

# STANDING OFFER ARRANGEMENT CONDITIONS

For the provision of  
Goods and/or Services

Version 002- dated 1 July 2009



## **Introduction**

In 2007 and 2008 the Department of Public Works undertook a major review of all the procurement terms and conditions to incorporate any new legal and legislative requirements on specific issues. This review also aimed to ensure that the conditions adequately address specific and emerging procurement practices and trends. Industry is very supportive of a single set of terms and conditions across Government as this reduces the costs of the tendering and contractual processes.

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# STANDING OFFER ARRANGEMENT CONDITIONS

## 1.1 Definitions

In these Standing Offer Arrangement Conditions, unless the context otherwise requires, the following definitions will apply.

**"Additional Provisions"** means any terms and conditions, that are agreed between the Principal and Contractor and specified in Schedule 3.

**"Approved Expenses"** means the Contractor's expenses (if any) which have been agreed between the Parties and approved by the Customer prior to any expenditure being incurred, as specified in item 11 of Schedule A;

**"Arrangement Commencement Date"** means either:

- (a) the date specified in item 5 of Schedule 1; or
- (b) if no date is specified in item 5 of Schedule 1, or is otherwise agreed in writing between the Parties, the date of execution of the Deed of Agreement, and if the Deed of Agreement is executed by the Parties on different dates, the date the last Party to the Deed of Agreement gives Notice to the other Party in accordance with clause 36 that it has executed the Deed of Agreement;

**"Arrangement Completion Date"** means the expiry date specified in item 6 of Schedule 1, or as otherwise agreed in writing between the Parties;

**"Arrangement Term"** means the term of this Arrangement, as specified in item 7 of Schedule 1;

**"Business Day"** means between 9.00am and 5.00pm on a weekday other than a Saturday, Sunday or public holiday at the Customer's address;

**"Conditions of Contract"** means the terms and conditions of a Contract as specified in Section B and any additional conditions of contract as specified in Part 5 of the Invitation;

**"Confidential Information"** means, in relation to the Principal and/or a Customer (the **Discloser**), information that is not trivial and:

- (a) is by its nature confidential;
- (b) is communicated by the Discloser to the Contractor as confidential; and/or
- (c) the Contractor knows or ought to know is confidential.

Subject to (a), (b) and (c) above, Confidential Information includes information which is:

- (i) comprised in or relating to any Intellectual Property Rights of the Discloser;
- (ii) relating to the internal management and structure of the Discloser, or the personnel, policies and strategies of the Discloser;
- (iii) of any actual or potential commercial value to the Discloser or to the person or corporation which supplied that information;
- (iv) information relating to the policies, strategies, practices and procedures of the Commonwealth, State or Territory Government and any information in the Contractor's possession relating to the Commonwealth, State or Territory Government public services; or
- (v) in the Contractor's possession relating to the Discloser's clients or suppliers, and like information,

but does not include information which:

- (vi) was already lawfully disclosed by the Contractor prior to the Contractor being required to treat the information as confidential;
- (vii) is lawfully received from a third party which is not bound by a duty of confidentiality;
- (viii) has become public knowledge (other than through a breach of an obligation of confidence under this Arrangement and any subsequent Contract/s; and/or
- (ix) was independently developed or released by the Contractor without reference to the Confidential Information;
- (x) the Contractor is required by law to disclose; or
- (xi) the Contractor is required by this Contract to disclose to a third party;

**"Conflict of Interest"** means having an interest (whether personal, financial or otherwise) which conflicts or may reasonably be perceived as conflicting with the ability of the Contractor to perform its obligations under this Arrangement or a Contract fairly and objectively;

**"Contract"** means a legally binding contract as agreed between the Customer and the Contractor pursuant to this Arrangement;

**"Contract Commencement Date"** means either:

- (a) the date specified in item 5 of Schedule A; or
- (b) if no date is specified in item 5 of Schedule A or otherwise agreed in writing between the Parties, the date on which the Contractor receives an Order;

**"Contract Completion Date"** means the expiry date specified in item 6 of Schedule A, or as otherwise agreed between the Customer and Contractor;

**“Contract Material”** means New Contract Material and Existing Contract Material;

**“Contract Term”** means the term of the Contract, as specified in item 7 of Schedule A;

**“Contractor”** means in relation to the:

- (a) Arrangement - the entity specified in item 3 of Schedule 1; and
- (b) Contract – the entity specified in item 4 of Schedule A;

**“Correctly Rendered Invoice”** means an invoice:

- (a) in which the amount claimed is due for payment in accordance with the Contract;
- (b) in which the amount claimed is correctly calculated in accordance with the Contract;
- (c) which correctly identifies the Goods and/or Services supplied;
- (d) which, if GST applies is a valid tax invoice under the GST Legislation; and
- (e) which complies with clause 11.2;

**“Customer”** means in relation to the:

- (a) Arrangement – the State of Queensland or other entity specified in item 4 of Schedule 1; and
- (b) Contract – the State of Queensland or other entity specified in item 2 of Schedule A;

**“Deed of Agreement”** or **“Deed”** means deed entered into between the Principal and Contractor under which the Arrangement is established, on the terms and conditions of these Standing Offer Arrangement Conditions;

**“Deliverable”** means in relation to the:

- (a) Arrangement - the Goods and/or Services specified in Schedule 2; and
- (b) Contract – the Goods and/or Services supplied to a Customer in accordance with the Arrangement specified in item 10 of Schedule A;

**“Delivery”** means the transfer of possession of the Goods to the Customer, at the Customer’s delivery address specified in item 8 of Schedule A;

**“Delivery Period”** means the period specified in item 11 of Schedule 1, in which the Goods and/or Services will be supplied and/or performed by the Contractor to the Customer;

**“Document”** includes:

- (a) any paper or other material on which there is writing;
- (b) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and/or
- (c) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device, and includes electronic documents.

**“Existing Contract Material”** means any material that:

- (a) exists at the Arrangement Commencement Date;
- (b) is produced after the Arrangement Commencement Date, independently of this Arrangement, and which is provided in connection with or forms part of the Deliverable;

**“Financial Security”** means the unconditional financial security as specified in item 14 of Schedule 1;

**“Goods”** means the material, plant, item or equipment as specified in Schedule 2 in relation to this Arrangement and in item 10 of Schedule A in relation to a Contract (if applicable);

**“GST”** means a goods and services tax imposed by or through the GST Legislation;

**“GST Amount”** means the amount of GST payable in respect of any taxable supply under the Contract, calculated at the rate of GST applicable at the time;

**“GST Legislation”** means *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition Act (whether imposing tax as a duty of customs excise or otherwise) and includes any legislation which is enacted to validate, recapture or recoup the tax imposed by any of such Acts;

**“Intellectual Property Rights”** includes all copyright, trade mark, design, patents or other proprietary rights, or any rights to registration of such rights existing in Australia, or elsewhere or as protected by legislation from time to time, whether created before, on or after the Arrangement Commencement Date, but excludes Moral Rights;

**“Invitation to Offer”** or **“Invitation”** means the documentation issued by the Principal, inviting Offers for the provision of the Goods and/or Services;

**“Key Personnel”** means the representative/s of the Contractor specified in item 16 of Schedule A (if applicable);

**“Machinery of Government Change”** means a transfer of responsibility, function or operations either wholly or partly, from a Queensland Government department or agency or Queensland Government Body to another Queensland Government department or agency or Queensland Government Body;

**"Moral Rights"** means the right of integrity of authorship, the right of attribution of authorship and the right not to have authorship falsely attributed, more particularly as conferred by the *Copyright Act 1968 (Cth)* and rights of a similar nature anywhere in the world whether existing before, on or after the Arrangement Commencement Date;

**"New Contract Material"** means any material provided in connection with the Arrangement that is created, written or otherwise brought into existence by or on behalf of the Contractor in the course of performing this Arrangement;

**"Non-Government Organisation" or "NGO"** means a body (including a private school), other than a Queensland Government department or agency, which is:

- (c) directly or indirectly, partially or entirely funded by the Commonwealth, State or Territory;
- (d) non-profit making; and/or
- (e) another entity,

from time to time approved by the Principal to acquire a Goods and/or Services in accordance with this Arrangement;

**"Notice"** means a notice in writing which may be given by personal delivery, pre-paid postage or facsimile to the Party's business address or registered office or, except for a notice under clauses 32, 34, 35, 62 or 63, notice given by email to a Party's nominated email address;

**"Occurrence"** means either a single occurrence, or a series of occurrences if these are linked or occur in connection with one another from one root cause;

**"Offer"** means the offer submitted by the Contractor in response to the Invitation;

**"Order"** means an order substantially in the form of Schedule A, for the supply of the Goods and/or Services by the Contractor to the Customer;

**"Parties"** means in relation to the:

- (a) Arrangement – the Principal and the Contractor; and
- (b) Contract – the Customer and Contractor;

**"Performance Guarantee"** means the performance guarantee as specified in clause 19;

**"Personal Information"** means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion;

**"Price"** means the itemised prices and/or the price calculated by reference to a schedule of rates payable by the Customer for a Deliverable, as specified in Schedule 2 and in item 10 of Schedule A, and unless otherwise specified in Schedule 2 is inclusive of packaging, handling, freight, GST and all other duties, taxes and charges,

**"Principal"** means the State of Queensland or other entity specified in item 2 of Schedule 1;

**"Principal's Authorised Officer"** means the person specified in item 8 of Schedule 1, who is the Principal's representative and point of contact for this Arrangement;

**"Project Manager"** means the person nominated by the:

- (a) Principal to oversee and supervise the technical requirements of the Specifications under this Arrangement, as specified in item 9 of Schedule 1, or other person nominated from time to time by the Principal as the Project Manager; and/or
- (b) Customer to oversee and supervise the technical requirements of the Specifications relating to the Contract, as specified in item 12 of Schedule A, or other person nominated from time to time by the Customer as the Project Manager;

**"Queensland Government Body"** means:

- (a) a body corporate or an unincorporated body established or constituted for a public purpose by the State of Queensland legislation, or an instrument made under that legislation (including a local authority);
- (b) a body established by the State of Queensland through the Governor or a Minister; or
- (c) an incorporated company over which the State of Queensland exercises control;

**"Records"** means all material including but not limited to books, documents, information computer software, equipment and data stored by any means disclosed, or made available, by the Principal to the Contractor in connection with the performance of this Arrangement and includes a copy of any Records.

**"Schedules"** means the schedules which are part of this Arrangement and a Contract;

**"Services"** means the services as specified in Schedule 2 in relation to this Arrangement and in item 10 of Schedule A in relation to a Contract (if applicable);

**"Site"** means the place or places as specified in item 8 of Schedule A where the Goods and/or Services are to be supplied, installed, delivered and/or maintained;

**“Specification”** means the detailed description of the Principal’s requirements as specified in Part 3 of the Invitation;

**“Standing Offer Arrangement”** or **“Arrangement”** means an arrangement (including without limitation a standing offer arrangement, a register of pre-qualified suppliers, panel arrangement or preferred supplier arrangement) comprising the documents specified in clause 5.1;

**“Standing Offer Arrangement Conditions”** or **“Arrangement Conditions”** means these terms and conditions of this Arrangement (Sections A and B) and includes the attached Schedules and any additional standing offer arrangement conditions, as specified in Part 5 of the Invitation;

## 1.2 Interpretation

1.2.1 In these Standing Offer Arrangement Conditions the index and clause headings have been inserted for ease of reference only and are not intended to affect the meaning or interpretation of these Standing Offer Arrangement Conditions.

1.2.2 The following rules apply in interpreting these Standing Offer Arrangement Conditions unless the context otherwise requires:

- (a) words importing a gender include the other gender;
- (b) words in the singular include the plural and vice versa;
- (c) all dollar amounts refer to Australian currency;
- (d) a reference to any legislation includes any subordinate legislation made under it and any legislation amending, consolidating or replacing it;
- (e) a reference to an entity or person includes an individual, corporation, partnership or other legal entity;
- (f) a party includes its executors, administrators, liquidators, successors and permitted assigns;
- (g) “consent” means prior written consent;
- (h) “in writing” means either by letter, email or facsimile;
- (i) a reference to a clause, Schedule, attachment or annexure is a reference to a clause, Schedule, attachment or annexure to these Standing Offer Arrangement Conditions;
- (j) if a day on which an act is to be done is a Saturday, Sunday or public holiday in the place where the act is to be done, the act may be done on the next Business Day in that place, unless the Parties agree otherwise;
- (k) if any expression is defined, other grammatical forms of that expression will have corresponding meanings, unless the context otherwise requires;
- (l) a clause is a reference to all of its sub-clauses; and
- (m) a document or agreement or a provision of a document or agreement, is a reference to that document, agreement or provision as amended, supplemented, replaced or novated.



## SECTION A –ARRANGEMENT

### 2. PRINCIPAL

- 2.1 The Principal is responsible for the administration of this Arrangement on behalf of the State of Queensland and has authority to act on behalf of the State of Queensland in this respect.
- 2.2 The Principal will be entitled to suspend in accordance with clause 32 or terminate in accordance with clause 34 of this Arrangement.

