Liquidated Damages (core)

Note to drafters: The LD Amounts in clause 1.1 are to exclude GST.

Note to tenderers: Attachment D will consist of an amalgamation of information contained in this draft Attachment, the successful tenderer’s response and any negotiated adjustments.

1. FOR FAILURE TO ACHIEVE A MILESTONE (CORE)

Note to drafters: Drafters are to include here:

1. the relevant Milestones to which liquidated damages are to be applied;
2. the rate of liquidated damages and/or the formula for its calculation (not including any adjustment as per clause 2.1 below); and
3. any other specific conditions which are to apply in addition to the formula for variation of LD Amounts set out below.
   1. For each Milestone listed in an item below, the LD Amount applicable to that Milestone is the amount set out in the corresponding column for that item.

|  |  |  |
| --- | --- | --- |
| Item | Milestone | LD Amount  (GST exclusive) |
| (a) | (b) | (c) |
| 1. 1 |  |  |
| 1. 2 |  |  |

* 1. The LD Amounts are GST exclusive.

1. ADJUSTMENT TO LIQUIDATED DAMAGES (CORE)
   1. The LD Amounts in clause 1.1 shall be subject to adjustment in accordance with the following formula:



where:

|  |  |
| --- | --- |
| 1. A= | 1. adjustment; |
| 1. LD= | 1. value of the relevant LD Amount at the Base Date; |
| 1. CPIi= | 1. the CPI number for the quarter ending immediately before the date on which the LD Amounts are paid to the Commonwealth; and |
| 1. CPIo= | 1. the CPI number for the quarter containing the Base Date. |

* 1. In this Attachment D, ‘CPI’ means the Consumer Price Index, All Groups, weighted average of eight capital cities published by the Australian Bureau of Statistics (ABS), or if that Index is no longer published by the ABS, the index published by the ABS in substitution for that Index.
  2. To avoid doubt, if the Commonwealth elects to accept compensation in lieu of liquidated damages under clause 10.6 of the COC (as the case may be), the value of the compensation to which the Commonwealth shall be entitled is equivalent to the LD Amount that would otherwise be payable to the Commonwealth in respect of the relevant Milestone, as varied by the formula set out in clause 2.1.