

Schedule 1: General Order Form

PROCURE IT VERSION 3.2

CUSTOMER

Item 1 Name of Customer

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Formation (clause 3.4)	
Specify the Customer's full legal name:	Department of Finance, Services and Innovation

Item 2 Service Address

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Formation (clause 3.4)	
Specify the Customer's service/delivery address:	[REDACTED]

Item 3 Customer's Representative

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Representatives (clause 23.1)	
Specify an employee who is the Customer's Authorised Representative:	[REDACTED]

CONTRACTOR

Item 4 Name of Contractor

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Formation (clause 3.4)	
Specify the Contractor's full legal name:	IPFX Systems Ltd, ABN 29 262 036 235

Item 5 Service Address

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Formation (clause 3.4)	
Specify the Contractor's service/delivery address:	[REDACTED]

Item 6 Contractor's Representative

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Representatives (clause 23.1)	
Specify an employee who is the Contractor's Authorised Representative:	[REDACTED]

Item 7 Head Agreement

This Item 7 must be completed when the Customer Contract is entered into under a Head Agreement.

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Formation (clause 3.1)	
Specify the Head Agreement number:	
Specify the Head Agreement title:	
Specify the Term of the Head Agreement: Start Date: End Date: If the Term of the Head Agreement has expired the Customer must obtain the Contract Authority's approval to enter into a further Customer Contract, and this approval should be attached to this General Order Form.	
Insurance (clause 16.2)	
Specify the insurances required under the Head Agreement:	
The default insurance requirement under the Head Agreement is public liability insurance with an indemnity of at least \$10,000,000 in respect of each claim for the period of cover. Specify any higher limit of cover that is required by the Head Agreement:	
The default insurance requirement under the Head Agreement is product liability insurance with an indemnity of at least \$10,000,000 for the total aggregate liability for all claims for the period of cover. Specify any higher limit that is required by the Head Agreement:	
Specify if professional indemnity/errors and omissions insurance was required under the Head Agreement. If so, the default insurance requirement is for a limit of cover of \$1,000,000 in respect of the total aggregate liability for all claims for the period of cover. Specify any higher limit that is required by the Head Agreement:	
Workers' compensation insurance in accordance with applicable legislation:	
Specify any other type of insurance required under the Head Agreement and the specified amount:	
Performance Guarantee (clause 17.1)	
Specify if the Contractor was required to provide a Performance Guarantee under the Head Agreement:	

Item 8 Modules that form part of the Customer Contract

Formation (clause 3.8(a))

Indicate, by marking with an X, the Modules that apply

Module 1 – Hardware Acquisition and Installation	<input type="checkbox"/>	Module 11 – Telecommunications as a Service	<input type="checkbox"/>
Module 2 – Hardware Maintenance and Support Services	<input type="checkbox"/>	Module 12 – Managed Services	<input type="checkbox"/>
Module 3 – Licensed Software	<input type="checkbox"/>	Module 13 – Systems Integration	<input type="checkbox"/>
Module 4 – Development Services	<input type="checkbox"/>	Module 13A – Major Project Systems Integration Services	<input type="checkbox"/>
Module 5 – Software Support Services	<input type="checkbox"/>		
Module 6 – Contractor Services	<input type="checkbox"/>		
Module 7 – Professional Services	<input type="checkbox"/>		
Module 8 – Training Services	<input type="checkbox"/>		
Module 9 – Data Migration	<input type="checkbox"/>		
Module 10 – As a Service	<input checked="" type="checkbox"/>		

Item 9 Schedules that form part of the Customer Contract in addition to the General Order Form

Formation (clause 3.8(b))

Indicate, by marking with an X, the Schedules that apply

Schedule 1 – General Order Form	Applies	Schedule 7 – Statutory Declaration - Subcontractor	<input type="checkbox"/>
Schedule 2 – Agreement Documents	<input checked="" type="checkbox"/>	Schedule 8 – Deed of Confidentiality	<input type="checkbox"/>
Schedule 3 – Service Level Agreement	<input checked="" type="checkbox"/>	Schedule 9 – Performance Guarantee	<input type="checkbox"/>
Schedule 4 – Variation Procedures	<input checked="" type="checkbox"/>	Schedule 10 – Financial Security	<input type="checkbox"/>
Schedule 5 – Escrow Deed	<input type="checkbox"/>	Schedule 11 – Dispute Resolution Procedures	<input checked="" type="checkbox"/>
Schedule 6 – Deed Poll – Approved Agents	<input type="checkbox"/>	Schedule 12 – Project Implementation and Payment Plan	<input checked="" type="checkbox"/>

Item 10 Contract Period

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Contract Period (Clause 2.4)	
Specify the Commencement Date if it is not the date when the Customer and the Contractor sign the Customer Contract:	3 years from the date when Customer and Contractor sign the Customer Contract
Specify the end of the Contract Period:	3 years from the Commencement Date
Specify any period of extension of the Contract Period in days/weeks/years:	4 th year, will need to be extended month to month until both parties renew this agreement.

Item 11 Common Details

Formation (clause 3.4)				
Product and/or Service	Price per Unit		Quantity	Extended Price
Enhanced Service (based on Microsoft Skype for Business) – Enterprise Voice (including IM/Presence, Conferencing – Infrastructure & Support Level 2&3	[REDACTED]	[REDACTED]	As required from time to time	Unit price x volume
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
Cisco CUBE Support	[REDACTED]			
	[REDACTED]			
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
	[REDACTED]	[REDACTED]		
Legacy Services: This is only available to <u>existing</u> IM/Presence Users under the previous contract as referenced in Schedule 2 <i>Agreement Documents</i> of the	[REDACTED]		[REDACTED]	[REDACTED]

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify whether the Products and Services comprise a System.	Yes

Item 14 Payment

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Payment (clauses 11.1 and 11.2)	
Invoicing (clauses 11.7 and 11.9)	
Specify the Customer's officer to receive invoices:	GovConnect - electronically
Specify address to which invoices should be sent:	██
Specify the number of days from receipt of a Correctly Rendered Invoice that the Customer must make payment. If this Item is not completed, the Customer must pay the Contractor within 30 days from receipt of a Correctly Rendered Invoice.	
Specify when the Contract Price must be paid: E.g. if the earlier Price is to be paid on delivery, insert "The Contract Price is due on delivery". If payment is to be made on more than one occasion then consider using a PIPP under Item 20.	30 days from the date that invoices are received

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify whether the Contract Price is fixed: E.g. does the unit Price per item vary for inflation or other factors? If so, specify the calculation for Price variations:	No Volume discounts for users alter the price as the user numbers increase.

Item 15 User Documentation

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
User Documentation (clause 5.4(b))	
Specify the Price of any additional copies of the User Documentation:	<div style="background-color: black; width: 100px; height: 15px; margin-bottom: 5px;"></div> <div style="background-color: black; width: 300px; height: 25px;"></div>

[User instruction: Items 16 to 43 are likely to be needed for large value orders and/or complex purchases such as software development, systems integration, web services, managed services, telecommunications services etc.

If the Parties require one or more of the Items 16 to 43 for any other type of purchase, then these can be added to the General Order Form].

Item 16 Management Committee

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Management Committee (clause 6.4)	
List the name/s of the Contractor's project manager, officers or other relevant persons who will sit on the management committee:	██████████ ██████████
Management Committee (clause 6.6)	
Specify the function to be performed by the management committee:	Project Governance Performance Management
List the name/s of the Customer's project manager, officers or other relevant persons who will sit on the management committee:	
Management Committee (clause 6.8)	
Specify the details, including the contents of the progress report to be submitted to the Customer's project manager:	Project Status report Quarterly Performance Management report
Specify any other details:	

Item 17 Performance Review Procedures

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Performance Reviews (clause 6.10)	
Specify if a service and performance review/s of the Contractor's performance of the Customer Contract is to apply:	Yes
Specify any specific time intervals for service and performance reviews:	Annually

Item 18 Site Preparation and Maintenance

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Site Specifications (clause 6.12)	
Specify: <ul style="list-style-type: none"> Site location; and whether a Site Specification is required. 	Site location will vary at each engagement
Access to Customer's Site (clause 7.1(b))	
Specify any other requirements in relation to the Site access:	None
Specify any requirements for the preparation and maintenance of the Site:	To be determined at each individual engagement

Item 19 Implementation Planning Study

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Implementation Planning Study (clauses 6.14 to 6.16)	
Specify if the Contractor must provide an implementation planning study:	A Planning study may be required for an engagement
Specify the implementation planning study objectives and time for provision of study:	To be determined at each individual engagement
Date for delivery of the implementation planning study to the Customer:	To be determined at each individual engagement
Specify if the implementation planning study need to undergo Acceptance Tests in accordance with clause 10.1(b):	To be determined at each individual engagement

Item 20 Project Implementation and Payment Plan (PIPP) and Staged Implementation

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Project Schedule (clause 6.17)	
Invoicing (clause 11.7)	
Specify if a PIPP has been created. If so, identify the document in this Item and attach as an Annex to this General Order Form: E.g. the PIPP is in a document "PIPP v1_1 27/10/11" and Annexure 1 to the Customer Contract.	A PIPP will be established for engagements of sufficient complexity to require this.
Staged Implementation (clause 6.20)	
Specify if there is to be Staged Implementation: If so, details of the Deliverables that comprise each Stage must be stated in the PIPP together with the period during which the Customer must give written notice to move to the next Stage (if greater than 10 Business Days):	This will be determined within any PIPP established and agreed at the time

Item 21 Liquidated Damages

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Liquidated Damages (clauses 6.28 to 6.34)	
Specify if Liquidated Damages (LDs) will apply:	No
Specify the Milestones which are LD Obligations:	
Specify the Due Date for completion of each LD Obligation:	

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify the calculation and amount of LDs for each LD obligation:	
Specify the maximum number of days LDs are to be paid for each LD obligation:	

Item 22 Customer Supplied Items (CSI) and Customer Assistance

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Customer Supplied Items (CSI) (clause 6.36)	
<p>Specify each CSI to be provided by the Customer:</p> <p>CSI may be:</p> <ul style="list-style-type: none"> office access, desks etc (specify location, standards, times of access); Hardware or software (specify equipment, capacity, versions of software and dates of availability); VPN access or other remote access (specify capacity and hours available). <p>[Note: details of any Customer Personnel should be specified in Item 26].</p>	<p>Microsoft SfB licenses to support functionality required:</p> <ul style="list-style-type: none"> • Office 365 Enterprise E1 licenses; or • Office 365 Enterprise E3 with Voice Plus CAL; or • Office 365 Enterprise E3 with Cloud PBX; or • Office 365 Enterprise E5 <p>SfB and or Contractor certified headset/handsets</p> <p>Secure remote access for Contractor support personnel with capacity for 2 concurrent users and available 24 hours every day</p> <p>Access for any monitoring / systems management event alerts</p> <p>As set out in the Specifications</p>
Specify if any CSI must be covered by support and maintenance contracts including the period of cover, the Contractors rights of access to any third party support help desk, the hours and service levels to which support and maintenance must be available to the Contractor:	All licenses are to have software assurance or maintenance applied
Specify the times when each CSI is to be provided:	To be agreed for each onboarding
Specify any requirements to attach to any CSI: E.g. any standards that the CSI must meet.	As set out in the Specifications
Specify if the Contractor must conduct any verification checks of CSI's to ensure they are satisfactory:	As set out in the Specifications
<p>If so, specify the verification check process for each CSI:</p> <p>Include:</p> <ul style="list-style-type: none"> a process to manage satisfactory and unsatisfactory verification checks; a process to manage 'reissued' CSI's: 	As set out in the Specifications

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
<ul style="list-style-type: none"> a process to manage repeat CSI verification checks: a process to manage 'draft' or 'incomplete' and 'updated' CSI's; a process to manage rejected CSI's: a process to manage previously satisfactory CSI which becomes defective: a list of required verification check forms and/or registers and a corresponding data entry process: a list of Customer and Contractor nominee/s for responsibility to undertake verification checks: 	
Specify any amount payable by the Contractor to the Customer for any item of CSI:	
Customer Assistance (clause 6.41)	
Specify the instructions, information, data, documents, specifications, plans, drawings and other materials that must be provided by the Customer to the Contractor:	As set out in the Specifications

Item 23 Escrow

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Escrow (clause 6.42)	
Specify if an escrow arrangement is required:	No
Specify the parties to the escrow arrangement:	
Specify the time for the escrow arrangement to endure:	

Item 24 Business Contingency Plan

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Business Contingency (clauses 6.45 to 6.47)	
Specify if a Business Contingency Plan is required:	No
Specify when the Business Contingency Plan is required:	
Specify any information to be included in the Business Contingency Plan including the business contingency services required and the period of the services:	

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify the periods that the Business Contingency Plan must be reviewed, updated by the Contractor:	
Specify the time periods that the Contractor is to test the operability of the Business Contingency Plan:	

Item 25A Transfer of Records outside NSW - Customer Data

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Customer Data (clause 7.5)	
<p>Specify whether any State Records will be transferred to the Contractor's possession under the Customer Contract.</p> <p>If yes, Customer to state whether consent is provided to transfer State Records outside the jurisdiction of New South Wales.</p> <p>If consent is granted, Customer to specify:</p> <ul style="list-style-type: none"> the jurisdiction(s) for which consent is granted the conditions on which such consent is granted. <p>[Note: Clause 7.5 of the Customer Contract requires that the Contractor must not transfer, take or send Customer Data which is a State Records without the Customer's prior written consent.]</p>	None