### 3. NATURE OF THIS ARRANGEMENT BETWEEN THE PRINCIPAL AND THE CONTRACTOR

- 3.1 Upon the formation of a Contract, the Contractor must supply the Goods and/or Services to a Customer in accordance with this Arrangement and the Contract.
- 3.2 Nothing in this Arrangement creates any obligation on the Contractor to provide Goods and/or Services to the Principal.
- 3.3 Where the Principal and the Customer are the same legal entity, clause 3.2 only applies to the Principal in its capacity as Principal.

### 4. CUSTOMER MAY ENFORCE THIS ARRANGEMENT

- 4.1 The Principal and Contractor agree that any Customer, although not a party to this Arrangement, may take the benefit of, and seek to enforce, this Arrangement to the extent that such enforcement is required to enable the Customer to obtain the benefit of a Contract with the Contractor.

### 5. FORMATION OF THIS ARRANGEMENT

#### Arrangement

- 5.1 The following documents will constitute this entire Arrangement between the Principal and the Contractor:
- (a) Deed of Agreement incorporating the terms and conditions of these Standing Offer Arrangement Conditions including Schedules 1, 2 and 3 as completed by the Principal, which are attached to the Deed of Agreement;
  - (b) Specifications;
  - (c) Contractor's Offer; and
  - (d) any other documentation forming part of this Arrangement, as agreed in writing between the Principal and Contractor.
- 5.2 In the event of any conflict between the documents specified in clause 5.1, the order of precedence to resolve the conflict will be in the above order. In the event of any inconsistency between the Deed of Agreement and Schedules 1, 2 and 3, the Deed of Agreement will prevail to the extent of the inconsistency.
- 5.3 Any Additional Provisions which have been agreed between the Principal and the Contractor in relation to the Specifications and/or these Standing Offer Arrangement Conditions as specified in Schedule 3.
- 5.4 Such Additional Provisions relevant to a Contract are incorporated into this Arrangement, without further amendment.
- 5.5 Despite clauses 5.3 and 5.4, any Additional Provisions which take away or reduce the entitlements that would otherwise be provided to the Principal under clause 37.11 are null and void.
- 5.6 This Arrangement supersedes all prior representations, agreements, statements and understandings between the Principal and Contractor, whether oral or in writing relating to the subject matter of this Arrangement.

#### Contract

- 5.7 The following documents will constitute the entire Contract, which may be established as a result of this Arrangement, between the Customer and Contractor:
- (a) Standing Offer Arrangement Conditions (Section A), including Schedules 1, 2 and 3;
  - (b) Standing Offer Arrangement Conditions (Section B), including Schedule A – Contract Details and/or other form of document (e.g. Order) from the Customer by which a binding contract is formed between a Customer and the Contractor;
  - (c) applicable Contract Schedule(s), as relevant to the supply of the Deliverable; and
  - (d) any Document, in whole or in part, which Schedule A – Contract Details expressly incorporates as part of a Contract.
- 5.8 Subject to clause 5.9, in the event of any conflict between the documents specified in clause 5.7, the order of precedence to resolve the conflict will be in the above order.
- 5.9 Notwithstanding clause 5.8, any term or condition of the Contract which take away or reduce the entitlements that would otherwise be provided to a Customer under the Standing Offer Arrangement Conditions is null and void.
- 5.10 These Standing Offer Arrangement Conditions and any Additional Provisions are incorporated into all Contracts and cannot be varied or deleted by the Contractor and/or Customer in relation to a Contract.

## 6. ARRANGEMENT TERM

- 6.1 The Arrangement Term will commence on the Arrangement Commencement Date and, unless terminated sooner pursuant to clause 34, will continue until the Arrangement Completion Date.
- 6.2 The Arrangement Term may be extended at the entire discretion of the Principal, for a further period as specified in item 7 of Schedule 1, by Notice given by the Principal to the Contractor. Any extended Arrangement Term will be governed by the same terms and conditions as the Arrangement, unless otherwise agreed between the Parties.

## 7. TRANSFERABILITY / PORTABILITY OF THIS ARRANGEMENT

- 7.1 Notwithstanding any provision of this Arrangement, the Principal is entitled, by the giving of a Notice to the Contractor, to freely transfer its rights and responsibilities under this Arrangement either wholly or partly, to a Queensland Government department or agency that is part of the same legal entity as the Principal.
- 7.2 Notwithstanding any provision of this Arrangement, the Principal may freely transfer its rights and responsibilities under this Arrangement, either wholly or partly, to a Queensland Government department or agency or Queensland Government Body that is not part of the same legal entity as the Principal, but only as a consequence of a Machinery of Government Change.
- 7.3 If clause 7.2 applies, the Contractor must execute a deed of novation, which is located from the Queensland Government Chief Procurement Office website: [www.qgcpcpo.qld.gov.au](http://www.qgcpcpo.qld.gov.au) under 'Standard contract forms' – 'Additional Provisions' document or by contacting the Principal's Authorised Officer. The Contractor must execute and return this deed of novation to the Principal within 5 Business Days from receipt of a Notice from the Principal advising of the transfer and requiring the Contractor to execute the deed of novation.

## 8. ROLE OF THE PRINCIPAL'S AUTHORISED OFFICER

- 8.1 The Principal's Authorised Officer will be the primary liaison and point of contact between the Principal and the Contractor in relation to the management of this Arrangement, any variations to the Goods and/or Services, or any matters affecting the terms and conditions of this Arrangement. The Principal's Authorised Officer is authorised to give Notices under this Arrangement, on behalf of the Principal.
- 8.2 The Project Manager is the Principal's technical representative responsible for the detail and accuracy of the Specifications in this Arrangement. The Project Manager is NOT authorised either apparently or ostensibly to amend this Arrangement or enter into any Contract/s, on behalf of the Principal.
- 8.3 The Contractor must:
- (a) liaise with and report to the Principal's Authorised Officer about the performance of this Arrangement;
  - (b) attend meetings with, or provide briefings to the Principal's Authorised Officer and/or Project Manager, as required from time to time; and
  - (c) promptly comply with any request or direction given by the Principal's Authorised Officer, in accordance with this Arrangement, about the performance of the Arrangement.

## 9. LIST OF GOODS AND/OR SERVICES UNDER THIS ARRANGEMENT (INCLUDING PRICE)

- 9.1 The Contractor agrees to provide the Goods and/or Services at the Price specified in Schedule 2, to a Customer in accordance with this Arrangement, and any Contract formed pursuant to clause 5.7.
- 9.2 The Principal is not obliged to purchase any Goods and/or Services from the Contractor pursuant to this Arrangement.
- 9.3 Where the Contractor seeks to increase or decrease the Price for the Goods and/or Services to take into consideration:
- (a) movements in the relevant exchange rates as it affects the Goods, if specified in Schedule 2;
  - (b) movements in the Consumer Price Index Brisbane (All Groups) as it affects the Goods and/or Services, if specified in Schedule 2;
  - (c) other factors as they affect the Goods and/or Services, if specified in Schedule 2; and/or
  - (d) any variation in any tax, duty or charge as it affects the Goods and/or Services,
- the Contractor must give Notice to the Principal and such Notice must include evidence to substantiate the basis of the Price increase or decrease.
- 9.4 Where the Contractor gives Notice to the Principal of a Price increase or decrease in accordance with clause 9.3, that increase or decrease will be incorporated into this Arrangement 30 days from the date notification is received by the Principal, unless within that 30 day period, the Principal gives Notice to the Contractor that it rejects the increase or decrease.
- 9.4 If the Contractor's request to increase or decrease the Price for the Goods and/or Services is rejected by the Principal, this Arrangement will remain unvaried.

**10 NEGOTIATION FOR INCREASED BULK PURCHASE DISCOUNTS**

- 10.1 The Principal may request quotations from the Contractor for:
- (a) discounts on volume purchases of Products and/or Services on behalf of a Customer; and/or
  - (b) aggregate purchases of Products and/or Services on behalf of Customers.
- 10.2 The Contractor must promptly make any negotiated volume or bulk purchase discounts available to all Customers entitled to the benefit of this Arrangement, for future Contracts, and amend the Price to reflect the volume or bulk purchase discounts.

**11. PAYMENT**

- 11.1 The Price will be payable in the manner specified in Schedule 2. The Contractor must submit a Correctly Rendered Invoice to the Customer, and the Customer will pay the Correctly Rendered Invoice at the times specified in item 10 of Schedule A.
- 11.2 The Correctly Rendered Invoice submitted by the Contractor must:
- (a) identify the title of the Goods and/or Services and the name of the Customer's Project Manager (if applicable);
  - (b) identify the Order number and specific details pertaining to that Order (if applicable);
  - (c) include sufficient details to allow the Customer to assess progress against milestones (if applicable);
  - (d) for Services carried out on a time basis, be supported by records of time spent by individuals involved in the Services and verified by the Contractor; and
  - (e) itemise Approved Expenses claimed.
- 11.3 Upon receipt of an invoice, the Customer may require the Contractor to provide additional information or documentary evidence to enable the Customer to determine whether or not an amount is payable.

**12. GST**

- 12.1 The Price is either exclusive or inclusive of GST, as specified in Schedule 2 or item 10 of Schedule A.
- 12.2 If the Price is exclusive of GST the Customer will pay the GST Amount to the Contractor in addition to the Price and the Contractor must remit the GST Amount to the Commissioner for Taxation in accordance with the GST Legislation.
- 12.3 If the Price is inclusive of GST the:
- (a) Customer is not required to pay the GST Amount in addition to the Price; and
  - (b) Contractor must remit the GST Amount to the Commissioner for Taxation in accordance with the GST Legislation.
- 12.4 Where the amount of GST collected by the Customer under the Contract differs, for any reason, from the amount of GST paid or payable by the Contractor, including but not limited to:
- (a) an amendment to the GST Legislation;
  - (b) the issue of a ruling or advice by the Commissioner for Taxation;
  - (c) a refund of GST to the Contractor in respect of any supply made under the Contract; or
  - (d) a decision of any tribunal or court;
- then the Contractor must issue an appropriate GST adjustment note and the difference must be paid by or to the Customer as the case may be.
- 12.5 The Parties agree to exchange with each other such information as may be necessary to enable each Party to accurately assess its rights and obligations under this clause.

**13. REQUIREMENTS FOR GOODS AND/OR SERVICES**

- 13.1 All Goods and/or Services provided by the Contractor to a Customer under this Arrangement, unless otherwise specified by the Principal, must comply in all aspects with the:
- (a) terms of this Arrangement and any Contract, including but not limited to the Specifications;
  - (b) applicable legislation; and
  - (c) applicable Government code, policy or guideline and current Australian/New Zealand Standard and where an Australian/New Zealand Standard does not exist, the relevant current International Standard (ISO),
- including any that may be introduced or varied during this Arrangement Term, which govern the provision of the Goods and/or Services.
- 13.2 All Goods supplied by the Contractor to a Customer must be in a new and unused condition and of recent origin, unless otherwise specified in item 10 of Schedule 1.
- 13.3 All Goods supplied by the Contractor to a Customer must be suitably packed and otherwise appropriately prepared for transportation.
- 13.4 Risk and title in the Goods (free of all encumbrances and interests) will pass to a Customer upon Delivery.

- 13.5 The Contractor must ensure that any manufacturer's warranty that applies to the Goods will be transferred to a Customer, at no cost to the Customer.
- 14. CONTRACTOR'S OBLIGATIONS**
- 14.1 The Contractor will be responsible for the supply and/or performance of all personnel and/or equipment, necessary for the proper supply of the Goods and/or performance of the Services.
- 14.2 When supplying the Goods and/or performing the Services, the Contractor must:
- (a) take all measures to protect people and property;
  - (b) avoid unnecessary interference with the passage of people and vehicles; and
  - (c) prevent nuisance and unreasonable noise and disturbance.
- 14.3 The Contractor:
- (a) warrants that it has the necessary skills and expertise to complete the Contract; and
  - (b) will ensure that its officers, employees and sub-contractors have the necessary skills and expertise to perform those obligations of the Contract, which are allocated to them by the Contractor.
- 15. TRANSACTING WITH A CUSTOMER**
- 15.1 The Contractor acknowledges that there has been no representation by the Principal even if the Invitation invited Offers for a common use whole-of-government supply strategy that, by the Principal's acceptance of its Offer and on the entering into of this Arrangement, the Contractor will necessarily receive any Orders from any Customer pursuant to this Arrangement.
- 15.2 A Customer may enter into a Contract with the Contractor under these Standing Offer Arrangement Conditions by placing an Order at any time until the Arrangement Completion Date, and the Contractor will be bound by any such Order, unless this Arrangement:
- (a) is suspended; or
  - (b) has been terminated,
- at the time the Order is placed.
- 15.3 An Order will be deemed to be given:
- (a) if posted – two Business Days after the date of posting;
  - (b) if delivered by hand during a Business Day – on the date of delivery;
  - (c) if faxed - on the date the sender's facsimile machine notes a complete and successful transmission; or
  - (d) if emailed – on the date of the email,
- except that a fax or email received after 5:00pm (local time of the receiving Party) will be deemed to be given on the next Business Day.
- 15.4 This Arrangement is not an exclusive arrangement with the Contractor, even if the Invitation invited Offers for a common use whole-of-government supply strategy, and the Customer may, at its entire discretion, enter into a contract with other contractors to provide the Goods and/or Services.
- 15.5 A Customer is not obliged to request any or a minimum number of Goods and/or Services from the Contractor under this Arrangement.
- 15.6 The terms and conditions of these Standing Offer Arrangement Conditions cannot be varied or deleted by the Contractor and/or Customer in any Contracts.
- 16. UTILISATION OF THIS ARRANGEMENT BY OTHER ENTITIES**
- 16.1 The Principal reserves the right to allow Queensland Government departments or agencies, Queensland Government Bodies, Non-Government Organisations and/or the Commonwealth, States or Territories to purchase the Goods and/or Services under this Arrangement.
- 17. DELIVERY PERIOD**
- 17.1 The Contractor agrees to supply the Goods and/or perform the Services in the Delivery Period specified in item 11 of Schedule 1, to a Customer in accordance with this Arrangement, and any Contract.
- 18. PERFORMANCE REVIEW**
- 18.1 A periodic review of the Contractor's performance in respect of this Arrangement and any Contract will be undertaken to assess the Contractor's performance and its eligibility to continue to be a participant in this Arrangement. The extent of the Goods and/or Services covered by the performance review will be based on the Contractor's performance under this Arrangement and the performance review criteria (e.g. key performance indicators or performance standards) as specified in item 12 of Schedule 1.

