and position of person to receive Notices] [insert postal address] [insert physical address] [insert facsimile number] [insert email address]</p> <p>Contractor: [insert name and position of person to receive Notices] [insert postal address] [insert physical address] [insert facsimile number]</p>

Schedule 2 – Services

1. Purpose (clause 6.2)

[Note to user: Insert a brief summary of the:

- (a) requirements of the Commonwealth relevant to provision of the Services; and
- (b) purpose of procuring the Services.]

2. Services (clauses 1.1 and 6)

	Description of Services [expand table if required]	Milestone Date
1.		
2.		
3.		
4.		
5.		

3. Deliverables (clause 1.1)

	Deliverables	Milestone Date
1.		
2.		
3.		
4.		
5.		

4. Performance Criteria (clauses 1.1 and 9)

[Note to user: Insert details of Performance Criteria against which the Services and Deliverables will be assessed, and the date of assessment. The definition of Performance Criteria applies to the requirements in clauses 6.1(c) and (e) if no requirements are specified below.]

	Service/Deliverable	Performance Criteria
1.		
2.		
3.		
4.		
5.		

5. Progress meetings (clause 8.1)

Meeting	Attendees	Frequency	Place

6. Reporting (clause 8.2)

Report type and content	Frequency	Milestone Date

Schedule 3 – Payment

1. Fixed charges (clause 14)

[Note to user: Insert fixed charges for Services. If payment is to be made on a time and materials basis, delete the table and mark this section as 'Not Applicable'.]

	Charges (exclusive of GST)	GST Component	Total (inclusive of GST)
Service Charges (fixed)			
Other charges (if any)			
TOTAL			

2. Hourly rates (clause 14)

[Note to user: Add hourly rates for each person if payment is to be made on a time and materials basis. If not, delete the table and mark this section 'Not Applicable'.]

Personnel	Hourly Rate (exclusive of GST)	GST Component	Maximum Work Effort (Days)	Charges (exclusive of GST)	GST Component
Subtotal					
Add GST					
TOTAL					

2.1 The maximum number of hours that may be invoiced by the Contractor:

- (a) for offshore Personnel, must not exceed 12 hours; and.
 - (b) for any other Personnel, must not exceed 8 hours;
- in a 24 hour period.

2.2 In this clause 2 of Schedule 3:

“**offshore area**” has the same meaning as in the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* (Cth).

“**Offshore Personnel**” means Personnel that are performing the Services in the offshore area.

3. Daily rates (clause 14)

[Note to user: Add daily rates for each person if payment is to be made on a time and materials basis. If not, delete the table and mark this section 'Not Applicable'.]

Personnel	Daily Rate (exclusive of GST)	GST Component	Maximum Work Effort (Days)	Charges (exclusive of GST)	GST Component
Subtotal					
Add GST					
TOTAL					

4. Milestone payments (clause 14)

[Note to user: Insert milestone payment amounts against the Milestone Dates. If milestone payments are not applicable, delete the table and mark this section as 'Not Applicable'.]

Milestone Date	Milestone/Deliverable	Milestone payment (exclusive of GST)
Subtotal		
Add GST		
TOTAL		

5. Invoicing requirements (clause 14.2)

The invoice must meet the requirements of a tax invoice as set out in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and in a form approved by the Commonwealth which sets out:

- the details of the amount of time spent by each of the person including Specified Personnel on the Services for the period to which the invoice relates and a record detailing how the relevant Milestone Dates have been met;
- the contract or project number;
- the amount of any allowances and costs to be paid by the Commonwealth together with any substantiating material required;
- the name of the Commonwealth Representative; and

- (e) such other information as the Commonwealth requires.

Invoices must be submitted to:

[insert position and name of the Commonwealth's representative]

Department of Industry, Science and Resources

accounts@industry.gov.au

[insert cc address of contract manager if required]

The Contractor must not submit more than invoice in any month.

6. Payment period (clause 14.3)

[Note to user: Specify a payment period if the payment period contemplated in clause 14.3 is not suitable. In accordance with the [Supplier Pay On-Time or Pay Interest Policy \(RMG 417\)](#) (as defined in Item 8 below) this period must be either 5 or 20 days or less. If this policy applies, state in this section: 'Clause 14.3 applies'.]

7. Expenses (clause 14.5)

[Note to user: If the Contract is for a fixed fee, insert 'The Commonwealth will not pay any travel, accommodation or other fees, charges or expenses'. If the Commonwealth will pay expenses in addition to the fee, insert the following:

- (a) Subject to (b)below, the Commonwealth will not pay any travel, accommodation or other fees, charges or expenses unless they have been pre-approved in writing by the Commonwealth and do not exceed \$[insert] (exclusive of GST) in total.
- (b) The Contractor will be reimbursed for the travel and related accommodation at non-SES rates where they are pre-approved in writing by the Commonwealth. The Contractor must submit an invoice for those expenses and the Commonwealth will reimburse the Contractor in accordance with the invoicing procedures set out in this Schedule.]

8. Payment of Interest

[Note to user: Check that the reference to the relevant payment period in this Item 8 is correct.]

(a) Payment Terms

The Department will pay the Contractor within [5 or 20] calendar days after acknowledgement of the satisfactory delivery of the goods or services and receipt of a correctly rendered invoice. If this period ends on a day that is not a Business Day, payment is due on the next Business Day.

(b) Interest

This Item 8 only applies where the amount of the interest payable exceeds A\$100.

For payments made by the Commonwealth after the payment is due, the Commonwealth will pay the unpaid amount plus interest on the unpaid amount.

Interest payable under this Item 8 will be simple interest calculated in respect of each day from the day after the amount was due and payable, up to and including the day that the Commonwealth effects payment as represented by the following formula:

$$SI = UA \times GIC \times D$$

Where:

SI = simple interest amount;

UA = the unpaid amount;

GIC = General Interest Charge Rate daily rate; and

D = the number of days from the day after payment was due up to and including the day that payment is made.

In this Item 8 “General Interest Charge Rate” means the general interest charge rate determined under section 8AAD of the *Taxation Administration Act 1953* (Cth) on the day payment is due, expressed as a decimal rate per day.

(c) Correct rendering of invoices

For the purposes of this Item 8, an invoice is correctly rendered if it:

- (i) it is correctly addressed and calculated in accordance with the Contract;
and
- (ii) it relates only to supplies that have been delivered to the Department in accordance with the Contract; and
- (iii) it is a valid tax invoice in accordance with A New Tax System (Goods and Services Tax) Act 1999 (Cth).

Schedule 4 – Confidentiality and privacy undertaking

Date

_____/_____/_____
day month year

Parties

Name The Commonwealth of Australia as represented by the Department of Industry, Science and Resources ABN 74 599 608 295
Short form name **Commonwealth**
Notice details **[insert]**

Name **[insert name of Confidant and ABN]**
Short form name **Confidant, I, me and my**
Notice details **[insert]**

Background

- A. The Commonwealth requires the provision of certain services.
- B. **[Insert name of Contractor]** (**Contractor**) has agreed to provide services to the Commonwealth under a contract dated **[insert date]** (**Contract**).
- C. The Confidant provides the undertakings set out below in respect of work to be performed, and information to be acquired, directly or indirectly in connection with the Contract.

Agreed terms

1. Definitions

Confidential Information means information that is by its nature confidential and:

- (a) is designated by the Commonwealth as confidential and is described in Schedule 5 of the Contract; or
- (b) the Confidant knows or ought to know is confidential, but does not include information that:
- (c) is or becomes public knowledge otherwise than by breach of the Contract or any other confidentiality obligation.

Personal Information has the meaning it has in section 6 of the Privacy Act.

2. Access

I understand that in the course of performing duties under the Contract, I may have access to Personal Information and Confidential Information.

3. Non-disclosure

- (a) I will treat as secret and confidential all Personal Information and Confidential Information to which I have access or which is disclosed to me.
- (b) If the Commonwealth grants its consent for me to disclose Personal Information or Confidential Information, it may impose conditions on that consent. In particular, the Commonwealth may require that I obtain the execution of a deed in these terms by the person to whom I propose to disclose the Personal Information or Confidential Information.
- (c) My obligations under this deed will not be taken to have been breached where I am required by law to disclose the Personal Information or Confidential Information.