Item 25B Transfer of Records outside NSW – Personal Information

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Privacy (clause 15)	
<p>Customer to specify whether consent is provided to transfer Personal Information outside the jurisdiction of New South Wales.</p> <p>If consent is granted, Customer to specify:</p> <ul style="list-style-type: none"> the jurisdiction(s) for which consent is granted the conditions on which such consent is granted. <p>[Note: Clause 15.1(h) of the Customer Contract requires that the Contractor must not transfer, take or send Customer Data which is a State Records without the Customer's prior written consent.]</p>	Not Required

Item 25 Secrecy and Security

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Access to Customer's Site (clause 7.11)	
Specify any secrecy or security requirements that the Contractor and its Personnel must comply with: E.g. insert a reference to any document that includes a security requirement.	None
Timeframes for response to a Security Issue	
Specify whether Customer agrees to any alternate timeframe for: <ul style="list-style-type: none"> Notification of actual, alleged or suspected security breach (clause 7.12(a)) [Note: default is immediate notification] <ul style="list-style-type: none"> Investigation of Security Issue (clause 7.12(b)) [Note: default is within 48 hours from notification] <ul style="list-style-type: none"> Remedy the Security Breach (clause 7.12(c)). [Note: the default is within 24 hours from conclusion of investigation]. Any alternate timeframes agreed to in this General Order Form must: <ul style="list-style-type: none"> be approved by the Customer's Chief Information Officer; and comply with the NSW Government Digital Information Security Policy, NSW Government Information Security Event Reporting Protocol, NSW Government Cloud Policy and all other applicable NSW Government policies; comply with applicable security standards; and comply with the Customer's Information Security Management System and other Customer security and policy requirements. 	None

Item 26 Customer's Personnel

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Personnel General (clause 8.5)	

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify the Customer's Personnel who will be available to work with the Contractor and their roles and responsibilities: Also specify the times and duration of their involvement as well as their authority levels:	[REDACTED]

Item 27 Specified Personnel

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specified Personnel (clause 8.8)	
Specify the identity and roles and responsibilities of any of the Contractor's Specified Personnel:	[REDACTED]

Item 28 Subcontractors

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Agents and Subcontractors (clause 8.17)	
Specify which subcontractors are required to provide a Statutory Declaration - Subcontractor, substantially in the form of Schedule 7:	None

Item 29 Quality Standard Accreditation

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Contractor Warranties (clause 9.1(h))	
Specify any quality standard accreditation arrangements the Contractor must hold during the Contract Period:	Not Required

Item 30 Contractor's Compliance with Standards, Codes and Laws

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Contractor Warranties (clause 9.1(g))	
Specify any laws (other than Statutory Requirements) the Contractor is to comply with:	None
Specify any codes, policies, guidelines or standards the Contractor is to comply with:	None

Item 31 Customer's Compliance with Standards, Codes and Laws

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Customer Warranties (clause 9.4(h))	
Specify any laws (other than Statutory Requirements) the Customer is to comply with:	None
Specify any codes, policies, guidelines or standards the Customer is to comply with:	None

Item 32 Acceptance Testing

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Part 3 Dictionary (clauses 1.2 to 1.5)	
Acceptance Test Notification Period is the period from the end of the Acceptance Test Period, within which the Customer must provide to the Contractor written notice of the result of the Acceptance Test. Specify this period: If no period is specified, the period is 2 Business Days:	
Acceptance Test Data is the data that is provided by the Customer, and agreed by the Contractor that reflects the data the Customer will use in the Deliverable, that is to be used for Acceptance Testing. Specify the Acceptance Test Data:	This is to be determined at each engagement and documented as part of the PIPP
Acceptance Test Period is the period for the performance of any Acceptance Tests for any Deliverable. Specify this period: If no period is specified, the period is 10 Business Days from the date of delivery of the Deliverable to the Customer.	
Acceptance (clause 10.1)	
For each Deliverable, specify whether each Deliverable is to undergo Acceptance Testing: If not, the Deliverable will be Accepted under clause 10.1(a)	This is to be determined at each engagement and documented as part of the PIPP
If a Deliverable is not to undergo Acceptance Tests, specify the period required following delivery of the Deliverable as required by the Order Documents when the Actual Acceptance Date for a Deliverable occurs: If no period is specified, then the period is 2 Business Days.	
Conducting Acceptance Tests (clause 10.3)	

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
For each Deliverable that is to undergo Acceptance Tests, specify details of the Acceptance Testing requirements:	This is to be determined at each engagement and documented as part of the PIPP
Specify the identification of the Deliverables or part of the Deliverables to be tested:	This is to be determined at each engagement and documented as part of the PIPP
Specify the allocation of each Party's responsibilities in relation to testing, including the Party responsible for conducting the Acceptance Tests:	This is to be determined at each engagement and documented as part of the PIPP
Specify which Party is to provide the test environment, including hardware, software, power, consumables and other resources and when the environment and resources must be ready for use:	This is to be determined at each engagement and documented as part of the PIPP
Specify the methodology and process for conducting Acceptance Tests:	This is to be determined at each engagement and documented as part of the PIPP
Specify the scheduling of Acceptance Tests including the Acceptance Test Period and the Acceptance Test Notification Period:	This is to be determined at each engagement and documented as part of the PIPP
Specify the Acceptance Criteria used to test whether the Deliverable meets the Contract Specification and other requirements of the Customer Contract:	This is to be determined at each engagement and documented as part of the PIPP
Specify the Acceptance Test Data required:	This is to be determined at each engagement and documented as part of the PIPP
If an Acceptance Test document has been created that addresses the above points it can be attached to the General Order Form by identifying the document here:	This is to be determined at each engagement and documented as part of the PIPP

Item 33 Credit/Debit Card

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Payment (clause 11.3)	
Specify any credit/ debit card or electronic facility that the Customer may use to pay the Contractor:	None
Specify any fee that is applicable for payment by credit/debit card	Not Applicable

Item 34 Intellectual Property

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Existing Material (clauses 13.7, 13.9 and 13.10)	

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify any terms and condition applicable for granting a licence for Existing Material owned by a third party:	IPFX supplied third party licences are subscription licensed and may be freely used under the licence terms and conditions up to termination of the service contract.
If a perpetual and irrevocable licence to use certain Existing Material cannot be provided (for example because it is licensed under subscription for a defined period), specify: <ul style="list-style-type: none"> the duration of the licence to use that Existing Material and/or the terms on which the licence may be revoked. 	NA, the Customer is entitled to use licenses to Existing Material for the term of this Contract.
Specify any fees to be charged for any licence to use any of Contractor's Existing Materials:	NA
Customer Owned New Material (clause 13.11)	
Specify whether clause 13.11 applies ie. whether the Customer owns any New Material. If so, specify: <ul style="list-style-type: none"> which items of New Material are Customer Owned New Material; and whether the Contractor is granted any licence by the Customer to use the Customer Owned New Material, and if so, what licence terms apply to the Contractor's use of the Customer Owned New Material. If clause 13.11 does not apply, state "Not applicable".	Not Applicable

Item 35 Confidentiality

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Confidentiality (clause 14.4)	
Specify if the Contractor must arrange for its Subcontractors to execute a Deed of Confidentiality substantially in the form of Schedule 8- Deed of Confidentiality:	Not Required

Item 36 Insurance Requirements

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Insurance (clause 16.7)	
Level of indemnity of public liability insurance in respect of each claim for the period of cover.	Comply

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
The default requirement in the Customer Contract is \$10,000,000 [Only specify if a higher limit of cover that is required by the Customer Contract:]	
Level of indemnity of product liability insurance for the total aggregate liability for all claims for the period of cover. The default requirement in the Customer Contract is \$10,000,000 [Only specify if any higher limit of cover that is required by the Customer Contract:]	Comply
If Services are being provided under the Customer Contract the default level of indemnity of professional indemnity insurance for the total aggregate liability for all claims for the period of cover is \$1,000,000 [Only specify is a higher limit that is required by the Customer Contract:]	Comply
Specify any additional insurance that the Contractor is to hold, including the type of insurance, the term of the insurance and the amount of the insurance:	None

Item 37 Performance Guarantee

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Performance Guarantee (clause 17.2)	
Specify if the Contractor must arrange for a guarantor to enter into a Performance Guarantee:	No
Specify the date by which the Performance Guarantee must be provided to the Customer. If no date is specified the Contractor must provide the Performance Guarantee to the Customer within 30 days of the Commencement Date.	Not Applicable

Item 38 Financial Security

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Financial Security (clause 17.4)	
Specify if the Contractor must provide a Financial Security: If so, specify the amount of the Financial Security:	No
Specify the date by which the Financial Security must be provided to the Customer:	Not Applicable

Item 39 Limitation of Liability

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
<p>Limitation of Liability (clause 18)</p> <p>If the Parties cannot agree the amount that is legally payable under the Customer Contract for the:</p> <ul style="list-style-type: none"> • Non-Recurring Service or Product; and/or • Short Term Recurring Service <p>(as applicable) insert the amount that the Parties agree is the best estimate of the Contract Value for the relevant item (the Estimated Contract Price).</p> <p>Note: It may be necessary to separately identify the amounts payable under a single Customer Contract into separate amounts that are attributable to each of the different types of Product/ Service.</p> <p>(See the definition of Contract Value in Part 3)</p>	<p>Not Applicable</p>
<p>If Services are being provided under any of the following Modules:</p> <ul style="list-style-type: none"> • Module 6 – Contractor Services; • Module 7 – Professional Services; or • Module 8 – Training Services, <p>specify whether the Parties regard the relevant Services as being:</p> <ul style="list-style-type: none"> • the supply of a service of the same type on a periodic basis, and so are to be classified as Recurring Services for the purpose of the limitation of liability; or • provided in respect of a specific project where the Contractor has been engaged by a Customer to produce, create or deliver a specified outcome or solution that may be subject to Acceptance Testing, in which case the Services are to be classified as Non-Recurring Services for the purpose of the limitation of liability. <p>(See definition of Non-Recurring Services and Recurring Services in Part 3)</p>	<p>Not Applicable</p>
Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
<p>Specify the alternative cap of liability (clause 18.3):</p>	<p>This section must only be used if the Customer Contract is for Products or Services that are to be used for a Prescribed Use or where the Contract Price exceeds \$20,000,000</p>

Item 40 Performance Management Reports

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Reporting (clause 21.1)	
Specify the reports required, (if any), the time for provision and the agreed format:	PIPP status reports where applicable when required Quarterly usage summary reports Quarterly SLA reports

Item 40A Audit

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Alternative Audit Mechanism (clause 23.11)	
If the default audit provisions of clause 23.5-23.8 are to apply, state "Not Applicable". If an alternative audit mechanism is agreed by the Customer and Contractor, specify the terms of such alternate audit including the Contractor's obligations to be audited. Note: Any alternate audit mechanism must address compliance with the Contractor's Customer Data, security and privacy obligations and such other obligations required by the Customer and reasonably agreed by the Contractor.	Not Applicable

Item 41 Dispute Resolution

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Dispute Resolution (clause 24)	
Specify the threshold amount in AU\$ for issues to be resolved by expert determination under clauses 24.7-24.8.	As stated in Contract
Specify type of issue/s not to be determined by expert determination under clauses 24.7 to 24.8.	Not Applicable

Item 42 Termination for Convenience

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Termination for Convenience by the Customer (clause 25.4)	
Specify whether an amount is payable under clause 25.4(b) if the Customer exercises its right of termination for convenience under clause 25.3, and if so, specify that amount:	As Stated in Contract

Item 43 Additional Conditions

Details to be included from the Customer Contract	Order Details agreed by the Contractor and the Customer
Specify any Additional Conditions: Note: where the Customer Contract is made under a Head Agreement the Customer must obtain the consent of the Contract Authority and the Secretary of the New South Wales Department of Finance, Services and Innovation where an Additional Condition varies any term or condition of the Procure IT Framework including a Protected Clause.	Not Applicable

This General Order Form is part of the Customer Contract and incorporates all Parts, terms and conditions and other documents listed in clause 3.8 as if repeated in full in this General Order Form.

SIGNED AS AN AGREEMENT

Signed for and on behalf

[Redacted signature area]

[Redacted signature area]

In the presence of: *[insert name of witness]*

[Redacted witness name]

[Redacted signature area]

[Redacted signature area]

[Redacted signature area]

[Redacted signature area]

[Redacted signature area]

[Redacted vertical signature area]

Schedule 3: Service Level Agreement

This SLA is a sample document only and includes guidance notes in italicised print for consideration in completing the SLA. These are included simply as suggestions. Users should obtain legal or other professional advice in developing an SLA to achieve their objectives and derive maximum benefit from the Service relationship.

1. Definitions and Interpretation

In this Service Level Agreement, unless the contrary intention appears:

“**Rebate**” means the rebate specified in the Service Level Agreement attached to the General Order Form.

“**Service Credit**” means the service credit specified in the Service Level Agreement attached to an Order.

Other capitalised words and expressions used in this SLA are defined in Part 3.

2. General

PURPOSE OF SLA

This SLA provides a mutual understanding of the Service Level expectations of the Parties and defines a benchmark for measuring the performance of the Service.

The Parties agree that to the goal of mutual continual service improvement across all interactions and services so that both organisations extract maximum value from the engagement.

DURATION OF SLA

Commencement Date until the end of the Initial Term (3 years)

REVIEW

This SLA will be reviewed every 12 Months from the date the SLA commences.

Where the Contractor is required to provide scoping Services after the commencement of this SLA, the Parties agree to review the SLA at the completion of those Services and update the SLA accordingly.