- 18.2 The Contractor must also attend any Arrangement performance evaluation meetings and provide such documentation, reports and data as specified in item 12 of Schedule 1, as and when required by the Principal.
- 18.3 The Principal will monitor the performance of the Contractor annually, or such other period as specified by the Principal, during this Arrangement Term.

## 19 PERFORMANCE GUARANTEE

- 19.1 The Contractor must, if specified in item 13 of Schedule 1, arrange within 10 Business Days, or such other period agreed between the Parties, for a guarantor approved by the Principal to execute a Performance Guarantee in a form acceptable to the Principal.
- 19.2 Where specified in item 13 of Schedule 1, the Performance Guarantee will be held as security for the due and proper performance of all obligations of the Contractor under any Contract/s established as a result of this Arrangement.
- 19.3 All charges incurred by the Contractor in obtaining, maintaining and releasing the Performance Guarantee pursuant to this clause 19 must be met by the Contractor.
- 19.4 A Customer is entitled to rely upon the Performance Guarantee, which has been put in place by the Contractor in accordance with clause 19.1.
- 19.5 A claim against the Contractor's Performance Guarantee in relation to one or more Contract/s, must not have the effect of extinguishing the Performance Guarantee in relation to all other Contract/s, nor will it release the Contractor from its obligations in accordance with this clause 19.
- 19.6 The Principal and Contractor may agree to release the Performance Guarantee on terms acceptable to the Principal.
- 19.7 Notwithstanding clause 19.6, upon termination of this Arrangement in accordance with clause 34, the Principal will release the Performance Guarantee to the Contractor where the Contractor has fully performed and discharged all of its obligations under this Arrangement (other than the obligations as specified in clause 38 which will survive the termination of this Arrangement) and all Contracts.

## 20 FINANCIAL SECURITY

- 20.1 The Contractor must, if specified in item 14 of Schedule 1, provide within 10 Business Days, or such other period agreed between the Parties, a Financial Security in a form acceptable to the Principal.
- 20.2 Notwithstanding this clause 20, any Financial Security which the Contractor has in place at the request of the Principal will not be available to a Queensland Government Body or Non-Government Organisation.
- 20.3 A Queensland Government Body or Non-Government Organisation is entitled to request its own Financial Security from the Contractor.
- 20.4 Where the Contractor has a Financial Security in place pursuant to a request by the Principal, subject to clause 20.5, the Customer is entitled to rely on this Financial Security.
- 20.5 Only the Principal, may enforce the Financial Security. A Customer seeking to rely on such Financial Security must request the Principal to make a claim on its behalf.
- 20.6 The Financial Security must be issued by an Australian domiciled bank, insurance company or other financial institution acceptable to the Principal in its entire discretion.
- 20.7 The Financial Security must be held as security for the due and proper performance of all the obligations of the Contractor under any Contract established as a result of this Arrangement.
- 20.8 If the Contractor fails to properly perform its obligations under a Contract and the Customer suffers loss or damage arising from, or in connection with, such failure by the Contractor, the Customer must be entitled (subject to clause 20.5) to make a claim and to receive payment for any or all such loss or damage (as ascertained and certified by the Customer, but subject to any limitation in clause 25) from the Financial Security. If the Financial Security is not sufficient to meet such payment, the unpaid amount may be recovered from the Contractor by the Customer in any appropriate court.
- 20.9 If any claims are made against the Financial Security at any time, the Contractor must within a period not exceeding 30 days, reinstate the Financial Security to the level required by the Principal in accordance with clause 20.1.
- 20.10 The Contractor must not take nor be entitled to take any action or proceeding to obtain an injunction or otherwise prevent a Customer from making a claim or receiving a payment under the Financial Security.
- 20.11 The Contractor agrees that the Principal, whilst exercising its rights in accordance with this clause, will have no liability to the Contractor of any nature (whether in negligence or otherwise) for any loss or damage suffered or incurred by the Contractor.
- 20.12 The Contractor must not take any action or proceeding against the Principal or attempt to recover from the Principal any amount claimed under a Financial Security that has been received by the Principal, on behalf of a Customer. The Principal will promptly forward to the Customer any such amounts claimed under a Financial Security that have been received by the Principal on behalf of a Customer.

- 20.13 The Principal will release the Financial Security requested under clause 20.1 to the Contractor (or to whom the Contractor directs) where:
- (a) the Contractor has fully performed and discharged all of its obligations under this Arrangement (other than the obligations as specified in clause 38, which will survive the termination of this Arrangement);
  - (b) the Contractor is not in the course of negotiating or there is no prospect of entering into a Contract within the next 90 days where the Contract has proposed to rely on or is likely to rely on the Financial Security provided under this clause 20; and
  - (c) in the reasonable opinion of the Principal, there is no prospect that money or damages will become owing (whether actually or contingently) by the Contractor to a Customer.
- 20.14 All charges incurred by the Contractor in obtaining, maintaining and releasing the Financial Security pursuant to this clause 20 must be met by the Contractor.

## 21. CONFLICT OF INTEREST

- 21.1 The Contractor warrants that, to the best of its knowledge, as at the Arrangement Commencement Date neither the Contractor nor any of its officers, employees or sub-contractors have, or are likely to have, a Conflict of Interest in the performance of the Contractor's obligations under this Arrangement or any subsequent Contract/s.
- 21.2 If a Conflict of Interest or risk of Conflict of Interest arises during the Arrangement Term (without limitation, because of work undertaken by the Contractor for any person other than the Principal), the Contractor must immediately give Notice of the Conflict of Interest, or the risk of it, to the Principal.
- 21.3 The Contractor must:
- (a) take all reasonable measures to ensure that its officers, employees and sub-contractors do not engage in any activity or obtain any interest which is in conflict with the Contractor's ability to fulfil its obligations under this Arrangement to the Principal in good faith and objectively; and
  - (b) immediately give Notice to the Principal of any Conflict of Interest relating to the activities or interests of any of its officers, employees or sub-contractors.
- 21.4 Upon receipt of a Notice under clause 21.2 or 21.3(b) or upon the Principal otherwise identifying a Conflict of Interest, the Principal may either:
- (a) direct the Contractor as to how to manage the Conflict of Interest and the Contractor must comply with any reasonable direction so given by the Principal;
  - (b) suspend this Arrangement in accordance with clause 32.1; or
  - (c) elect to terminate this Arrangement in accordance with clause 34.5(a).
- 21.5 If clause 21.4(a) or 21.4(b) applies, the Contractor must give Notice to the Principal when the Conflict of Interest or risk of Conflict of Interest is resolved.

## 22. INTELLECTUAL PROPERTY RIGHTS AND MORAL RIGHTS

- 22.1 Title to, and Intellectual Property Rights in, all New Contract Material will, upon its creation, vest in the Party specified in item 15 of Schedule 1.
- 22.2 If item 15 of Schedule 1 is blank, title to, and Intellectual Property Rights in, New Contract Material vests in the Customer.
- 22.3 If item 15 of Schedule 1 specifies that this clause 22.3 applies or if clause 22.2 applies, title to, and Intellectual Property Rights in, New Contract Material will upon its creation vest in the **Customer**, and:
- (a) the Contractor must ensure that during the Contract Term the New Contract Material and Records are used, copied, supplied or reproduced only for the purposes of the Contracts; and
  - (b) after the expiration or sooner termination of the Contract (or some earlier date if required by the Customer), the Contractor must deliver to the Customer, in a format specified by the Customer, all New Contract Material and Records.
- 22.4 If item 15 of Schedule 1 specifies that this clause 22.4 applies, title to, and Intellectual Property Rights in, New Contract Material will, upon its creation, vest in the **Contractor**, and the Contractor grants, and will ensure that relevant third parties grant to the Customer a paid-up, non-exclusive, non-transferable, irrevocable, perpetual licence (including the right to sub-licence) in respect of the New Contract Material (and any future development of that New Contract Material), without additional cost to the Customer to:
- (a) use, exploit and otherwise exercise all rights comprised in the copyright, for any purpose of the Customer and/or a Queensland Government Body; and
  - (b) use or exploit (whether commercially or otherwise) for any purpose, if specified in item 15 of Schedule 1.
- 22.5 This Contract does not affect Intellectual Property Rights in Existing Contract Material but the Contractor grants, and will ensure that relevant third parties grant, to the Customer a paid up, non-exclusive, non-transferable, irrevocable, perpetual

licence (including the right to sub-licence) in respect of the Existing Contract Material but only as part of the Contract Material (and any future development of the Contract Material), without additional cost to the Customer to:

- (a) use, exploit and otherwise exercise all rights comprised in the copyright for any purpose of the Customer and/or a Queensland Government Body; and
- (b) use or exploit (whether commercially or otherwise) for any purpose, if specified in item 15 of Schedule 1.

22.6 Intellectual Property Rights in Records will remain vested in the Principal.

22.7 If the Contractor is an individual, the individual consents to any act or omission done by the Customer in the exercise of the Intellectual Property Rights in the Contract Material granted under the Contract that might otherwise constitute an infringement of the individual's Moral Rights and without limiting this, the individual consents to:

- (a) the Customer determining in its entire discretion whether or not the individual will be attributed as author of the Contract Material comprised in a Deliverable and if the individual will be attributed, that attribution will occur in a manner acceptable to the Customer;
- (b) any amendments, deletion/destruction, alteration, relocation or selection of the Contract Material (or any part thereof) at the entire discretion of the Customer;
- (c) the publication or communication of the Contract Material or any part thereof; and
- (d) any other acts or omissions as specified in item 15 of Schedule 1.

22.8 If the Contractor engages an individual, whether an employee, sub-contractor or volunteer, to perform work under the Contract, the Contractor must, prior to allowing that individual to commence work in respect of a Deliverable, obtain from that individual who is to create New Contract Material:

- (a) all consents, permissions and assignments necessary to enable the Customer to exercise the Intellectual Property Rights granted under the Contract in full, without impediment or cost to the Customer; and
- (b) without limiting clause 22.8(a), a consent from the individual to any act or omission by the Customer in the exercise of the Intellectual Property Rights in the Contract Material granted under the Contract that might otherwise constitute an infringement of the person's Moral Rights, including a consent to the acts or omissions specified in clause 22.7(a) to (d).

### 23. CONFIDENTIALITY

23.1 The Contractor must not, and must ensure that its officers, employees, agents and sub-contractors do not use or disclose any Confidential Information without the Principal's consent, other than in accordance with this clause 23.

23.2 The Contractor may disclose Confidential Information to its officers, employees, agents and sub-contractors to the extent necessary for the performance of this Arrangement, provided that the Contractor:

- (a) makes such persons aware that the information is confidential; and
- (b) if required by item 16 of Schedule 1 or directed by the Principal during the Arrangement Term, obtains from such persons a confidentiality undertaking in a form acceptable to the Principal.

23.3 The Principal and Contractor must keep all Confidential Information in a secure location so that no unauthorised person is able to gain access to it.

23.4 Upon receipt of a written request by the Principal, either during the Arrangement Term or upon termination or expiration of this Arrangement, the Contractor must deliver to the Principal any Records in the Contractor's power, possession or control.

23.5 Subject to clause 23.4 the Contractor may:

- (a) return any Record to the Principal upon the completion of this Arrangement; and/or
- (b) destroy its file/s and any copy (but not the original) of a Record held in its file in accordance with usual business practice and any applicable legislative requirements.