4. Restriction on use

- (a) I will use the Personal Information or Confidential Information only for the purpose of my dealings with the Commonwealth (whether directly or indirectly).
- (b) I will not copy or reproduce the Personal Information or Confidential Information without the approval of the Commonwealth, will not allow any other person outside the Commonwealth access to the Personal Information or Confidential Information and will take all necessary precautions to prevent unauthorised access to or copying of the Personal Information or Confidential Information in my control.

5. Powers of the Commonwealth

- (a) Immediately on request by the Commonwealth, I must deliver to the Commonwealth all documents in my possession or control containing Personal Information or Confidential Information.
- (b) If at the time of such a request I am aware that documents containing Personal Information or Confidential Information are beyond my possession or control, then I must provide full details of where the documents containing the Personal Information or Confidential Information are, and the identity of the person who has control of them.

6. Privacy Act obligations

I agree to abide by the provisions of the *Privacy Act 1988* (Cth), including the Australian Privacy Principles set out in that Act, in respect of both Personal Information and Confidential Information, whether or not I am legally bound to comply with that Act and as if the definition of personal information in that Act includes Confidential Information.

7. Survival

This deed will survive the expiry or termination of any contract between the Contractor and me providing for the performance of services or the provision of goods by me (whether directly or indirectly).

8. Applicable law

This deed will be governed by, and construed in all respects in accordance with, the law of the Australian Capital Territory and I agree to submit to the applicable jurisdiction of the Courts of that Territory in respect of all matters arising under, or in relation to, this deed.

EXECUTED as a deed.

Signed sealed and delivered for and behalf of the **Commonwealth of Australia as represented by the Department of Industry, Science and Resources** by its duly authorised delegate in the presence of:

_____ Signature of witness	←	_____ Signature of delegate	←
_____ Name of witness (print)		_____ Name of delegate (print)	
		_____ Position of delegate (print)	

[Note to user: Select one of the following execution clauses. Where the Contractor is a company, select the first execution block below, otherwise, select the second option.]

Executed by [insert name of company] in accordance with Section 127 of the Corporations Act 2001 by:

_____ Signature of director	←	_____ Signature of director/company secretary/sole director and sole company secretary (Please delete as applicable)	←
_____ Name of director (print)		_____ Name of director/company secretary/sole director and sole company secretary (print)	
_____ Date		_____ Date	

Signed sealed and delivered by **[name of signatory]** in the presence of:

Signature of witness



Signature



Name of witness (print)

Date

Date

Schedule 5 – Designated Confidential Information

[Note: This Schedule should include each party's Confidential Information (decided by reference to the Confidentiality throughout the Procurement Cycle material available at: <https://www.finance.gov.au/government/procurement/buying-australian-government/confidentiality-throughout-procurement-cycle>. The period of confidentiality should be specified for each item. If the parties agree that different items of information are to be confidential for different periods of time, the different periods should be recorded next to each item. An assessment will need to be made by the parties on a case-by-case basis about what is to be included in this Schedule.]

Note that, if Contract provisions or Schedules are to be kept confidential (i.e. inserted at sections 1.1 or 2.1 of this Schedule) and the value of the Contract is over \$100,000, the Commonwealth must report these in accordance with the Senate Order on Departmental and Entity Contracts, including providing a statement of reasons for the confidentiality. Users can contact procurementinbox@industry.gov.au for further information. If the value of the Contract is under \$100,000, any confidentiality provisions will need to be recorded in TechnologyOne, but the Senate Order won't apply.]

1. Confidential information of the Commonwealth (clause 1.1 and 30)

1.1 Contract provisions / Schedules

Item	Period of Confidentiality
[insert relevant items]	

1.2 Contract-related Material

Item	Period of Confidentiality
[insert relevant items]	

2. Confidential information of the Contractor (clause 1.1 and 30)

2.1 Contract provisions / Schedules

Item	Period of Confidentiality
[insert relevant items]	

2.2 Contract-related Material

Item	Period of Confidentiality
[insert relevant items]	

Schedule 6 – Pre-existing Material

1. Commonwealth's Pre-existing Material (clause 12)

Item number	Item	Description	Date created

2. Contractor's Pre-existing Material (clause 12)

Item number	Item	Description	Date created

Signing page

EXECUTED as an agreement.

Signed for and on behalf of the
Commonwealth of Australia as
represented by the Department of
Industry, Science and Resources
ABN 74 599 608 295 by its duly authorised
delegate in the presence of

Signature of witness

Name of witness (print)

Date

Signature of delegate

Name of delegate (print)

Position of delegate (print)

Date



[Select one of the following execution clauses. Where the Contractor is a company, select the first execution block below. Where the Contractor is an individual/sole trader, select the second execution block. Where the Contractor is a trust, select the third execution block.]

Company

Executed by [insert name of company]
ACN [insert] in accordance with section 127
of the Corporations Act by:

Signature of director

Name of director (print)

Date

Signature of director/company secretary/sole director
and sole company secretary
(Please delete as applicable)

Name of director/company secretary/ sole director and
sole company secretary (print)

Date



Individual/Sole Trader

[Note to user: if the individual trades under a trading or business name, the following should be added 'trading as (or t/as) [name of registered business or trading name]

Signed by **[insert contracting party name]**
ABN **[insert ABN]** in the presence of:

Signature of witness

Signature of Contractor



Name of witness (print)

Date

Date

Trust

Executed by **[insert name of trustee company]** ACN as a trustee for **[insert name of trust]** ABN **[insert ABN of trustee for the trust]** in accordance with Section 127 of the Corporations Act by:

Signature of director



Signature of director/company secretary/sole director who is also the sole company secretary (Please delete as applicable)



Name of director (print)

Name of director/company secretary/sole director who is also the sole company secretary (print)

Date

Date

OR

Executed by **[insert name of individual trustee]** as trustee for **[insert name of trust]** ABN **[insert ABN of trustee for the trust]** in the presence of:

Signature of witness



Signature of trustee



Name of witness (print)

Date

Date

Statement of Work

1 Purpose

- a. The Department of Industry, Science, and Resources (DISR) is seeking the services of suitably qualified advisers with relevant oil and gas industry experience to provide technical advisory services. The Project Execution Advisory Team (PEAT) will form part of the Northern Endeavour Project team engaged in the remediation of the Laminaria-Corallina fields associated with the Northern Endeavour Floating Production Storage and Offloading (FPSO) vessel. The PEAT will provide professional technical advice directly to DISR on the safe and efficient operations, planning, maintenance, and services relating to Phases 2 and 3 of the Northern Endeavour Decommissioning Project.
- b. The purpose of this Statement of Work (SOW) is to communicate to the Tenderers the expected resourcing, required services, and standards of work to be carried out under the Contract including the relevant responsibilities between the Commonwealth and the Contractor.

2 Overview

2.1 Background

- a. The Northern Endeavour Branch (NEB) was established in March 2020 to investigate and progress a long-term handling strategy for the Northern Endeavour FPSO and associated Laminaria-Corallina field facilities and infrastructure due to disclaiming of certain property by Timor Sea Oil and Gas Australia Pty Ltd (TSOGA):
 - i. between the manifolds and wellheads.
 - ii. flexible flowline risers and umbilical risers with individual buoyancy modules installed on the mid-water arches; and
 - iii. nine mooring lines (3 sets of 3) made up of chain and plastic sheathed wires.
- b. Under the Northern Endeavour Decommissioning Project (NEDCOM) the physical decommissioning of the Northern Endeavour FPSO and associated Laminaria-Corallina field facilities will be conducted in three principal phases, under an emulated regime, as follows:
 - i. **Phase One:** Disconnection of the FPSO and unmanned tow, including well isolations.
 - ii. **Phase Two:** Permanent Plugging and Abandonment (P&A) of 9 subsea wells, including removal of Xmas Trees (XT) and wellheads; and
 - iii. **Phase Three:** Subsea infrastructure removal and seabed remediation campaign.
- c. A procurement process resulted in the selection of Petrofac Facilities Management Limited (PFML) to undertake Phase One: Disconnection of the FPSO and unmanned tow, including well isolation. PFML is responsible for the management of the project delivery for Phase One, including all technical engineering designs and management services required to support the physical execution of the disconnection.
- d. A procurement process is underway to select a contractor/s to deliver Phases 2 and 3 of the NEDCOM project. This process is expected to be finalised in late Q1 2025 and the intent is for the PEAT contract to be finalised and signed at approximately the same time.