NOTIFICATION PROCEDURE

How are problems in relation to performance of the Services to be notified by the Customer to the Contractor?

Problems or complaints regarding the services provided under this contract should be made to the Service Level Agreement manager in the first instance and if required escalated according to the Escalation procedure below.

ESCALATION PROCEDURE

The responsible officers in each Party's organisation should be identified and the circumstances in which matters may be escalated to those officers for review and resolution.

	Officer
Level 1	Customer: GovConnect Service Desk 1800 217 640 Contractor: [REDACTED]
Level 2	[REDACTED] [REDACTED]
[REDACTED]	[REDACTED] [REDACTED]
[REDACTED]	[REDACTED]

[REDACTED]
Location, specific requirements or unique features about the Site should be set out here, as applicable.

There are no specific single site requirements or features as at 1st Sept 2017

HOURS OF OPERATION

What are the Customer's normal hours of operation? When can Services be performed with minimal disruption to the Customer's operations?

Business Hours in NSW – Mon to Fri 8:30am to 5:30pm excluding Public Holidays

CONTRACT VARIATIONS

Where the Customer requires services that are not included in the SLA or in the Order, or there is a significant change to the Services to the scope of the Customer's requirements under the Contract which impacts on the contractual terms, then a Contract Variation must be affected in accordance with clause 26.2 of the Customer Contract.

REFERENCED DOCUMENTS

Include details of any Documents that are relevant to the performance of the Services. See clause 21.1 of the Customer Contract.

Quarterly report containing

- Usage information
- Case / Ticket volume based information

- SLA reports

3. Services

CUSTOMER RESPONSIBILITIES

Identify any resources that are to be supplied by the Customer and any responsibilities that are to be retained by the Customer. See clause 6.36 of the Customer Contract.

As per Item 22 of the order form

CONTRACTOR PROVIDED SERVICES

The Contractor agrees to provide the following Services:

Include a brief description of the Services to be provided by the Contractor.

A fully managed end-end service based on Microsoft Skype for Business with full collaboration, conferencing and voice services. The UCFX GovDC Intelligent Device Cloud (IDC) Skype for Business (SfB) service is a virtual Hosted SfB environment offering Unified Communications as a Service (UCaaS). A centralised Unified Communications solution that is fully featured, easily scaled and offering both resilience and flexibility. The Skype for Business service is part of the Intelligent Device Cloud Offering from UCFX.

TRANSITION IN

Specify the nature of transition in assistance required by the Customer from the Contractor in relation to transfer of equipment, contracts and disengagement from former contractors or in-house service providers.

Transition in services as agreed for each engagement.

MANAGEMENT AND CONSULTING

In addition to ensuring that the Contractor has adequate resources to provide the Services are there other management services required of the Contractor? Are there external contractual relationships or procurement issues that the Contractor is expected to manage

Service review and planning for the future

See clause 6.10 of the Customer Contract. The items for review could include:

- Service provided during the review period*
- Major incidents during the review period*
- Problems that remain outstanding*
- Review of Contract Variation requests and progress for enhancements*
- Review of any Contract Variation plan*
- Future events or business developments that will affect the Service*
- Review any potential changes required to the SLA*
- Agree items for submission to the executive decision making*

- Review schedules for Services provided*

Reporting and Analysis

Identify the reports and analysis the Customer requires the Contractor to generate as to Service Level performance.

Risk Management and Problem Prevention

Identify the risk management process, including the methodology to be used, the people responsible for creating and approving the risk management reports, and the frequency with which they are produced.

Quality Management

Identify the quality assurance requirements and any methodology that is to be used during the project.

Asset Management

The Customer may require the Contractor to produce a plan for review and approval in relation to the above three issues.

The plan would be the basis for benchmarking and assessing Service Level performance.

DISASTER RECOVERY AND BUSINESS CONTINUITY PLANNING

The Customer may require the Contractor to prepare a plan for review and approval.

The plan would be the basis for benchmarking and assessing Service Level performance.

SECURITY

Information Security

Is the Contractor able to access or use Personal or Confidential Information, or Customer Data in the course of providing the Services? Are there practical requirements, in addition to the security requirements in the Customer Contract that should be specified?

Security Audit and Internal Audit

The Customer may require the Contractor to provide a plan demonstrating how it will protect such information or data and take action against employees, against or subcontractors if they do not abide by that plan. The plan would be the basis for benchmarking and assessing Service Level performance.

TRANSITION OUT

Refer to relevant Modules to determine whether transition out assistance is required. Specify the transition out or disengagement services required from the Contractor.

TECHNICAL

- Hardware Maintenance and Support Services
- Software Support Services
- IT Personnel

- Professional Services
- Data Management
- Telecommunications
- As a Service
- Hosting Services
- Managed Services
- System Integration Services

4. Assumptions

This clause is intended to provide a contextual reference for the assessment of the Contractor's performance against the Service Level. There are a number of issues that may be outside of the Contractor's control that could adversely impact on the Contractor's capacity to deliver against set performance criteria such as the continuous availability of telecommunications links, bandwidth capacity or third party service interruption issues.

Also it may be an expectation of the Customer that the Contractor in performing the Service adhere to specific policy or procedural requirements that should be included in this clause.

In some instances the Service Levels may have been agreed prior to a scoping phase being completed under the Customer Contract. In that instance the Service Levels may be agreed against representations made by the Customer or a notional assessment of the scope of the task expressed as sizing metrics in terms of number of users, outputs, data volumes and so on.

5. Assumptions

CUSTOMER RESPONSIBILITIES

Responsibility

Indicate the responsibility e.g. maintenance of Customer retained equipment that impact on Contractor Service Levels if for instance the Service is provided off site.

- (a) Benchmarking
- (b) Service Level

CONTRACTOR RESPONSIBILITIES

Service

Indicate the Service e.g. server maintenance

- (c) Benchmarking
- (d) Service Level

6. Performance Measurement

Depending on the type of Service provided by the Contractor, the performance may be measured on the basis of user satisfaction through review, virtual client assessment or survey process, or measurable on the basis of functionality, timed responses, frequency, speed, quality, or resolution of issues.

Service/Responsibility	Frequency	Benchmark	Service Level	Measurement	When measured
Mean Time To Respond Monthly Trend	Measured and reported monthly trended over 12 months	Average response time of first 3 months	10% decrease in response time trend over 12 months	Every case logged has a response time recorded this is aggregated and averaged each month and added to the data Response means the case is actively being worked on	<i>Monthly with annual target</i>
<i>Mean Time to Restore Service</i>	Measured and reported monthly trended over 12 months	Average restoration time of first 3 months	10% decrease in restore time trend over 12 months	Every case logged has an agreed restore time recorded this is aggregated and averaged each month and added to the data Restore means the incident is resolved – agreed by the customer to a satisfactory level of performance	<i>Monthly with annual target</i>

* Table 2 Outcomes and Performance Measurement

7. Payment Issues

PAYMENT SCHEDULE

Include a schedule of payments or rates for various services. A Rebate and Service Credit regime may then be applied against amounts due to the Contractor.

This rate card is between IPFX/UCFX and DSFI for the provision of ICT services both in the area of planning and deployment of Microsoft SfB and its associated ecosystem, and in respect of other engagements agreed between the parties from time to time.

Rate Card

Role	Ad Hoc Rate
Practice Lead	██████████
Principal Architect	██████████
Principal Consultant	██████████
Senior Developer	██████████
Consultant	██████████
Developer	██████████
Principal Engineer	██████████
Senior Architect	██████████
Architect	██████████
Engineer	██████████
Engagement Manager	██████████
Project Manager	██████████
Field Services	██████████
Trainer	██████████
After Hours Work – All Roles	1.5x the above hourly rates

After Hours Work will for all roles will be prorated to 1.5x hourly rates.

Rates excludes travel and are subject to change.

Volume Discount

DSFI can pre-purchased consulting hours that can be used for after hour support, additional support and ad-hoc work within an agreed upon timeframe. Volume discounts rates can be offered.

REBATES AND SERVICE CREDITS

Insert appropriate Rebate and Service Credit regime

CONTRACTUAL REMEDIES

Where the Contractor does not meet the same Service Level under the Service Level Agreement for each month in a consecutive six (6) month period, the Customer shall be entitled to treat such failure as a Substantial Breach for the purposes of clause 25.2 of the Agreement.

8. Incentives and Innovation

Where the Contractor:

- (a) exceeds targets for performance consistently over an agreed time period;
- (b) is innovative in developing new processes or systems; or
- (c) sources and implements new technologies; and

these accrue benefits and costs savings to the Customer, the Parties may agree to share those costs on terms agreed in the SLA.

Schedule 4: Variation Procedures

Procedures

Each request or recommendation for a change to the PIPP or any part of the Customer Contract must be submitted in a form substantially similar to the Change Request form attached to this Schedule.

For each draft Change Request submitted:

- (d) the Customer must allocate it with a sequential number; and
- (e) the draft Change Request must be logged and its progress documented by recording its status from time to time by the Contractor as follows:
 - (i) requested;
 - (ii) under evaluation;
 - (iii) awaiting authorisation;
 - (iv) cancelled;
 - (v) pending
 - (vi) approved/authorised;
 - (vii) expired;
 - (viii) in progress;
 - (ix) applied;
 - (x) delivered;
 - (xi) accepted.

The Party receiving the draft Change Request must within 5 Business Days of receipt (or such longer period set out in the Change Request):

- (f) request further information; or
- (g) provide written notification to the other Party of its approval or rejection of the Change Request.

If the Customer submits a draft Change Request to the Contractor, and the Contractor believes that there is more than 1 Business Day's work involved in the evaluation of the Change Request, then prior to commencing work on evaluating the draft Change Request the Contractor may request that the Customer pays for the work involved to evaluate the draft Change Request. The Customer may then either revise the draft Change Request to require less than 1 Business Day's work to evaluate it, or agree to pay for the Contractor's work to evaluate the Change Request in an amount agreed by the Parties, or in absence of agreement, at the Contractor's then current commercial rates.

If the Customer Contract has been entered into under a Head Agreement, and the Change Request seeks to vary any terms or conditions of the Customer Contract, including a Protected Clause and the Customer approves of the Change Request, the Customer must submit the Change Request to the Contract Authority and the Secretary of the New South Wales Department of Finance, Services and Innovation, for approval immediately after it has notified the Contractor that it approves the Change Request.

Status

A Change Request is binding on the Parties only when both Parties have signed it. Once signed by both parties the Change Request updates the Customer Contract in accordance with the terms of the Change Request. The Contractor must not implement any draft Change Request until the Customer has signed the Change Request form.

Change Request Form

CHANGE REQUEST BRIEF DETAILS

Change Request Number		<i>Insert Change Request Number (supplied by the Customer)</i>
Date of Change Request		<i>Insert date of draft Change Request</i>
Originator of need for Change Request		<i>Customer or Contractor</i>
Proposed Implementation Date of Change		<i>Insert proposed date of implementation</i>
Date of expiry of validity of Change Request		<i>Insert validity expiry date. The Change Request is invalid after this date.</i>
Contractor's estimated time and cost of evaluation		<i>Insert estimated time and cost of evaluation</i>
Amount agreed to be paid to the Contractor for evaluating the draft Change Request, if any (This applies only if the Customer is the Party that originated the need for a Change Request; and the Contractor estimates the cost of evaluating and drafting the Change Request exceeds 2 Business Days)		<i>Insert amount to be paid to the Contractor for evaluating the draft Change Request</i>

CHANGE REQUEST HISTORY LOG

Change Request Version History			
Date	Issue Version	Status/Reason for New Issue	Author
<i>Insert date</i>	<i>Insert version</i>	<i>Insert status/reason</i>	<i>Insert author</i>

DETAILS OF CHANGE REQUEST

Summary

[Insert a summary of the changes, if required]

SCOPE

[Insert changes to the scope of Products to be provided and/or any Services, including any extensions to the Contract Period.]

EFFECT OF CHANGE ON CONTRACT SPECIFICATION

[Insert any changes to the Contract Specification]

EFFECT OF CHANGE ON PROJECT TIMETABLE

[Insert changes to the project timetable]

New PIPP (annexed)

[Annex new PIPP if required]

EFFECT OF CHANGE ON CHARGES AND TIMING OF PAYMENT

[Insert new charges and the timing of payment into the new PIPP]

CHANGES TO CSI

[Insert any changes to the CSI]

CHANGES TO CUSTOMER PERSONNEL

[Insert any changes to the Customer's Personnel]

CHANGES TO CUSTOMER ASSISTANCE

[Insert any changes to the Customer's Assistance]

PLAN FOR IMPLEMENTING THE CHANGE

[insert the plan for implementing the change – if any.]

THE RESPONSIBILITIES OF THE PARTIES FOR IMPLEMENTING THE CHANGE

[Insert the responsibilities of the respective Parties for implementing the change – if any.]

Responsibilities of the Contractor

[Insert the responsibilities of the Contractor for implementing the change – if any.]

Responsibilities of the Customer

[insert the responsibilities of the Customer for implementing the change – if any.]

EFFECT ON ACCEPTANCE TESTING OF ANY DELIVERABLE

[Insert if there will be any effect on the Acceptance Testing of any Deliverable – or alternatively insert None.]

EFFECT OF CHANGE ON PERFORMANCE OF ANY DELIVERABLE

[Insert if there will be any effect on performance of any Deliverable – or alternatively insert None.]

EFFECT ON USERS OF THE SYSTEM/SOLUTION

[Insert if there will be any effect on users of the system/solution – or alternatively insert None.]