### 24. PRIVACY AND PERSONAL INFORMATION

24.1 If the Contractor collects or has access to Personal Information as a result of this Arrangement or a Contract, the Contractor must:

- (a) if the Principal is an "agency" within the meaning of the *Information Privacy Act 2009*, comply with Parts 1 and 3 of Chapter 2 of that Act in relation to the discharge of its obligations under this Arrangement, as if the Contractor was the Principal;
- (b) not use Personal Information other than for the purposes of performing this Arrangement, unless required or authorised by law;
- (c) not disclose Personal Information without the consent of the Principal, unless required or authorised by law;
- (d) not transfer Personal Information outside of Australia without the consent of the Principal;
- (e) ensure that access to Personal information is restricted to those of its employees and officers who require access in order to perform their duties;

- (f) ensure that its officers and employees do not access, use or disclose Personal Information other than in the performance of their duties;
- (g) ensure that its sub-contractors who have access to Personal Information comply with obligations the same as those imposed on the Arrangement or a Contract under this clause;
- (h) fully co-operate with the Principal to enable the Principal to respond to applications for access to, or amendment of a document containing an individual's Personal Information and to privacy complaints; and
- (i) comply with such other privacy and security measures as the Principal reasonably advises the Contractor in writing from time to time.

24.2 On request by the Principal, the Contractor must obtain from its employees, officers or sub-contractors engaged for the purposes of this Arrangement, an executed deed of privacy in a form acceptable to the Principal.

24.3 The Contractor must immediately notify the Principal on becoming aware of any breach of clause 24.1.

## 25. LIABILITY

25.1 The liability of a Party to the other Party for loss or damage sustained, will be reduced proportionately to the extent that the loss or damage was caused or contributed to by the other Party's negligence, unlawful act or omission and/or failure to comply with its obligations and responsibilities under and/or in connection with this Arrangement or otherwise at law.

25.2 Unless otherwise agreed in writing between the Parties, the liability of a Party arising under and/or in connection with this Arrangement, will exclude any liability for loss of profit, revenue, goodwill or business opportunities, damage to reputation and any indirect or consequential loss.

25.3 The liability of a Party arising under and/or in connection with this Arrangement, will, except in relation to liability:

- (a) for personal injury (including sickness, injury, death);
- (b) for loss of, or damage to, tangible property;
- (c) for a breach of the Intellectual Property Rights and Moral Rights clause 22; or
- (d) under an indemnity provided by the Contractor under clause 26,

be limited to the per Occurrence amount specified in item 18 of Schedule 1.

25.4 If no amount is specified in item 18 of Schedule 1, then the liability of a Party will be unlimited.

25.5 Each Party must use all reasonable endeavours to mitigate its loss, damage and any expenses arising under or in connection with a breach of this Arrangement, or in tort, or for any other common law or legislative cause of action arising under or in connection with this Arrangement.

## 26. INDEMNITY

26.1 In this clause 26:

"claim" includes any claim, action, proceeding, demand, liability, obligation, costs (including legal costs), losses, damages and expenses, including those arising out of the terms of any settlement.

26.2 The Contractor releases, discharges and indemnifies the Principal and each of its officers and employees ("the Indemnified Person") from and against any claim by a third party which may be brought against or made upon or incurred by any of them in connection with any:

- (a) negligent or unlawful act or omission of the Contractor, its officers or employees;
- (b) breach of this Arrangement by the Contractor;
- (c) contravention of any legislative requirement by the Contractor, its officers or employees; or
- (d) infringement by the Contractor and its officers or employees of the Intellectual Property Rights or Moral Rights of any third party,

except to the extent the claim is due to the negligent or unlawful act or omission of the Indemnified Persons.

## 27. INSURANCE

27.1 The Contractor warrants that it will hold and maintain for the Arrangement Term the following insurances:

- (a) Workers' Compensation insurance in accordance with the *Workers' Compensation and Rehabilitation Act 2003*;
- (b) Public Liability insurance for the amount specified in item 19 of Schedule 1;
- (c) Professional Indemnity insurance if specified in item 20 of Schedule 1 for the amount specified in item 20 of Schedule 1 in respect of each claim, and which must be maintained by the Contractor for a continuous period of four years, after the Arrangement Completion Date or termination of this Arrangement, unless otherwise specified in item 20 of Schedule 1; and/or



(d) any other insurances specified in item 21 of Schedule 1.

- 27.2 The insurances must be effected with an insurer that is authorised and licensed to operate in Australia.
- 27.3 The Contractor warrants if it is a member of a scheme approved under the *Professional Standards Act 2004* that it will hold and maintain the minimum level of insurance as specified in item 20 of Schedule 1.
- 27.4 The Contractor must, if requested by the Principal, promptly provide a certificate of currency for each insurance policy.
- 27.5 The Contractor warrants that any exclusions and deductibles that may be applicable to the insurance policies that it holds in accordance with this clause 27, will not impact on the Contractor's ability to meet any claim or otherwise prejudice the Customer's rights under a Contract.
- 27.6 The Contractor must immediately advise the Principal if any insurance policy, as required by this clause 27, is materially modified or cancelled. The Contractor must provide full details of any changes in writing to the Principal.

## 28. LICENSING REQUIREMENTS

- 28.1 The Contractor warrants that it will hold and maintain all requisite licenses, permits, permissions and/or authorities necessary for the provision of the Goods and/or Services.
- 28.2 The Contractor must, if requested by the Principal, provide evidence of compliance with its obligations under this clause to the satisfaction of the Principal.

## 29. INDUSTRIAL RELATIONS

- 29.1 The Principal and/or a Customer will not become involved in industrial disputes between the Contractor and the Contractor's staff unless required to do so by an industrial authority.
- 29.2 During the periods of industrial disputes of any duration, the Contractor will be responsible for continued compliance with its obligations under this Arrangement and any subsequent Contract/s at the Contractor's expense.

## 30. RESOLUTION OF DISPUTES

- 30.1 If a dispute or difference arises between the Parties in relation to this Arrangement and/or Contract or concerning the performance or non-performance by either Party of their obligations under this Arrangement and any subsequent Contract, whether raised during the performance of the Deliverables under the Contract or after the completion of the Deliverables, a Party may give Notice of a dispute to the other Party. The Parties must, if requested by either Party, within 10 Business Days of receipt of a notice of dispute by a Party, refer the dispute to mediation before commencement of any litigation, other than for injunctive relief, in relation to the dispute. The mediator must be:
- (a) mutually agreed upon by the Parties in writing; or
  - (b) in the absence of agreement, appointed by the Chairperson of the Queensland Chapter of the Institute of Arbitrators and Mediators Australia.

## 31. VARIATION TO THIS ARRANGEMENT

- 31.1 Except in the circumstances specified in clause 31.2, this Arrangement may only be varied by written agreement between the Parties. The Parties must act reasonably in deciding whether to agree to a variation, as requested by the other Party.
- 31.2 The Principal may vary the terms and conditions of this Arrangement by Notice to the Contractor, when reasonably required as a result of changes in Government policy.
- 31.3 Where as a result of clause 31.2, the Contractor is required to comply with any amendment to Government policy, the Contractor must promptly submit in writing to the Principal any proposed variation to this Arrangement which is required as a result of this amendment. If the Parties are unable to reach agreement in relation to the Contractor's proposed variation, the provisions of clause 30 will apply to resolve the dispute.
- 31.4 Any variation proposed by the Contractor in accordance with clause 31.1 or clause 31.3 must be accompanied by evidence to substantiate such proposed variation.
- 31.5 Despite any other provision of this clause 31, any variation proposed by the Contractor which take away or reduce the entitlements of the Principal under clause 37.11, will be deemed to be rejected by the Principal and this Arrangement will remain unvaried.
- 31.6 Where specified in this Arrangement that the Price of the Goods and/or Services is to be adjusted to reflect any variation in the Consumer Price Index during the previous year, the variation will apply from 1<sup>st</sup> July each year. This variation will be calculated by multiplying the existing Price of the Goods and/or Services by the Consumer Price Index for the 12 months ending at the end of the latest available quarter and dividing it by the Consumer Price Index for the preceding 12 months.. In this clause 31 the "Consumer Price Index" means the Brisbane (All Groups) Consumer Price Index published by the Australian Bureau of Statistics

- 31.7 Except for the circumstances specified in clause 31.2, if the receiving Party rejects the proposed variation, including any pricing variation, this Arrangement will remain unvaried.
- 32. SUSPENSION OF THIS ARRANGEMENT**
- 32.1 The Principal at its entire discretion may suspend this Arrangement by giving Notice to the Contractor, providing details of:
- (a) the period of suspension with effect from the date stated in the Notice;
  - (b) the reasons for the suspension; and
  - (c) reasonable directions in relation to subsequent performance of this Arrangement.
- 32.2 Where this Arrangement is suspended in accordance with clause 32.1, prior to the period of suspension expiring, the Principal will notify the Contractor in writing that either the:
- (a) period of suspension has ceased to be effective from the date specified in the Notice, and each Party must resume its performance under this Arrangement;
  - (b) period of suspension will be extended for a period of time specified in the Notice; or
  - (c) Arrangement is to be terminated in whole from the date specified in the Notice, in accordance with clause 34.
- 32.3 The Contractor must immediately comply with any direction given by the Principal, pursuant to clause 32.1
- 33. EFFECT OF SUSPENSION OF THIS ARRANGEMENT**
- 33.1 The effect of suspension of this Arrangement in accordance with clause 32 is that:
- (a) the Contractor must not enter into any new Contracts during the period of suspension;
  - (b) any existing Contracts will not, unless the Contract requires it, be affected in any way whatsoever; and
  - (c) otherwise, all other rights and obligations of the Parties will continue under this Arrangement.
- 34. TERMINATION OF THIS ARRANGEMENT**
- 34.1 The Principal may terminate this Arrangement for convenience by giving 30 days Notice or such other reasonable period as specified by the Principal.
- 34.2 The Principal will not be liable for payment to the Contractor for any compensation relating to loss of profit, revenue, goodwill or business opportunities, damage to reputation and indirect or consequential loss, or any other reason in relation to termination of this Arrangement.
- 34.3 Without limiting clause 34.5, where the Contractor commits any breach of this Arrangement the Principal may by Notice require the Contractor to show cause, by the date specified in the Notice, why the Principal should not terminate this Arrangement.
- 34.4 If the Contractor fails to show reasonable cause by the date specified in the Notice in clause 34.3, then the Principal is entitled upon Notice to the Contractor to terminate this Arrangement.
- 34.5 The Principal may immediately terminate this Arrangement by Notice to the Contractor if:
- (a) the Contractor gives Notice under clause 21.2 or 21.3(b) or the Principal otherwise identifies a Conflict of Interest;
  - (b) the Contractor fails to provide Performance Guarantee in accordance with clause 19 or Financial Security in accordance with clause 20;
  - (c) the Contractor breaches any part of clauses 27 and 28;
  - (d) the Contractor:
    - (i) becomes insolvent or bankrupt or being a company goes into liquidation or has instituted against it any action or proceeding which has an object or may result in bankruptcy or liquidation;
    - (ii) has a receiver or a receiver and manager appointed or a mortgagee goes into possession of any of its assets or becomes subject to any form of external administration;
    - (iii) enters into an arrangement with its creditors or otherwise takes advantage of any laws in force in connection with insolvent debtors; or
    - (iv) is wound up, voluntarily or involuntarily; or
  - (e) the Contractor indicates that it is unable or unwilling to comply with its obligations under this Arrangement or any Contract/s pursuant to this Arrangement.
- 34.6 Termination of this Arrangement for any reason is without prejudice to any rights of the Principal under this Arrangement, in equity, at common law or under statute.
- 34.7 If this Arrangement is terminated, discharged or in any other way comes to an end, in whole or in part, whether pursuant to this clause 34 or in any other way, no Contract will, unless the Contract requires it, be affected in any way whatsoever.

## 35. TERMINATION OF CONTRACT

- 35.1 If a Customer lawfully terminates a Contract for breach by the Contractor, the Principal may at its entire discretion suspend the Contractor from this Arrangement pursuant to clause 32, or terminate this Arrangement pursuant to clause 34. Notwithstanding the foregoing, termination of a Contract by either the Contractor or the Customer for any reason will not affect the continuation of this Arrangement except as stipulated in this Arrangement.

## 36. NOTICES RELATING TO THIS ARRANGEMENT

- 36.1 Any Notice which may be given to or served on either Party under this Arrangement must be sent or delivered to the following respective addresses:
- (a) for the Principal – as specified in item 22 of Schedule 1;
  - (b) for the Contractor – as specified in item 23 of Schedule 1.
- 36.2 Notwithstanding clause 36.1, if the Contractor is a company then the Principal may serve a Notice at any time to the Contractor's registered office.
- 36.3 A Notice to be given or served pursuant to clauses 32, 34 or 35 must not be sent via email.
- 36.4 A Notice will be deemed to be given:
- (a) if posted – two Business Days after the date of posting;
  - (b) if delivered by hand during a Business Day – on the date of delivery;
  - (c) if faxed - on the date the sender's facsimile machine notes a complete and successful transmission; or
  - (d) if emailed – on the date of the email;
- except that a fax or email received after 5:00pm (local time of the receiving Party) will be deemed to be given on the next Business Day.