This process is expected to be finalised in late Q1 2025. It is intended that any Phase 2/3 contract will be executed in Q1 2025. The execution of any PEAT contract resulting from this procurement is also planned for Q1 2025. This timing is intended to allow the PEAT contractor to engage throughout the entire project lifecycle from initial detailed design through to project execution and closeout.

This will allow the Phase 2/3 Contractor/s and PEAT to engage throughout the entire project lifecycle from initial detailed design phase through to project execution and closeout.

2.2 Project Timings

- a. NEDCOM will be delivered over three phases with estimated timings provided in Table 1: Decommissioning Project Phase Timings

Table 1: Provisional Decommissioning Project Phase timings

Decommission Project Phases	Estimated Commence	Estimated End by
Phase 1: Disconnection of the FPSO and unmanned tow, including well isolations	September 2022	June 2025
Phase 2: Plug and abandon wells.	September 2026	March 2027
Phase 3: Remove subsea infrastructure and remediate seabed.	November 2027	March 2028

- b. The decision to proceed with the execution of Phase Two and Phase Three will be subject to the outcome of the procurement process and corresponding Government approvals.

3 Project Execution Advisory Team (PEAT)

- a. The PEAT will be responsible for providing reliable and timely information in support of the NEDCOM Program to enable timely decision making to effectively support the planning, management, and execution of the Program.
- b. It is expected that the PEAT will provide support on four key areas being:
 - i. **Project Coordination:** including review and interpretation of schedules, input on cost analysis and reporting, and conduct necessary project control duties to support the project leadership such as:
 - a. risk and issues management.
 - b. Change management; and
 - c. exception reporting.
 - ii. **Regulatory and EHS:** including providing assurance advice to DISR to manage DISR's and contractor compliance with environmental regulatory and required management standards.
 - iii. **Technical and Quality Advice:** including providing advice and assurance to DISR in relation to key decommissioning activities, contract compliance, and application of industry best practices.
 - iv. **Offshore Representative:** including providing a NEB presence on intervention vessels and providing key inputs relating to verification and assurance of contractor

offshore activities and enables a direct escalation path for offshore issues requiring rapid decisions.

- c. The organisational structure and expected utilisation of resources, may be changed by DISR, following consideration of various factors, including:
 - i. the skills and experience of the Contractor's provided resources.
 - ii. the evolving skills and experience of other team members, including DISR staff and existing contractors; and
 - iii. the progressive needs of the NEDCOM Program and DISR's corresponding organisational structure.
- d. A detailed description of each role, individual responsibilities, skill level and relevant experience for each role as well as an indication of the expected utilisation rates is presented in **Appendix 2: Detailed Role Description Skill and Experience**.
- e. The estimated support levels and time period for the initial 24-month term of the contract is described below. This is subject to change at the Commonwealth's absolute discretion, as planning and operations progress, but should be used as a reference for tender preparation and costings.

[illegible]

- f. The utilisation is based on the following assumptions, which may be subject to change at the Commonwealth's absolute discretion:
 - i. Phase 2 / 3 delivery contract to commence in early 2025.
 - ii. Phase 2 Offshore works expected to commence in September 2026, with increased activities commencing three (3) months prior in June 2026.
 - iii. Phase 3 Activities expected to commence after the end of the initial two-year contract term, and expected utilisation rates are to be discussed during extension negotiations.

Department of Industry, Science, and Resources

Northern Endeavour Branch

Request for Tender NEB-ATM_2024_0975

Project Execution Advisory Team

Schedule 2 – Tenderer Deliverables

Tenderer Deliverables

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Attachment 1 – Checklist

The following checklist is provided to assist Tenderers in preparing and submitting a tender. The checklist is a guide only. Tenderers should satisfy themselves that they have met all conditions in this RFT and should not rely on the checklist for this purpose. The Tenderer should complete and submit this checklist with its tender.

	Action	Completed Y/N
	Before submitting a tender	
1.	Read the RFT including the Schedules and Attachments and the Draft Form of Contract	
2.	Note the restrictions and the Department's rights regarding participation by the successful Tenderer in any future procurement conducted for the purposes of the Northern Endeavour Program	
3.	Confirm the Tenderer satisfies the Conditions for Participation	
4.	Confirm the Tenderer satisfies the Minimum Content and Format Requirements	
5.	Note the RFT Closing Time	
6.	Note the permitted method for lodging a tender	
7.	Note the Department's evaluation process	
8.	Consider seeking independent professional advice in relation to your tender	
9.	Check that all addenda in relation to the Tender have been received and reviewed on AusTender	
	Submitting a tender	
10.	Complete and submit the Tenderer Response Form (Attachment 2)	
11.	Complete, sign and submit the Tenderer's Deed (Attachment 3)	
12.	Address and provide the relevant information in relation to the Tenderer's capability and capacity to meet the evaluation requirements (including CVs) (Attachment 4)	
13.	Prepare and submit a document on the Tenderer's social impact and benefit to the Australian economy (Attachment 5)	
14.	Complete and submit the Pricing Response Template (Attachment 6)	
15.	Prepare and submit a document on insurance. If the tender does not include this, the Tenderer is taken to confirm it and any	

	subcontractors can and will meet the Department's proposed insurance requirements (Attachment 7)	
16.	Complete and submit a compliance statement. If the tender does not include this, the Tenderer is taken to have agreed with all provisions of the Draft Form of Contract (Attachment 8)	
17.	Prepare and submit a document on confidentiality. If the tender does not include this, the Tenderer is taken to have agreed that it does not require any information to be kept confidential under any resultant Contract (Attachment 9)	
18.	Apply for and provide all Valid and Satisfactory Statements of Tax Record required for the Tenderer's entity type (Attachment 10)	
19.	Prepare and submit a document on Tenderer financial viability (Attachment 11)	
20.	Prepare and submit a document on Compliance with the Modern Slavery Act 2018 (Cth) (Attachment 12)	
21.	Retain a copy of the tender for your records	
22.	<p>Ensure the tender:</p> <ul style="list-style-type: none"> • is free from anything that might reasonably affect useability, security or operations of AusTender or the Department's computing environment. • does not contain macros, script or executable code; and • complies with the file type, format, naming conventions and size limitations, as specified in clause 14.2 of the RFT. 	
23.	Submit the tender, including this completed checklist.	

Is the Tenderer a small to medium enterprise (i.e. an entity employing fewer than 200 full time equivalents)?

Y/N

Is the Tenderer a small business (i.e. an entity employing fewer than 20 full time equivalents)?

Y/N

7. Electronic payment

Is the Tenderer willing and able to accept electronic payment?

Y/N

8. Conflicts of interest

The Tenderer confirms that there are no circumstances or relationships which constitute or may constitute a conflict or potential conflict of interest in relation to this RFT or the Tenderer's obligations under any contract resulting from this RFT other than:

[Insert details of any conflicts or potential conflicts of interest]

The Tenderer undertakes to advise the Department in writing of any additional actual or potential conflicts of interest, or changes relating to any already declared conflicts or potential conflicts of interest, immediately after becoming aware of it.

9. Subcontractor name

[Note to Tenderers: Tenderers may duplicate this section if it proposes to use more than one subcontractor in the performance of the Services]

	Company name	
	ACN/ABN	
	Principal place of business (address)	
If a partnership	Trading name (if any)	
	Full name of partners	
If a sole trader	Trading name	
	Full name of sole trader	
If any other type of organisation	Name of organisation	
	Type of organisation	
Services to be provided by Subcontractor		

Attachment 3 – Tenderer's Deed

[Note to Tenderers: Tenderers must provide the Tenderer's Deed substantially in the form set out below and include it in their tender response in order to meet the Minimum Content and Format Requirements (refer to clause 12 of this RFT). Amendments should only be made where necessary to complete this Tenderer's Deed. Subject to clause 16 of the RFT, if a Tenderer does not satisfy the Minimum Content and Format Requirements, it will be excluded from consideration (see clause 18 of the RFT).]

