

ATTACHMENT A

STATEMENT OF WORK (CORE)

Note to tenderers: Attachment A will consist of an amalgamation of the draft SOW and the successful tenderer's response.

PRICE AND PAYMENTS (CORE)

Note to tenderers: Attachment B will consist of an amalgamation of information contained in this draft Attachment, TDR D, the successful tenderer's response including details tendered in the ASDEFCON 'Support Pricing Workbook' (SPTPW), and any negotiated changes.

1. PRICING STRUCTURE (CORE)

1.1 Attachment B consists of the following structure:

Note to drafters: Once the Attachment is tailored, update the following table of contents field to remove CORE and OPTIONAL markers.

Clause	page
2 Mobilisation Payments and Milestone Payments (CORE)	2
3 Recurring Services (CORE).....	2
4 Performance Payments (OPTIONAL)	3
5 Task-Priced Services (CORE)	4
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8 Schedule of Rates (OPTIONAL)	8
9 Australian Contract Expenditure (CORE)	8
10 Contractor Standing Capability (OPTIONAL)	10

Note to drafters: Amend the following table for the Annexes and schedules required for the draft Contract (eg, delete 'CSC pricing' if not applicable). Some Annexes will include a file for the pricing table, such as a PDF copy of a worksheet from the SPTPW. For Recurring Services, multiple schedules (one for each period) will be included in Annex B. File names may be added prior to ED, when known. Example file names are based on worksheet tabs within the SPTPW.

Annex	Title	File Names
A	Milestone Payments	Milestone Payments Schedule
B	Recurring Services	Schedule CS1: Core Services OD to X Schedule CS2: Core Services X to Y Schedule CS3: Core Services Y to Z ... Schedule ES1: Excluded Services
C	Performance Payments	(no schedules)
D	Task-Priced Services	Task Priced Services
E	S&Q Services	S and Q Services
F	Adjustments	Adjustments
G	Schedule of Rates	Schedule 1: Labour Rates Schedule 2: Schedule of Margins
H	Contractor Standing Capability Pricing	Contractor Standing Capability

1.1.1 The dates specified in the Delivery Schedule at Attachment C shall have precedence over any dates specified in this Attachment B in the event of any inconsistency.

1.1.2 The obligations of the Commonwealth under this Attachment B are subject to the:

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- a. Contractor making a claim for payment in accordance with clause 7.3 of the COC; and
 - b. other provisions of the Contract.
- 1.1.3 Except where expressly indicated to the contrary, the amounts set out in this Attachment B are inclusive of all costs and other payments associated with providing the Services (including achieving the Milestones) and carrying out all matters and doing all things necessary for the due and proper performance and completion of the Contract. This includes all licence fees, royalty payments, overseas taxes, duties and charges, Australian (Federal, State and Local Government) taxes including GST, customs and other duties and charges and arranging customs clearance and services of representatives.

2 MOBILISATION PAYMENTS AND MILESTONE PAYMENTS (CORE)

Note to tenderers: Clause 2 and Annex A will consist of an amalgamation of the price schedules in TDR D, the successful tenderer's response, and any negotiated changes.

2.1 Introduction

- 2.1.1 This clause 2 describes the amounts payable by the Commonwealth to the Contractor for the achievement of Milestones (...INSERT THE FOLLOWING WHERE A MOBILISATION PAYMENT HAS BEEN AGREED, "or as a Mobilisation Payment"...) in accordance with the Contract.

2.2 Mobilisation Payment (RFT CORE)

- 2.2.1 The amount of the Mobilisation Payment is (...INSERT AMOUNT OF MOBILISATION PAYMENT...).
- 2.2.2 The Commonwealth shall pay to the Contractor the Mobilisation Payment upon (...INSERT CRITERIA FOR MOBILISATION PAYMENT...).

2.3 Milestones

Note to drafters: Populate the 'Milestone Schedule' worksheet of the SPTPW consistent with Milestones in draft Attachment C. Refer to TDR D for details.

- 2.3.1 The Milestone Payment Schedule is detailed in the file: (...INSERT the file name for the "Milestone Schedule" from the workbook...), and forms Annex A to this Attachment.
- 2.3.2 Attachment C sets out the Milestone details for the Contract, including the entry and exit criteria and the Milestone Dates. Annex A details the Milestone Payments for the Contract (noting that some Milestones may not have a Milestone Payment (ie, 'nil payment Milestones')).
- 2.3.3 The Commonwealth shall, for achievement of a Milestone, pay to the Contractor the relevant Milestone Payment as specified in the Milestone Schedule.
- 2.3.4 The Contractor is taken to have achieved a Milestone only if all of the corresponding criteria for the Milestone, as set out in Attachment C, have been satisfied.

3 RECURRING SERVICES (CORE)

3.1 Introduction

- 3.1.1 This clause 3, Annex B and the schedules to Annex B, describe the amounts payable by the Commonwealth to the Contractor for the provision of Recurring Services in accordance with the Contract.
- 3.1.2 The Recurring Services Fee is the sum of:
- a. the Core Services Fee (determined in accordance with clause 3.2); and
 - b. the Excluded Services Fee (determined in accordance with clause 3.3).

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3.2 Core Services Fee

Note to drafters: Prepare a high-level Contract Work Breakdown Structure (CWBS) in the 'Menus' worksheet of the SPTPW, for use in 'Core Services' worksheets. Refer also to TDR D.

Note to tenderers: In relation to Core Services Fees, Annex B schedules will consist of an amalgamation of the SPTPW 'Core Services' worksheets for the successful tenderer's response to TDR D, and any negotiated changes.

- 3.2.1 The Core Services schedules, at Annex B to this Attachment, set out the Core Services Fees for the Contract.

Note to drafters: If Performance Payments are included in the Contract, select Option B; otherwise, select Option A.

Option A: For when Performance Payments are not included.

- 3.2.2 The Commonwealth shall pay to the Contractor, monthly in arrears, a Core Services Fee for the provision of the Core Services.

Option B: For when Performance Payments are included.

- 3.2.3 The Commonwealth shall pay to the Contractor, for the provision of the Core Services, the Core Services Fees comprising:
- a. a Base Fee, paid monthly in arrears; and
 - b. a Performance Payment, paid monthly in arrears, which may be adjusted following each Review Period (unless such adjustments are suspended for a specified period), as determined in accordance with Annex C.

3.3 Excluded Services Fee

Note to drafters: Excluded Services Fees apply to costs that are 'passed through' without profit. Increments in these fees reflect changes in these costs (eg, following occupation of GFF). If not applicable to the draft Contract, the clauses below should be replaced with 'Not used'. If applicable, and relevant dates are known, drafters should prepare the 'Menus' and the 'Excluded Services' worksheets in the SPTPW. Refer also to TDR D.

Note to tenderers: In relation to Excluded Services, Annex B schedules will consist of an amalgamation of the SPTPW 'Excluded Services' worksheets for the successful tenderer's response to TDR D, and any negotiated changes.

- 3.3.1 The Excluded Services schedule, at Annex B to this Attachment, sets out the Excluded Services Fees for the Contract.
- 3.3.2 The Commonwealth shall pay to the Contractor the amounts specified in the Excluded Services schedule(s) monthly in arrears.

4 PERFORMANCE PAYMENTS (OPTIONAL)

Note to drafters: If Performance Payments are included into the draft Contract, ensure that the Performance Payment requirements in Annex C are consistent with the Performance Assessment requirements in Attachment P and that, together, these are consistent with the level of Core Services available (including during any Ramp Up stages) for the relevant period, as identified through Annex B. When considering KPIs and Performance Payments, seek advice from the PBC Directorate: PBC.Enquiry@defence.gov.au

Note to tenderers: Annex C will consist of an amalgamation of the price schedules in TDR D, the successful tenderer's response, and any negotiated changes.

4.1 Calculation of Performance Payments

- 4.1.1 Annex C describes the basis on which Performance Payments are calculated and payable by the Commonwealth to the Contractor in accordance with the Contract.

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5 TASK-PRICED SERVICES (CORE)

Note to drafters: Prior to RFT release drafters may list expected 'Task-Priced Services' in the 'Task Priced' worksheet in the SPTPW. Refer to TDR D for details.

Note to tenderers: Annex D will consist of an amalgamation of the SPTPW 'Task Priced' worksheet from the successful tenderer's response to TDR D, and any negotiated changes.

5.1 Introduction

- 5.1.1 The amounts payable by the Commonwealth to the Contractor for the provision of Task-Priced Services, in accordance with the Contract, are detailed in the file: (...INSERT the file name for the "Task-Priced Services worksheet" from the SPTPW...), and forms Annex D to this Attachment.

5.2 Task-Priced Services

- 5.2.1 The Commonwealth may request Task-Priced Services by notice, in accordance with clause 3.14 of the COC.
- 5.2.2 For each Task-Priced Service the Commonwealth shall pay to the Contractor the price for the Task-Priced Service, as specified in the Annex D, applicable to that month in which the Task-Priced Service was Accepted in arrears at the end of that month, or in such other manner as may be agreed in writing by the parties in respect of that Task-Priced Service.

6 S&Q SERVICES (CORE)

Note to drafters: Prior to RFT release drafters should refer to the 'S&Q Services' worksheet in the SPTPW and review and revise the value thresholds for the application of mark-ups on subcontracts, materials and Other Direct Costs, as applicable. Refer to TDR D for details.

Note to tenderers: Annex E will consist of an amalgamation of the SPTPW 'S&Q Services' worksheet from the successful tenderer's response to TDR D, and any negotiated adjustments. The definition of 'normal time' will consist of the successful tenderer's response to TDR D and any negotiated changes.