EFFECT OF CHANGE ON DOCUMENTATION DELIVERABLES

Changes will be required to the following documents:

[Add any other documents which may be affected.]

EFFECT ON TRAINING

Insert if there will be an effect on training or alternatively insert None.]

ANY OTHER MATTERS WHICH THE PARTIES CONSIDER IMPORTANT

[insert if there are any other matters.]

ASSUMPTIONS

The plan for implementing the changes outlined in this Change Request is based on the assumptions listed below:

[Insert any assumptions. If none then this section will be deleted].

If the assumptions are or become untrue, the Parties will address the effect of this through a subsequent Change Request.

LIST OF DOCUMENTS THAT FORM PART OF THIS CHANGE REQUEST

[Insert a list of the documents that form part of this Change Request]

CUSTOMER CONTRACT CLAUSES, SCHEDULES AFFECTED BY THE PROPOSAL ARE AS FOLLOWS:

[Insert amendments to clauses in the Customer Contract, relevant Schedules including Service Level Agreement]

Note that variations to any of the terms and conditions of the Procure IT Framework including the Protected Clauses require the Customer to obtain the prior written approval of the Contract Authority and the Secretary, New South Wales Department of Finance, Services and Innovation approval in accordance with directions and policies issued by the Board from time to time. (clause 26.2)

AUTHORISATION

The Contractor must not commence work on the Change Request until it is signed by both Parties. Once signed by both Parties, the Customer Contract is updated by this Change Request and any provisions of the Customer Contract that conflict with this Change Request are superseded.

SIGNED AS AN AGREEMENT

Signed for and on behalf of *[insert name of Customer]*

By *[insert name of Customer's Representative]* but not so as to incur personal liability

Signature of Customer Representative

Print name

Date

Signed for and on behalf of *[insert Contractor's name and ACN/ABN]*

Signature of Authorised Signatory

Print name

Date

Schedule 5: Escrow Deed

Deed dated the

day of

20

Between [insert name, and ACN/ABN, if applicable] (“**Escrow Agent**”)

And [insert name, and ACN/ABN if applicable] (“the **Contractor**”)

And [insert name of Government Party] (“the **Principal**”)

RECITALS

- A. By Licence Agreement made on the day of 201[], the Contractor has agreed to grant a licence to the Principal to use the Licensed Software. By the Support Agreement made on the day of 201[], the Contractor has agreed to provide Software Support Services to the Principal in respect of that Licensed Software.
- B. The Contractor and the Principal have agreed to appoint an escrow agent and the Escrow Agent has agreed to act as an escrow agent and to hold the Escrow Material for the Licensed Software on the following terms and conditions.

NOW THIS DEED WITNESS:

1. Agreed Terms and Interpretation

In this Deed the following words have the following meaning:

Business Day means any weekday that is not a public holiday in New South Wales;

Contract Specifications has the same meaning as in the Licence Agreement;

Deed means this Deed of Agreement;

Defect means a defect, error or malfunction in that software such that the Licensed Software does not comply with and cannot be used in accordance with the Contract Specifications;

Escrow Fees means the fees set out in Attachment 1 to this Deed;

Escrow Materials means the source code and/or object code of the Licensed Software and all other software programs all as owned by the Contractor, documentation, drawings and plans as well as a list of any third party software programs that would enable a competent programmer skilled in the use of the Licensed Software and any necessary development tools to keep the Licensed Software in good order and repair that are stated in Attachment 3;

Insolvency Event means that a party to this Deed:

- (a) stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (b) is insolvent with the meaning of section 95A of the *Corporations Act 2001* (Cth);
- (c) must be presumed by a court to be insolvent by reason of an event set out in section 459C(2) of the *Corporations Act 2001* (Cth);
- (d) fails to comply with a statutory demand within the meaning of section 459F(1) of the *Corporations Act 2001* (Cth);
- (e) has an administrator appointed or any step preliminary to the appointment of an administrator is taken;
- (f) has a mortgagee enter into possession of any property of that party;
- (g) has a controller within the meaning of the section 9 of the *Corporations Act 2001* (Cth) or similar officer or appointed to all or any of its property; or
- (h) has proceedings commenced, a resolution passed or proposed in a notice of meeting, an application to, or order of, a court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up, deregistration or dissolution or for it to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them.

Licence Agreement means the Customer Contract entered into under the *Procure IT Framework* dated [insert date] pursuant to which the Contractor is providing Licensed Software to the Principal referred to in Recital A;

Licensed Software means the standard off-the-shelf software provided by the Contractor to the Customer and includes any Updates or New Releases of that software that may be provided to the Customer from time to time in accordance with the Software Support Agreement.

New Release means software which has been produced primarily to extend, alter or improve the Licensed Software by providing additional functionality or performance enhancement (whether or not Defects in the software are also corrected) while still retaining the original designated purpose of the Licensed Software;

Software Support Services means the services to be provided by the Contractor under the Support Agreement;

Support Agreement means the Customer Contract entered into under the *Procure IT Framework* dated [insert date] pursuant to which the Contractor is providing Software Support Services to the Principal in respect of Licensed Software referred to in Recital A; and

Update means software which has been produced primarily to overcome Defects in, or to improve the operation of, the Licensed Software without significantly altering the Contract Specifications whether or not the Licensed Software has also been extended, altered or improved by providing additional functionality or performance enhancement.

In this Deed, unless the contrary intention appears:

- (i) monetary references are references to Australian currency;
- (j) the clause and sub clause headings are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;

- (k) a cross reference to a clause number is a reference to all its sub clauses;
- (l) words in the singular number include the plural and vice versa;
- (m) the words “include(s)” and “including” are not words of limitation;
- (n) words importing a gender include any other gender;
- (o) a reference to a person includes a partnership and a body whether corporate or otherwise;
- (p) a reference to a clause or sub clause is a reference to a clause or sub clause of this Deed;
- (q) a reference to an Attachment is a reference to an Attachment to this Deed; and
- (r) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

Where an obligation is imposed on a party under this Deed, that obligation shall include an obligation to ensure that no act, error or omission on the part of that party’s employees, agents or subcontractors or their employees or agents occurs which will prevent the discharge of that party’s obligation.

COMPLIANCE WITH CONSUMER LAWS

To the extent that the provisions of the *Competition and Consumer Act 2010 (Cth)* (**CCA**) apply to goods or services supplied under this Customer Contract, then the provisions of this Customer Contract are subject to the provisions of the CCA.

To the extent that there is a failure to comply with a guarantee under sections 54 to 59 of the CCA in respect of goods which are not goods of a kind that are ordinarily acquired for personal, domestic or household use or consumption, then to the extent permitted by law, the Contractor’s liability is limited to one or more of the following, at the election of the Contractor:

- (s) the replacement of the goods or the supply of equivalent goods;
- (t) the repair of the goods;
- (u) the payment of the cost of replacing the goods or of acquiring equivalent goods;
- (v) the payment of the cost of having the goods repaired.

To the extent that there is a failure to comply with a guarantee in respect of the supply of services under sections 60 to 62 of the CCA, then to the extent permitted by law, the Contractor’s liability is limited to one or more of the following, at the election of the Contractor:

- (w) supplying the services again; or
- (x) payment of the cost of having the services supplied again.

2. Duration

Subject to all applicable fees under this Deed being paid by the Principal in accordance with this Deed, this Deed remains in force until the Escrow Material is released in accordance with this Deed or this Deed is terminated or expires in accordance with its terms.

3. Appointment of Escrow Agent

The Escrow Agent is hereby appointed jointly by the Principal and the Contractor to hold the Escrow Material and, if the conditions for release under clause 8 below are met, to release the Escrow Material in accordance with this Deed.

4. Contractor's Obligations

The Contractor shall deliver to, and deposit with, the Escrow Agent one copy of the Escrow Material within 7 days of the date of this Deed (or such other time as otherwise agreed).

The Contractor shall maintain, amend, modify, up-date and enhance the Escrow Material quarterly and shall ensure on a quarterly basis that the Escrow Material deposited with the Escrow Agent is kept fully up-to date and accurately reflects the Licensed Software including all modifications, amendments, Updates and New Releases made to, or in respect of, the Licensed Software.

The Contractor warrants to the Principal that the Escrow Material is, to the best of the knowledge of the Contractor, free from any virus or program device which would prevent the Licensed Software from conforming with the Contract Specifications or which would prevent or impede a thorough and effective verification thereof.

5. Escrow Agent's Obligations

The Escrow Agent shall accept custody of the Escrow Material on the date of delivery in accordance with clause 4.1 above and, subject to the terms and conditions of this Deed, shall hold the Escrow Material on behalf of the Principal and the Contractor.

The Escrow Agent shall take all reasonable necessary steps to ensure the preservation, care, maintenance, safe custody and security of the Escrow Material while it is in the possession, custody or control of the Escrow Agent, including storage in a secure receptacle and in an atmosphere which does not harm the Escrow Material or in a secure electronic environment.

The Escrow Agent shall bear all risks of loss, theft, destruction of or damage to the Escrow Material while it is in the Escrow Agent's possession, custody or control where such loss, theft, destruction or damage is caused by negligent, malicious, reckless or unlawful act or omission of the Escrow Agent, its employees or agents.

If the Escrow Material is lost, stolen, destroyed or damaged while it is in the possession, custody or control of the Escrow Agent, the Escrow Agent shall immediately notify the Principal and the Contractor.

Unless this Deed is terminated in accordance with clause 9.2(b), the Contractor shall, upon receipt of notice from the Escrow Agent under clause 5.4 above, promptly deposit a replacement copy of the Escrow Material with the Escrow Agent.

Without limiting any other rights the Contractor and the Principal may have under this Deed or at law, where the loss, damage or destruction of the Escrow Material is caused by the negligent, malicious, reckless or unlawful act or omission of the Escrow Agent, the Escrow Agent must reimburse the Contractor for the reasonable cost of depositing a replacement copy of the Escrow Material.

The Escrow Agent is not obliged to determine the nature, completeness or accuracy of the Escrow Material lodged with it.

To the extent permitted by law, the Escrow Agent's liability, to both the Principal and the Contractor collectively, in contract (including under an indemnity), tort (including negligence), breach of statutory duty or otherwise in respect of any loss, damage or expense arising out, of or in connection with, this Deed shall not exceed in aggregate for all claims that arise out, of or in connection with, this Deed the greater of:

- (a) \$100,000; or
- (b) two times the Escrow Fees paid, or due and unpaid, in the year that the claim first arises.

6. Escrow Fee and Expenses

The Principal shall pay all applicable Escrow Fees plus any applicable GST to the Escrow Agent.

All expenses and disbursements incurred by the Escrow Agent in connection with this Deed shall be borne wholly and completely by the Escrow Agent.

All expenses and disbursements incurred by the Contractor in connection with this Deed shall be borne wholly and completely by the Contractor.

7. Testing and Verification

The Principal may engage the Escrow Agent or an independent assessor to undertake analysis and tests of the Escrow Material for verification purposes on its behalf.

The Escrow Agent shall release the Escrow Material to the independent party upon presentation of a release form signed by the Principal and the Contractor specifying the material to be released and identifying the person to whom that material may be released.

The Escrow Material released pursuant to clause 7.2 above must be returned to the Escrow Agent or its employees or agents and the Principal shall ensure that the confidentiality of the Escrow Material so released is preserved and that it is not used for any purpose other than the verification that the Contractor has complied with its obligations under this Deed.

All costs that Escrow Agent incurs in assisting the assessment shall be borne by the Principal, and must be paid within 7 days of receipt of an invoice from the Escrow Agent.

8. Release of the Escrow Material

The Escrow Agent shall not release, or allow access to, the Escrow Material except in accordance with the provisions of this Deed.

If:

- (a) an Insolvency Event has occurred in relation to the Contractor; or
- (b) the Principal has validly terminated the Support Agreement for cause (each of (a) and (b) being a **Trigger Event**),

and the Principal wishes the Escrow Agent to release the Escrow Material to it, the Principal must within 20 Business Days of the Trigger Event provide written notice in the form of a statutory declaration to both the Escrow Agent and the Contractor stating which Trigger Event has occurred. If the Contractor does not, within 20 Business Days of receiving the notice,

rectify the Trigger Event or provide another remedy that is satisfactory to the Principal, the Principal may provide the Escrow Agent with a further statutory declaration confirming that the Contractor has not rectified the Trigger Event in the required time or provided another remedy that is satisfactory to the Principal and require the Escrow Agent to immediately release the Escrow Material to the Principal ("**Final Release Notice**"). The Escrow Agent shall release the Escrow Material to the Principal promptly after receiving the Final Release Notice.

Where:

- (c) the Licence Agreement has been lawfully terminated by the Contractor or the period of licence has expired;
- (d) the Support Agreement has been lawfully terminated by the Contractor or the period of Software Support Services has expired;
- (e) the Principal has agreed to the release;
- (f) this Deed is terminated in accordance with clause 9 below; or
- (g) the Contractor is not obligated under the Agreement to execute a substantially similar Deed to replace this Deed,

the Escrow Agent shall, upon written request from the Contractor, release the Escrow Material to the Contractor.

In the event that the Escrow Materials are released to the Principal under this Deed, the Principal:

- (h) is granted a limited right to use the Escrow Materials:
 - (i) for the same usage rights as the Principal has been granted the right to use the Licensed Software under the Licence Agreement; and
 - (ii) to correct Defects in the Licensed Software; and
- (i) subject to (c), must use the Escrow Materials subject to all the other terms of the Licence Agreement, as if the Escrow Material is included in the definition of Licensed Software in that Licence Agreement; and
- (j) must keep the Escrow Materials strictly confidential and not disclose them to any person, and must not use them for any purpose other than that referred to in clause 8.4(a) above.