TENDERER'S DEED

This deed is made by [INSERT FULL LEGAL NAME OF TENDERER] (ABN [INSERT])
(Tenderer).

1. Background and interpretation

- 1.1 The Department has issued Request for Tender NEB-ATM_2024_0393 (RFT).
- 1.2 In this deed, terms not otherwise defined have the meaning given to them in the RFT.

2. Confirmation

2.1 The Tenderer:

- (a) confirms that the information provided in its tender submitted in response to the RFT is true and correct in all material respects.
- (b) confirms that it and any of its subcontractors will comply with the Commonwealth Supplier Code of Conduct at all times.
 - (a) offers to supply the services described in the RFT at the prices specified in the tender.
- (c) confirms that the tender remains valid and open for acceptance by the Department for a period of 6 months from the RFT Closing Time (and any extended Tender Validity Period if the Tender Validity Period is extended in accordance with the RFT);
- (d) confirms that it and any proposed subcontractors are not currently named as non-compliant with the *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**);
- (e) confirms that, as at the RFT Closing Time, in dealing with its employees and independent contractors, the Tenderer has due regard to Commonwealth laws applicable to the engagement of workers and that the Tenderer complies with all applicable Commonwealth laws applicable to the engagement of workers, including obligations under the *Work Health and Safety Act 2011* (Cth) and relevant work health and safety laws.
 - (b) confirms that it and any proposed subcontractors are not insolvent, bankrupt, in liquidation, or under administration or receivership.
- (f) confirms that it and any proposed subcontractors consent to the public disclosure of the name, ABN and address of, and work to be performed by, a subcontractor if the Tenderer is selected to enter into a contract with the Department for the provision of the Services described in this RFT;

- (c) confirms that it and any proposed subcontractors do not have any judicial decision against them (not including decisions under appeal) relating to employee entitlements in respect of which they have not paid the claim;
 - (g) confirms its capacity to tender and enter into a contract in the Draft Form of Contract and that there is no restriction under any relevant law to prevent it from tendering;
 - (d) warrants that it is not a member of the Industry Reference Group (IRG) and if an association with the IRG exists, the Tenderer has declared the relevant conflict of interest, and agrees to take any steps required by the Department to manage the conflict; and
 - (h) consents to the Department undertaking checks and other forms of due diligence in accordance with this RFT.
- 2.2 The Tenderer warrants that neither the Tenderer nor any of its officers, employees, agents, and subcontractors has, in relation to the preparation, lodgement or assessment of the tender:
- (a) improperly obtained information;
 - (i) received improper assistance;
 - (b) engaged in collusive tendering, anti-competitive conduct or other similar conduct with any other Tenderer or other person; or
 - (j) attempted to improperly influence an officer of the Department or approached any Commonwealth officer (other than as permitted by the RFT).

2.3 The Tenderer notes that giving false or misleading information is a serious offence and confirms that all information in its tender is true and correct in every material respect.

3. Anti-terrorism and sanctions

3.1 The Tenderer declares that neither it, nor any Tenderer personnel or proposed subcontractors are listed as terrorists under section 15 of the *Charter of the United Nations Act 1945* (Cth). Note: The list is available from the Department of Foreign Affairs website.

4. Criminal Code offences

The Tenderer acknowledges that:

- (a) unauthorised disclosure of security classified information may be an offence. Legislation (including, but not limited to, under Part 10.7 of the *Criminal Code Act 1995* (Cth)) contains provisions relating to the protection of prescribed official information and sets out the penalties for the unauthorised disclosure of that information;
- (b) it is an offence under Division 137 of the *Criminal Code Act 1995* (Cth) to give false and misleading information to the Commonwealth or its Representatives; and
- (c) publication or communication of any fact or document by a person which has come to their knowledge or into their possession or custody through the performance of a Contract (other than to a person to whom the Tenderer is authorised to publish or disclose the fact or document) may be an offence under section 122.4A of the *Criminal Code Act 1995* (Cth), the maximum penalty for which is five years' imprisonment.

5. Compliance with the Workplace Gender Equality Act 2012 (Cth)

Under Australian Government procurement policy, Tenderers are obliged to indicate whether or not their organisation is covered by the WGE Act. An organisation is covered by the WGE Act if it is a 'relevant employer', defined as being a non-public sector employer (including higher education institutions, trade unions and not-for-profit organisations) of 100 or more employees in Australia. For information about the coverage of the WGE Act, contact the Workplace Gender Equality Agency on (02) 9432 7000.

Please mark one of the following as applicable:

- ☐ (a) Yes, the Tenderer is a relevant employer. Attached is a current letter of compliance as part of this submission which indicates the Tenderer's compliance with the *Workplace Gender Equality Act 2012 (Cth)*.
- ☐ (b) Yes, the Tenderer is a relevant employer. The Tenderer will be providing a current letter of compliance prior to contract.
- ☐ (c) No, the Tenderer is not a relevant employer.

6. Compliance with Shadow Economy Procurement Connected Policy

6.1 The Tenderer acknowledges that if it is successful, it will be required to:

- (k) hold all Valid and Satisfactory Statements of Tax Record required for its entity type for the duration of any Contract entered into with the Department and, on request by the Department, provide to the Department a copy of the Statements of Tax Record;

6.2 The Tenderer acknowledges that if it is successful and it does not comply with the requirements outlined in clause 6.16.1 that it will be a breach of the Contract entered into as a result of the RFT process.

7. Payment Times Procurement Connected Policy (PT PCP)

7.1 The Tenderer should identify whether or not they are a 'Reporting Entity' for the purposes of the PT PCP by ticking the relevant box below:

Note to Tenderers: A Reporting Entity means a 'Reporting Entity' within the meaning of the Payment Times Reporting Act 2020 (Cth) (PTR Act).

- ☐ (a) The tenderer **is** a Reporting Entity
- ☐ (b) The tenderer **is not** a Reporting Entity

8. Signature on behalf of Tenderer

8.1 The Tenderer represents that the person signing this deed has been authorised by the Tenderer to make the statements in this deed personally and on behalf of the Tenderer.

Signature

Signature of witness

Name

Name of witness

Position

Position of witness

Date

Date

Attachment 4 – How to Meet Evaluation Requirements

Evaluation Criterion 1 – Capability

The Tenderer needs to demonstrate capability to provide the Services, in accordance with the Statement of Work as set out in Schedule 1 to the RFT.

1. The Tenderer needs to demonstrate relevant past performance – demonstrated capacity, skills and experience within the nominated personnel and proposed resourcing strategy.
2. Previous experience in the delivery of services of similar scope, scale, and complexity will be considered.

Evaluation Criterion 2 – Capacity

The Tenderer needs to demonstrate capacity to provide the Services in accordance with the Statement of Work including the Tenderer's staffing strategy for the Services, approach to recruiting and retaining staff and ability to provide the Services within the Department's required timeframe and location.

Particular attention will be paid to how the Tenderer has articulated it will react to changes in personnel, and how the Tenderer will react to changes in scope that may require additional support to be sourced and provided.

Evaluation Criterion 3 - Personnel

For each of the identified resources in the Statement of Work, the Tenderer must provide a Curriculum Vitae (CV) that includes:

- i. Information on the person's role, relevant experience and past performance on projects of a similar nature and complexity.
- ii. Information on the person's relevant skills and qualifications to perform the Services specified in the Statement of Work, including confirmation that the person holds (or is willing to hold) all relevant security clearances, licenses, approvals, certifications or other qualifications required.
- (iii) Contact details for at least two referees for each nominated resource.

Note: CVs should be no longer than 3 pages each. The Tenderer's response to this Evaluation Criterion 1 should not be longer than 5 A4 pages, not including any CVs provided..

Evaluation Criterion 4 - Price

The Tenderer needs to provide their proposed pricing (i.e. all costs, fees, allowances and charges associated with the implementation and completion of contract obligations), including pricing compliance, transparency and competitiveness, and any associated risk.