6.1 S&Q Rates

- 6.1.1 The pricing information to be included in each S&Q Quote shall be determined using the:
- labour categories and skill levels for labour rates; and
 - unless lower mark-ups are negotiated (ie, for higher-priced Subcontracts and/or materials), the mark-ups on purchased materials, Subcontract prices, and Other Direct Costs,
- as detailed in the file: (...INSERT the file name for the "S&Q Services worksheet" from the SPTPW...), which forms Annex E to this Attachment.
- 6.1.2 For the purposes of defining "normal time" and "other time" labour rates:
- "normal time" is defined as (...INSERT definition of "normal time" EG, "eight hours per day between 07:00 – 19:00"...) on a Working Day; and
 - "other time" includes all times other than "normal time".

Option: Include the following clause when foreign currencies are applicable.

- 6.1.3 If an S&Q Service will include component costs in foreign currencies, for rates that are not included in Annex E, values are to be quoted in source currency and equivalent Australian dollars (using the Reserve Bank of Australia rate as at the day prior to the submission of the S&Q Quote) inclusive of all applicable taxes and other duties, or as otherwise agreed between the parties.
- 6.1.4 Where an S&Q Quote is submitted that includes amounts priced in foreign currencies, and equivalent Australian dollar amounts determined in accordance with clause 6.1.3, the Commonwealth may elect to pay any amounts under any resulting S&Q Order in either source currency or Australian dollars, as applicable.

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6.2 Not-To-Exceed S&Q Services

- 6.2.1 This clause applies to an S&Q Service to the extent that the S&Q Order specifies a Not-To-Exceed basis for pricing and payment.
- 6.2.2 For each Not-To-Exceed S&Q Service, the Commonwealth shall pay to the Contractor, monthly in arrears, the amounts payable to the Contractor in accordance with the S&Q Order for labour, materials, Subcontracts and Other Direct Costs (as applicable), up to the Not-To-Exceed price set out in the S&Q Order.

6.3 Firm Price S&Q Services

- 6.3.1 This clause applies to an S&Q Service to the extent that the S&Q Order specifies a Firm Price basis for pricing and payment.
- 6.3.2 For each Firm Price S&Q Service, the Commonwealth shall pay to the Contractor, monthly in arrears, the following:
- if the Contractor achieves a milestone specified in the S&Q Order, the amount specified for the milestone in the S&Q Order;
 - upon Acceptance of the S&Q Service (and Acceptance of any associated Deliverables), any amount specified in the S&Q Order as being payable upon Acceptance; and
 - any other amount specified to be payable in accordance with the S&Q Order.

7 ADJUSTMENTS (CORE)

Note to tenderers: Clause 7, including Annex F, will consist of an amalgamation of the successful tenderer's response to TDR D, including the SPTPW 'Adjustments' worksheet, and any negotiated adjustments. Agreements reached as a result of workplace enterprise bargaining are not considered to be awards for the purposes of the formula set out below.

7.1 General

Note to tenderers: The Adjustment Date is defined in the Glossary in relation to the Effective Date. Where this is not optimal with respect to the publishing of applicable labour and materials indices, tenderers may identify a more suitable date (eg, that corresponds to the release of pricing indices in the predominant currency used under any resultant Contract).

- 7.1.1 In this clause 7, the following interpretations apply:
- when applicable, the pricing tables in the Annexes to this Attachment are adjusted from the Adjustment Date, in accordance with clause 7.4 of the COC;
 - the price for a Milestone is the price applicable to the due date for the achievement of that Milestone (ie, not a price applicable to a later date, if achievement of the Milestone or if the invoice was submitted subsequent to the Adjustment Date);
 - subject to paragraph b, the price for a Service is the price applicable to the period of when the Service was performed, not the date of the invoice (ie, if the invoice was submitted subsequent to the Adjustment Date);
 - for any Excluded Services Fee applicable to an amount that is charged by Defence (eg, a utilities contribution for GFF), the adjusted price is to be determined from the amount of the Commonwealth charge plus the Indirect Overheads (including general and administrative charge), rather than indices;
 - in accordance with clause 7.4.1 of the COC, unless stated otherwise in the price and payment basis for an S&Q Order, prices and payments for any unperformed S&Q Services are not subject to an adjustment;
 - if a source of an index publishes provisional and final index values, only index values designated as final shall be used;
 - subject to paragraph f, if a quarterly index is published more than once, for the purposes of the formulae, the index value to be used (for the quarter preceding the Adjustment Date) shall be the first index value officially published in the quarter following that quarter; and

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- h. if an index is discontinued, rebased or modified and the entity publishing that index provides official guidance on the replacement, bridging or re-baselining methodology to be applied, that guidance should be used as one of the inputs for determining any required update to the index.

7.2 Adjustment Process (CORE)

Note to drafters: Include the words “and foreign exchange rates” in the following clause if payments will not be made in source currency.

- 7.2.1 For each price (excluding labour rates for S&Q Services) subject to adjustment for fluctuations in the cost of labour and materials [..., and foreign exchange rates...] identified in this Attachment B, the following price adjustment formula shall be applied in accordance with clause 7.4 of the conditions of contract:

Note to drafters: There are two options provided for adjusting prices / S&Q rates:

- **Option A allows for one labour index and/or one materials index to be applied for all prices in a source currency (ie, for each currency, only two indices can be used).**
- **Option B allows for multiple labour and/or materials price indices to be applied to different prices, in each source currency.**

Option A is the simpler method, using only two indices that reflect the broad-based changes to labour and materials prices in a given currency. This method can be less accurate with divergence between average and actual prices occurring over time, and assistance from Commercial and Financial Analysis (CFA) may be required to review and readjust pricing after a number of years.

Option B provides greater accuracy but requires numerous indices and a more complex formula. This method uses sets of indices and corresponding component weightings, which can be applied to one or more prices. This option is suited to higher value contracts that include Prescribed ACE Percentages, when adjustments to the calculation of Australian Contract Expenditure (ACE) and Imported Contract Expenditure (ICE) require greater accuracy.

Both options apply a formula to an individual price or rate for S&Q Services on the assumption that the Commonwealth will pay in source currency. If the foreign currency amount is relatively low, and the Commonwealth choses to only pay in Australian dollars, then the price adjustment formula will need to be modified to include foreign labour and/or materials indices.

Option A: For when pricing in each currency will be adjusted using one labour index and/or one materials index.

$$P_1 = \left(Y * \frac{L_1}{L_0} + Z * \frac{M_1}{M_0} \right) * P_0$$

where, for each applicable source currency:

Ref	Description
P ₁	the new (ie, adjusted) price, to apply on and from the Adjustment Date.
P ₀	the price applicable immediately prior to the relevant Adjustment Date.
Y	the component of a price (expressed as a decimal) specified in Annex F, which is attributed to a labour index series.
L ₁	the labour index value (number) for a labour index series (L) specified in Annex F, as published for the quarter preceding the quarter containing the relevant Adjustment Date.
L ₀	the labour index value (number) for the labour index series (L) specified in Annex F, that was used for the previous price adjustment or, in respect of the first price adjustment, the published index value for the quarter preceding the quarter containing the Base Date.
Z	the component of a price (expressed as a decimal) specified in Annex F, which is attributed to a materials index series.
M ₁	the materials index value (number) for a materials index series (M) specified in Annex F, as published for the quarter preceding the quarter containing the relevant Adjustment Date.

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M_0	the materials index value (number) for the materials index series (M) specified in Annex F, that was used for the previous price adjustment or, in respect of the first price adjustment, the published index value for the quarter preceding the quarter containing the Base Date.
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and where, for each price being adjusted, the sum of the components attributed to labour and materials equals one (ie, $Y + Z = 1$).

Option B: For use when more than one index for labour and/or one index for materials, may be applied to a price or set of prices.

$$P_n = \left(\sum_{i=1}^q \left(Y_i * \frac{L_n}{L_0} \right) + \sum_{k=1}^r \left(Z_k * \frac{M_n}{M_0} \right) \right) * P_0$$

where, for each applicable source currency:

Ref	Description
P_n	the new (ie, adjusted) price, to apply on and from the Adjustment Date.
P_0	the price applicable immediately prior to the relevant Adjustment Date.
Y_i	the component of a price (expressed as a decimal) specified in Annex F, which is attributed to a labour index series. A labour index series tracks price variations for a labour category within a source currency.
L_n	the labour index value (number) for a labour index series (L_i) specified in Annex F, as published for the quarter preceding the quarter containing the relevant Adjustment Date.
L_0	the labour index value (number) for a labour index series (L_i) specified in Annex F, that was used for the previous price adjustment or, in respect of the first adjustment, the published index value for the quarter preceding the quarter containing the Base Date.
Z_k	the component of a price (expressed as a decimal) specified in Annex F, which is attributed to a materials index series. A materials index series tracks price variations for a category of materials within a source currency.
M_n	the materials index value (number) for a materials index series (M_k) specified in Annex F, as published for the quarter preceding the quarter containing the relevant Adjustment Date.
M_0	the materials index value (number) for the materials index series (M_k) specified in Annex F, that was used for the previous price adjustment or, in respect of the first adjustment, the published index value for the quarter preceding the quarter containing the Base Date.
i	is a number that identifies the labour component (Y_i) and the associated labour index series (L_i) in Annex F (eg, if $i=1$, $Y_i=Y_1$ and $L_i=L_1$).
q	is the number of labour indices in a price adjustment formula for a currency (eg, if $q=3$, there are three labour indices (L_i) with three related weightings (Y_i) identified in Annex F).
k	is a number that identifies the materials component (Z_k) and the associated materials index series (M_k) in the Annex F (eg, if $k=2$, $Z_k=Z_2$ and $M_k=M_2$).
r	is the number of materials indices in a price adjustment formula for a currency (eg, if $r=2$, there are two materials indices (M_k) with two related weightings (Z_k) identified in Annex F).

and where, for each price being adjusted, the sum of all components (weightings) attributed to labour and materials equals one, ie:

$$\sum_{i=1}^q Y_i + \sum_{k=1}^r Z_k = 1$$

Note to drafters: Include the following clause in all draft Contracts (this is not part of Option B).