## 37. GENERAL PROVISIONS

### 37.1 Commissions and Incentives

- 37.1.1 The Contractor will not offer anything to the Principal or any officer or employee of the Principal, including to a parent, spouse, child or associate of the officer or employee, as an inducement, gift or reward, which could in any way tend to influence the Principal's actions in relation to this Arrangement.

### 37.2 No Advertising

- 37.2.1 The Contractor or its Approved Parties will not make any public announcement or advertisement in any medium in relation to this Arrangement and/or any Contract, without the consent of the Principal.

### 37.3 Waiver

- 37.3.1 Any failure by a Party at any time to enforce a clause of this Arrangement, or any forbearance, delay or indulgence granted by a Party to the other, will not constitute a waiver of the Party's rights.
- 37.3.2 No provision of this Arrangement will be deemed to be waived unless that waiver is in writing and signed by the waiving Party.
- 37.3.3 A waiver by a Party of a breach of any part of this Arrangement will not be a waiver of any subsequent breach of the same part nor a waiver of a breach of any other part.

### 37.4 Governing Law

- 37.4.1 This Arrangement and any Contract is governed by and construed in accordance with the laws of Queensland and the Parties submit to the non-exclusive jurisdiction of the courts of Queensland.
- 37.4.2 Notwithstanding clause 37.4.1, the Parties agree to exclude the application of the *Sale of Goods (Vienna Convention) Act 1986* to this Arrangement and any Contract to the fullest extent permitted by law.

### 37.5 Compliance with all Laws

- 37.5.1 The Contractor must comply with all relevant laws in performing its obligations under this Arrangement and any Contract.

### 37.6 Severability

- 37.6.1 If any part of this Arrangement is determined to be invalid, unlawful or unenforceable for any reason then that part, to the extent of the invalidity, unlawfulness or unenforceability, will be severed from the rest of this Arrangement and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.

**37.7 No Sub-Contracting**

37.7 The Contractor must not sub-contract the provision of any Goods and/or Services pursuant to this Arrangement or any Contract, without the prior consent of the Principal. Any consent given by the Principal to sub-contract:

- (a) may be conditional;
- (b) will not operate as an authority to transfer responsibility to the sub-contractor; and
- (c) will not relieve the Contractor from any of its liabilities or obligations under this Arrangement and any Contract.

**37.8 Further Assistance**

37.8.1 The Contractor must do all things reasonably required by the Principal to give effect to this Arrangement.

**37.9 No Assignment**

37.9.1 The Contractor must not assign its obligations or interest in this Arrangement, except with the consent of the Principal.

**37.10 Disclosure by Principal**

37.10.1 The Contractor acknowledges that the Principal, its officers, employees and sub-contractors may use and disclose any of the information provided by the Contractor to Queensland Government departments or agencies, Queensland Government Bodies, Non-Government Organisations and/or the Commonwealth, States or Territories for any purpose in connection with the administration of this Arrangement.

**37.11 Right to Information and Disclosure**

37.11.1 The *Right to Information Act 2009* (RTI Act) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies.

37.11.2 The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to the public interest.

37.11.3 Information relating to this Arrangement is potentially subject to disclosure to third parties.

37.11.4 If disclosure under the RTI Act, and/or general disclosure of information provided by the Contractor in connection with this Arrangement, would be of substantial concern to the Contractor, because it would disclose trade secrets, information of commercial value, the purpose or results of research or other information of a confidential nature, this should be indicated by the Contractor. The Principal cannot guarantee that any information provided by the Contractor will be protected from disclosure under the RTI Act.

37.11.5 Despite any other provision of this Arrangement, the Principal is entitled to publish on the Queensland Government Chief Procurement Office website: [www.qgcpcpo.qld.gov.au](http://www.qgcpcpo.qld.gov.au) under '*eTender system for Government Suppliers*', or by any other means, the following details:

- a) the name and address of the Principal and/or Eligible Customer;
- b) a description of the Goods and/or Services;
- c) Arrangement Commencement Date or award date;
- d) name and address of the Contractor; and
- e) the procurement method used.

**38. CLAUSES TO SURVIVE TERMINATION OF THIS ARRANGEMENT**

38.1 The following clauses will survive termination or expiration of this Arrangement:

- clause 4 - Customer May Enforce Arrangement
- clause 7 - Transferability / Portability of this Arrangement;
- clause 19 - Performance Guarantee;
- clause 20 - Financial Security;
- clause 23 - Confidentiality;
- clause 24 - Privacy and Personal Information;
- clause 25 - Liability;
- clause 26 - Indemnity;
- clause 27 - Insurance;
- clause 37.2 - No Advertising;
- clause 37.3 - Waiver;
- clause 37.4 - Governing Law;
- clause 37.10 - Disclosure by Principal; and
- clause 37.11 - Right to Information and Disclosure.

## SECTION B – CONDITIONS OF CONTRACT

### 39. NATURE OF THIS CONTRACT BETWEEN THE CUSTOMER AND CONTRACTOR

39.1 The Contractor must supply the Goods and/or Services to the Customer in accordance with the Arrangement and this Contract.

### 40. CONDITIONS OF CONTRACT

40.1 The terms and conditions governing any Contract established as a result of the Arrangement will be under the terms and conditions as specified in clause 41.

### 41. FORMATION OF CONTRACT

41.1 The following documents will constitute the entire Contract, which may be established as a result of the Arrangement, between the Customer and Contractor:

- (a) Standing Offer Arrangement Conditions (Section A), including Schedules 1, 2 and 3;
- (b) Standing Offer Arrangement Conditions (Section B), including Schedule A – Contract Details and/or other form of document (e.g. Order) from the Customer by which a binding contract is formed between a Customer and the Contractor;
- (c) applicable Contract Schedule(s), as relevant to the supply of the Deliverable; and
- (d) any Document, in whole or in part, which Schedule A – Contract Details expressly incorporates as part of a Contract.

41.2 Subject to clause 41.3, in the event of any conflict between the documents specified in clause 41.1, the order of precedence to resolve the conflict will be in the above order.

41.3 Notwithstanding clause 41.2, any term or condition of the Contract which take away or reduce the entitlements that would otherwise be provided to a Customer under the Standing Offer Arrangement Conditions are null and void.

41.4 The Standing Offer Arrangement Conditions and any Additional Provisions are incorporated into all Contracts and cannot be varied or deleted by the Contractor and/or Customer in relation to a Contract.

41.5 If the Contract is terminated in accordance with clause 63, the Arrangement must not, unless the Agreement requires it, be affected in any way whatsoever.

41.6 If the Arrangement is terminated, discharged or in any other way comes to an end, in whole or in part, whether pursuant to this clause or in any other way, no Contract will, unless the Contract requires it, be affected in any way whatsoever.

### 42. CUSTOMER MAY ENFORCE THE ARRANGEMENT

42.1 The Parties to this Contract agree that the Customer, although not a party to the Arrangement, may take the benefit of, and seek to enforce, the Arrangement to the extent that such enforcement is required to enable the Customer to obtain the benefit of a Contract with the Contractor.

### 43. CONTRACT TERM

43.1 This Contract will commence on the Contract Commencement Date and, unless terminated sooner pursuant to clause 63, will continue until the earlier of the:

- (a) date when all Deliverables have been provided by the Contractor to the Customer and the Customer has given notice to the Contractor that the Deliverables have been supplied and completed in accordance with the Contract; or
- (b) Contract Completion Date.

43.2 If the Deliverables have not been supplied and/or performed by the Contract Completion Date, the Contractor must seek an extension of the Contract Completion Date from the Customer, in accordance with clause 60.

### 44. TRANSFERABILITY / PORTABILITY OF GOODS AND/OR SERVICES

44.1 Notwithstanding any provision of the Contract, the Customer is entitled, by the giving of a Notice to the Contractor, to freely transfer its rights and responsibilities, including the use of and title to any Goods and/or Services under this Contract, either wholly or partly, to a Queensland Government department or agency that is part of the same legal entity as the Customer.

44.2 Notwithstanding any provision of this Contract, the Customer may freely transfer its rights and responsibilities, including the use of and title to any Goods and/or Services under this Contract, either wholly or partly, to a Queensland Government department or agency or Queensland Government Body that is not part of the same legal entity as the Customer, but only as a consequence of a Machinery of Government Change.

44.3 If clause 44.2 applies the Contractor must execute a deed of novation, which is located from the Queensland Government Chief Procurement Office website: [www.qgcpo.qld.gov.au](http://www.qgcpo.qld.gov.au) under 'Standard contract forms' – 'Additional Provisions' document or by contacting the Customer. The Contractor must execute and return this deed of novation to the Customer within 5

Business Days from receipt of a Notice from the Customer advising of the transfer and requiring the Contractor to execute the deed of novation.

- 44.4 If the Goods and/or Services are transferred in accordance with clause 44.1 or 44.2, the Contractor:
- (a) must immediately notify the Customer of any reduction in costs, including but not limited to volume discounts, which may occur; and
  - (b) may notify the Customer of any proposed additional fees for any additional costs directly incurred as a result of the provision of additional overall Goods and/or Services.
- 44.5 The Contractor agrees to negotiate with the Customer in good faith to vary or consolidate the Contract to:
- (a) adjust the Price as a result of the notification of the matters raised in clause 44.4; and/or
  - (b) comply with any specific requirements of the Customer to which its rights and responsibilities, including the use of and title to any Goods and/or Services are, or will be, freely transferred in accordance with clause 44.1 or 44.2.

#### **45. ROLE OF THE PROJECT MANAGER**

- 45.1 The Project Manager is the Customer's technical representative responsible for the detail and accuracy of the Specifications in this Contract. The Project Manager is NOT authorised either apparently or ostensibly to amend this Contract or enter into any Contract/s, on behalf of the Customer.
- 45.2 The Contractor must:
- (a) liaise with and report to the Project Manager about the supply of the Goods and/or performance of the Services;
  - (b) attend meetings with, or provide briefings to, the Project Manager as required from time to time; and
  - (c) promptly comply with any request or direction given by the Project Manager, in accordance with the Contract, about the supply of the Goods and/or the performance of the Services.

#### **46. PROVISION OF THE GOODS AND/OR SERVICES**

- 46.1 The Contractor agrees to supply the Goods and/or Services, as an independent contractor, for the Contract Term in a competent and professional manner.
- 46.2 The Contractor must provide the Goods and/or Services:
- (a) during the Delivery Period;
  - (b) by the milestone dates (if milestones are specified in item 13 of Schedule A);
  - (c) by the Contract Completion Date; or
  - (d) if the Services are periodic or recurrent Services, at the times, intervals and frequency as specified in item 14 of Schedule A.
- 46.3 In supplying the Goods and/or performing the Services, the Contractor must:
- (a) inform itself of the Customer's requirements in respect of the Goods and/or Services;
  - (b) consult regularly with the Customer or Project Manager; and
  - (c) exercise due skill, care and diligence.
- 46.4 The Contractor must ensure that:
- (a) the supply of the Goods and/or performance of the Services are in accordance with any key performance indicators or performance standards as specified in the Arrangement; and
  - (b) all Goods and/or Services are of a high quality and professional standard.
- 46.5 The Customer will provide the assistance (if any) described in item 15 of Schedule A to the Contractor.

#### **47. PERFORMANCE OF SERVICES BY KEY PERSONNEL**

- 47.1 The Services must be performed by the Key Personnel as specified in item 16 of Schedule A, unless the Customer has consented otherwise. A person replacing one of the Key Personnel, with the Customer's consent, will be considered to be one of the Key Personnel during the person's engagement to provide the Services.
- 47.2 The Contractor will ensure that the Key Personnel are competent and have the necessary skills and expertise to perform the Services on which they will be engaged.
- 47.3 The Contractor must not without consent from the Customer:
- (a) allow Key Personnel to delegate any part of the Services; or
  - (b) allocate tasks not connected with the Services to any of the Key Personnel who are engaged on the Services on a full time basis, until the Services allocated to that person have been completed by that person.
- 47.4 If any of the Key Personnel are not available to perform any of the Services allocated to them the Contractor must immediately:

- (a) notify the Customer of the circumstances; and
- (b) if so requested by the Customer, arrange for replacement of that person with a person satisfactory to the Customer, at no cost to the Customer.

47.5 The Customer may, on reasonable grounds, give Notice to the Contractor to remove any Key Personnel from working on the Services. Upon receipt of such notice under this clause 46.5, the Contractor must, at no cost to the Customer, promptly remove and replace the Key Personnel mentioned in the notice with a person approved by the Customer.

#### **48. PRICE AND APPROVED EXPENSES**

48.1 If the Goods and/or Services are provided in accordance with the Contract, the Customer will:

- (a) pay the Contractor the Price; and
- (b) reimburse the Contractor for the Approved Expenses, after the Approved Expenses have been incurred by the Contractor.

48.2 The Customer will not be liable to reimburse the Contractor for expenses other than the Approved Expenses, unless the Contractor has obtained the Customer's consent.

48.3 The Price will be payable in the manner and at the times specified in item 10 of Schedule A and the Contractor must submit invoices for the Price at the times specified in item 10 of Schedule A.