Evaluation Criterion 5 – Risk

The Tenderer needs to address any risks inherent in the tender not taken into account in the assessment of the tender against the other Evaluation Criteria, including:

- a. The extent to which the Tenderer complies with the RFT and the overall level of commercial risk represented by the Tenderer's response;
 - (i) Compliance with the Draft Form of Contract;
 - (ii) Compliance with applicable Commonwealth policies;
 - (iii) any actual or perceived conflict of interest; and
- b. the adequacy of insurance proposed by the Tenderer.

Evaluation Criterion 6 – Social Impact and Benefit to the Australian Economy

The Tenderer needs to list any Social responsibility initiatives they support directly and indirectly which are related to the Statement of Work including:

- (i) employment and engagement opportunities and strategies; and
- (ii) environmental and sustainability initiatives.
- (iii) The extent to which the tender provides benefits to the Australian economy; and
- (iv) The Tenderer's Indigenous Procurement Plan and its impact on Indigenous entrepreneurship and business development by providing Indigenous Australians with more opportunities to participate in the economy.

Potential Tenderers should note that subject to advice from the Department, the Australian Industry Participation National Framework principles, including an AIP plan requirement, may apply to the Contract resulting from this RFT process or to any contracts issued under that Contract. More information on AIP plan requirements can be found at <https://www.industry.gov.au/regulations-and-standards/australian-industry-participation>

Attachment 5 – Social Impact and Benefit to the Australian Economy

See: Evaluation Criterion 6 – Social Impact and Benefit to the Australian Economy.

3. In accordance with the Department's Sustainable Procurement Strategy, social impact considerations will be assessed as part of value for money, amongst other factors. The Tenderer should provide a separate document that includes the information on social impact initiatives as requested below.
4. The Tenderer should demonstrate social impact directly and indirectly related to providing the Services in accordance with the Statement of Work as set out in Schedule 1.
5. In addition, and in accordance with Commonwealth policy the Department will consider the benefits provided to the Australian Economy which will also be assessed as part of value for money.
6. The Indigenous Procurement Policy applies to this procurement. The Tenderer's Indigenous Participation Plan will also be evaluated to evaluate the benefits to the Australian Economy.

Employment Opportunities

7. The Tenderer should provide:
 - (a) information about whether the Tenderer has implemented employment opportunities or strategies for people with a disability, indigenous people or women in the workplace and provide a description of those opportunities and strategies; and
 - (b) information about whether the Tenderer has implemented strategies for engaging indigenous business and/or business that primarily exist to employ people with a disability and/or small business within the supply chain and provide a description of those strategies.

Benefit to the Australian Economy

8. Tenderers should briefly outline the direct economic benefits to the Australian economy of the approach outlined in its Tender.

[Note to Tenderers: Further information on direct economic benefits is available at: <https://www.finance.gov.au/sites/default/files/2020-08/consideration-of-broader-economic-benefits-in-procurement.pdf>

Indigenous Procurement Policy

9. The Tenderers should describe how it will increase its:
 - (a) purchasing from Indigenous enterprises (being an organisation that is 50 per cent or more Indigenous owned that is operating a business); and
 - (b) employment of Indigenous Australians,

- (c) include an Indigenous Participation Plan in its Tender response that demonstrates how the tenderer will meet their requirements under the Indigenous Procurement Policy.

[Note to Tenderers: Supply Nation maintains a list of enterprises that meet the definition of "Indigenous enterprises" (see www.supplynation.org.au). If an enterprise is not listed with Supply Nation, Tenderers should refer to the Indigenous Procurement Policy for ways of ensuring an enterprise is an Indigenous enterprise.

Purchases from an Indigenous enterprise may be in the form of engagement of an Indigenous enterprise as a subcontractor, and/or use of Indigenous suppliers in the Tenderer's supply chain

Further guidance in developing an IPP Plan can be found at:

<https://www.niaa.gov.au/resource-centre/indigenous-procurement-policy-ipp-guide-2-potential-suppliers>]

Attachment 6 – Price

See: Evaluation Criterion 4 (Price)

1. The Tenderer must complete the Pricing Response Template below, including ensuring that the Tenderer addresses the information on price as outlined below.
2. All prices should be given on a GST exclusive basis with any GST component separately identified.
3. The Tenderer must provide daily rates for all proposed staff and subcontractors (based on an 8 hour working day) for onshore work and on a 12 hour working day for all offshore work.
4. Except for the expenses outlined in paragraph 5, all tendered prices, fees, rates and charges are to be inclusive of:
 - (a) all taxes (except for GST); and
 - (b) all things necessary and incidental to the provision of the required services and the due and proper performance of a contract with the Department substantially in the form of the Draft Form of Contract.
5. Unless otherwise agreed by the Commonwealth, the Commonwealth will pay the Contractor:
 - (a) the full standard daily rate for the applicable skill set or position specified in Appendix 2 (Detailed Roles Descriptions/Skills and Experience).
 - (b) if the relevant Contractor Personnel undertakes 8 or more hours of work on the Services in any 24 hour period for onshore work; and
 - (i) if the relevant Contractor Personnel undertakes 12 or more hours of work on the Services in any 24 hour period for offshore work; and
 - (c) a pro-rata proportion of the daily rate if the Contractor Personnel undertakes less than 8 or 12 hours, as applicable, of work on the Services in any 24 hour period.
6. The Commonwealth is not obligated to pay the Contractor more than the applicable daily rate for work done within any one 24 hour period, including where Contractor Personnel have been required to travel in the course of that period to provide the Services.

Daily rates

Onshore Rates

Personnel	Daily Rate (exclusive of GST)	GST Component	Maximum Work Effort (Days)	Charges (exclusive of GST)	GST Component
a	b	c	d	e = b x d	f = (b + c) x d

Subtotal					
Add GST					
TOTAL					

Offshore Rates

Personnel	Daily Rate (exclusive of GST)	GST Component	Maximum Work Effort (Days)	Charges (exclusive of GST)	GST Component
a	b	c	d	e = b x d	f = (b + c) x d
Subtotal					
Add GST					
TOTAL					

Assumptions (Tenderer to indicate all assumptions related to the proposed rates and number of days):

Assumptions

Onshore Rates

Personnel	Base Rate	Labour On-Costs and Overheads	Mark-Up	Daily Rate (exclusive of GST)	GST Component	Maximum Work Effort (Days)	Charges (exclusive of GST)	GST Component
a	b	c	d	e = (b + c + d)	f	g	h = e x g	i = (e + f) x g
Subtotal								
Add GST								
TOTAL								

Offshore Rates

Personnel	Base Rate	Labour On-Costs and Overheads	Mark-Up	Daily Rate (exclusive of GST)	GST Component	Maximum Work Effort (Days)	Charges (exclusive of GST)	GST Component
a	b	c	d	e = (b + c + d)	f	g	h = e x g	i = (e + f) x g
Subtotal								
Add GST								
TOTAL								

Attachment 7 – Insurance

1. If the Tenderer does not include a document including the information on insurance as outlined below, the Tenderer is taken to confirm that it and any subcontractors can, and will, meet the Department's proposed insurance requirements. Any alternative insurance requirements proposed by the Tenderer will be considered as part of the Department's evaluation (specifically, Evaluation Criterion 5 – Risk) of the Tenderer's tender.
2. The Department proposes that the following insurance requirements apply under the Draft Form of Contract with the successful Tenderer:
 - (a) workers compensation insurance as required by law;
 - (b) public and products liability insurance for an insured amount of:
 - I. in relation to public liability claims, \$5,000,000.00 per claim; and
 - II. in relation to product liability claims, \$5,000,000.00 per claim;
 - (c) professional indemnity or errors and omissions insurance for an insured amount of \$20,000,000.00 per claim.

Note that any subcontractor engaged by the Tenderer will be subject to the same insurance requirements in accordance with the terms of the Draft Form of Contract.

4. The Tenderer should:
 - (a) confirm that it and any subcontractors can and will meet the Department's proposed insurance requirements; or
 - (b) propose alternative insurance requirements.