7.2.2 For the labour rates in Annex E used when quoting for S&Q Services, the following formula shall be applied in accordance with clause 7.4 of the conditions of contract:

$$P_n = \frac{L_n}{L_0} * P_0$$

where, for each applicable source currency:

Ref	Description
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P_n	the new (ie, adjusted) labour rate for S&Q Services, to apply on and from the relevant Adjustment Date.
P_0	the labour rate for S&Q Services immediately prior to the relevant Adjustment Date.
L_n	the labour index value (number) for a labour index series (L_i) specified in Annex F, as published for the quarter preceding the quarter containing the relevant Adjustment Date.
L_0	the labour index value (number) for the labour index series (L_i) specified in Annex F, that was used for the previous rates adjustment or, in respect of the first adjustment, the published index value for the quarter preceding the quarter containing the Base Date.

7.3 Indices

- 7.3.1 The Australian and international indices for the Contract, and the proportions attributed to labour and materials components of the prices, are detailed in the file: (**...INSERT the file name for the “Adjustments” worksheet from the SPTPW...**), and forms Annex F to this Attachment.

Note to drafters: Include the following note to tenderers when the simple adjustment formula is chosen under clause 7.2. If the complex adjustment formula is required, seek advice from CFA.

Note to tenderers:

Note 1: For labour costs incurred in Australia, the only Input based (cost of labour) index acceptable to the Commonwealth is ABS catalogue ‘Wage Price Index’ - Table 9B.

Note 2: For labour costs incurred overseas, the labour index must be an appropriate index published by an agency of the relevant Government.

Note 3: For the Australian materials component, ABS catalogue ‘Producer Price Indexes, Australia’ – Table 12 should be utilised.

Note 4: For the imported materials component, the index must be appropriate and published by an agency of the relevant Government.

8 SCHEDULE OF RATES (OPTIONAL)

Note to tenderers: Annex G will consist of an amalgamation of the SPTPW ‘Schedule of Rates’ and ‘Labour Pricing’ worksheets for the successful tenderer’s response to TDR D, and any negotiated changes.

8.1 Labour Rates and Margins

- 8.1.1 The Schedule of Labour Rates for the Contract is detailed in the file: (**...INSERT the file name for the ‘Labour Rates’ tab from the workbook...**), and forms Schedule 1 to Annex G to this Attachment.
- 8.1.2 The Schedule of Margins for the Contract is detailed in the file: (**...INSERT the file name for the ‘Schedule of Margins’ tab from the workbook...**), and forms Schedule 2 to Annex G to this Attachment.
- 8.1.3 The labour rates and margins that shall be applied by the Contractor (and Approved Subcontractors) in all CCPs under the Contract are detailed in the Schedule of Labour Rates and the Schedule of Margins.
- 8.1.4 Subject to clause 11.1.7 of the COC, the labour rates and margins that shall be applied by the Contractor (and Approved Subcontractors) for the cost of preparation of all CCPs under the Contract are detailed in the Schedule of Labour Rates and the Schedule of Margins.

9 AUSTRALIAN CONTRACT EXPENDITURE (CORE)

9.1 Australian Contract Expenditure Amounts (Core)

Note to tenderers: The following formula is built into the SPTPW for applicable worksheets and component price calculations.

- 9.1.1 Amounts for planned Australian Contract Expenditure (ACE) and planned Imported Contract Expenditure (ICE) are to be determined in accordance with clause 7.15 of the COC and, when required to be forecast for applicable payment types under the Contract, a calculated ACE percentage is to be determined in accordance with the following formula:

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$$\text{calculated ACE\%} = \frac{\text{planned ACE}}{\text{planned ACE} + \text{planned ICE}} * 100$$

Note to drafters: If the Recurring Services Fee for the Contract is expected to exceed A\$20 million per annum, then Prescribed ACE Percentages against the Recurring Services Fee will be included at Attachment F (refer to Attachment F and TDR H). Option A, below, is to be included when any resultant Contract will NOT include Prescribed ACE Percentages, while Option B is to be included when any resultant Contract WILL include Prescribed ACE Percentages.

Option A: Include this option if the Contract will NOT include Prescribed ACE Percentages.

- 9.1.2 Where the Contractor is required to forecast a calculated ACE percentage for Recurring Services Fees, for a given period under the Contract (eg, for the duration of a Core Services Fees table), the Contractor shall use the ACE percentages from the schedules to Annex B or provide justification to the Commonwealth, in writing, for the use of any alternative estimate.

Option B: Include this option if the Contract WILL include Prescribed ACE Percentages.

- 9.1.3 For Recurring Services (including Core Services and, if applicable, Excluded Services), Table B-1 identifies:
- each ACE measurement period, including the ACE Measurement Point (column as defined in Attachment F;
 - the planned ACE amount (column b) and the planned ICE amount (column c) for the applicable ACE measurement period, using the pricing details contained in Annex B to this Attachment B; and
 - a calculated ACE percentage (column d), calculated in accordance with clause 9.1.1.
- 9.1.4 The Prescribed ACE Percentages, included at Attachment F as AIC Obligations, shall be based on the corresponding calculated ACE Percentages in Table B-1.

Note: The Prescribed ACE Percentage may be different to the calculated ACE percentage.

- 9.1.5 For each CCP prepared in accordance with clause 11.1 of the COC that affects the planned ACE and/or planned ICE values in Table B-1, the Contractor shall prepare, as part of the CCP, changes to Table B-1 and, when applicable, changes to the Prescribed ACE Percentages under clause 4 of Attachment F.

Note to drafters: ACE measurement periods will generally correspond to the pricing periods for Core Services Fees, during Ramp Up and then on an annual basis. As Ramp Up stages will often be proposed by tenderers. Table B-1 will be updated from the successful tenderer's response.

Note to tenderers: Table B-1 will consist of an amalgamation of the successful tenderer's response to TDR D and any negotiated changes. TDR H-3 requires tenderers to propose ACE measurement periods and Prescribed ACE Percentages for each ACE Measurement Point. Prescribed ACE Percentages may be different to the calculated ACE percentages (d) in Table B-1 but they should be consistent. Values for planned ACE in each period will be available from the 'Pricing Schedule' worksheet of the SPTPW, using data from Core Services and Excluded Services worksheets. Values for planned ICE can be calculated from the total contract expenditure, less the planned ACE, for the applicable measurement period.

Table B-1: ACE Measurement Points and calculated ACE percentages

ACE measurement period (in accordance with Attachment F) (a)		Planned ACE (\$) (b)	Planned ICE (\$) (c)	Calculated ACE% (d)
Start	ACE Measurement Point			
				()%
				()%
				()%
				()%

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9.2 Alternate and Additional Deeming Rates (RFT Core)

Note to drafters: Table B-2 may be pre-populated by the drafter with alternative and/or additional deeming rates, prior to tendering, when the Commonwealth considers that deeming rates other than those listed in the ACE Measurement Rules should be applied to the proposed Contract.

Note to tenderers: The Commonwealth will consider deeming rates other than those listed in the ACE Measurement Rules for the proposed Contract. Table B-2 will consist of the successful tenderer's response to TDR D, and any negotiated adjustments.

9.2.1 Table B-2 below specifies alternate or additional Subcontract categories, thresholds and deemed ACE and ICE percentages for the purposes of the application of paragraph 3 of the ACE Measurement Rules.

Table B-2: Approved Alternate and Additional Deeming Rates

Nature of cost category / Subcontractor work	Applicable Threshold (GST exclusive)	Deemed Australian Contract Expenditure and Imported Contract Expenditure	
		Australian Contract Expenditure	Imported Contract Expenditure
(...INSERT description...)	(...INSERT threshold value...)	(...INSERT %...)	(...INSERT %...)
(...INSERT description...)	(...INSERT threshold value...)	(...INSERT %...)	(...INSERT %...)

9.2.2 The parties acknowledge and agree that, in accordance with paragraph 4 of the ACE Measurement Rules, alternate deeming rates for indirect costs (including overhead and general and administrative costs) for the Contractor and specified Subcontractors shall be applied in accordance with Table B-3, as follows:

Table B-3: Deeming Rates for Indirect Costs

Entity Name	Deemed ACE percentage	Deemed ICE% percentage
(... INSERT CONTRACTOR NAME ...)	(...INSERT %...)	(...INSERT %...)
(... INSERT SUBCONTRACTOR NAME ...)	(...INSERT %...)	(...INSERT %...)

9.2.3 Upon notification by Defence's Commercial and Financial Analysis (CFA) Directorate, that CFA has confirmed different alternate or additional deeming rates for the Contractor or a Subcontractor, the Contractor shall, within 20 Working Days, submit a CCP in accordance with clause 11.1 of the COC, to update Table B-2 or B-3 (as appropriate) to incorporate the new alternate or additional deeming rates.

10 CONTRACTOR STANDING CAPABILITY (OPTIONAL)

Note to drafters: To be included if the Contractor Standing Capability module is included as part of the draft Contract. Refer to the CSC Module for more information.

ANNEX B TO ATTACHMENT B

RECURRING SERVICES

1. INTRODUCTION

- 1.1 This Annex B identifies the pricing periods for Recurring Services Fees (including Core Services Fees and, if applicable, Excluded Services Fees) and the corresponding schedules containing pricing information.

2. CORE SERVICES

Note to tenderers: Table B-B-1 will be updated for any resultant Contract, subject to the successful tenderer's response to TDR D-3, including the Support Pricing Workbook (SPTPW), and any negotiated changes.