This clause 8.4 survives expiry or termination of this Deed.

9. Termination

The Escrow Agent may, by giving 3 months prior written notice to the Principal and the Contractor, terminate this Deed subject to the pro-rata refund of any advance payment of the Escrow Fee.

The Principal or the Contractor may terminate this Deed immediately if the Escrow Agent:

- (a) has become subject to any form of insolvency administration; or
- (b) is in breach of any obligation under this Deed so that there is a substantial failure by the Escrow Agent to perform or observe this Deed.

If this Deed is terminated in accordance with this clause 9 while the Agreement remains in force, and the Principal continues to use the Licensed Software, the Principal and the Contractor shall enter into a new escrow agreement on substantially the same terms and conditions as are set out in this Deed, with an alternative escrow agent who is acceptable to both the Principal and the Contractor.

The Principal and the Contractor may, upon giving 30 days prior written notice to the Escrow Agent, jointly terminate this Deed, however in this case, no refund of advance payment of the Escrow Fee will be payable by the Escrow Agent.

10. Confidentiality

The Escrow Agent shall not, except as permitted by this Deed, make public or disclose to any person any information about this Deed or the Escrow Material.

The Escrow Agent shall not reproduce, or cause to have reproduced, a copy of the Escrow Material or any part thereof, except as may be necessary to electronically store (and maintain a back up) of the Escrow Material.

The obligations under this clause 10 shall survive the termination of this Deed.

11. Compliance with Laws

The Escrow Agent shall, in carrying out this Deed, comply with the provisions of any relevant statutes, regulations, by-laws and the requirements of any Commonwealth, State or local authority.

12. Resolution of Disputes

The Parties agree to resolve any conflicts or issues between them in relation to this Deed as follows:

Negotiation

- (a) if there is a disagreement between the parties arising out of this Deed (**Dispute**), then within 10 Business Days of a Party notifying the other party or parties of the Dispute, a senior representative from each party must meet and use all reasonable endeavours acting in good faith to resolve the Dispute by joint discussions.

Mediation

- (b) If the Dispute is not settled within 10 Business Days of notification under clause 12.1(a), the parties must submit the Dispute to mediation administered by one of the following bodies as agreed by the parties:
 - (i) the Australian Disputes Centre Limited (**ADC**); or
 - (ii) the Resolution Institute,failing agreement, the ADC.
- (c) The mediator will be an independent person agreed between the parties or, failing agreement, a mediator will be appointed by the President of the body determined under clause 12.1(b) above.

- (d) Any mediation meetings and proceedings under this clause 12.1 must be held in Sydney, New South Wales.

Court proceedings and other relief

- (e) A party may not start court proceedings in relation to a Dispute until it has followed the procedures in this clause 12.1 but the parties have not agreed a resolution within 30 Business Days of the appointment of the mediator, unless the party seeks injunctive or other interlocutory relief.

Continuation of rights and obligations

- (f) Despite the existence of a Dispute, each party must continue to perform this Deed.

13. Applicable Law

This Deed shall be governed by and construed in accordance with the laws from time to time in force in New South Wales. The parties shall submit to the exclusive jurisdiction of the courts of New South Wales.

14. Variation and Waiver

This Deed shall not be varied either in law or in equity except by a deed duly executed by the Escrow Agent, the Principal and the Contractor.

A waiver by one party of a breach of a provision of this Deed by another party shall not constitute a waiver in respect of any other breach or of any subsequent breach of this Deed. The failure of a party to enforce a provision of this Deed shall not be interpreted to mean that party no longer regards that provision as binding.

15. Assignment

The Contractor, Principal and the Escrow Agent, or any of these, shall not assign, in whole or in part, its benefits under this Deed without the written consent of the other two parties, which shall not be unreasonably withheld.

16. Severability

Each provision of this Deed, and each part of it shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable part, so that if any provision, or part of a provision is void or otherwise unenforceable for any reason, then that provision, or part shall be severed and the remainder shall be read and construed as if the severable part had never existed.

17. Notices

A notice or other communication is properly given or served if the party delivers it by hand, posts it or transmits a copy electronically (electronic mail or facsimile) to the address last advised by one of them to the other. Where the notice is given or served electronically, the sending party must confirm receipt by some other means. The address for services of notice for a party is, in the case of the:

Escrow Agent

Physical address:

Postal address:

Phone number:

Fax number:

Email address:

Contractor

Physical address:

Postal address:

Phone number:

Fax number:

Email address:

Principal

Physical address:

Postal address:

Phone number:

Fax number:

Email address:

or such other address as a party may notify to the other party in writing from time to time.

A notice or other communication is deemed to be received if:

- (a) delivered by hand, when the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service;
- (b) sent by post from and to an address within Australia, after three (3) Business Days;
- (c) sent by post from or to an address outside Australia, after ten (10) Business Days;
- (d) sent by facsimile, at the time which the facsimile machine to which it has been sent records that the communication has been transmitted satisfactorily (or, if such time is outside normal business hours, at the time of resumption of normal business hours);
or
- (e) sent by email, when the sender's system registers that the email has passed the internet gateway of the sender's system (and no delivery failure or out of office message is received by the sender within 24 hours of sending).

EXECUTED AS A DEED

Signed, sealed and delivered by [insert full legal name of Escrow Agent and ACN/ABN]

[Redacted signature line]

in accordance with s127 of the *Corporations Act 2001* (Cth) by:

[Redacted signature line]

Signature Director

[Redacted signature line]

Print name

[Redacted signature line]

Date

[Redacted signature line]

Signature of Director/Secretary

[Redacted signature line]

Print name

[Redacted signature line]

Date

Signed, sealed and delivered by [insert full legal name of Contractor and ACN/ABN]

[Redacted signature line]

in accordance with s127 of the *Corporations Act 2001* (Cth) by:

[Redacted signature line]

Signature Director

[Redacted signature line]

Print name

[Redacted signature line]

Date

[Redacted signature line]

Signature of Director/Secretary

[Redacted signature line]

Print name

[Redacted signature line]

Date

Signed, sealed and delivered for and on behalf of [insert name of Principal], ABN [insert ABN]

[Redacted signature line]

By [insert name of Principal's representative] but not so as to incur personal liability

[Redacted signature line]

In the presence of: [insert name of witness]

[Redacted signature line]

[Redacted signature line]

Signature of Principal's representative

[Redacted signature line]

Signature of Principal's witness

Print Name

Date

Print Name

Date



Escrow Deed of Agreement

ATTACHMENT 1

Details of Escrow fees:

REVIEW OF FEES

Escrow Deed of Agreement

ATTACHMENT 2

Details of licensed software to be held in Escrow

Source Code:

Flow Charts:

Diagrams:

Listings:

Escrow Deed of Agreement

ATTACHMENT 3

Supporting materials

Insert details of support material relevant to the Licensed Software, for example:

- technical documentation sufficient to allow a competent computer programmer to understand and maintain the version of the software to which the documentation relates.
- relevant maintenance tools and compilers and assemblers (if standard tools, description thereof will suffice) and third party software utilities.
- description of code generation.
- description of third party software required for support and availability thereof.
- identification of key personnel involved with the development of the software.
- operational manuals, listings, flow charts etc.
- details of machine/processor/system configuration.

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Schedule 6: Deed Poll – Approved Agents

This Deed Poll is made on [insert date] by [insert full legal name of Approved Agent and ACN/ABN] (**Approved Agent**) in favour of [insert full legal name of Contract Authority] (**Contract Authority**)

Definitions

Customer means [insert full legal name of the Customer].

Customer Contract means the agreement dated [*insert date*] signed by the Customer and the Approved Agent as agent for the supply of the Products and/or Services under that agreement.

By this Deed:

1. The Approved Agent warrants to the Customer that it is the lawful agent of the Contractor to provide the Products and/or Services under the Customer Contract.

Signed, sealed and delivered by [insert full legal name of Approved Agent and ACN/ABN]

[Redacted signature line]

in accordance with s127 of the *Corporations Act 2001* (Cth) by:

[Redacted signature line]

Signature Director

[Redacted name line]

Print name

[Redacted date line]

Date

[Redacted signature line]

Signature of Director/Secretary

[Redacted name line]

Print name

[Redacted date line]

Date

Schedule 7: Statutory Declaration – Subcontractor

Oaths Act (NSW), 1900 Eighth Schedule

I,, do solemnly and sincerely declare that

1. [insert full Subcontractor company name and its ACN/ABN] (**Subcontractor**) has been selected as subcontractor to, [insert name of the Contractor and its ACN/ABN] (**Contractor**) under an agreement between the [insert name of Customer] (**Customer**) and the Contractor dated [insert date of Customer Contract].
2. The Subcontractor will offer to enter into an agreement with the Contractor in connection with the Customer Contract on terms that are not inconsistent with the terms of the Customer Contract in so far as those terms are relevant to the Subcontractor.
3. As at the date of this Statutory Declaration there are no reasons of which I am aware that would prevent the Subcontractor's agreement with the Contractor from being performed in a manner that would allow the satisfactory and timely performance of that subcontract.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

Declared at: on
[place] [date]

.....
[signature of declarant]

in the presence of an authorised witness, who states:

I,, a
[name of authorised witness] [qualification of authorised witness]

certify the following matters concerning the making of this statutory declaration by the person who made it: [*please cross out any text that does not apply]

1. *I saw the face of the person OR *I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering, and
2. *I have known the person for at least 12 months OR *I have confirmed the person's identity using an identification document and the document I relied on was
[describe identification document relied on].

.....
[signature of authorised witness]

.....
[date]

Schedule 8: Deed of Confidentiality

Deed of Agreement dated the day of 20

Between [insert name of the Customer (**Customer**)

And [insert name and address of Subcontractor] (**Subcontractor**)

RECITALS

- (A) In the course of the Subcontractor assisting in the supply by the Contractor of certain Deliverables for the Customer under a subcontract agreement between the Subcontractor and the Contractor, the Subcontractor will have access to, and may become aware of, Confidential Information belonging to, or in the possession of, the Customer.
- (B) Improper use or disclosure of the Confidential Information would severely damage the Customer's ability to perform its governmental/statutory functions and would severely damage the commercial interests of the Customer.
- (C) The Customer requires, and the Subcontractor agrees, that it is necessary to take all reasonable steps (including the execution of this Deed) to ensure that the Customer's Confidential Information is kept confidential.
- (D) This Deed sets out the terms on which the Subcontractor will have access to the Confidential Information.

WHAT IS AGREED

Recitals

The Parties acknowledge the truth and accuracy of the Recitals.

Interpretation

DEFINITIONS

In the interpretation of this Deed unless a contrary intention appears the following expressions will have the following meanings:

Agreement means the Customer Contract entered into under the *Procure IT Framework* between the Contractor and the Customer under which the Contractor will supply Deliverables to the Customer dated [insert date].

Business Day means any day that is not a Saturday, Sunday or a public holiday in New South Wales.

Confidential Information means information that:

- (f) is by its nature confidential; or
- (g) is communicated by the Customer to the Subcontractor as confidential; or
- (h) the Subcontractor knows or ought to know is confidential; or
- (i) relates to:
 - (i) the Products and Services;
 - (ii) the financial, the corporate and the commercial information of the Customer;
 - (iii) the affairs of a third party (provided the information is non-public); and
 - (iv) the strategies, practices and procedures of the State and any information in the Subcontractor's possession relating to the State public service,

but excludes any information which the Subcontractor can establish was:

- (v) in the public domain, unless it came into the public domain due to a breach of confidentiality by the Subcontractor or another person;
- (vi) independently developed by the Subcontractor; or
- (vii) in the possession of the Subcontractor without breach of confidentiality by the confidant or other person.

Contractor means [insert name of Contractor].

Deliverables means any product or service and any associated material offered for supply or provided by the Contractor in accordance in the Agreement.

Express Purpose means the Subcontractor performing the obligations under its subcontract agreement with the Contractor.

Intellectual Property Rights means all intellectual property rights including:

- (a) copyright, patent, trademark, design, semi-conductor or circuit layout rights, registered design, trademarks or trade name and other protected rights, or related rights, existing worldwide; and
- (b) any licence, consent, application or right, to use or grant the use of, or apply for the registration of, any of the rights referred to in (a),

but does not include the right to keep confidential information confidential, moral rights, business names, company names or domain names.

Notice means notice in writing given in accordance with this Deed.

State means the State of New South Wales.

GENERAL

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Deed, except where the context makes it clear that a rule is not intended to apply

A reference to:

- (j) legislation (including subordinate legislation) is a reference to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (k) 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;
- (l) a person includes any type of entity or body of persons whether or not it is incorporated or has a separate legal entity;
- (m) anything (including a right, obligation or concept) includes each part of it.

If this Deed expressly or impliedly binds more than one person then it shall bind each such person separately and all such persons jointly.

A singular word includes the plural, and vice versa.

A word which suggests one gender includes the other gender.

The words "include(s)" and "including" are not words of limitation.

If a word is defined, another part of speech of that word has a corresponding meaning.

Non disclosure

The Subcontractor must not disclose the Confidential Information to any person without the prior written consent of the Customer.

The Customer may grant or withhold its consent in its discretion.

If the Customer grants its consent, it may impose conditions on that consent, including a condition that the Subcontractor procures the execution of a Deed in these terms by the person to whom the Subcontractor proposes to disclose the Confidential Information.

If the Customer grants consent subject to conditions, the Subcontractor must comply with those conditions.