Attachment 8 – Compliance statement

1. If the Tenderer does not include a document addressing the information about compliance as outlined below, the Tenderer is taken to agree with all provisions of the Draft Form of Contract (including all attachments to the Draft Form of Contract). Any non-compliances will be considered as part of the Department's evaluation of the Tenderer's tender, specifically in relation to Evaluation Criterion 5 – Risk.
2. Using the compliance table in this Attachment 8, the Tenderer should identify any provisions of the Draft Form of Contract as set out in Schedule 3 with which the Tenderer partially agrees or does not agree or considers are not applicable (i.e. the compliance table is to be completed on an exceptions basis).
3. Tenderers should note that the Department intends that any Contracts entered into with successful Tenderer(s) will be in substantially the same form and, subject to clause 19(a) of the RFT, does not intend to enter into detailed negotiations with Tenderers.
4. If the Tenderer partially agrees or does not agree with a clause of the Draft Form of Contract, it should provide the reason why, the relevant qualification, details of any proposed change to the Draft Form of Contract (including the specific drafting changes proposed) and any differences in costs or pricing associated with those changes.
5. If the Tender states that a particular provision is not applicable, it should also state the reason why.
6. In this Attachment:
 - (a) **“agrees”** means that the contractual condition, obligation, characteristic or performance requirement imposed by the provision in the Draft Form of Contract *can be met by the Tenderer with no qualifications*;
 - (b) **“partially agrees”** means that the contractual condition, obligation, characteristic or performance requirement imposed by the provision in the Draft Form of Contract *can be substantially met by the Tenderer, subject to certain qualifications*;
 - (c) **“does not agree”** means that the complete contractual condition, obligation, characteristic or performance requirement imposed by the provision in the Draft Form of Contract *could not be met by the Tenderer or the Tenderer does not agree to meet it*; and
 - (d) **“not applicable”** means that, due to the nature of the offer, or of the Tenderer, the question of adherence to the provision in the Draft Form of Contract does not arise.

Compliance table:

The Tenderer agrees with all provisions of the Draft Form of Contract other than as follows:

Provision (e.g. clause, paragraph...)	Partially agrees/does not agree/not applicable	Reasons/qualification	Proposed alternative wording	Differences in costs or pricing

Attachment 9 – Confidential information

7. The Tenderer should specify any information contained in its tender that it considers should be protected as confidential information following execution of a contract in the event that the Tenderer is successful.
8. The Tenderer should provide reasons why this information should be protected as confidential information and the period for which the Tenderer proposes it be protected.
9. Pursuant to rule 7.23 of the Commonwealth Procurement Rules, tenders will be treated as confidential before and after the award of a contract. Once a contract has been awarded (if applicable), the terms of the contract, including parts of the contract drawn from the Tenderer's tender, are not confidential unless the tender has identified that specific information is to be kept confidential.
10. Note that the Department will consider each request to keep information confidential on its merits and in accordance with the Commonwealth's confidentiality policy available at: <https://www.finance.gov.au/government/procurement/buying-australian-government/confidentiality-throughout-procurement-cycle>
11. The Department reserves the right, in its discretion, to accept or refuse a request to treat information as confidential.
12. See clause 25.4 of the RFT for further information.
13. If the tender does not include a document identifying any proposed confidential information in accordance with this Attachment 9, the Tenderer is taken to agree that it does not require any information to be kept confidential under any resultant Contract.

Information	Reason	Period

Attachment 10 – Statement of Tax Record

14. Tenderers must include with their tender all Valid and Satisfactory Statements of Tax Record required for the Tenderer's entity type; and
15. In order to meet the Minimum Content and Format Requirements and the Conditions for Participation, Tenderers may need to provide the Department with more than one Statement of Tax Record with their tender, depending on the type of legal entity that the Tenderer is.
16. The Statements of Tax Record required to be provided by Tenderers are set out in the table below:

If the Tenderer is:	Statement of Tax Record Required:
A body corporate or natural person.	A Valid and Satisfactory Statement of Tax Record in respect of that body corporate or person.
A partner acting for and on behalf of a partnership.	A Valid and Satisfactory Statement of Tax Record: <ol style="list-style-type: none"> a) on behalf of the partnership; and b) in respect of each partner in the partnership that will be directly involved in the delivery of any Contract or Subcontract or Subcontract (as applicable).
A trustee acting in its capacity as trustee of a trust.	A Valid and Satisfactory Statement of Tax Record in respect of: <ol style="list-style-type: none"> a) the trustee; and b) the trust.
A joint venture participant.	A Valid and Satisfactory Statement of Tax Record in respect of: <ol style="list-style-type: none"> a) each participant in the joint venture; and b) if the operator of the joint venture is not a participant in the joint venture, the joint venture operator.
A subsidiary of a tax consolidated group, or a Multiple Entry Consolidated (MEC) group.	A Valid and Satisfactory Statement of Tax Record in respect of: <ol style="list-style-type: none"> a) the relevant subsidiary; and b) the head company of the group.
A member of a GST group.	A Satisfactory and Valid Statement of Tax Record in respect of: <ol style="list-style-type: none"> a) the GST group member; and b) the GST group representative.

17. Tenderers should carefully review the requirements above to ensure that all required Statement of Tax Records are provided.

[Note to Tenderers: The information required in this Attachment 10 includes information which is required to demonstrate the Tenderer's compliance with the Minimum Content and Format Requirements and the Conditions for Participation.]

Tenderers should apply for a Statement(s) of Tax Record as soon as possible after the release of this RFT and within sufficient time to meet the requirements of the Shadow Economy Procurement Connected Policy.

More information about the requirements under the Shadow Economy Procurement Connected Policy (including how to apply for a Statement of Tax Record) is available from the Department of Treasury at <https://treasury.gov.au/policy-topics/economy/shadow-economy> and on the Australian Taxation Office website at <https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/>]

Attachment 11 – Financial Viability

18. Tenderers should provide the following information below in a separate document, to enable the Department to determine the Tenderer's financial viability. If the Tenderer proposes to use subcontractors to provide any part of the Services, the information required below should be provided for each proposed subcontractor.

Tenderer's Name:	
Tenderer's ABN:	
How many years has the operating entity been in business?	
Estimated number of employees, including directors, partners and contractors (do not include subcontractors):	
Estimated turnover for the current financial year in \$AUD '000's?	

Item	Prior Financial Year (AU\$'000)	Year to Date (AU\$'000)
	As at DD MM YY ¹	As at DD MM YY ¹
Income		
Sales		
Other Income		
Pre-Tax Profit		
Assets		
Cash at Bank		
Receivables		
Other Current Assets		
Intangible Assets		
Other Non-Current Assets		
Total Assets		
Liabilities		
Total Current Liabilities		

¹ Please enter Your financial year end date

Total Non-Current Liabilities		
Equity		

19. Please provide and confirm by ticking the corresponding box below whether the following documents have been provided, as part of the tender.

<p>Last 3 financial year statements including a copy of the auditor's statement if applicable (notes to the financial statements need not be included).</p> <p>If the Tenderer is a corporate entity which has been subject to a merger or acquisition, the Tenderer must provide financial statements for both companies.</p> <p>If the Tenderer was not yet in existence for the entire period of the last 3 financial years, detail this and provide the financial year statements that are available, including a copy of the auditor's statement if applicable (notes to the financial statements need not be included).</p>	<input type="checkbox"/>
Copy of certificate of currency for public liability insurance	<input type="checkbox"/>
Copy of certificate of currency (or policy) for workers compensation insurance in each State or Territory that the Tenderer has employees	<input type="checkbox"/>
Copy of certificate of currency for professional indemnity insurance	<input type="checkbox"/>
Details of any petitions, claims, actions, judgements, or decisions, etc. which are likely to adversely affect the delivery of the Services	<input type="checkbox"/>

20. The Department may, at its sole discretion, request independent reports for financial viability/risk from external providers.