Note to drafters: If known, Table B-B-1 and the 'Menus' worksheet of the SPTPW may be updated to include pricing periods for Core Services, including Ramp Up stages and subsequent annual periods for the Contract Term. Otherwise, tenderers will propose pricing periods in the SPTPW. For further information, refer to the SPTPW Guide, and for Ramp Up refer to the SOW Tailoring Guide.

The performance management framework may change during Ramp Up through a Performance Implementation Period (PIP). Refer to Annex C to this Attachment B and Annex D to Attachment P.

- 2.1 Table B-B-1 lists the schedules containing the Core Services Fees for each applicable pricing period.
- 2.2 Except to the extent that may otherwise be permitted under the COC, when progression from one pricing period to the next pricing period is:
- linked to a Milestone, then payments in accordance with the current pricing period continue until the relevant Milestone criteria defined in Attachment C have been satisfied; or
 - linked to an Adjustment Date, the new pricing period commences from the Adjustment Date in accordance with clause 7.4 of the COC.

Table B-B-1: Pricing periods for Core Services

No.	Pricing Period	Schedule Reference
(a)	(b)	(c)
1	Operative Date to [...INSERT MILESTONE...]	
2	[...INSERT MILESTONE...] to [...INSERT MILESTONE...]	
3	[...INSERT MILESTONE...] to [...INSERT MILESTONE...]	
	[...INSERT MILESTONE...] to [...ADJUSTMENT DATE...]	
	[...INSERT YEAR BETWEEN ADJUSTMENT DATES...]	

Notes on Table B-B-1:

- No.:** A serial number assigned to each pricing period for the Core Services, including Ramp Up stages.
- Pricing Period:** The pricing period, between applicable Milestones in Attachment C or the applicable year (ie, each year following a price adjustment in accordance with clause 8 of Attachment B).
- Schedule Reference:** Reference to the file (eg, PDF of Excel worksheet) that forms the schedule to Annex B containing the pricing information for Core Services Fees, for the applicable pricing period.

ANNEX B TO ATTACHMENT B

3. EXCLUDED SERVICES

Note to drafters: Excluded Services Fees (for pass-through costs) do not apply to all contracts. If not required, the following note, clause and table may be deleted and the heading annotated as 'Not used'.

If applicable, update Table B-B-2 and the 'Menus' worksheet of the SPTPW to include expected pricing periods if known, and refer to events that trigger Excluded Services Fees, such as commencing occupation of GFF. When such events are identified, these should also be included as Milestones in draft Attachment C. Otherwise clause 3.1 and Table B-B-2 should be retained in the draft Contract and updated subject to the successful tenderer's response. Refer also to the SPTPW Guide.

Note to tenderers: Clause 3.1 and Table B-B-2 will be updated for any resultant Contract, subject to the successful tenderer's response to TDR D-3, including the SPTPW, and any negotiated changes.

- 3.1 Table B-B-2 identifies the pricing period for Excluded Services Fees for each applicable pricing period.

Note to drafters: Example pricing period entries for the following table are to be included in the 'Menus' and 'Excluded Services' worksheets in the SPTPW. The table (below) assumes that Excluded Services Fee details will be included on one SPTPW worksheet and saved in a single PDF file. If there will be multiple files, un-merge the cells in column (c) and update accordingly.

Table B-B-2: Excluded Services Fee

No.	Pricing Period	Schedule Reference
(a)	(b)	(c)
1	[...INSERT MILESTONE...] to Operative Date	[...INSERT REFERENCE TO EXCLUDED SERVICES FILE...]
2	Operative Date to [...INSERT MILESTONE...]	
3	[...INSERT YEAR BETWEEN ADJUSTMENT DATES...]	

Notes on Table B-B-2:

- a. **No.:** A serial number assigned to each pricing period for Excluded Services.
- b. **Pricing Period:** The pricing period, between applicable Milestones in Attachment C or the applicable year (ie, each year following a price adjustment in accordance with clause 8 of Attachment B).
- c. **Schedule Reference:** Reference to the file (eg, PDF of Excel worksheet) that forms the schedule to Annex B containing the pricing information for Excluded Services Fees, for the applicable pricing period(s).

ANNEX C TO ATTACHMENT B

PERFORMANCE PAYMENTS (OPTIONAL)

Note to drafters: When preparing to develop this Annex, contact the PBC Directorate for advice (PBC.enquiry@defence.gov.au).

Note to tenderers: Annex C will consist of an amalgamation of the price schedules in TDR D, the successful tenderer's response, and any negotiated adjustments.

1 INTRODUCTION

- 1.1 This Annex C describes the basis on which Performance Payments are calculated and payable by the Commonwealth to the Contractor in accordance with the Contract.

2 AT-RISK AMOUNTS

2.1 Allocating the At-Risk Amount to KPIs (Core)

Note to drafters: The At-Risk Amount needs to be completed before the release of the RFT. Careful consideration is required in order to not set the At-Risk Amount too high (thus increasing risk) or too low (thus being ineffective). Delete or include [...Subject to clause 4...] depending upon whether the Performance Implementation Period (PIP) will be included in the draft Contract. If Performance Incentives are not used delete column (c) and the associated note.

- 2.1.1 [...Subject to clause 4...] the At-Risk Amount in respect of a Review Period is [...INSERT PERCENTAGE...] % of the Core Services Fee payable for the Review Period.
- 2.1.2 The At-Risk Amount is allocated to each KPI in accordance with Table C-1.

Table C-1: At-Risk Amounts and Weightings for each KPI

KPI	Weighting (%)	Performance Incentive
(a)	(b)	(c)
KPI-01: [...INSERT KPI NAME...]	[...]%	
KPI-02: [...INSERT KPI NAME...]	[...]%	
KPI-03: [...INSERT KPI NAME...]	[...]%	
TOTAL	100%	

Notes for Table C-1:

- a. **KPI:** The serial number and name of the KPI, as per Attachment P.
- b. **Weighting:** The percentage of the At-Risk Amount allocated to the KPI.
- c. **Performance Incentive:** Is a Performance Incentive offered for this KPI ("yes" or "no"?).

3 PERFORMANCE PAYMENTS

3.1 Calculation of Performance Payment (Core)

- 3.1.1 The Commonwealth shall pay to the Contractor the Performance Payment, which is the sum of the amounts calculated in accordance with clause 3.2 and 3.3 (if applicable).

3.2 Entitlement to the At-Risk Amount (Core)

- 3.2.1 For each KPI and for each Review Period, the Contractor's entitlement to the At-Risk Amount shall be calculated in accordance with the following formula:

$$PARA = CSF \times ARA \times W \times APS$$

where:

PARA = the Contractor's entitlement to payment of the At-Risk Amount for the KPI for a Review Period

ANNEX C TO ATTACHMENT B

- CSF = the Core Services Fee payable for the Review Period
- ARA = the At-Risk Amount (expressed as a percentage)
- W = the percentage of the At-Risk Amount allocated to the KPI (the 'weighting') in accordance with clause 2
- APS = the APS for the relevant KPI for the Review Period determined in accordance with Attachment P, but if the APS is more than 100%, it is taken to be 100%

3.3 Entitlement to Performance Incentives (Optional)

Note to drafters: If Performance Incentives are included for one or more KPIs:

- **Optional clause 3.3 provides for the payment of a Performance Incentive when the APS exceeds 100%.**
- **To include this option the drafter must structure the APS calculation, in Attachment P, to be able to exceed 100%.**
- **The amount of a Performance Incentive is based on the value of the APS exceeding 100%, subject to a maximum score cap (clause 3.3.2).**

If Performance Incentives are not included in the Contract, replace the following clauses with a single 'Not used'.

3.3.1 Subject to clause 7.9 of the COC, if:

- the APS for a KPI for a Review Period is more than 100%; and
- a Performance Incentive applies to that KPI in Table C-1 under clause 2.1.2;

the Contractor is entitled to a Performance Incentive in relation to that KPI, as part of the Performance Payment, calculated in accordance with the following formula:

$$PI = CSF \times ARA \times W \times (APS - 100\%)$$

where:

- PI = the Performance Incentive for the KPI for a Review Period
- CSF, ARA and W = are each as defined in accordance with clause 3.2
- APS = the APS for the relevant KPI for the Review Period, determined in accordance with Attachment P, but subject to clause 3.3.2

Note to drafters: Insert a cap on the Performance Incentives for KPIs. The cap is achieved by setting a maximum for the APS (eg, 105%). Amend for each KPI with a Performance Incentive.

3.3.2 For the purposes of clause 3.3.1, if the APS for a KPI for a Review Period is greater than the maximum score specified for that KPI in the following table, the APS is taken to be equal to the maximum score:

KPI	Maximum score (%)
KPI-01	
KPI-02	
KPI-03	

3.4 Provisional Payments (Core)

Note to drafters: This clause provides for monthly payments representing the At-Risk Amount 'on account' of the Contractor's future entitlement to a Performance Payment for a KPI at the end of the Review Period. The provisional monthly payments are made without evaluating the Contractor's performance against the KPI. This clause is to be used in all contracts except those where the Review Periods are all monthly. If a month is not the final month of a Review Period

ANNEX C TO ATTACHMENT B

for any KPI, then the Contractor will be entitled to claim the Core Services Fee (ie, Base Fee and the At-Risk Amount) defined in Annex B.

- 3.4.1 Except for the final month in a Review Period for a KPI, the Contractor is entitled to claim in respect of each KPI a monthly payment (Provisional Payment) representing the At-Risk Amount attributable to that KPI for the month, on account of the Contractor's potential future entitlement to the At-Risk Amount for that KPI as determined under clause 3.2.
- 3.4.2 At the Performance Assessment Review held in accordance with clause 3.4.5 of the SOW, the Commonwealth shall calculate the Contractor's entitlement to a Performance Payment for each KPI for the Review Period in accordance with clauses 3.2 and 3.3 (if applicable) and if the Performance Payment for the KPI for the Review Period is:
- more than the sum of the Provisional Payments claimed for the KPI during the Review Period, then the Contractor is entitled to submit a claim for the amount of the difference; or
 - less than the sum of the Provisional Payments claimed for the KPI during the Review Period, then the Commonwealth may elect to recover the amount of the difference from the Contractor to the Commonwealth, and the Commonwealth may recover the amount from the Contractor under clause 13.7 of the COC. No amount shall be owing under this clause 3.4.2b until the Commonwealth elects to recover the amount.