Despite clause 3.1, the Subcontractor may disclose the Confidential Information:

- (n) to its directors, officers, employees and contractors;
- (o) to the Contractor and its directors, officers, employees and the Contractor's other contractors who are engaged in the supply of the Deliverables and their directors, officers, employees,

each referred to as **permitted recipients**, where such disclosure is essential to carrying out their duties in respect of the Express Purpose.

Despite clause 3.1, the Subcontractor may disclose the Confidential Information:

- (p) to its lawyers, accountants, insurers, financiers and other professional advisers where the disclosure is in connection with advising on, reporting on, or facilitating the performance under this Deed; or

- (q) if the Subcontractor is required to disclose by law, order of a court or tribunal of competent jurisdiction or the listing rules of an applicable securities exchange.

Before disclosing the Confidential Information to a permitted recipient, the Subcontractor will ensure that the permitted recipient is aware of the confidentiality requirements of this Deed and is advised that it is strictly forbidden from disclosing the Confidential Information or from using the confidential information other than as permitted by this Deed.

The Confidential Information must not be copied or reproduced by the Subcontractor or the permitted recipients without the expressed prior written permission of the Customer, except as for such copies as may be reasonably required for the Express Purpose.

If any person, being any director, officer, contractor or employee of the Subcontractor, who has had access to the Confidential Information in accordance with this clause 3 leaves the service or employ of the Subcontractor then the Subcontractor will procure that that person does not do or permit to be done anything which, if done or permitted to be done by the Subcontractor, would be a breach of the obligations of the Subcontractor under this Deed.

Restriction on use

The Subcontractor must use the Confidential Information only for the Express Purpose and must not without the prior written consent of the Customer use the Confidential Information for any purpose other than the Express Purpose.

The Subcontractor must, unless otherwise authorised by the prior written consent of the Customer:

- (r) treat as confidential and secret all of the Confidential Information which the Subcontractor has already acquired or will acquire from the Customer;
- (s) take proper and adequate precautions at all times and enforce such precautions to preserve the confidentiality of the Confidential Information and take all necessary action to prevent any person obtaining access to the Confidential Information other than in accordance with this Deed;
- (t) not directly or indirectly use, disclose, publish or communicate or permit the use disclosure, publication or communication of the Confidential Information to any person other than in accordance with this Deed;
- (u) not copy or disclose to any person in any manner any of the Confidential Information other than in accordance with this Deed; and
- (v) ensure that the permitted recipients comply with the terms of this Deed and keep the Confidential Information confidential and not use or disclose the Confidential Information other than as permitted by this Deed.

Survival

This Deed will survive the termination or expiry of the Agreement for a period of 6 years.

Rights of the Customer

PRODUCTION OF DOCUMENTS

The Customer may demand the delivery up to the Customer of all documents in the possession or control of the Subcontractor containing the Confidential Information.

The Subcontractor must immediately comply with a demand under this clause 6.

If the Customer makes a demand under this clause 6, and documents containing the Confidential Information are beyond the Subcontractor's possession or control, then the Subcontractor must provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose possession or control they lie.

In this clause 6, "documents" includes any form of storage of information, whether visible to the eye or not.

LEGAL PROCEEDINGS

The Customer may take legal proceedings against the Subcontractor or third parties if there is any actual, threatened or suspected breach of this Deed, including proceedings for an injunction to restrain such breach.

Indemnity and release

The Subcontractor is liable for, and agrees to indemnify and keep indemnified the Customer in respect of, any claim, damage, loss, liability, cost, expense, or payment which the Customer suffers or incurs as a result of:

- (w) a breach of this Deed (including a breach of this Deed which results in the infringement of the rights of any third party); or
- (x) the disclosure or use of the Confidential Information by the Subcontractor or the permitted recipients other than in accordance with this Deed.

No exclusion of law or equity

This Deed does not exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

Waiver

No waiver by the Customer of one breach of any obligation or provision of this Deed will operate as a waiver of another breach of any other obligation or provision of this Deed.

None of the provisions of this Deed will be taken to have been varied waived discharged or released by the Customer unless by its express consent in writing.

Remedies cumulative

CUMULATIVE

The rights and remedies provided under this Deed are cumulative and not exclusive of any other rights or remedies.

OTHER INSTRUMENTS

Subject to the other covenants of this Deed, the rights and obligations of the parties pursuant to this Deed are in addition to and do not derogate from any other right or obligation between the parties under any other Deed or agreement to which they are parties.

Variations and amendments

No term or provision of this Deed may be amended or varied unless reduced to writing and signed by the parties in the same manner as this instrument.

18. Applicable law

This Deed will be governed and construed in accordance with the laws of the State.

Notices

Notices must be sent to the other party at the address shown in this Deed, or the address last notified to the other party in writing, or in the case of the Subcontractor, at the Subcontractor's registered office.

All notices must be in writing and signed by the relevant party and must be given either by hand delivery, post, email or facsimile transmission.

If delivery or receipt of a notice is not made on a Business Day, then it will be taken to be made on the next Business Day.

If delivery of a notice is made by email, the notice will be taken to have been received when the sender's system registers that the email has passed the internet gateway of the sender's system (and no delivery failure or out of office message is received by the sender within 24 hours of sending).

EXECUTED AS A DEED

Signed, sealed and delivered by [insert name of Customer]

[Redacted signature line]

By [insert name of Customer Representative] but not so as to incur personal liability

[Redacted signature line]

In the presence of: [insert name of witness]

[Redacted signature line]

[Redacted signature line]

Signature of Customer

[Redacted signature line]

Print name

[Redacted signature line]

Date

[Redacted signature line]

Signature of Witness

[Redacted signature line]

Print name

[Redacted signature line]

Date

Signed, sealed and delivered by [insert Subcontractor's name and ACN/ABN]

[Redacted signature line]

in accordance with s127 of the *Corporations Act* 2001 (Cth) by:

[Redacted signature line]

Signature Director

[Redacted signature line]

Print name

[Redacted signature line]

Date

[Redacted signature line]

Signature of Director/Secretary

[Redacted signature line]

Print name

[Redacted signature line]

Date

Schedule 9: Performance Guarantee

Deed dated the

day of

20

Between *[insert full legal name of the Customer]* (Customer)

And *[insert full legal name and any ACN/ABN of the Guarantor]* (Guarantor)

Purpose *[insert full legal name and ACN/ABN of the Contractor]* (Contractor) has agreed to offer to supply Products and Services to the Customer under a contract dated *[insert date of Customer Contract]* (Customer Contract).

DEFINITIONS

Business Day means any weekday that is not a public holiday in New South Wales.

Contract Authority means *[insert legal name of Contract Authority]*.

Head Agreement means *[insert date and parties to the Head Agreement]*.

Insolvency Event means where the Contractor:

- (a) stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (b) is insolvent with the meaning of section 95A of the *Corporations Act 2001* (Cth);
- (c) must be presumed by a court to be insolvent by reason of an event set out in section 459C(2) of the *Corporations Act 2001* (Cth);
- (d) fails to comply with a statutory demand within the meaning of section 459F(1) of the *Corporations Act 2001* (Cth);
- (e) has an administrator appointed or any step preliminary to the appointment of an administrator is taken;
- (f) has a mortgagee enter into possession of any property of that Party;
- (g) has a controller within the meaning of the section 9 of the *Corporations Act 2001* (Cth) or similar officer appointed to all or any of its property; or
- (h) has proceedings commenced, a resolution passed or proposed in a notice of meeting, an application to, or order of, a court made or other steps taken against or in respect of it (other than frivolous or vexatious applications, proceedings, notices or steps) for its winding up, deregistration or dissolution or for it to enter an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them.

Notice in Writing means a notice signed by a party's authorised representative or his/her delegate or agent.

BY THIS DEED

By this Deed, the Guarantor guarantees to the Customer the performance of the obligations undertaken by the Contractor under the Customer Contract on the following terms and conditions:

1. If the Contractor (unless relieved from the performance of the Customer Contract by the Customer or by statute or by a decision of a tribunal of competent jurisdiction) fails to execute and perform its undertakings under the Customer Contract, the Guarantor will, if required to do so by the Customer, complete or cause to be completed the undertakings contained in the Customer Contract.
2. Where the Guarantor consists of more than one legal person each of those persons agree to be bound jointly and severally by this Deed of Guarantee, and:
 - (a) where the Customer Contract is made under a Head Agreement, the Contract Authority (acting as agent of the Customer); or
 - (b) in all other cases, the Customer,may enforce this Deed of Guarantee against all or any of the persons who constitute the Guarantor. *[amend this clause as applicable]*
3. The Guarantor will not be discharged, released or excused from this Deed of Guarantee by an arrangement made between the Contractor and Customer with or without the consent of the Guarantor, or by any alteration, amendment or variation in the obligations assumed by the Contractor or by any forbearance whether as to payment, time, performance or otherwise.
4. The obligations of the Contractor will continue in force and effect until the completion of the undertakings of this Deed of Guarantee by the Guarantor.
5. The obligations and liabilities of the Guarantor under this Deed of Guarantee will not exceed:
 - (a) the obligations and liabilities of the Contractor under the Customer Contract; and
 - (b) \$ [insert dollar amount].
6. Where the Contractor has failed to perform under the Customer Contract, the obligations of the Guarantor will continue even though the Contractor has been the subject of an Insolvency Event.
7. The rights and obligations under this Deed of Guarantee will continue until all obligations of the Contractor under the Customer Contract have been performed, observed and discharged.
8. A notice under this Deed of Guarantee must be a Notice in Writing.
9. The address for services of Notices in Writing under this Deed of Guarantee for a party is, in the case of the:

Guarantor

Physical address

Postal address

Email address

Fax number

Contractor

Physical address

Postal address

Email address

Fax number

Customer

Physical address

Postal address

Email address

Fax number

Or such other address as a party may notify to the other party in writing from time to time.

10. A Notice in Writing is deemed to be received if:
 - (a) delivered by hand, when the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service;
 - (b) sent by post from and to an address within Australia, after 3 Business Days;
 - (c) sent by post from or to an address outside Australia, after 10 Business Days;
 - (d) sent by facsimile, at the time which the facsimile machine to which it has been sent records that the communication has been transmitted satisfactorily (or, if such time is outside normal business hours, at 9.00 am the next Business Day); or
 - (e) sent by email; when the sender's system registers that the email has passed the internet gateway of the sender's system (and no delivery failure or out of office message is received by the sender within 24 hours of sending).

11. The laws of New South Wales govern this Deed of Guarantee and the parties submit to the exclusive jurisdiction of the courts of New South Wales.

EXECUTED BY THE PARTIES AS A DEED AT THE DATE STATED BELOW

Signed, sealed and delivered by *[insert name of the Customer]*.

[Redacted signature area]

By *[insert name of Customer representative]*

[Redacted signature area]

In the presence of: *[insert name of witness not a party to this Deed]*

[Redacted signature area]

[Redacted signature area]

Signature of Customer representative

[Redacted signature area]

Print Name

[Redacted signature area]

Date

[Redacted signature area]

Signature of Customer's Witness

[Redacted signature area]

Print Name

[Redacted signature area]

Date

Signed, sealed and delivered by *[insert Contractor's name and ACN/ABN]*

[Redacted signature area]

in accordance with s127 of the *Corporations Act 2001* (Cth) by:

[Redacted signature area]

Signature Director

[Redacted signature area]

Print name

[Redacted signature area]

Date

[Redacted signature area]

Signature of Director/Secretary

[Redacted signature area]

Print name

[Redacted signature area]

Date

Schedule 10: Financial Security

Deed dated the

day of

20

Between *[insert name of the Customer]* (Customer)

And *[insert name and ACN/ABN]* (Guarantor)

DEFINITIONS

Business Day means any weekday that is not a public holiday in New South Wales.

BY THIS DEED:

1. The _____ *[insert name of the Contractor and the ACN/ABN]* (Contractor) has agreed to supply Deliverables to the Customer under a contract *[insert date and name of parties to the Customer Contract]* (Customer Contract).
2. The Guarantor unconditionally agrees to pay to the Customer on demand without reference to the Contractor and separate from any notice given by the Contractor to the Guarantor not to pay same, any sum or sums which may from time to time be demanded in writing by the Customer to a maximum aggregate sum of \$ *[insert dollar amount]*.
3. The Guarantor's liability under this Financial Security will be a continuing liability until the sooner of:
 - (a) payment is made up to the maximum aggregate sum;
 - (b) the Customer notifies the Guarantor that this Financial Security is no longer required;
 - (c) *[insert date]; [Note: This date should be the date that is one year from the date that the last Deliverable under the Customer Contract is scheduled to pass its Acceptance Tests, or if no Acceptance Tests were required, the date that is scheduled to be 180 days from the date of delivery of the last Deliverable or performance of the last Service under the Contract]*
 - (d) the date the Customer and Contractor agree in writing to release the Guarantor.
4. No provision of this Financial Security may be waived, amended, supplemented or otherwise modified except by written instrument signed by the Guarantor and the Customer.
5. The laws of New South Wales govern this Guarantee and the parties submit to the exclusive jurisdiction of the courts of New South Wales.
6. A notice or other communication is properly given or served if the party delivers it by hand, posts it or transmits a copy by facsimile to the address last advised by one of them to the other. Where the notice is given or served by facsimile, the sending party must confirm receipt by any other means.
7. The address for services of notice for a party is, in the case of the:

Guarantor

Physical address

Postal address

Phone number

Email address

Fax number

Contractor

Postal address

Phone number

Email address

Fax number

Customer

Postal address

Phone number

Email address

Fax number

or such other address as a party may notify to the other party in writing from time to time.