#### **49. PAYMENT**

49.1 In accordance with this Arrangement, the Customer is not obliged to pay the Contractor for any part of the Goods and/or Services until the:

- (a) Contractor has delivered to the Customer any Deliverables that are due to be delivered;
- (b) Customer has certified that the Deliverables specified in the Correctly Rendered Invoice have been supplied and completed in accordance with the Contract; and
- (c) Contractor has given the Customer a Correctly Rendered Invoice;

49.2 Despite any certification under clause 49.1(b) the Contractor must promptly supply or supply again, any part of the Goods and/or promptly perform or perform again, any part of the Services, certified by the Customer as not having been supplied and/or performed in accordance with the Contract. The Customer may, without limiting any other rights it may have, defer payment for that part of the Goods and/or Services until the Customer is satisfied that the Goods and/or Services have been supplied or supplied again and/or performed or performed again, in accordance with the Contract.

49.3 Unless otherwise specified in item 10 of Schedule A, the Customer will make payment within 30 days after the last to occur of clause 49.1(a) and 49.1(c) or, if additional information or evidence is required by the Customer pursuant to this clause, 30 days after receipt of the additional information or evidence.

#### **50. GENERAL RIGHT OF SET-OFF BY THE CUSTOMER**

50.1 Subject to clause 50.2, the term "Customer" in this clause includes the Customer acting through any Queensland Government department or agency, and is not limited to the department or agency specified in item 4 of Schedule 1 or item 2 of Schedule A.

50.2 Clause 50.1 does not apply if the Customer specified in item 4 of Schedule 1 or item 2 of Schedule A is a Non-Government Organisation and/or Queensland Government Body.

50.3 The Customer may deduct from any moneys due to the Contractor any sum which is payable by the Contractor to the Customer whether or not the Customer's right to payment arises by way of damages, debt, restitution or otherwise and whether or not the factual basis giving rise to the Customer's right to payment arises out of this Contract, any other contract/s, or is independent of any contract.

50.4 If the moneys payable to the Contractor are insufficient to discharge the liability of the Contractor to pay such sum to the Customer, the Customer may have recourse to any Financial Security provided under clause 20.

50.4 Nothing in this clause will affect the right of the Customer to recover from the Contractor the whole of such moneys or any balance that remains owing.

#### **51. PERFORMANCE GUARANTEE**

51.1 The Contractor acknowledges that the Customer is entitled to rely upon the Performance Guarantee, which has been put in place by the Contractor at the request of the Principal under clause 19, if the event(s) and/or circumstance(s) specified in the Performance Guarantee occurs.

**52. FINANCIAL SECURITY**

- 52.1 The Contractor acknowledges that where the Contractor has a Financial Security in place pursuant to a request by the Principal under clause 20 of Section A, subject to clause 52.2, the Customer is entitled to rely on this Financial Security.
- 52.2 Only the Principal may enforce the Financial Security. A Customer seeking to rely on such Financial Security must request the Principal to make a claim on its behalf.
- 52.3 If the Contractor fails to properly perform its obligations under the Contract and the Customer suffers loss or damage arising from, or in connection with, such failure by the Contractor, the Customer will be entitled (subject to clause 52.2) to make a claim and to receive payment for any or all such loss or damage (as ascertained and certified by the Customer) from the Financial Security. If the Financial Security is not sufficient to meet such payment, the unpaid amount may be recovered from the Contractor by the Customer in any appropriate court.

**53. COMMISSIONS AND INCENTIVES**

- 53.1 The Contractor will not offer anything to the Customer or any officer or employee of the Customer, or to a parent, spouse, child or associate of an officer or employee, any inducement, gift or reward, which could in any way tend to influence the Customer's actions in relation to the Contract.

**54. CONFLICT OF INTEREST**

- 54.1 The Contractor warrants that, to the best of its knowledge, as at the Contract Commencement Date neither the Contractor nor any of its officers, employees or sub-contractors have, or are likely to have, a Conflict of Interest in the performance of the Contractor's obligations under this Contract.
- 54.2 If a Conflict of Interest or risk of Conflict of Interest arises during the Contract Term (without limitation, because of work undertaken by the Contractor for any person other than the Customer), the Contractor must immediately give notice of the Conflict of Interest, or the risk of it, to the Customer.
- 54.3 The Contractor must:
- (a) take all reasonable measures to ensure that its officers, employees and sub-contractors do not engage in any activity or obtain any interest which is in conflict with the Contractor's ability to supply the Goods and/or perform the Services for the Customer in good faith and objectively; and
  - (b) immediately give Notice to the Customer of any Conflict of Interest relating to the activities or interests of any of its officers, employees or sub-contractors.
- 54.4 Upon receipt of a notice under clauses 54.2 or 54.3(b), the Customer may either:
- (a) direct the Contractor as to how to manage the Conflict of Interest and the Contractor must comply with any reasonable direction so given by the Customer; or
  - (b) elect to terminate this Contract in accordance with clause 63.5(c).

**55. CONFIDENTIALITY**

- 55.1 The Contractor must not, and must ensure that its officers, employees, agents and sub-contractors do not, use or disclose any Confidential Information without the Customer's consent, other than in accordance with this clause 55.
- 55.2 The Contractor may disclose Confidential Information to its officers, employees, agents and sub-contractors to the extent necessary for the performance of this Contract, provided that the Contractor:
- (a) makes such persons aware that the information is confidential and must be kept confidential; and
  - (b) if specified in item 17 of Schedule A or if requested by the Customer, obtains from such persons a confidentiality undertaking in a form acceptable to or provided by the Customer.
- 55.3 During the Contract Term the Contractor must keep all Confidential Information in a secure location so that no unauthorised person is able to gain access to it.
- 55.4 Upon receipt of a written request by the Customer either during the Contract Term or upon termination or expiration of this Contract, the Contractor must deliver to the Customer or destroy all Confidential Information and Records in the Contractor's power, possession or control.
- 55.5 Subject to clause 55.4:
- (a) the Contractor may return any Records to the Customer upon the completion of the Contract; and/or
  - (b) the Contractor may destroy its file/s and any copy (but not the original) of a Record held in its file in accordance with usual business practices and any applicable legislative requirements.

**56. PRIVACY AND PERSONAL INFORMATION**

- 56.1 If the Contractor collects or has access to Personal Information in order to provide the Goods and/or Services, the Contractor must:



- (a) if the Customer is an "agency" within the meaning of the *Information Privacy Act 2009*, comply with Parts 1 and 3 of Chapter 2 of that Act in relation to the discharge of its obligations under this Contract, as if the Contractor was the Customer;
- (b) not use Personal Information other than for the purposes of the supply of the Goods and/or performance of the Services, unless required or authorised by law;
- (c) not disclose Personal Information without the consent of the Customer, unless required or authorised by law;
- (d) not transfer Personal Information outside of Australia without the consent of the Customer;
- (e) ensure that access to Personal information is restricted to those of its employees and officers who require access in order to perform their duties;
- (f) ensure that its officers and employees do not access, use or disclose Personal Information other than in the performance of their duties;
- (g) ensure that its sub-contractors who have access to Personal Information comply with obligations the same as those imposed on this Contract under this clause;
- (h) fully co-operate with the Customer to enable the Customer to respond to applications for access to, or amendment of a document containing an individual's Personal Information and to privacy complaints; and
- (h) comply with such other privacy and security measures as the Customer reasonably advises the Contractor in writing from time to time.

56.2 On request by the Customer, the Contractor must obtain from its employees, officers or sub-contractors engaged for the purposes of this Contract, an executed a deed of privacy in a form acceptable to the Customer.

56.3 The Contractor must immediately notify the Customer on becoming aware of any breach of clause 56.1.

## 57. LIABILITY

57.1 The liability of a Party to the other Party for loss or damage sustained, will be reduced proportionately to the extent that the loss or damage was caused or contributed to by the other Party's negligence, unlawful act or omission and/or failure to comply with its obligations and responsibilities under and/or in connection with the Contract or otherwise at law.

57.2 Unless otherwise agreed in writing between the Parties, the liability of a Party arising under and/or in connection with the Contract, will exclude any liability for loss of profit, revenue, goodwill or business opportunities, damage to reputation and any indirect or consequential loss.

57.3 The liability of a Party arising under and/or in connection with the Contract, will, except in relation to liability:

- (a) for personal injury (including sickness, injury, death);
- (b) for loss of, or damage to, tangible property;
- (c) for a breach of the Intellectual Property Rights and Moral Rights clause 22;
- (d) under an indemnity provided by the Contractor under clause 58,

be limited to the per Occurrence amount specified in item 18 of Schedule 1 of the Arrangement.

57.4 If no amount is specified in item 18 of Schedule 1, then the liability of a Party will be unlimited.

57.5 Each Party must use all reasonable endeavours to mitigate its loss, damage and any expenses arising under or in connection with a breach of the Contract, or in tort, for any other common law or legislation causes of action arising under or in connection with the Contract.

## 58. INDEMNITY

58.1 In this clause 58:

"claim" includes any claim, action, proceeding, demand, liability, obligation, costs (including legal costs), losses, damages and expenses, including those arising out of the terms of any settlement.

58.2 The Contractor releases, discharges and indemnifies the Customer and each of its officers and employees ("the Indemnified Person") from and against any claim by a third party which may be brought against or made upon or incurred by any of them in connection with any:

- (a) negligent or unlawful act or omission of the Contractor, its officers or employees;
- (b) breach of the Contract by the Contractor;
- (c) contravention of any legislative requirement by the Contractor, its officers or employees; or
- (d) infringement by the Contractor and its officers or employees of the Intellectual Property Rights or Moral Rights of any third party,

except to the extent the claim is due to the negligent or unlawful act or omission of the Indemnified Persons.

**59. SECURITY AND ACCESS**

- 59.1 The Contractor, and any employee, agent or subcontractor of the Contractor, must, when entering upon the Customer's premises, dealing with the Customer's employees or members of the public, or using the Customer's facilities, equipment or resources, comply with all applicable rules, policies, standards, codes of conduct, directions and procedures of the Customer, including those relating to security, workplace health and safety and appropriate use of information and communication technology in a like manner as if they were employees of the Customer.
- 59.2 The Contractor must give the Project Manager and/or any other person authorised in writing by the Customer reasonable access to premises occupied by the Contractor where the Goods and/or Services are being produced and/or undertaken and must permit them to inspect any Contract Material or other material related to the Goods and/or Services.
- 59.3 The Project Manager and/or any other person authorised in writing by the Customer must, when attending at the Contractor's premises or facilities, comply with all applicable rules, directions and procedures as notified by the Contractor, including those relating to security or workplace health and safety, that are in effect at the premises or facilities.

**60. VARIATION TO THE CONTRACT**

- 60.1 Except for the circumstances specified in clauses 60.2 and 60.5, the Contract may only be varied by written agreement between the Parties. The Parties must act reasonably in deciding whether to agree to a variation, as requested by the other Party.
- 60.2 The Customer may vary the terms and conditions of the Contract by Notice to the Contractor, when reasonably required as a result of changes in Government policy.
- 60.3 Where as a result of clause 60.2 the Contractor is required to comply with any amendments to Government policy, the Contractor must promptly submit in writing to the Customer any proposed variation to the Contract which are required as a result of this amendment. If the Parties are unable to reach agreement in relation to the Contractor's proposed variation, the provisions of clause 30 will apply to resolve the dispute.
- 60.4 Any variation proposed by the Contractor in accordance with clause 60.1 or clause 60.3 must be accompanied by evidence to substantiate such proposed variation.
- 60.5 Despite any other provision of this clause 60, any variation proposed by the Contractor which would take away or reduce the entitlements of the Customer under clause 65.7, will be deemed to be rejected by the Customer and this Contract will remain unvaried.
- 60.6 The Customer may at any time serve a Notice on the Contractor requiring the Contractor to decrease or omit the supply of any part of the Goods and/or Services.
- 60.7 Following issue of such Notice, the Contractor will comply with the Notice and immediately take steps necessary to minimise the loss suffered by it as a result of the Notice.
- 60.8 Where the supply of any part of the Goods and/or Services have been decreased or omitted under clause 60.6, the Customer will pay the Contractor:
- (a) for the Goods and/or Services supplied as varied by the notice under clause 60.6; and
  - (b) any reasonable costs incurred by the Contractor which are directly attributable to the reduction in the Goods and/or Services. However, the Customer will not be liable to the Contractor for any loss of profits.
- 60.9 Where specified in the Contract that the Price of the Goods and/or Services are to be adjusted to reflect any variation in the Consumer Price Index during the previous year, the variation will apply from 1<sup>st</sup> July each year. This variation will be calculated by multiplying the existing Price of the Goods and/or Services by the Consumer Price Index for the 12 months ending at the end of the latest available quarter and dividing it by the Consumer Price Index for the preceding 12 months, with pro-rata adjustment to contracts in force for less than the full previous year. In this clause 60 the "Consumer Price Index" means the Brisbane (All Groups) Consumer Price Index published by the Australian Bureau of Statistics.