3.5 Suspension of Performance Assessment of a KPI (Core)

- 3.5.1 The Commonwealth may, in its discretion and by notice to the Contractor, suspend the requirement to assess the Contractor's performance against a specified KPI for a Review Period or part of a Review Period.
- 3.5.2 If the Commonwealth suspends the requirement to assess a KPI for a period equal to or greater than 70% of a Review Period then, despite clause 3.2 the Contractor shall be entitled to a payment amount equal to the full At-Risk Amount allocated to that KPI for that Review Period in accordance with clause 2.
- 3.5.3 If the Commonwealth suspends the requirement to assess a KPI for a period less than 70% of a Review Period then:
- the APS shall be determined in accordance with Attachment P except to the extent that the determination process defined in Attachment P shall be modified to account for the reduced period over which the KPI was required to be assessed, using a method determined by the Commonwealth Representative; and
 - despite clause 3.2, the Contractor's entitlement to the At-Risk Amount for the KPI for the Review Period shall be calculated in accordance with the following formula:

$$PARA = CSF \times ARA \times W \times \left[\left(APS \times \frac{C}{D} \right) + \left(1 - \frac{C}{D} \right) \right]$$

where:

PARA = the Contractor's entitlement to the At-Risk Amount for the KPI for a Review Period that has been affected by the suspension.

CSF, ARA and W = are each as defined in accordance with clause 3.2.

W =

APS = the APS for the KPI for the portion of the Review Period that is not subject to suspension and determined in accordance with clause 3.5.3a, but if the APS is more than 100% it is taken to be 100%

C = the number of days in the Review Period not subject to the suspension.

D = the number of days in the Review Period.

- 3.5.4 If the Commonwealth suspends a requirement to assess a KPI for a given period, the Contractor shall continue to measure and report against the KPI during that period unless otherwise notified by the Commonwealth Representative.

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Option: If Performance Incentives are included for one or more KPIs.

3.5.5 If the Commonwealth suspends the requirement to assess a KPI for a period equal to or greater than 70% of a Review Period then, despite clause 3.3, the Contractor shall not be entitled to a Performance Incentive for that KPI in respect of that Review Period.

3.5.6 Subject to clause 7.9 of the COC, if the Commonwealth suspends the requirement to assess a KPI for a period less than 70% of a Review Period and:

- a. the APS for the KPI, as determined for that part of the Review Period that is not subject to the suspension, is more than 100%; and
- b. a Performance Incentive applies to that KPI under the table in clause 2.1.2, then, despite clause 3.3:
- c. the APS shall be determined in accordance with clause 3.5.3a; and
- d. the Contractor's entitlement to a Performance Incentive for the KPI shall be calculated in accordance with the following formula:

$$PI = CSF \times ARA \times W \times (APS - 100\%) \times \frac{C}{D}$$

where:

PI = the Performance Incentive for the KPI for the Review Period

CSF, ARA
and W = are each as defined in accordance with clause 3.2

APS = the APS for the KPI and for that portion of the Review Period not subject to the suspension, determined in accordance with clause 3.5.3a and subject to the limits specified under clause 3.3.2

C = the number of days in the Review Period not subject to the suspension

D = the number of days in the Review Period

4 PERFORMANCE IMPLEMENTATION PERIOD (OPTIONAL)

4.1 Modifications during Performance Implementation Period (Optional)

Note to drafters: The PIP is undertaken to accommodate the build-up of the Contractor's capability and capacity to provide Services relevant to the KPIs, before full implementation of the performance assessment process. Stages in a PIP normally follow an increase in Core Services, during Ramp Up, which enable new or expanded Services to be measured by KPIs.

Insert details of the PIP in the following clause, (eg, the PIP may continue for a "period of 18 months" or "six Review Periods"). The PIP must start with the first Review Period and, to be manageable, cease on a date that is the end of a Review Period in respect of the effected KPIs. Likewise, in a multi-stage PIP, changes from one PIP stage to the next should coincide with the end of one Review Period and the start of the next, where possible. The duration of each stage may be expressed in months or Review Periods. Details of the PIP included here must be consistent with Annex D to Attachment P.

4.1.1 The Performance Implementation Period (PIP) shall commence at the start of the first Review Period and continue for [...INSERT NUMBER OF MONTHS OR REVIEW PERIODS...].

Option: For a multi-stage PIP.

4.1.2 The PIP comprises [...INSERT NUMBER...] stages, namely:

- a. Stage 1: [...INSERT DURATION OF THIS STAGE...]; and
- b. Stage 2: [...INSERT DURATION OF THIS STAGE...].

4.1.3 During the PIP, the operation of clauses 2 and 3 are subject to the modifications in this clause 4. After the PIP has completed, clauses 2 and 3 have full effect in accordance with their terms.

ANNEX C TO ATTACHMENT B

Note to drafters:

- **Select from the following options to draft either a single-stage PIP or multi-stage PIP.**
- **To preserve the formatting of Table C-1, copy and paste the tables out of the clauses below before converting the table (which contains the option) from 'Table to Text'.**

Option A: For a single-stage PIP.

4.1.4 The At-Risk Amount during the PIP is [...INSERT PERCENTAGE...]% of the Core Services Fee.

4.1.5 Table C-1 in clause 2.1.2 is modified during the PIP to read as follows:

Table C-1: Modifications to the KPI At-Risk Amounts

KPI	Weighting (%)	Performance Incentive offered
(a)	(b)	(c)
KPI-01: [...INSERT KPI NAME...]	[...INSERT PIP WEIGHTING...]%	No
KPI-02: [...INSERT KPI NAME...]	[...INSERT PIP WEIGHTING...]%	No
KPI-03: [...INSERT KPI NAME...]	[...INSERT PIP WEIGHTING...]%	No
TOTAL	100%	

Note: Table C-1:

- KPI: The serial number and name of the KPI, as per Attachment P.**
- Weighting: The percentage of the At-Risk Amount allocated to the KPI.**
- Performance Incentive: Is a Performance Incentive offered for this KPI during the PIP ("yes" or "no"?).**

Option B: For a multi-stage PIP.

Note to drafters: For a multi-stage PIP, repeat the details from clauses 4.1.4 and 4.1.5 (as subclauses) for each PIP stage, modified to take account of the purpose of the relevant stage.

4.1.6 For the first stage of the PIP ([...INSERT STAGE (STATE PERIOD)...]) the modifications are:

- the At-Risk Amount during this stage of the PIP is [...INSERT PERCENTAGE...]% of the Core Services Fee; and
- Table C-1 in clause 2.1.2 is modified as follows:

[...DRAFTER TO INSERT TABLE...]

4.1.7 For the second stage of the PIP ([...INSERT STAGE (STATE PERIOD)...]) the modifications are:

- the At-Risk Amount during this stage of the PIP is [...INSERT PERCENTAGE...]% of the Core Services Fee; and
- Table C-1 in clause 2.1.2 is modified as follows:

[...DRAFTER TO INSERT TABLE...]

DELIVERY SCHEDULE (CORE)

Note to tenderers: Attachment C will consist of an amalgamation of TDR D-2, this draft Attachment, the successful tenderer's response and any negotiated changes.

1. MILESTONE SCHEDULE AND DELIVERY SCHEDULE (DELIVERABLES)

- 1.1 The Contractor shall comply with the dates and locations identified in the Delivery Schedule - Table C-1: Milestone Schedule and Table C-2: Delivery Schedule (Deliverables)).
- 1.2 Table C-1 and Table C-2 also:
 - a. identify those Milestones that are Stop Payment Milestones;
 - b. set out those Deliverables in relation to which ownership will pass to the Commonwealth in accordance with clause 6.10 of the COC (where applicable); and
 - c. identify those Deliverables which will or will not be subject to Acceptance for the purposes of clause 6.8 of the COC, including (where applicable) any relevant Deliverables that form part of a Milestone in Table C-1.
- 1.3 The Milestone Criteria (entry and exit) applying to Table C-1 are defined in clause 2 and Table C-3. In the event of an inconsistency, the delivery dates specified in this schedule have precedence over dates specified elsewhere in the Contract.

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Note to drafters: Ensure that prior to issuing the Request for Tender (RFT):

- a. **the list of Milestones is consistent with those identified for TDR D-2, including the Milestone Schedule in the Support Pricing Workbook (SPTPW);**
- b. **the associated entry/exit criteria in the following table are updated to align with the specific requirements of the Contract, particularly the SOW;**
- c. **if the proposed Contract will be linked to a Contract (Acquisition) using 'Concurrent Contract Milestones' (CCMs) (as explained in the ASDEFCON Linkages Module), relevant Milestones are identified as CCMs and applicable criteria, from the Contract (Acquisition) Milestone, are included (or cross-referenced) in Table C-3; and**
- d. **the Milestones that the Commonwealth wishes to have treated as Stop Payment Milestones are identified in the table.**

The identification of Stop Payment Milestones should be undertaken in conjunction with the identification of Milestones against which Liquidated Damages would apply in Attachment D. Commercial advice should be sought to ensure that a commercially sound payment and remedies regime is identified.