Schedule 2- Compliance with the Modern Slavery Act 2018 (Cth)

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Appendix 2 - Detailed Role Descriptions/Skills and Experience (All roles are Perth Based)

Role	Qualifications, Skills, and Experience	Detailed Role Description
Technical Advisory Lead	<ul style="list-style-type: none"> • Engineering degree in a relevant discipline. • 15+ years' experience including experience in a similar role, 25+ years within industry. • Major offshore oil & gas subsea infrastructure experience covering multiple disciplines desirable. • Experience with Government processes and relationship management desirable. • Offshore oil and gas subsea facility decommissioning experience desirable. • Project and risk management experience including scheduling, cost management and budgeting. • Demonstrable experience of Australian regulatory requirements. • Hold or able to hold required offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Technical Advisory Lead duties include:</p> <ul style="list-style-type: none"> • Lead or support, technical advisory activities as part of relevant project in collaboration with other teams within the Program. • Coordinating Subject Matter Experts within the Project Execution Advisory Team. • Providing advice to and supporting the Project Manager. • Engaging with relevant contractors and other key project work. Stream leaders to provide technical verification and assurance of planned activities and broader project execution. • Providing high-level and strategic technical and industry practice guidance, support, and advice to the Project team technical and industry issues as required. • Support or directly participate in Commonwealth interaction with external industry bodies. • Review technical viewpoints expressed by industry and relevant third parties. • Provide specialised technical input to support the development or evaluation of contract variations. • Provide input to risk registers and risk processes.
Wells Subject Matter Expert (SME)	<ul style="list-style-type: none"> • Engineering degree in a relevant discipline. • 20+ years' well engineering and operations experience from aged offshore wells, installations and subsea infrastructure. • Have experience in both engineering and operational roles, including field experience on Marine Offshore Drilling Unit (MODUs). • Significant experience in contractor management and assurance activities. • Holds or has held a recognised subsea Well Control Certification (deep water) and strong understanding of Process Safety concepts. • Demonstrable experience of Australian regulatory requirements in developing and maintaining compliance with a Well 	<p>The Wells SME duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and advisory activities as required including to provide assurance that all activities are compliant with WOMP and contractor standards and processes. • Provide advice to ensure wells are operated, suspended, monitored and P&A'd in a safe, efficient, and environmentally approved manner. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s) • Provide guidance on the selection of well intervention vessel. • Provide input to and variance analysis of project schedule and cost reports.

	<p>Operations Management Plan (WOMP). Track record of government relationship management is desirable.</p> <ul style="list-style-type: none"> • Experience in WOMP preparation and management. • Hold or able to hold required offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<ul style="list-style-type: none"> • Provide input to risk registers and risk processes including advice as to whether risks associated with well interventions and well monitoring is as low as reasonably possible (ALARP). • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Liaise with contractor to discuss optimal well technical solutions. • Support interaction with external industry bodies. • Provide well operations and intervention standards advice. • Provide specialised technical input to support the development or evaluation of contract variations. • Support well safety or environmental incident investigations.
Subsea Subject Matter Expert (SME)	<ul style="list-style-type: none"> • Engineering degree or equivalent in a related discipline. • 20+ years' experience subsea project / operational experience including experience of waters >300 metres. • Experience with subsea facility design, installation and operation is desirable. • Familiar with current market Construction vessels, spreads and capabilities. • Familiar with project management systems and risk management processes. • Experience with Government processes and relationship management desirable. • Demonstrable experience of Australian regulatory requirements including development of Environmental Plan (EP). • Hold or able to hold required offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Subsea SME duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and advisory activities as required including assurance that all activities are compliant with regulatory and work scope requirements. • Provide advice as to whether the subsea planned decommissioning activities are planned and conducted in a safe, compliant, and environmentally approved manner. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Provide technical guidance on selection and operation of required intervention systems, support vessels and equipment. • Provide input to and variance analysis of project schedule and cost reports. • Provide input to risk registers and risk processes including whether risks associated with subsea equipment areas low as reasonably possible (ALARP). • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Liaise with contractors to agree optimal subsea technical solutions. • Support interaction with external industry bodies.

		<ul style="list-style-type: none"> • Develop subsea operations and intervention standards as required. • Provide specialised technical input to support the development or evaluation of contract variations. • Support subsea incident investigations.
Marine Subject Matter Expert (SME)	<ul style="list-style-type: none"> • Engineering degree or equivalent in a relevant discipline. • 20+ years' experience in a similar role. • Strong safety culture and familiarity with Australian offshore work practices. • Working knowledge of Australian Marine legislation. • Working knowledge of marine construction vessels and associated operations (e.g. heavy lift vessels, construction support vessels, anchor handling tugs, etc). • Working knowledge of flexible flowline system installation and recovery methodologies and systems. • Ability to manage and direct offshore operations where required. • Demonstrable experience of Australian regulatory requirements. • Hold or able to hold required offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Marine SME duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and technical advisory activities as required including assurance that all relevant Marine/Construction activities are compliant with regulatory requirements. • Provide advice as to whether the activities involving marine/construction operations of the planned decommissioning activities are planned and conducted in a safe, compliant, and environmentally approved manner. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Provide technical guidance on selection and operation of required intervention systems, support vessels and equipment including advice on status of vessel Class status – containing areas of concern or non-compliance. • Provide input to and variance analysis of project schedule and cost reports. • Provide input to risk registers and risk processes including whether risks associated with marine operations are ALARP. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Liaise with contractors to agree optimal marine solutions. • Support interaction with external industry bodies. • Develop marine operations standards as required. • Provide specialised technical input to support the development or evaluation of contract variations. • Support incident investigations.

Subsurface Subject Matter Expert (SME)	<ul style="list-style-type: none"> • Engineering degree or equivalent in a relevant discipline. • 20+ years' subsurface engineering, operations, and P&A from floating offshore installations. • Experienced in development of well abandonment Basis of Design (BOD). • Demonstrable experience of Australian regulatory requirements. • Experience in WOMPs for permanent well abandonments, particularly in addressing the options for permanent plug setting depths. • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Subsurface SME duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and technical advisory activities as required including provide assurance that all activities are compliant with well P&A including: <ul style="list-style-type: none"> ◦ determining P&A plug size and depths; and • experienced in reading and interpreting downhole logs including Gamma Ray, Resistivity, Reservoir Flow Tester (RFT) of various vintages and from various service providers. • Expert at interpreting Cement Bond Logs and Cement Evaluation Tool results of various vintage and from various service providers. <ul style="list-style-type: none"> ◦ Available and able to assure interpretation of Cement Evaluation results in operational timeframes. ◦ Analysis of in-field and offset well geology. • Understanding of regional geology and geological interpretation. • Interpretation of zones of porosity and/or permeability and implications on flow potential. • Understanding of pore pressures, overpressure, and fracture gradient estimations. • Understanding of formation integrity tests.
Materials and Logistics	<ul style="list-style-type: none"> • Tertiary qualification in a related discipline or relevant industry training and experience. • Strong safety culture and familiarity with offshore logistical processes. • 15+ years' experience in a similar role. • Working knowledge of Australian Materials and Logistics legislation relating to land, marine and air transportation of materials. • Experience of managing hazardous materials logistics. • Demonstrable experience of Australian regulatory requirements. • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Materials and Logistics duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and technical advisory activities as required including provide assurance that all activities are compliant with Regulatory and applicable industry standards. • Ensure the material and logistical operations are planned and conducted in a safe and environmentally approved manner with appropriate certification. • Provides technical support for the management, cleaning, and disposal of all hazardous and non-hazardous materials. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Provides guidance to technical team on selection and approval for all material supply bases. • Provides guidance to technical team on all helicopter and fixed wing air transportation services. • Provide guidance on the selection of all marine vessels and any project-controlled land transport.

		<ul style="list-style-type: none"> • Provide input to and variance analysis of project schedule and cost reports. • Participate in bi-annual onshore stocktake. • Provide input to risk registers and risk processes including advice as to whether risks associated with Material and Logistical operations are ALARP. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s) • Liaise with contractors to discuss optimal Material and Logistical solutions. • Support interaction with external industry bodies. • Develop Material and Logistical standards and advice. • Provide specialised technical input to support the development or evaluation of contract variations. • Support Material and Logistical related incident investigations.
Company Rep (Floating Well Intervention Unit)	<ul style="list-style-type: none"> • Engineering degree or equivalent industry and field experience. • 20+ years' well engineering / operations experience from floating offshore installations including waters greater than 300 metres. • Holds a recognised subsea Well Control Certification (deep water). • Working knowledge of Australian Marine legislation. • Demonstrable experience of Australian regulatory requirements. • Hold or able to hold required offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Offshore Wells DISR representative duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and technical advisory activities as required including providing assurance that all offshore activities are compliant with WOMP. • Provide advice to ensure wells are operated, suspended, monitored and P&A'd in a safe, efficient, and environmentally approved manner. • Monitors and reports on contractor performance / compliance. • Responsible to stop work for areas of key concern. • Provides a communication direct path from the asset location to the supporting DISR technical team. • Responsible for providing an escalation path to the Phase 2/3 Leadership team for matters of concern. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Acts as an offshore point of escalation for operational matters. • Provide input to and variance analysis of project schedule and cost reports. • Provide input to risk registers and risk processes including advice as to whether risks associated with well interventions and well monitoring is ALARP. • Liaise with contractors to discuss optimal well technical solutions.