8. A notice or other communication under this Financial Security is deemed to be received if:
- (a) delivered by hand, when the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service;
 - (b) sent by post from and to an address within Australia, after 3 Business Days;
 - (c) sent by post from or to an address outside Australia, after 10 Business Days;
 - (d) sent by facsimile, at the time which the facsimile machine to which it has been sent records that the communication has been transmitted satisfactorily (or, if such time is outside normal business hours, at the time of resumption of normal business hours);
or
 - (e) sent by email; when the sender's system registers that the email has passed the internet gateway of the sender's system (and no delivery failure or out of office message is received by the sender within 24 hours of sending).

EXECUTED BY THE PARTIES AS A DEED ON THE DATE STATED BELOW

Signed, sealed and delivered by *[insert name of Customer]*

By *[insert name of Customer representative]* but not so as to incur personal liability

In the presence of: *[insert name of witness not a party to this Deed]*

Signature of Customer representative

Signature of Customer witness

Print name

Print name

Date

Date

The Common Seal of *[insert Guarantor's name & ACN/ABN]*

was affixed by *[authority of the Board of Directors]*

in the presence of *[insert name of Director/Secretary or other permanent officer]*

in the presence of *[insert name of Director/Secretary or other permanent officer]*

Signature of Director/Secretary

Signature of Director/Secretary

Print name

Print name

Date

Date

Schedule 11: Dispute Resolution Procedures

Expert Determination

If a Referral Notice is submitted under clause 24.7 of the Customer Contract, the expert is to be agreed between the Parties. If they cannot agree within 28 days of the Referral Notice, the expert is to be nominated on the application of either Party by the Chief Executive Officer, Australian Disputes Centre of NSW.

The expert nominated must be a person who is an experienced Australian legal practitioner or a person with practical experience in the technology that is the subject matter of the dispute, unless otherwise agreed. The expert must not be:

- (i) an employee of the Parties;
- (j) a person who has been connected with this Customer Contract or has a conflict of interest, as the case maybe; or
- (k) a person who the Parties have not been able to agree on.

The expert may appoint any person that the expert believes will be able to provide the specialists skills that are necessary to make a determination, including an Australian legal practitioner. The expert must consult with both Parties prior to appointing such person.

When the person to be the expert has been agreed or nominated, the Customer, on behalf of both Parties, must engage the expert by letter of engagement (and provide a copy to the Contractor) setting out:

- (l) the issue referred to the expert for determination;
- (m) the expert's fees;
- (n) the procedure for the determination set out in this Schedule; and
- (o) any other matter which is relevant to the engagement.

Submissions

The procedure for submissions to the expert is as follows:

- (p) The Party that has referred the issue to expert determination must make a submission in respect of the issue, within 30 Business Days after the date of the letter of engagement referred to in clause 1.4.
- (q) The other Party must respond within 30 Business Days after receiving a copy of that submission. That response may include cross-claims.
- (r) The Party referred to in clause 2.1(a) may reply to the response, but must do so within 20 Business Days after receiving the response, and must not raise new matters.
- (s) The other Party may comment on the reply, but must do so within 20 Business Days after receiving the reply, and must not raise new matters.
- (t) The expert must ignore any submission, response, reply, or comment not made within the time given in this clause 2.1, unless the Customer and the Contractor agree otherwise.

- (u) The expert may request further information from either Party. The request must be in writing, with a time limit for the response. The expert must send a copy of the request and response to the other Party, and give the other Party a reasonable opportunity to comment on the response.
- (v) All submissions, responses, replies, requests and comments must be in writing. If a Party gives information to the expert, it must at the same time give a copy to the other Party.

Conference

The expert must arrange at least one conference with both Parties. The request must be in writing, setting out the matters to be discussed.

Each Party is entitled to be represented at any preliminary conference before the expert by its legal representatives and other authorised representatives, with information and knowledge of the issues.

The expert is not bound by the rules of evidence and may receive information in any manner the expert sees fit, but must observe the requirements of procedural fairness. Consultation between the expert and a Party must only take place in the presence of the other Party, unless a Party fails to attend a conference or meeting which has been convened by the expert and of which prior notice has been given. Any Party providing information to the expert must provide that information to the other Party.

The Parties agree that such a conference is considered not to be a hearing that would give anything under this Schedule the character of arbitration.

In answer to any issue referred to the expert by a Party, the other Party can raise any defence, set-off or counter-claim.

Questions to be determined by the Expert

The expert must determine for each issue the following questions (to the extent that they are applicable to the issue):

- (w) is there an event, act or omission that gives the claimant a right to compensation under the Customer Contract:
 - (i) for damages for breach of the Customer Contract, or
 - (ii) otherwise in law?
- (x) if so:
 - (i) what is the event, act or omission?
 - (ii) on what date did the event, act or omission occur?
 - (iii) what is the legal right which gives rise to the liability to compensation?
 - (iv) is that right extinguished, barred or reduced by any provision of the Customer Contract, estoppel, waiver, accord and satisfaction, set-off, cross-claim, or other legal right?
- (y) in the light of the answers to clause 1.4:

- (i) What compensation, if any, is due from one Party to the other and when did it fall due?
- (ii) What interest, if any, is due when the expert determines that compensation?

The expert must determine for each issue any other questions required by the Parties, having regard to the nature of the issue.

The Parties must share equally the fees of the expert, any other costs associated with the process, including room hire expenses, transcript expenses and the like and the fees of any person appointed by the expert under clause 1.3 for the determination, and bear their own expenses.

If the expert determines that one Party must pay the other an amount exceeding the amount specified in General Order Form (calculating the amount without including interest on it and after allowing for set-offs), then either Party may commence litigation, but only within 56 days after receiving the determination.

Unless a Party has a right to commence litigation or otherwise resolve the dispute under the Customer Contract:

- (z) in the absence of a manifest error the Parties must treat each determination of the expert as final and binding and give effect to it; and
- (aa) if the expert determines that one Party owes the other money, that Party must pay the money within 20 Business Days.

Role of Expert

The expert must:

- (bb) act as an expert and not as an arbitrator, adjudicator or as expert witness;
- (cc) make its determination on the basis of the submissions of the Parties, including documents and witness statements, and the expert's own expertise;
- (dd) act impartially, free of bias and with no vested interest in the outcome of the dispute;
- (ee) adopt procedures for the Expert Determination suitable to the circumstances of the dispute so as to provide for an expeditious cost effective and fair means for the determination of the dispute; and
- (ff) issue a certificate in a form the expert considers appropriate, stating the expert's determination and giving reasons, within 45 Business Days after the receipt of the information in clause 2.1(d).

If a certificate issued by the expert contains a clerical mistake, an error arising from an accidental slip or omission, a material miscalculation of figures, a mistake in the description of any person, matter or thing, or a defect of form, then the expert must correct the certificate and give notice to the Parties of such correction.

Confidentiality

Each Party involved in the expert determination process, including the expert, the Parties, their advisors and representatives shall maintain the confidentiality of the expert determination process and may not use or disclose to anyone outside of the expert determination process,

the expert's determination, or any information received or obtained, in the course of the expert determination process, including the existence of that information, except to the extent:

- (gg) the Parties have otherwise agreed in writing;
- (hh) the information is already in the public domain;
- (ii) disclosure is required to a Party's insurers, auditors, accountants or other professional advisers;
- (jj) disclosure is required for the purposes of any legal proceedings relating to the dispute or the expert's determination; or
- (kk) disclosure is otherwise required by law.

Schedule 12: Project Implementation and Payment Plan (PIPP)

This PIPP is a sample document only and includes guidance notes for consideration. These guidance notes are included simply as suggestions. Users should obtain legal or other professional advice in developing the PIPP to achieve their objectives and receive the maximum benefit from the service relationship.

1. Introduction

DOCUMENT SCOPE

Outline the scope of the PIPP; i.e. what does it include?

Project Overview

Provide an overview of the project, the project objectives and any critical success factors.

Outline the details of any Whole of Government or multi Agency participation.

Outline any key assumptions or dependencies.

Scope of Work

PRODUCTS AND SERVICES

Specify the nature of the Products to be provided and/or any Services to be provided.

Specify details of who will be providing the Products and/or Services, including any Products or Services that are to be provided by Subcontractors.

Specify if the Contractor is supplying the Products or Services as a Reseller.

Specify if the Contractor is acting as an Approved Agent.

Specify any hardware, software or service that is to be provided by the Customer as CSI.

OVERVIEW OF DELIVERABLES

List of Deliverables

Provide a list of the Deliverables that are to be provided by the Contractor, including:

Hardware

Licensed Software

Hardware Maintenance and Support Services

Software Support Services

User Documentation

Bespoke Documentation (e.g. bespoke system manuals or training materials)

If any Open Source software is to be provided, and the licence terms under which it will be provided.

Where Services are being provided, and the Contractor is being contracted to deliver a specific output (e.g. a design document or a report), specify the outputs of those Services.

If support and/or maintenance is being supplied, specify when support/maintenance will commence.

If training is to be supplied specify when and where training will occur, and what training materials will be used.

Summary Table of Deliverables

Insert the list of Deliverables into the following table:

Note: The EXAMPLE in this table has been completed for the purchase of commodity hardware, software and related support and maintenance, together with training.

Deliverable ID	Deliverable Name	Format	Expected Delivery Date	Expected Actual Acceptance Date	Support/ Maintenance Period
	<i>[Identify Hardware]</i>		<i>[01/01/2011]</i>	<i>[2 Business Days after Delivery]</i>	<i>[1 year from Actual Acceptance Date]</i>
	<i>[User Documentation for Hardware]</i>	<i>[1 hard copy]</i>	<i>[14/01/2011]</i>	<i>[2 Business Days after Delivery]</i>	<i>[1 year from Actual Acceptance Date]</i>
	<i>[Identify Licensed Software]</i>	<i>[CD]</i>	<i>[14/01/2011]</i>	<i>[2 Business Days after Delivery]</i>	<i>[1 year from Actual Acceptance Date]</i>
	<i>[User Documentation for Licensed Software]</i>	<i>[1 hard copy]</i>	<i>[14/01/2011]</i>	<i>[2 Business Days after Delivery]</i>	<i>[1 year from Actual Acceptance Date]</i>
	<i>[Identify Open Source Software]</i>	<i>[Download from Web]</i>	<i>[14/01/2011]</i>	<i>[N/A]</i>	<i>[N/A]</i>
	<i>[Training Course 10 persons]</i>		<i>[17/01/01]</i>		

Note: It is very important to be consistent in the naming that is used for Deliverables throughout the PIPP and the other Schedules, as it is essential to be able to easily identify the same Deliverable in the many places where there is a reference to that same Deliverable, including where the Deliverable is:

- subject to Acceptance Testing;
- part of a Milestone,

- part of a Stage,
- an LD Obligation (i.e. may be subject to liquidated damages); and/or
- a payment Milestone.

Both parties should be able to determine what elements comprise a Deliverable (including which parts of the Contract Specifications are met by the Deliverable, when the Deliverable should be provided, how the Deliverable will be Accepted, when will payment be made, when support or maintenance will commence, and whether liquidated damages will apply, and if so, when is the trigger date for payment and for how long will liquidated damages continue to be payable.

OTHER SERVICES

If the Contractor is supplying other services such as:

- Professional services on a time and materials basis
- Data Management services
- Telecommunications services
- GTA Broadband Local Services
- Web Services
- Managed Services
- GTA ISM Services
- Systems Integration Services
- Major Project Systems Integration Services
- Project Management Services
- Knowledge Transfer Services
- Reseller Value Add Services

Then identify the scope of the services and the standards/performance requirements for those services.

CONTRACT PERIOD

Specify the project's Commencement Date and when the Contract Period will end. (**Clause 2.4 Customer Contract and Item 10 General Order Form**)

CONTRACT SPECIFICATIONS

List and provide details of the Contract Specifications.

The totality of any technical or descriptive specification of functional, operational, performance or other characteristics required of a Deliverable provided by the Contractor under the Customer Contract must be set out in detail here.

This section must be completed in using specify details, and avoiding generalities. Each requirement should be capable to being independently tested via the Acceptance Test process.

Where the Contract Specifications has evolved over time and are included in more than one document, it is best practise to reduce the Contract Specification to a single document.

In particular it is poor practise to simply state that the Contract Specifications is included in the Tender, as updated by the Contactor's Response to Tender. This approach is highly likely to lead to contract disputes.

Exclusions

Specify any exclusions to the Contract Specifications.

ASSUMPTIONS

Specify any assumptions to the scope of work.

Specify the consequences of any of the assumptions not being true.

Implementation

METHODOLOGY

Specify any approach and/or project methodology/quality standard which will be applied to the Services.

ROLES AND RESPONSIBILITIES

Specify the key roles and responsibilities of the parties within the project.

DELIVERY

If the Products or Services are to be physically delivered:

- specify the place of delivery and the hours during which delivery can be made.
- specify any delivery instructions.
- specify any other requirements in relation to the Site access.

Where work performed (Site)

Specify the Site where the work is to be performed.

If the work is to be provided at the Customer's Site:

- specify the address.
- specify the hours of access.
- any special requirements and any security arrangements that must be followed.

Site Specification

Note: Where it is stated in Item 18 of the General Order Form that a Site Specification is required.

If a Site Specification is required:

- the Site Specification must include at least the following information: environmental, operational, safety and management requirement in relation to the Site that are necessary for the provision of the Deliverables.
- specify any requirements for the preparation and maintenance of the Site.
- specify the name of the person who will approve the Site Specification on behalf of the Customer.