Also, drafters are to ensure that prior to the Effective Date:

- a. **delivery details for all of the Deliverables are clearly specified so as to effectively accommodate Acceptance activities. Some Deliverables will readily be cross-referenced and managed in accordance with Milestones under Table C-1 (including any relevant Deliverables that form all or part of a Milestone) whereas other Deliverables may not, and need to have delivery details clearly specified in accordance with Table C-2; and**
- b. **for each Milestone in Table C-1, corresponding entry and exit criteria are included in Table C-3.**

Table C-1: Milestone Schedule

ID	Milestone	Milestone Date (in months)	Stop Payment (Y/N)	Description of Relevant Deliverables Included in the Milestone (if applicable)	Delivery Location	Acceptance Required (Y/N)	Will Ownership Transfer to the Commonwealth (Y/N)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
	Effective Date (ED)	0 – complete					
	Phase In activities start	POD - X	N	Refer to clauses 1.5 and 1.12 of the COC and clause 2.6 of the SOW.	Contractor premises and Commonwealth Premises at [...INSERT DETAILS...]	N	N
	GFF Commencement Date - Area #1 (GFF#1)	POD - 1	N		GFF Licensed Area [...INSERT...]	N	N
	Operative Date (OD) (CCM#1)	POD	Y	Refer to clause 1.5 of the COC. Start of [...INSERT DETAILS...] Services.	Contractor premises and Commonwealth Premises at [...INSERT DETAILS...]	N (unless otherwise set out in the	N (unless otherwise set out in the

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ID	Milestone	Milestone Date (in months)	Stop Payment (Y/N)	Description of Relevant Deliverables Included in the Milestone (if applicable)	Delivery Location	Acceptance Required (Y/N)	Will Ownership Transfer to the Commonwealth (Y/N)
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)
						Contract or the Approved PHIP)	Contract or the Approved PHIP)
	Start X Services (RU#1) (CCM#2)	OD +		Refer to clause 1.13 of the COC and clause 2.7 of the SOW. Delivery of additional Contractor capability to provide support to Mission System #2 (in addition to the support for existing Products Being Supported).	Contractor premises and Commonwealth Premises at [...INSERT DETAILS...]	N (unless otherwise set out in the Contract or the Approved RUMP)	N (unless otherwise set out in the Contract or the Approved RUMP)
	GFF Commencement Date - Area #2 (GFF#2)	OD + 6			GFF Licensed Area [...INSERT...]		
	Start Y Services (RU#2) (CCM#3)			Refer to clause 1.13 of the COC and clause 2.7 of the SOW. Delivery of additional Contractor capability to provide support to Mission System #3 (in addition to the support for existing Products Being Supported).	Contractor premises and Commonwealth Premises at [...INSERT DETAILS...]	N (unless otherwise set out in the Contract or the Approved RUMP)	N (unless otherwise set out in the Contract or the Approved RUMP)

Notes on Table C-1:

- a. ID:** A unique line item number.
- b. Milestone:** Milestone name or abbreviation. If linked to a Contract (Acquisition) event, include the Concurrent Contract Milestone number (eg, CCM #1).
- c. Milestone Date:** In relation to a Milestone, means the required date for the achievement of that Milestone in months after the Effective Date or a previous Milestone.
- d. Stop Payment:** Is this Milestone a Stop Payment Milestone in accordance with clause 7.9 of the COC.
- e. Description of Relevant Deliverables Included in the Milestone (if applicable):** Identify / list the Deliverables that are to be delivered and/or Accepted as part of the applicable Milestone.
- f. Delivery Location:** Location(s) for the Milestone activity and the delivery of associated Deliverables, where applicable.
- g. Acceptance Required:** Identify whether or not the Relevant Deliverables in column e will be subject to Acceptance – yes or no (Y/N).
- h. Ownership Transfer:** Deliverables Accepted at this Milestone will be transferred into Commonwealth ownership in accordance with clause 6.10.1c of the COC – yes or no (Y/N).

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Note to drafters: Prior to Contract signature, drafters are to ensure that delivery details for all of the Deliverables, regardless of whether they form part of a particular type of Service ((Task-Priced, Recurring Service, etc.) or are part of a Milestone), are clearly specified as this schedule ties items to the Acceptance process defined in clause 6.8 of the COC. If applicable, drafters are to ensure that any Defence-Required Australian Industrial Capability (DRAIC) listed in Attachment F that is to be Accepted under the Contract is specified in Table C-2 below as a Deliverable with a Delivery Date. Ownership of DRAICs does not normally transfer to the Commonwealth; however, there may be strategically important or high-cost items that form part of a DRAIC for which the procurement team may decide that they should be owned by the Commonwealth. If this is the case, the following table should be adjusted accordingly.

Table C-2: Delivery Schedule (Deliverables)

Deliverables	Delivery Date (in months)	Delivery Location	Acceptance Required (Y/N)	Will Ownership Transfer to the Commonwealth (Y/N)
(a)	(b)	(c)	(d)	(e)
[...INSERT DETAILS REGARDING ITEMS OF DELIVERABLES...]	[...INSERT DETAILS REGARDING ITEMS OF DELIVERABLES...]	[...INSERT DETAILS REGARDING ITEMS OF DELIVERABLES...]		
[...INSERT DETAILS REGARDING ITEMS OF DELIVERABLES...]	[...CROSS-REFERENCE TO MILESTONE WHERE RELEVANT...]	[...CROSS-REFERENCE TO MILESTONE WHERE RELEVANT...]		
[...INSERT DETAILS REGARDING ITEMS OF DELIVERABLES...]	[...CROSS-REFERENCE TO KEY CONTRACT PLAN WHERE RELEVANT...]	[...CROSS-REFERENCE TO KEY CONTRACT PLAN WHERE RELEVANT...]		
[...INSERT DETAILS REGARDING DRAIC OR DRAIC ELEMENTS THAT ARE DELIVERABLES...]	[...CROSS-REFERENCE TO KEY CONTRACT PLAN WHERE RELEVANT...]	[...INSERT DELIVERY LOCATION WHERE RELEVANT...]		N
Data items specified in the SOW	In accordance with the CDRL	In accordance with the CDRL	In accordance with the CDRL	Y

Notes on Table C-2:

- a. Deliverables:** A brief description or title that identifies the other Deliverables.
- b. Delivery Date:** Scheduled date(s) for the delivery of the Deliverables, in months after the Effective Date or relevant Milestone. Where applicable, refer to the location in the Contract or the relevant Approved data item where this information can be found.
- c. Delivery Location:** Location(s) for the delivery of the Deliverables. Where applicable, refer to the location in the Contract or the relevant Approved data item where this information can be found.
- d. Acceptance Required:** Identify whether or not the other Deliverables are subject to Acceptance – yes or no (Y/N).

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- e. ***Ownership Transfer: Deliverables will be transferred into Commonwealth ownership in accordance with clause 6.10.1 of the COC – yes or no (Y/N).***

2. SCHEDULE OF MILESTONE CRITERIA – ENTRY AND EXIT

Note to drafters: The Schedule of Milestone Criteria – Entry and Exit should be tailored to suit Contract-specific needs. The schedule is to accurately define the scope of the relevant Milestone, noting that, when a Milestone Payment is attached to a particular Milestone, the exit criteria are used to determine whether or not payment can actually be made. Similarly, a Milestone may be used to designate the start of a pricing period (including a Ramp Up stage) for Recurring Services, and the exit criteria are used to determine if the new level of Services (and associated Recurring Services Fees) can commence. Milestone criteria may refer to Contractor plans (ie, if these are required to scope specific requirements) or referenced manuals (eg, completion of a major Maintenance servicing as defined in a planned servicing schedule). Milestone Payments should not be listed here but be listed in the 'Milestone Schedule' at Annex A to Attachment B. By way of example, entry and exit criteria are provided below. For instance, the exit criteria for the ED Milestone might be further tailored to include the following Contract-specific subordinate criteria:

- a. Acceptance or Approval (as relevant) of all data items scheduled in the CDRL for delivery and Commonwealth action (ie, Acceptance or Approval) by ED; and
- b. finalisation of Contractor insurance details.

Note to tenderers: Table C-3 will consist of an amalgamation of the information contained in response to TDR D-2, this draft annex, the successful tenderer's response, and any negotiated changes.

2.1 Table C-3 sets out the Milestone criteria – entry and exit that will be used by the Commonwealth to validate whether:

- a. the Contractor may formally commence, and legitimately make claims in relation to, achievement of work on elements comprising a given Milestone; and
- b. a given Milestone has been achieved.

Table C-3: Schedule of Milestone Criteria – Entry and Exit

MILESTONE	MILESTONE CRITERIA	
	ENTRY CRITERIA	EXIT CRITERIA
(a)	(b)	(c)
Effective Date (ED)		- Contract signature - Delivery to the Commonwealth of securities and deeds, in accordance with COC clauses 7.4, 7.5 and 7.8 - CCP approval / Acceptance / Approval (as applicable) of all CDRL items scheduled for delivery prior to or at ED (for CDRL items subject to CCP approval, Acceptance or Approval)
GFF Commencement Date - Area #1 (GFF#1)	Completion of inspection of GFF Licensed Area by Contractor and a representative of the Commonwealth.	Agreement by the parties to the Facilities Condition Report and resolution of any discrepancies in accordance with SOW clause 3.18.1.