**61. SUSPENSION OF PAYMENT**

- 61.1 The Customer may suspend payments to the Contractor without penalty if the Contractor refuses, neglects or fails to supply and/or perform any part of the Contract, until the Goods are supplied and/or the Services performed in the manner acceptable to the Customer and in accordance with the Contract.

**62. SUSPENSION OF THE CONTRACT**

- 62.1 The Customer may without having cause, at any time by Notice direct the Contractor to:
- (a) suspend work on the supply of all or any part of the Goods and/or Services for a specified period; or
  - (b) recommence work on the supply of all or any part of the suspended Goods and/or Services.

- 62.2 Where the Customer suspends the supply of the Goods and/or Services by Notice under clause 62.1(a):
- (a) the Contractor must, following receipt of that Notice, immediately take all steps necessary to minimise the loss suffered by the Contractor as a result of the suspension, including taking all reasonable steps to prevent or minimise its liabilities to its suppliers, contractors and sub-contractors; and
  - (b) the Contractor and the Customer must negotiate in good faith as to reasonable compensation payable to the Contractor for any additional costs that were reasonably and properly incurred by the Contractor as a direct result of the suspension but the compensation must not include loss of profit, revenue, goodwill or business opportunities, damage to reputation and any indirect or consequential loss, and, where the suspension is the result of any act or omission of the Contractor, the Contractor will not be entitled to payment by the Customer of any costs, expenses or any other compensation arising out of such suspension; and
  - (c) any previously agreed completion dates for the Goods and/or Services will be postponed by a period equivalent to the duration of the suspension.
- 62.3 Where the Contractor commits a breach of the Contract, the Customer may without limiting any right of action or remedy which has accrued or may accrue in favour of the Customer:
- (a) give Notice to the Contractor, by a notice of suspension, that the Contract is suspended in whole or in part from the date specified in the Notice for a nominated period; and
  - (b) provide the Contractor with reasonable directions in relation to subsequent performance of the Contract.
- 62.4 The Contractor must immediately comply with any reasonable directions given by the Customer, pursuant to clause 62.3(b).
- 62.5 Prior to the period of suspension expiring, the Customer will notify the Contractor in writing that the:
- (a) period of suspension will cease to be effective from the date specified in the Notice based on the Customer being satisfied that the issues/concerns which gave rise to the suspension have been resolved, upon which, each Party must resume its performance under the Contract from that date; or
  - (b) period of suspension will be extended for a further period of time specified in the Notice; or
  - (c) Contractor must show cause, pursuant to a notice issued by the Customer, why the Customer should not terminate the Contract from the date specified in the notice.
- 62.6 If the Customer fails to notify the Contractor in writing, pursuant to clause 62.5, the period of suspension will expire at the end of the nominated period and each Party must then resume its performance under the Contract.
- 63. TERMINATION OF THE CONTRACT**
- 63.1 The Customer may terminate the Contract for convenience by giving 30 days Notice or such other reasonable period as specified by the Customer.
- 63.2 If the Contract is terminated pursuant to clause 63.1:
- (a) the Contractor must, following receipt of that Notice from the Customer, immediately take all steps necessary to minimise the loss suffered by the Contractor as a result of the termination, including taking all reasonable steps to prevent or minimise its liabilities to its contractors and sub-contractors;
  - (b) the Customer must pay to the Contractor the fees and expenses reasonably incurred by the Contractor in carrying out the Contract to the date of termination; and
  - (c) the Customer will not be liable for payment to the Contractor for any compensation relating to loss of profit, revenue, goodwill or business opportunities, damage to reputation and indirect or consequential loss, or any other reason in relation to termination nor will the Customer be liable for payment to the Contractor for any amount greater than the amount that the Customer would have paid to the Contractor had the Contract been completely performed.
- 63.3 Without limiting clause 63.5, where the Contractor commits any substantial breach of the Contract or, the Customer may by Notice, require the Contractor to show cause by the date specified in the Notice, why the Customer should not terminate the Contract.
- 63.4 If the Contractor fails to show reasonable cause by the date specified by the Customer, then the Customer will have the power upon Notice to the Contractor to terminate the Contract.
- 63.5 The Customer may immediately terminate this Contract by Notice to the Contractor if:
- (a) the Contractor gives Notice under clause 54.2 or 53.3(b);
  - (b) the Contractor fails to provide the Performance Guarantee in accordance with clause 19 or Financial Security in accordance with clause 20;
  - (c) the Contractor breaches any part of clause 27 or 28; or
  - (d) the Contractor:
    - (i) becomes insolvent or bankrupt or being a company goes into liquidation or has instituted against it any action or proceeding which has an object or may result in bankruptcy or liquidation;
    - (ii) has a receiver or a receiver or manager appointed or a mortgage goes into possession of any of its assets or becomes subject to any form of external administration;

- (iii) enters into an arrangement with its creditors or otherwise takes advantage of any laws in force in connection with insolvent debtors; or
- (iv) is wound up, voluntarily or involuntarily; or
- (e) the Contractor indicates that it is unable or unwilling to complete the Contract.

63.6 If the Customer terminates this Contract under either clause 63.4 or 63.5, the termination is without prejudice to any rights of the Customer under the Contract or at common law.

#### **64. NOTICES RELATING TO THE CONTRACT**

64.1 Any Notice or other form of communication (a "notice") which may be given to or served on either Party under this Contract must be in writing and must be sent by prepaid postage, fax or email or delivered by hand to the following respective addresses:

- (a) for the Customer - as specified in item 19 of Schedule A;
  - (b) for the Contractor - as specified in item 20 of Schedule A,
- or such other address as a Party may subsequently notify to the other.

64.2 Notwithstanding clause 64.1, if the Contractor is a company then the Customer may serve a notice at any time on the Contractor's registered office.

64.3 A notice to be given or served pursuant to clause 32, 34, 62 or 63 must not be sent via email.

64.4 A notice will be deemed to be given:

- (a) if posted – two Business Days after the date of posting;
- (b) if delivered by hand during a Business Day - on the date of delivery;
- (c) if faxed - on the date the sender's facsimile machine notes a complete and successful transmission; or
- (d) if emailed - on the date of the email;

except that a fax or email received after 5:00pm (local time of the receiving Party) will be deemed to be given on the next Business Day.

#### **65. GENERAL PROVISIONS**

##### **65.1 Relationship of Parties**

65.1.1 The relationship of the Parties under this Contract is one of principal and contractor and the Contractor is not by virtue of this Contract in partnership or joint venture with the Customer and must not represent itself or allow itself to be represented as a partner, joint venturer, officer or employee of the Customer.

##### **65.2 Waiver**

65.2.1 Any failure by a Party at any time to enforce a clause of this Contract, or any forbearance, delay or indulgence granted by a Party to the other, will not constitute a waiver of the Party's rights.

65.2.2 No provision of this Contract will be deemed to be waived unless that waiver is in writing and signed by the waiving Party.

65.2.3 A waiver by a Party of a breach of any part of this Contract will not be a waiver of any subsequent breach of the same part nor a waiver of a breach of any other part.

##### **65.3 Severability**

65.3.1 If any part of this Contract is determined to be invalid, unlawful or unenforceable for any reason then that part, to the extent of the invalidity, unlawfulness or unenforceability, will be severed from the rest of the Contract and the remaining terms and conditions will continue to be valid and enforceable to the fullest extent permitted by law.

##### **65.4 Further Assistance**

65.4.1 The Contractor must do all things reasonably required by the Customer to give effect to this Contract.

##### **65.5 No Assignment**

65.5.1 The Contractor may not assign its interest in this Contract, except with the consent of the Customer.

##### **65.6 Disclosure by Customer**

65.6.1 The Contractor acknowledges that the Customer, its officers, employees and sub-contractors may use and disclose any of the information provided by the Contractor to Queensland Government departments or agencies, Queensland Government Bodies, Non-Government Organisations and/or the Commonwealth, States or Territories, for any purpose in connection with the administration of this Contract.

## 65.7 Right to Information and Disclosure

- 65.7.1 The *Right to Information Act 2009* (RTI Act) provides members of the public with a legally enforceable right to access documents held by Queensland Government agencies.
- 65.7.2 The RTI Act requires that documents be disclosed upon request, unless the documents are exempt or on balance, disclosure is contrary to the public interest.
- 65.7.3 Information relating to this Contract is potentially subject to disclosure to third parties.
- 65.7.4 If disclosure under the RTI Act, and/or general disclosure of information provided by the Contractor in connection with this Contract, would be of substantial concern to the Contractor, because it would disclose trade secrets, information of commercial value, the purpose or results of research or other information of a confidential nature, this should be indicated by the Contractor. The Customer cannot guarantee that any information provided by the Contractor will be protected from disclosure under the RTI Act.
- 65.7.5 Despite any other provision of this Contract, the Customer is entitled to publish on the Queensland Government Chief Procurement Office website: [www.qgcpo.qld.gov.au](http://www.qgcpo.qld.gov.au) under '*eTender system for Government Suppliers*', or by any other means, the following details:
- a) the name and address of the Customer;
  - b) a description of the Goods and/or Services;
  - c) Contract Commencement Date or award date;
  - d) Contract value;
  - e) name and address of the Contractor; and
  - f) procurement method used.

## 66. CLAUSES TO SURVIVE TERMINATION OF THE CONTRACT

66.1 The following clauses will survive termination or expiration of this Contract:

- clause 42 - Customer may Enforce the Arrangement;
- clause 44 - Transferability / Portability of Goods and/or Services;
- clause 51 - Performance Guarantee;
- clause 52 - Financial Security;
- clause 55 - Confidentiality;
- clause 56 - Privacy and Personal Information;
- clause 57 - Liability;
- clause 58 - Indemnity;
- clause 65.2 - Waiver;
- clause 65.6 - Disclosure by Customer; and
- clause 65.7 - Right to Information and Disclosure.

## SCHEDULE 1: ARRANGEMENT DETAILS

The below Schedules 1, 2, and 3 must be read in conjunction with the Queensland Government's Standing Offer Arrangement Conditions Version 002 – dated 1 July 2009 located via [www.ggcpo.qld.gov.au](http://www.ggcpo.qld.gov.au) – under 'Standard contract forms', along with any additional standing offer arrangement conditions as detailed in Schedule 3. The Standing Offer Arrangement Conditions Version 002 – dated 1 July 2009 along with the below Schedules will govern this Arrangement.

No.	Reference Clause No.	Arrangement – Reference Clause Title	Arrangement Details
1		<b>Arrangement Number</b> [Specify Arrangement No.]	No.
2	1.1	<b>Principal</b> [Insert full name of the Principal].  [Insert the Principal's ABN / ACN] [Insert the Principal's address]	Name: State of Queensland (acting through <<insert name of Queensland Government department or agency>>) OR <<insert name of entity, if not the State of Queensland>>  ABN / ACN: Address:
3	1.1	<b>Contractor</b> [Insert full name of Contractor] [Insert Contractor's address] [Insert Contractor's phone no.] [Insert Contractor's fax no.] [Insert Contractor's email address] [Insert the name of the person representing the Contractor, who will be responsible for the Arrangement].	Name: Address: Telephone: Facsimile: Email: Contact Person:
4	1.1	<b>Customer</b> [Specify the name/s of the Customer/s who may purchase the Goods and/or Services under this Arrangement].	
5	1.1 and 6	<b>Arrangement Commencement Date</b> [Specify the date on which this Standing Offer Arrangement is to commence].	
6	1.1 and 6	<b>Arrangement Completion Date</b> [Specify the date on which this Standing Offer Arrangement is to conclude].	
7	1.1 and 6	<b>Arrangement Term</b> [Specify the term of this Standing Offer Arrangement]. [Specify details, if the Principal has the option to extend this Standing Offer Arrangement].	Term: Extension Period:

8	1.1 and 8	<b>Principal Authorised Officer</b> [Specify the Principal's Authorised Officer's name] [Specify the position title of Principal's Authorised Officer] [Specify the Principal's Authorised Officer's phone no>> [Specify the Principal's Authorised Officer's fax no.] [Specify the Principal's Authorised Officer's email address.]	Name: Position: Telephone: Facsimile: Email:
9	1.1 and 8	<b>Project Manager</b> [Specify the name of Project Manager] [Specify the position title of Project Manager] [Specify the phone no. of the Project Manager] [Specify the fax no. of the Project Manager] [Specify the email address of the Project Manager]	Name: Position: Telephone: Facsimile: Email:
10	13	<b>Requirements for Goods and/or Services</b> [Specify if the Goods are to be other than new and unused condition and of recent origin.]	
11	1.1 and 17	<b>Delivery Period</b> [Specify the delivery period which the Goods are to be supplied and/or the Services are to be performed].	
12	18	<b>Performance Review</b> [Specify the performance review criteria (e.g. key performance indicators (KPI)) for this Arrangement] [Specify the frequency of the performance review meetings for this Arrangement.] [Specify the documentation, reports and data required for this Arrangement.>> <<Specify the format for the above documentation, reports (including KPI's) and data>>	Key Performance Criteria: Frequency of KPI Meetings:
13	1.1 and 19	<b>Performance Guarantee</b> Is a Performance Guarantee required under this Arrangement? <ul style="list-style-type: none"> <li>• If "<b>YES</b>" then the Contractor must complete and attach a Performance Guarantee in a form acceptable to the Principal, which will be relied upon under this Arrangement for all subsequent Contract/s.             <ol style="list-style-type: none"> <li>(i) [Specify the date by which the Performance Guarantee is required]; and</li> <li>(ii) [Specify the name of the Guarantor.]</li> </ol> </li> <li>• If "<b>NO</b>", then state "Not Required".</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No Date: Name of Guarantor:

14	1.1 and 20	<p><b>Financial Security</b></p> <p>Is a Financial Security required under this Arrangement?</p> <ul style="list-style-type: none"> <li>If "<b>YES</b>" then the Contractor must complete and attach a Financial Security in a form acceptable to the Principal, which will be relied upon under this Arrangement for all subsequent Contract/s. <ul style="list-style-type: none"> <li>(i) [Specify the maximum aggregate sum required]; and</li> <li>(ii) [Specify the name of the Guarantor.]</li> </ul> </li> <li>If "<b>NO</b>", then state "Not Required".</li> </ul>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>Amount:</p> <p>Name of Guarantor:</p>
15	1.1 and 22	<p><b>Intellectual Property Rights</b></p> <p>[New Contract Material vests in the Customer].</p> <p style="text-align: center;"><b>OR</b></p> <p>Clause 22.4 applies [New Contract Material vest in the Contractor with licence rights to the Customer for Customer use.</p> <p>If "<b>Yes</b>" to clause 22.4, clause 22.4(b) applies (Customer has full commercial exploitation rights)].</p> <p><b>Moral Rights</b></p> <p>22.7(d) [List any specific acts or omissions in relation to Moral Rights in addition to those specified in clause 22.7(a) – (c) that are being consented to.</p> <p>[If no additional acts or omissions are to be specified insert "<i>Nil</i>" or "<i>Not Applicable</i>".</p>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p style="text-align: center;"><b>OR</b></p> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>
16	23	<p><b>Confidentiality</b></p> <p>Is the Contractor required to obtain from its officers, employees, agents and sub-contractors a confidentiality undertaking?</p> <ul style="list-style-type: none"> <li>If "<b>YES</b>" then the Contractor must complete and attach a confidentiality undertaking in a form acceptable or provided by the Principal, which will be relied upon under this Arrangement for all subsequent Contract/s.</li> </ul>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>
17	24	<p><b>Privacy &amp; Disclosure of Personal Information</b></p> <p>Is the Contractor required to obtain from its officers, employees and sub-contractors an executed privacy deed?</p> <ul style="list-style-type: none"> <li>If "<b>YES</b>" then the Contractor must complete and attach a privacy deed in a form acceptable or provided by the Principal, which will be relied upon under this Arrangement for all subsequent Contract/s].</li> </ul>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p>



18	25 of Section A and 56 of Section B	<p><b>Liability</b>                  [Specify the amount of the liability cap (e.g. an amount of \$(x)million or (y) times the value of any Contracts established as the result of this Arrangement]  <i>For the avoidance of doubt, \$0 or no amount specified means liability is unlimited.</i></p>	\$
19	27	<p><b>Insurance– Public Liability Insurance</b>                  Is Public Liability Insurance required?                  • If "YES" then specify the following:                      ○ amount to be insured;                      ○ Policy Number;                      ○ name of Insurance Provider;                      ○ name on the Insurance Policy;                      ○ Expiry Date of the Insurance Policy.  <i>[Public liability insurance covers liability for personal injury and property damage. Typically the amount is at least \$10 million per claim depending upon the Risk Assessment]</i></p>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>Sum Insured:                  Policy No.:                  Insurance Provider:                  Named Insured:                  Expiry Date of Policy:</p>
20	27	<p><b>Insurance – Professional Indemnity</b>                  Is Professional Indemnity Insurance required?                  • If "YES" then specify the following:                      ○ amount to be insured;                      ○ Policy Number;                      ○ name of Insurance Provider;                      ○ name on the Insurance Policy;                      ○ Expiry Date of the Insurance Policy.                  Is the Professional Indemnity insurance to be maintained for an alternative period? (i.e. other than four years from the Arrangement Completion Date or termination of the Arrangement)                  • If "YES" then specify the alternative period.                  Is the Contractor a member of a scheme approved under the <i>Professional Standards Act 2004 (Qld)</i>?                  • If "YES" please specify and provide details.  <i>[Professional indemnity insurance covers the consequences of a breach of professional duty and professional negligence. It is only required where relevant, (e.g. if you engage an accountant to provide professional accounting services)].</i></p>	<p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>Sum Insured:                  Policy No.:                  Insurance Provider:                  Named Insured:                  Expiry Date of Policy:</p> <p><input type="checkbox"/> Yes      <input type="checkbox"/> No</p> <p>Alternative Period:  <input type="checkbox"/> Yes      <input type="checkbox"/> No</p>

21	27	<b>Insurance – Other insurances:</b> Is other Insurance/s required? <ul style="list-style-type: none"> <li>• If " <b>YES</b> " then specify the following:             <ul style="list-style-type: none"> <li>○ amount to be insured;</li> <li>○ Type of insurance policy required;</li> <li>○ Policy Number;</li> <li>○ name of Insurance Provider</li> <li>○ name on the Insurance Policy</li> <li>○ Expiry Date of the Insurance Policy.</li> </ul> </li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No  Sum Insured: Insurance Policy:  Policy No.: Insurance Provider: Named Insured: Expiry Date of Policy:
22	36.1(a)	<b>Notices – relating to this Arrangement</b> [Specify the Principal's address for Notices] [Specify the Principal's fax no for Notices] [Specify the Principal's email address for Notices].	Address: Facsimile No.: Email:
23	36.1(b)	<b>Notices - relating to this Arrangement</b> [Specify the Contractor's address for Notices] [Specify the Contractor's fax no for Notices] [Specify the Contractor's email address for Notices].	Address:  Facsimile No.: Email:

**Privacy Statement** - The Principal is collecting Personal Information from the Contractor for the purpose of administering this Arrangement and any subsequent Contract/s. This Personal Information may be disclosed to Queensland Government departments or agencies, Queensland Government Bodies, Non-Government Organisations and/or Commonwealth, States or Territories for the purpose of administering this Arrangement and any subsequent Contract/s. Personal information will not be disclosed to any other third party without consent of the Contractor, except where authorised or required by law.

## SCHEDULE 2: LIST OF GOODS AND/OR SERVICES INCLUDING PRICE UNDER THIS ARRANGEMENT

The following Goods and/or Services including Price forms part of this Arrangement.

Description	Unit Price (Excl. GST)	Unit Price (GST comp)	Total Unit Price (Incl. GST)
<<List any delivery and installation details and charges applicable to this Arrangement>>			
<<List any taxes, duties or other charges and their details associated with each Goods and/or Service applicable to this Arrangement>>			

<<Specify when and manner in which the Price is payable>>.

<<Specify time and manner in which the Contractor must submit invoices>>.



## SCHEDULE A – CONTRACT DETAILS

The below Schedule A must be read in conjunction with the Queensland Government's Standing Offer Arrangement Conditions Version 002 – dated 1 July 2009 located via [www.ggcqo.qld.gov.au](http://www.ggcqo.qld.gov.au) – under 'Standard contract forms' along with any additional standing offer arrangement conditions as detailed in Schedule 3. The Standing Offer Arrangement Conditions Version 002 – dated 1 July 2009 along with the below Schedule will govern this Contract.

No.	Reference Clause No.	Contract - Reference Clause Title	Contract Details
1		<b>Arrangement No.</b> [Specify the Arrangement No.]	No.
2	1.1	<b>Customer</b> [Insert full name of the Customer].  [Insert the Customer's ABN] [Insert the Customer's address] [Insert name of Customer's contact officer] [Insert Contact Officer's phone no.] [Insert Contact Officer's fax no.] [Insert Contact Officer's email address]	Name: State of Queensland (acting through <<insert name of Queensland Government department or agency>>) <b>OR</b> <<insert name of entity, if not the State of Queensland>>  ABN: Address: Contact Officer:  Phone No.: Facsimile No.: Email:
3		<b>Ordering Officer</b> [Insert name of the ordering officer] [Insert name of the Customer] [Insert ordering officer's postal address] [Insert ordering officers fax no.] [Insert ordering officer's phone no.] [Insert ordering officer's email address]	Name: Department: Address:  Facsimile No.: Phone No.: Email:
4	1.1	<b>Contractor</b> [Insert full name of Contractor] [Insert Contractor's address] [Insert Contractor's phone no.] [Insert Contractor's fax no.] [Insert Contractor's email address] [Insert the name of the person representing the Contractor, who will be responsible for the Contract].	Name: Address: Telephone: Facsimile: Email: Contact Person:
5	1.1 and 43	<b>Contract Commencement Date</b> [Specify the date on which this Contract that will be formed by the placement of this Schedule is to commence].	

6	1.1 and 43	<b>Contract Completion Date</b> [Specify the date on which this Contract that will be formed by the placement of this Schedule is to conclude].	
7	1.1 and 43	<b>Contract Term</b> [Specify the term of this Contract].	
8	1.1	<b>Delivery / Site</b> [Specify delivery address of where the Deliverables are to be delivered.]	
9	1.1 and 46	<b>Delivery Period</b> [Specify the Delivery Period which the Goods are to be supplied and/or the Services are to be performed to the Customer].	
10	1.1 and 48	<b>Goods and/or Services including Price</b> [Specify the Goods and/or Services including Price which forms part of this Contract]. [Specify any delivery and/or installation Price applicable to this Contract]. [Specify any taxes, duties or other charges and their details associated with each Goods and/or Services applicable to this Contract]. [Specify any milestone payments]. [Specify the total Price for this Contract]. [Specify if the Price is inclusive or exclusive of GST]. If exclusive of GST, please specify the GST component].	
11	1.1 and 48	<b>Approved Expenses</b> [Insert full details including pricing for any Approved Expenses for which the Contractor will be entitled to be reimbursed]. [Specify the maximum amount payable to the Contractor by the Customer under this Contract, if applicable].	
12	1.1 and 45	<b>Project Manager</b> [Specify the name of Project Manager] [Specify the position title of Project Manager] [Specify the phone no. of the Project Manager] [Specify the fax no. of the Project Manager] [Specify the email address of the Project Manager]	Name:  Position:  Phone No.:  Facsimile No.:  Email:

13	46	<b>Provision of the Goods and/or Services (Milestones)</b> [Insert a description of the milestones and proposed achievement dates.]	
14	46	<b>Provision of the Goods and/or Services (Periodic or Recurrent Services)</b> [Insert time/frequency/intervals for the performance of periodic or recurrent Services. If Services are not periodic or recurrent, insert <i>"Not Applicable"</i> .]	
15	46	<b>Provision of the Goods and/or Services (Customer Assistance)</b> Is any assistance to be provided by the Customer to the Contractor in relation to the Goods and/or Services? If <b>"YES"</b> please provide details..	<input type="checkbox"/> Yes <input type="checkbox"/> No
16	47	<b>Performance of Key Personnel</b> Is Key Personnel associated with this Contract? <ul style="list-style-type: none"> <li>If <b>"YES"</b> the Contractor is to specify the names of personnel who are to undertake the Services for the Contractor and their qualifications.]</li> <li>If <b>"NO"</b> please specify <i>"Not Applicable"</i> if there is no Key Personnel.]</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No  Name:  Qualifications:
17	55	<b>Confidentiality</b> Is the Contractor required to obtain from its officers, employees, agents and sub-contractors a confidentiality undertaking for this Contract? <ul style="list-style-type: none"> <li>If <b>"YES"</b> then the Contractor must complete and attach a confidentiality undertaking in a form acceptable or provided by the Customer.</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No
18	56	<b>Privacy &amp; Disclosure of Personal Information</b> Is the Contractor required to obtain from its officers, employees and sub-contractors an executed privacy deed? <ul style="list-style-type: none"> <li>If <b>"YES"</b> then the Contractor must complete and attach a privacy deed in a form acceptable or provided by the Customer.]</li> </ul>	<input type="checkbox"/> Yes <input type="checkbox"/> No

19	64.1(a)	<b>Notices – Relating to the Contract</b> [Specify the Customer's address for Notices] [Specify the Customer's fax no for Notices] [Specify the Customer's email address for Notices].	Address:  Facsimile No.:  Email:
20	64.1(b)	<b>Notices - Relating to the Contract</b> [Specify the Contractor's address for Notices] [Specify the Contractor's fax no for Notices] [Specify the Contractor's email address for Notices].	Address:  Facsimile No.:  Email:

**Privacy Statement** - The Customer is collecting Personal Information from the Contractor for the purpose of administering this Contract. This Personal Information may be disclosed to Queensland Government departments or agencies, Queensland Government Bodies, Non-Government Organisations and/or Commonwealth, States or Territories, for the purpose of administering this Contract. Personal Information will not be disclosed to any other third party without consent of the Contractor, except where authorised or required by law.