		<ul style="list-style-type: none"> • Support interaction with external industry bodies. • Provide specialised technical input to support the development or evaluation of contract variations. • Supports the Offshore leadership team in the management of any emergencies. • Support well safety or environmental incident investigations.
Company Rep (CSV)	<ul style="list-style-type: none"> • Engineering degree or equivalent in a relevant discipline. • 20+ years' subsea project / operational experience from installations including waters greater than 300 metres. • Working knowledge of Australian Marine legislation. • Demonstrable experience of Australian regulatory requirements. • Hold or able to hold required offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Offshore CSV DISR representative duties include:</p> <ul style="list-style-type: none"> • Lead or support verification and technical advisory activities as required including provide assurance that all offshore activities are compliant with Regulatory and workscope requirements. • Provide advice to ensure the subsea planned decommissioning activities are planned and conducted in a safe, compliant, and environmentally approved manner. • Monitors and reports on contractor performance / compliance. • Responsible to stop work for areas of key concern. • Provides a direct path from the asset location to the supporting technical team. • Responsible for providing an escalation path to the Phase 2/3 Leadership team for matters of concern. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Acts as a point of escalation for operational matters. • Provide technical guidance on selection and operation of required intervention, support vessels and equipment. • Provide input to and variance analysis of project schedule and cost reports. • Provide input to risk registers and risk processes including whether risks associated with subsea equipment are ALARP. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Liaise with contractors to agree optimal subsea technical solutions. • Support interaction with external industry bodies. • Provide specialised technical input to support the development or evaluation of contract variations. • Supports the Offshore leadership team in the management of any emergencies.

		<ul style="list-style-type: none"> Support subsea or environmental incident investigations.
Regulatory Lead	<ul style="list-style-type: none"> A relevant degree. 15+ years' experience in a similar role. Considerable experience, from both regulator and industry perspectives, in environmental approvals and compliance for offshore oil and gas projects. Experience in approvals and compliance for onshore waste handling, management and disposal. Demonstrable experience in the implementation of environmental approvals, safety cases, and WOMP. Major offshore oil and gas projects or operations and decommissioning experience covering environmental management essential; multiple disciplines desirable. Experience in managing and leading HSE teams for offshore oil and gas projects. Project management experience including scheduling, cost management and budgeting. Hold or willing to hold offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). Hold or willing to hold Baseline Australian Security Clearance. 	<p>Duties include:</p> <ul style="list-style-type: none"> Responsible to lead the regulatory team. Responsible for gaining environmental approvals for the project and maintaining compliance. Responsible for ensuring schedule is not negatively impacted by any regulatory activities. Responsible to ensure Lead Contractor develops and delivers all required regulatory documents to required standards and on time so as not to cause any schedule delays. Responsible for ensuring DISR is adequately represented with regulatory bodies and remains compliant with legislation. Responsible for ensuring all HSE incidents and accidents are appropriately investigated; ensures actions developed and tracked through to completion and key findings are communicated. Provides environment, health and safety and recommendations. Monitors field EHS performance advising and reporting on areas including best practice; opportunities for improvement; areas of concern. Provides input to and variance analysis of project schedule and cost reports and contract variations. Responsible for managing the Project Risk Register and processes. Responsible for issuing all applicable HSE reports.
Regulatory Safety Advisor	<ul style="list-style-type: none"> A relevant safety degree. 10+ years' experience in a similar role. Major offshore oil & gas infrastructure experience covering health and safety essential, other disciplines desirable, Demonstrable experience of Australian health and safety regulatory requirements. Demonstrable experience in the management of Safety Cases. 	<p>Duties include:</p> <ul style="list-style-type: none"> Responsible for providing assurance and governance advice on the approval, implementation and compliance of contractor safety case/s in project planning and execution phases. Lead or support verification and assurance activities associated with the contractor safety case/s. Manages the HSE assurance schedule.

	<ul style="list-style-type: none"> • Knowledge of relevant Australian and international health and safety standards and regulations. • Offshore oil and gas decommissioning experience desirable. • Project management experience including scheduling, cost management and budgeting. • -Hold or willing to hold offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<ul style="list-style-type: none"> • Provides advice as to whether the safety components of the planned decommissioning activities are planned and conducted in a safe, compliant, and approved manner. • Provides input to and variance analysis of project schedule and cost reports and contract variations. • Provides input to, and where relevant manages, risk registers and risk processes including whether risks associated with safety management are ALARP. • Responsible for reviewing and /or conducting incident HSE investigations to ensure all incidents and accidents are appropriately investigated; actions developed and tracked through to completion and key findings are communicated. • Provides safety performance results to all applicable HSE reports. • Support others in the regulatory team.
Regulatory Environmental Advisor	<ul style="list-style-type: none"> • -Environmental Management/ science or relevant degree. • 10+ years' experience in a similar role. • Demonstrable experience in management of environmental approvals including EPBC Act conditions and OPGGS Act Environmental Plans. • Experience in approvals and compliance for onshore waste handling, management and disposal. • Knowledge of relevant Australian and international environmental standards and regulations. • Major offshore oil & gas projects or operations and decommissioning experience covering environmental management essential; multiple disciplines desirable. • Project management experience including scheduling, cost management and budgeting. • Hold or willing to hold offshore survival certificates (e.g., BOSIET, MSIC, Offshore Medical). • Hold or willing to hold Baseline Australian Security Clearance. 	<p>Duties include:</p> <ul style="list-style-type: none"> • Responsible for providing assurance and governance advice on the approval, implementation and compliance of project environmental approvals. • Supports the regulatory lead in gaining environmental approvals for the project and maintaining compliance. • Provide advice as to whether the environmental components of the planned decommissioning activities are planned and conducted in environmentally approved manner. • Recommends use of environmental management practices to enhance project execution. • Ensure any planned changes are captured, and submission made to the relevant regulatory body(s). • Provides input to and variance analysis of project schedule and cost reports and contract variations. • Provides input to, and where relevant manages, risk registers and risk processes including whether risks associated with environmental management are ALARP. • Responsible for reviewing and /or conducting incident investigations to ensure all environmental incidents and accidents

		<p>are appropriately investigated; actions developed and tracked through to completion and key findings are communicated.</p> <ul style="list-style-type: none"> • Provides environmental performance results to all applicable HSE reports. • Support others in the regulatory team.
Planner / Scheduler	<ul style="list-style-type: none"> • 10+ years' experience in similar planning roles including use of Primavera P6 and Microsoft Project. • Offshore Oil & Gas projects experience essential. • Project management experience including scheduling, cost management, budgeting management reporting. • Hold or willing to hold Baseline Australian Security Clearance. 	<p>The Planner/Scheduler duties include:</p> <ul style="list-style-type: none"> • Providing project 7, 14, 28-day, 1 year, and life of project integrated schedules to support the program of work. Schedule will be incorporated into Master program schedule monthly. • Responsible to interface with decommissioning contractor and other key project work stream leaders to ensure all aspects of the project execution and planned activities are adequately represented. • Working closely with the Program Management Office to ensure alignment of various schedules. • Engaging with relevant contractors and other key project work stream leaders to ensure all aspects of the project execution and planned activities are adequately represented in the project schedule. • Providing variance analysis and regular reporting on project schedule deviations. • Change management and reporting of schedule changes. • Identifying areas of opportunity and conflict in project schedule. • Working with cost engineer to ensure cost and time schedules are aligned. • Provide input to support the development or evaluation of project contract variations. • Lead or support, assurance activities. • Provide input to risk registers and risk processes. • Responsible to provide project cost input in absence of cost engineer.