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MILESTONE	MILESTONE CRITERIA	
	ENTRY CRITERIA	EXIT CRITERIA
(a)	(b)	(c)
Operative Date (OD) (CCM#1)	- Receipt of associated Support Resources by the Contractor from the Contractor (Acquisition). Refer Contract (Acquisition) SAA checklist. - Completion of prerequisites defined in COC clause 1.5.	- The Commonwealth Representative has issued a notice to the Contractor in accordance with clause 1.5.4 of the COC, which specifies the Operative Date for the purposes of the Contract. - Achievement of MS#1 – SA (CCM#1) under the Contract (Acquisition).
Start X Services (RU#1) (CCM#2)	- Establishment of M1 maintenance capability and S1 supply capability at GFF#1 in accordance with the Approved Ramp Up Management Plan (RUMP). - Additional Contractor Support Resources required for the support of the SAA Supplies (as that term is defined in the Contract (Acquisition)) for MS#2 – SA (CCM#2) are in place and operational.	- Achievement of MS#2 – SA (CCM#2) under the Contract (Acquisition). - Where AIC requirements are linked to the Ramp Up of support capabilities under the Contract, including the transfer, creation or upgrade of skills, resources and Intellectual Property, as applicable, the Commonwealth Representative assesses that these AIC requirements have been achieved. - For any substances in the SAA Supplies being delivered for this CCM under the Contract (Acquisition) or in the Support Resources required for the support of the SAA Supplies under this Contract, which are either hazardous to personnel or the environment (or both), the applicable Safety Data Sheets (SDSs) have been delivered to the Commonwealth Representative and these SDSs are assessed as acceptable by the Commonwealth Representative. - The Contract activities required for this CCM, as identified in the Approved RUMP, have been achieved to the satisfaction of the Commonwealth Representative.
GFF Commencement Date - Area #2 (GFF#2)	Completion of inspection of GFF Licensed Area by Contractor and a representative of the Commonwealth.	Agreement by the parties to the Facilities Condition Report and resolution of any discrepancies in accordance with SOW clause 3.18.1.
Start Y Services (RU#2) (CCM#3)	Additional Contractor Support Resources required for the support of the SAA Supplies (as that term is defined in the Contract (Acquisition)) for MS#3 – SA (CCM#3) are in place and operational.	- Achievement of MS#3 – SA (CCM#3) under the Contract (Acquisition) - Where AIC requirements are linked to the Ramp Up of support capabilities under the Contract, including the transfer, creation or upgrade of skills, resources and Intellectual Property, as applicable, the Commonwealth Representative assesses that these AIC requirements have been achieved - For any substances in the SAA Supplies being delivered for this CCM under the Contract (Acquisition) or in the Support Resources required for the support of the SAA Supplies under this Contract, which are either hazardous to personnel or the environment (or both), the applicable Safety Data Sheets (SDSs) have been delivered to the Commonwealth Representative and these SDSs are assessed as acceptable by the Commonwealth Representative - The Contract activities required for this CCM, as identified in the Approved RUMP, have been achieved to the satisfaction of the Commonwealth Representative.

ATTACHMENT D

LIQUIDATED DAMAGES (CORE)

Note to drafters: The LD Amounts in clause 1.1 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 KEY REQUIREMENT

Note to drafters: Drafters are to include:

- a. the relevant Key Requirements to which liquidated damages are to be applied;
- b. the rate of liquidated damages and/or the formula for its calculation; (not including any adjustment as per clause 2.1 below); and
- c. any other specific conditions which are to apply in addition to the formula for variation of LD Amounts set out below.

The amount specified must be a genuine pre-estimate of the loss that will be suffered by the Commonwealth as a result of the failure to achieve the Key Requirement.

If drafters have included clause 1.5.10a in the COC, drafters should ensure the lump sum amount in clause 1.5.10 reflects the Commonwealth's loss arising from a termination of the Contract before OD occurs.

- 1.1 For each Key Requirement listed in an item below, the LD Amount applicable to that Key Requirement is the amount set out in the corresponding column for that item.

Item	Key Requirement	LD Amount (GST exclusive)
(a)	(b)	(c)
1	The Contractor fulfils each of its obligations under clause 1.5.3a of the COC by the Planned OD.	
2		

- 1.2 The LD Amounts are GST exclusive.

2. ADJUSTMENT TO LIQUIDATED DAMAGES

- 2.1 The LD Amounts in clause 1.1 shall be subject to adjustment in accordance with the following formula:

$$A = LD \times \frac{CPI_i}{CPI_o} - LD$$

where:

- A = adjustment;
- LD = value of the relevant LD Amount at the Base Date (specified in the Details Schedule);
- CPI_i = the CPI number for the quarter ending immediately before the date on which the LD Amounts are paid to the Commonwealth; and
- CPI_o = the CPI number for the quarter containing the Base Date.

- 2.2 In this Attachment D, 'CPI' means the Consumer Price Index, All Groups, weighted average of eight capital cities published by the ABS, or if that Index is no longer published by the ABS, the index published by the ABS in substitution for that Index.

- 2.3 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

ATTACHMENT D

otherwise be payable to the Commonwealth in respect of the relevant Key Requirement, as varied by the formula set out in clause 2.1.

ATTACHMENT E

GOVERNMENT FURNISHED MATERIAL AND GOVERNMENT FURNISHED SERVICES (RFT CORE)

This Attachment E consists of the following annexes:

- a. GFM; and*
- b. GFS*

ANNEX A TO ATTACHMENT E

GOVERNMENT FURNISHED MATERIAL (OPTIONAL)

Note to drafters: *Drafters should provide details of any Commonwealth Mandated GFM and non-mandated GFM prior to release of the RFT. The first line under 'Commonwealth Mandated GFM-GFE' is provided as an example only, to illustrate the linkages between Table E-A-1 and Table E-A-2. This example must be deleted and replaced with project-specific detail as appropriate.*

If, in addition to the licence terms provided under clause 5.6 of the draft COC, further restrictions apply to:

- c.** *the use of Technical Data and Software within the GFM, due to restrictions or limitations on the relevant IP rights (such as those restrictions established under an acquisition contract for the development of the relevant GFM) - these are to be identified in column (g) and Table E-A-2; and*
- d.** *GFM that is subject to Export Approvals (ie, foreign export controls such as International Traffic in Arms Regulations) - these are to be identified in column (i).*

To determine the circumstances in which the Commonwealth may consider the Contractor (or its nominee) obtaining ownership of the IP developed under the Contract with respect to new GFM, refer to the ASDEFCON Commercial TD / IP Handbook at:

<http://ibss/PublishedWebsite/LatestFinal/836F0CF2-84F0-43C2-8A34-6D34BD246B0D/Item/A0841422-C25A-4D54-9020-87FC33242AED>

GFE provided to the Contractor must be accompanied by safety related information sufficient to enable safety risk assessments to be performed. Refer to CASSafe Requirement 10.2 'Supply safe plant, structures, substances and radiation sources' for further information. Where safety-related information is not intrinsically captured in the Technical Data provided with GFE, that information must be provided as additional GFI or GFD (as applicable).

Note to tenderers: Attachment E will consist of an amalgamation of TDR E-8, this draft Annex, and the successful tenderer's response. The tenderer may propose that it will own newly created IP in GFM in accordance with clause 5.1.4 of the draft COC.

GFM may include non-mandated GFM proposed by the Commonwealth and included in the RFT, and GFM proposed by the Contractor and included in TDR E-8, as negotiated between the Commonwealth and the successful tenderer.

1. GOVERNMENT FURNISHED MATERIAL

- 1.1 Table E-A-1 sets out the Government Furnished Material (GFM) provided by the Commonwealth to the Contractor under the Contract, divided into:
 - a. Commonwealth Mandated GFM (Government Furnished Equipment (GFE) and Government Furnished Data (GFD)) that the Contractor is required to use in the provision of the Services in accordance with the Contract; and
 - b. non-mandated GFM (Government Furnished Information (GFI) and all other GFM that is not Commonwealth Mandated GFM).

ANNEX A TO ATTACHMENT E

TABLE E-A-1: GOVERNMENT FURNISHED MATERIAL

Item Description	Reference/ Part Number	Quantity	Delivery Date and Location	Return Date and Location	Time Period for Inspection	Technical Data and Software Restrictions (Yes/No) (if Yes, include Unique Line Item Description)	Contractor to Own New IP in GFM (Yes/No)	Export Approval Restrictions (if applicable)	Comments/ Intended Purpose
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Commonwealth Mandated GFM - GFE									
<i>EXAMPLE ONLY: Combat Management System</i>						<i>E-R-1</i>	<i>No</i>		
Commonwealth Mandated GFM - GFD									
Non-mandated GFM - GFI									

ANNEX A TO ATTACHMENT E

Notes: Table E-A-1

- a. Item Description:** A description of the item of GFM.
- b. Reference/Part Number:** A reference, part number, document number, or other identifier that clearly identifies the item of GFM.
- c. Quantity:** The quantity of the item of GFM to be delivered by the Commonwealth.
- d. Delivery Date and Location:** The date on and location at which the item of GFM is to be delivered by the Commonwealth.
- e. Return Date and Location:** The date on and location at which the item of GFM is to be returned to the Commonwealth.
- f. Time Period for Inspection:** The period within which the Contractor is required to inspect the item of GFM and notify the Commonwealth in accordance with clause 3.11.1 of the SOW.
- g. TD and Software Restrictions:** Indicates if there are restrictions on the Technical Data or Software within an item of GFM that are in addition to the licence terms granted by the Commonwealth under clause 5.6 of the COC (if applicable). The nature of the restrictions on the relevant TD or Software is set out in detail in Table E-A-2.
- h. Contractor to Own New IP in GFM:** A declaration of whether or not the IP created under the Contract or a Subcontract with respect to the item of TD or Software within an item of GFM is to be owned by the Contractor pursuant to clause 5.1.4 of the COC.
- i. Export Approvals Restrictions:** Any restrictions derived from Export Approvals to which an item of GFM is subject to (if applicable).
- j. Comments/Intended Purpose:** The purpose for which the item of GFM is provided to the Contractor and any comments that are supplementary to the information provided in columns (a) to (i).

ANNEX A TO ATTACHMENT E

TABLE E-A-2: RESTRICTIONS

Note to drafters: Drafters should set out any restrictions that apply to the Contractor's use and sublicensing of the GFM. Relevant restrictions may be identified in related Acquisition contracts or earlier Support contracts for the Capability. The first line is provided as an example only, and must be deleted and replaced with project-specific detail as appropriate.