IMPLEMENTATION PLANNING STUDY

If the Contractor is to provide an implementation planning study:

- specify the implementation planning study objectives and time for provision of the study.
- specify a date for delivery of the implementation planning study to the Customer.
- specify if the implementation planning study needs to undergo Acceptance Tests in accordance with clause 10.1(b) of the Customer Contract.

BUSINESS CONTINGENCY PLAN

Note: A Business Contingency Plan details the nature and scope of the business contingency services to be provided by the Contractor to overcome any interruption to the Customer's business, including as applicable, information about time-frames, scheduling, service levels, methodologies, systems, processes or programs for the implementation of such services and any other requirements stated in Item 24 of the General Order Form. (**Clause 1.14 Part 3 Dictionary**)

Specify if and when a Business Contingency Plan is required.

Specify the periods that the Business Contingency Plan must be reviewed and updated by the Contractor.

Specify the time periods that the Contractor is to test the operability of the Business Contingency Plan.

Provide a copy of the Business Contingency Plan as an attachment [insert attachment number and name].

Project Management

ISSUES LOG

Specify who is responsible for creating and maintaining the issues log.

Specify what the issues log must contain and how regularly it is updated.

RISK MANAGEMENT PLAN

Specify if a risk management plan is to be used. If so, it should be prepared and maintained in accordance with AS/NZS ISO 31000 Risk Management Standard or equivalent, unless agreed in writing.

Specify who is responsible for creating and maintaining the risk management plan, and how regularly it is to be updated.

CHANGE MANAGEMENT

Any changes made should be reflected over time in a new version of the PIPP must be implemented as a Change Request in accordance with the variations procedures stated in Schedule 4 – Variation Procedures, subject to clause 26.1 to 26.2 of the Customer Contract. Each Change Request must be agreed in writing and signed by both the Customer and Contractor to be valid.

Where the Customer Contract is entered into under a Head Agreement, the Customer must obtain the prior written consent of the Contract Authority and the Secretary, New South Wales Department of Finance, Services and Innovation prior to agreeing to a variation to any terms and conditions, including a variation to any Protected Clause.

Customer Supplied Items (CSI)

Note: Customer Supplied Items (CSI) are items set out in Item 22 of the General Order Form to be supplied by the Customer under a Customer Contract. A CSI may be: office access, desks etc (specify location, standards, times of access; Hardware or software (specify equipment, capacity, versions of software and dates of availability); VPN access or other remote access (specify capacity and hours available).

List of CSI's

Specify each CSI to be provided by the Customer.

CSI maintenance and support contracts

Specify if any CSI must be covered by maintenance and support contracts including the period of cover, the Contractor's rights of access to any third party support help desk, the hours and service levels to which support and maintenance must be available to the Contractor.

CSI requirements

Specify any requirements to attach to any CSI (e.g. any standards that the CSI must meet).

CSI verification

Specify if the Contractor must conduct any verification checks of CSI's to ensure they are satisfactory.

If so, specify the verification check process for each CSI. Include: a process to manage satisfactory and unsatisfactory verification checks; a process to manage 'reissued' CSIs; a process to manage repeat CSI verification checks; a process to manage 'draft' or 'incomplete' and 'updated' CSIs; a process to manage rejected CSIs; a process to manage previously satisfactory CSI which becomes defective; a list of required verification check forms and/or registers and a corresponding data entry process; and a list of Customer and Contractor nominee/s for responsibility to undertake verification checks.

Specified Personnel

Note: Specified Personnel are the key personnel of the Contractor who are required to undertake the provision of the Deliverables or part of the work constituting the Deliverables. The identity and roles of any Specified Personnel are stated in Item 27 of the General Order Form. **(Clause 8.8 Customer Contract)**

Contractor's Specified Personnel identity, roles and responsibilities

If there are any Specified Personnel:

- specify the identity and roles and responsibilities of any of the Contractor's Specified Personnel.
- specify if their role is full time or part time.

Customer Personnel

Customer's Personnel roles and responsibilities

Specify the Customer's Personnel who will be available to work with the Contractor and their roles and responsibilities.

This section should specifically include consideration of any of the Customer's subcontractors and any other Agency's personnel and contractors.

Customer's Personnel times, duration and authority levels

Specify the times and duration of the involvement for the Customer Personnel as well as their authority levels.

Where there is a multi Agency arrangement, specify who has authority to act and make decisions on behalf of Agencies other than the Customer.

Customer Assistance

Specify whether the Customer is to be provided any instructions, information, data, documents, specifications, plans, drawings or other materials.

Specify if the Contractor must conduct any verification checks of each item to ensure it is satisfactory.

If so, specify the verification check process for each item. Include: a process to manage satisfactory and unsatisfactory verification checks; a process to manage 'reissued' item's; a process to manage repeat verification checks; a process to manage 'draft' or 'incomplete' and 'updated' items; a process to manage rejected items; a process to manage previously satisfactory item which becomes defective; a list of required verification check forms and/or registers and a corresponding data entry process; and a list of Customer and Contractor nominee/s for responsibility to undertake verification checks.

Subcontractors

Note: This section only needs to include information for entities that are "Subcontractors" within the definition (See definition of Subcontractor – clause 1.116 Part 3 Dictionary)

Specify the full legal name of any Subcontractor that is to provide Services.

Provide an overview of the roles and responsibilities that each Subcontractor will undertake in the provision of the Services under the Customer Contract.

Acceptance Testing

Note: If a Deliverable is not to undergo Acceptance Testing, (as specified in Item 32 of the General Order Form), then the Deliverable will be Accepted 2 Business Days (or such other period as stated in Item 32 of the General Order Form as the Actual Acceptance Date), following the delivery of the Deliverable as required in the Order Documents. (Clause 10.1(a) and Item 32 General Order Form).

There is a detailed Acceptance Test process set out in clause 10 which must be followed.

ACCEPTANCE

Complete a table like this for each Deliverable that is to undergo Acceptance Testing.

Deliverable	Date for Acceptance Test Criteria to be provided to Contractor (Default period is 60 Business Days prior to start of Acceptance Test Period)	Date for Acceptance Test Data to be provided to Contractor (Default period is 14 Business days prior to start of Acceptance Test Period)	Acceptance Test Period (Default period is 10 Business Days from delivery to Customer)	Acceptance Test Notification Period (Default period is 3 Business Days from the end of the Acceptance Test Period)	Expected Actual Acceptance Date

CONDUCTING ACCEPTANCE TESTS

For each Deliverable that is to undergo Acceptance Tests, specify details of the Acceptance Testing requirements.

Specify the identification of the Deliverable or part of the Deliverables to be tested.

Specify the allocation of each Party's responsibilities in relation to testing, including the Party responsible for conducting Acceptance Tests and who will attend the Acceptance Tests.

Specify which Party is to provide the test environment, including hardware, software, power, consumables and other resources and when the environment and resources must be ready for use.

Specify the methodology and process for conducting Acceptance Tests.

Specify the scheduling of Acceptance Tests including data the Acceptance Criteria must be agreed, the date that the Acceptance Test Data must be agreed, the Acceptance Test Period and the Acceptance Test Notification Period.

Specify the Acceptance Criteria used to test whether the Deliverable meets the Contract Specification and other requirements of the Customer Contract (and must not include any other criteria).

Specify the Acceptance Test Data, or the process and timing for agreeing the Acceptance Test Data.

If an Acceptance Test document has been created that addresses the above points it can be attached to the General Order Form by identifying the document and providing it as an attachment [insert attachment number and name].

Acceptance Test Results

Provide a definition of the Defect severity classifications.

Specifically identify which severity level of Defects will be considered “Minor”. **Note:** A Minor Defect is:

- (a) in respect of a Deliverable that is not a Document, a Defect that would not prevent the Deliverable from being used in a production environment even though there may be some inconvenience to less than 5% of users of the Deliverable provided that the Defect does not compromise security;
- (b) in respect of a Deliverable that is a Document, errors that are limited to errors in formatting, style, spelling or grammar,

unless otherwise agreed in the Order Documents. (Clause 1.70 Part 3 Dictionary)

For example: Specify the Defect severity classifications according to the criteria in the following table.

Severity Level	Definition	“Minor”
[Severity 1]		[No]
[Severity 2]		[No]
[Severity 3]		[Yes]
[Severity 4]		[Yes]

Project Plan

HIGH LEVEL PROJECT PLAN

Provide a high level project plan as an attachment [insert attachment name and number].

Note: The descriptors in the project plan must be consistent with the descriptor for the same thing used in other sections. They must also be consistent with the Customer Contract Dictionary. It is essential to identify the key Milestones, all Milestones where a payment is to be made (including any retention sum), start of the Acceptance Test Period for each Deliverable to undergo Acceptance Tests, ADD for each Deliverable, the end of the Warranty Period and the start of the period of support or maintenance.

If the project is being delivered in Stages:

- specify which Milestones or groups of Milestone are included in each Stage.
- specify the period (from the end of the Stage) that the Customer has to provide written notice to the Contractor to move to the next State (10 Business Days is the default period).

DETAILED PROJECT PLAN

A detailed project plan may be provided below or as an attachment [insert attachment name and number].

The detailed project plan must include the items listed in the High Level Project Plan (using the same description) as well as the sub-tasks/sub-events within each high level Milestone.

LIQUIDATED DAMAGES

Note: An LD Obligation is a Milestone for which late completion by the Contractor may require payment of Liquidated Damages (LDs).

Specify if LDs will apply, and if so to which Milestone (typically the final Milestone).

Insert a table showing the LD Obligation (Milestone), the Due Date for completion (the date by which an LD Obligation must be met, the period of weeks for the LD Obligation to be paid and the amount of the LD Obligation per week.

For example:

Milestone that is an LD Obligation	Due Date	Period of weeks for LD Obligation to be paid	Amount of LD per week
[Final System Acceptance]	[30 May 2011]	[12]	[\$]

Note: It is essential that the name of the Milestone that is used in this section is the same name for the same Milestone as set out in the Project Plan and any table of Deliverables/Milestones.

Payment Plan

ADDITIONAL PRODUCTS/SERVICES.

Specify whether additional Products/Services can be bought. If so specify the prices, dates during which the prices are valid and any indexation/exchange rate or other price variation mechanism.

Deliverable	Price per Unit	Quantity	Extended Price
This is the Contract Price (plus GST)	Total Amount:		

PAYMENT

Insert details of the payment to be made by the Customer to the Contractor.

Note: use the following suggested format where Milestone payments will be made in Stages.

The Customer agrees to make Milestone payments as set out below to the Contractor:

Milestone Payment Number	Due Date for Payment	Price (ex GST)	GST Amount	Price (inc. GST)
Milestone [Project commencement]	Commencement Date	[insert]	[insert]	[insert]
Milestone 2	Actual Acceptance Date of Milestone 2			
Milestone 3	Actual Acceptance Date of Milestone 3			
	Total			

OR

The Customer agrees to pay the Contractor monthly for services performed in the previous month.

TERMINATION FOR CONVENIENCE

Note: The Customer may by Notice in Writing at any time terminate the Customer Contract for convenience. In these circumstances the Contractor is entitled to the payments calculated in accordance with clauses 25.4(a) and (b).

Specify the calculation of any amount described in clause 25.4(b).

Governance

AUTHORISED REPRESENTATIVE

Customer's Authorised Representative

Specify the Customer's Authorised Representative.

Contractor's Authorised Representative

Specify an employee who is the Contractor's Authorised Representative.

MANAGEMENT COMMITTEE

Specify individual who is on the management committee and his/her role.

Contractor's management committee membership

List the names of the Contractor's project manager, officers or other relevant persons who will sit on the management committee.

Customer's management committee membership

List the names of the Customer's project manager, officers or other relevant persons who will sit on the management committee.

All members of the management committee must be authorized and properly qualified, informed and instructed to enable the management committee to properly assess progress under the Customer Contract. **(Clause 6.3 to 6.5 Customer Contract)**

Management committee function

Specify the functions that the management committee must perform, which at a minimum must include:

- (a) review and monitor progress under the Customer Contract; and
- (b) carry out any other functions stated in Item 16 of the General Order Form. **(Clause 6.6 Customer Contract)**

Management committee meetings

Note: Unless agreed otherwise, the members of the management committee or their authorised delegates must meet weekly at the Customer's offices at an agreed time. **(Clause 6.7 Customer Contract)**

Specify the agreed time and location of the management committee meeting.

Management committee progress report

Specify the details that must be included in the progress report that must be provided by the Contractor's project manager, which at a minimum should include:

- (f) details (including dates) of Deliverables and Milestones commenced, completed or Accepted;
- (g) any delays or issues arising from the project, including any known reasons for the delay or issue arising, and plans for the management of such delays and issues;
- (h) a review of any:
 - (i) minutes and actions from the last meeting;
 - (ii) issues logs;
 - (iii) risk management plan, which must be prepared and maintained in accordance with AS/NZS ISO 31000 Risk Management Standard or equivalent, unless agreed in writing;

- (iv) details of any outstanding invoices and any payments that are about to become due;
- (i) draft updates of relevant parts of the Contract Specifications;
- (j) any new Change Requests or Contract Variations (if applicable);
- (k) reviewing progress of any draft Change Requests or Contract Variations (if applicable). **(Clause 6.8 Customer Contract)**

Specify any other relevant details that must be included in the report.

ORGANISATION CHART

Provide an organization chart of the team structure as an attachment [insert attachment name and number]. The organisation chart should identify key roles within the project team and indicate the reporting relationships and information flows within the team.