For TD or Software that is listed in this table, ownership in any new IP created by the Contractor or a Subcontractor is assigned to the Commonwealth or its nominee under clause 5.1.3 of the COC. Column (c) should describe the category in sufficient detail so as to enable the identification of TD or Software that comes within the relevant category.

Unique Line Item Description	Equipment/ System/ Subsystem/ Component/ CI Name	Description of TD or Software	Owner or Licensor	Restrictions on Use or sublicense of the TD or Software
(a)	(b)	(c)	(d)	(e)
EXAMPLE ONLY: E-R-1	Combat Management System	Electronic Warfare Software Source Code	EW Pty Ltd	The Contractor may use solely for the purpose of installation and configuration of the CMS and must not sublicense any of the Technical Data to XYZ Pty Ltd or its related body corporates.

ANNEX B TO ATTACHMENT E

GOVERNMENT FURNISHED SERVICES

Note to drafters: Drafters should provide details of any Commonwealth Mandated or non-Mandated GFS prior to release of the RFT.

Note to tenderers: Annex D will consist of an amalgamation of TDR E-10, this draft Annex and the successful tenderer's response.

1. GOVERNMENT FURNISHED SERVICES

1.1 The following GFS shall be used by the Contractor for the provision of the Services and, where specified, only for the intended purpose:

COMMONWEALTH MANDATED GFS

Proposed GFS	Dates of Delivery of GFS	Comments / Conditions of Access / Intended Purpose

Note to tenderers: Non-mandated GFS will include GFS proposed by the Commonwealth and included in the RFT and GFS proposed by the Contractor and included in TDR E-10, as negotiated between the Commonwealth and the successful tenderer.

NON MANDATED GFS

Proposed GFS item	Dates of Delivery of GFS	Comments / Conditions of Access / Intended Purpose

ATTACHMENT F

AUSTRALIAN INDUSTRY CAPABILITY (CORE)

Note to tenderers: Attachment F will consist of an amalgamation of this draft attachment, the successful tenderer's response to TDR G, and any negotiated changes including, if applicable, the addition of any Australian Industry Activities (AIAs) posed by the tenderer. AIAs are a contractual mechanism to implement specific Industrial Capabilities that contribute to Defence, such as activities contributing to the Sovereign Defence Industrial Priorities (SDIPs) identified in the [Defence Industry Development Strategy](#) (DIDS). The [Australian Industry Capability Guide for ASDEFCON](#) provides a further explanation of AIAs.

1 INTRODUCTION (CORE)

1.1 Purpose

Note to drafters: Amend the following clauses to suit the scope of this Attachment.

1.1.1 This Attachment sets out the following Australian Industry Capability (AIC) Obligations:

- a. the Australian Industry Activities (AIAs) that are to be performed, which include:
 - (i) the Industrial Capabilities to be established within Australian Entities (in whole or in part), used and sustained under the Contract; and
 - (ii) other elements of the work to be performed by Australian Industry and/or the Services that are to be provided by Australian Industry (as applicable); and

Option: Include this subclause if ACE Measurement Points will be included in the Contract.

- b. the Australian Contract Expenditure (ACE) Measurement Points and the Prescribed ACE Percentage to be achieved at each of the ACE Measurement Points.

1.1.2 The Sovereign Defence Industrial Priorities (SDIPs), relevant capability areas, and associated Detailed SDIPs applicable to the Contract are (in no particular order):

Note to drafters: Example for clause a., "SDIP 3, Sustainment and enhancement of the combined-arms land system, for Land Platforms, specifically the Detailed SDIP for 'Protected Vehicles'."

- a. [...INSERT APPLICABLE SDIP NUMBER AND TITLE...], for [...INSERT THE CAPABILITY AREA...], specifically the Detailed SDIPs for:
 - (i) [...IDENTIFY APPLICABLE DETAILED SDIP...]; and
 - (ii) [...IDENTIFY APPLICABLE DETAILED SDIP...]; and
- b. [...INSERT ANY ADDITIONAL SDIP, CAPABILITY AREA, AND DETAILED SDIPS...].

2 DEFENCE-REQUIRED AUSTRALIAN INDUSTRIAL CAPABILITIES (OPTIONAL)

Note to drafters: A DRAIC is an AIA with such a significant level of scope and complexity required to implement and sustain the given Industrial Capability that it needs to be managed as a specific project / program. DRAIC may require a dedicated management team. For further explanation, refer to the [Australian Industry Capability Guide for ASDEFCON](#).

If DRAICs are not applicable, delete the clauses below clause 2 and annotate the heading as 'Not used'. If required, amend this clause 2 to set out the DRAIC(s) applicable to the draft Contract, defining the Industrial Capabilities required to be delivered under the Contract as part of the DRAIC(s).

Drafters may retain the following clauses (adding notes to tenders) if Defence has not identified any DRAICs but wants to allow tenderers to propose 'Opportunities to Enhance AIC', including Industrial Capabilities that may be addressed as DRAICs.

Care must be taken if a DRAIC enhances an existing Industrial Capability to ensure that no additional risk transfers to the Commonwealth (eg, from responsibilities under other contracts).

If considering a DRAIC, seek advice from the AIC Delivery team (aic.delivery@defence.gov.au).

2.1 Introduction

2.1.1 The Contractor shall design, develop, implement, assure, obtain Acceptance for, operate and sustain (as applicable) the DRAICs required by this clause 2, in accordance with the Contract.

ATTACHMENT F

2.2 DRAIC #1 - [...INSERT NAME OF DRAIC...]

Note to drafters: DRAICs may require concepts and specific requirements with considerable detail; hence, a DRAIC could be described in a separate document or annex. This clause may be used as a guide to structure any such document or annex.

Amend clause 2.2.1 to identify the relevant SDIPs, 'capability areas' (if applicable), and Detailed SDIPs, as listed in the DIDS annexes for those SDIPs. Reference may be made to lifecycle activities for 'epochs' in the DIDS annex for the SDIP, but a DRAIC should not be limited by those (eg, if a DRAIC can commence prior an activity first appearing in an epoch). If the DRAIC is not devolved from a SDIP but otherwise identified as an important contributor to a Defence Capability, amend the subclauses to show traceability to that Capability requirement.

2.2.1 The Contractor acknowledges that DRAIC #1, [...INSERT NAME OF DRAIC...], is required to be established within Australian Industry to support the achievement of:

- a. [...INSERT SDIP NUMBER ' for ' CAPABILITY AREA IF APPLICABLE...], and the following Detailed SDIPs:
 - (i) [...IDENTIFY APPLICABLE DETAILED SDIP...]; and
 - (ii) [...IDENTIFY APPLICABLE DETAILED SDIP...].

Note to drafters: Amend the following clause to specify the requirements for DRAIC #1 and to provide clarity around the nature and scope of the DRAIC. For example, the clauses should refer to the overall objectives and concepts, and then describe the Services or product-specific requirements like a 'function and performance specification' for that Industrial Capability.

Generally, operating and support concepts are only required for DRAICs that will be controlled or partially used by the Commonwealth, such as a test capability that provides operationally-relevant test results to enable the further development of the SDIP. Detailed support concepts are typically not required because suppliers are responsible for their own Industrial Capabilities.

Function and performance requirements may refer to the lifecycle activities for a Detailed SDIP, as listed in the DIDS annex for the SDIP. For example, the 'sustainment and support' (lifecycle activity) for 'uncrewed vehicles' (Detailed SDIP) for 'surface ships' (capability area) of SDIP 2. However, a DRAIC should not be constrained by the timing of activities under epochs, as the activity may be relevant to the individual Defence requirement for an Industrial Capability, whether or not the project runs ahead of, or behind, the scheduling of that activity in an epoch.

SDIPs can be primarily for sustainment (eg, SDIP 1) or have a broader outlook, in which case the 'sustainment and support' phase of the Industrial Capability lifecycle is most relevant. Even so, other lifecycle activities are relevant to system upgrades and, if applicable, continuous capability development.

For DRAICs that were partially implemented under a preceding Contract (Acquisition), with the remaining DRAIC Elements to be implemented under the proposed Contract, clause 2.2.2c should be amended to refer to the Contract (Acquisition) and the plan(s) (eg, AIC Plan, DRAIC Plan (if applicable), Phase In Plan (PHIP) or Ramp Up Management Plan (RUMP)) describing the remaining portions of the DRAIC to be established (ie, for DRAIC Elements, such as equipment and procedures, established under this Contract).

Refer to the AIC Guide for ASDEFCON for further information on defining DRAICs.

2.2.2 The Contractor shall deliver DRAIC #1, [...INSERT NAME OF DRAIC...], in accordance with clause 2.1 and the following concepts and requirements:

- a. **Operating and Support Concepts.** The operating and support concepts for DRAIC #1 are set out in [...INSERT APPLICABLE INFORMATION AS PER THE NOTE ABOVE...].
- b. **Function and Performance Requirements.** The required functions and associated performance requirements for DRAIC #1 are set out in [...INSERT APPLICABLE INFORMATION AS PER THE NOTE ABOVE...].
- c. **Programmatic Requirements.** DRAIC #1 is required to be implemented and operational by [...INSERT ANY SCHEDULE REQUIREMENTS AND/OR CONSTRAINTS...].

Note to drafters: Repeat clause 2.2 as a template to define any additional DRAICs.

ATTACHMENT F

3 REQUIRED ACTIVITIES TO BE PERFORMED BY AUSTRALIAN INDUSTRY (CORE)

Note to drafters: *The intent of this clause is to set out activities, either linked to a SDIP or other Industrial Capabilities of interest to Defence, and to define the obligations for this work to be undertaken by Australian Industry. An example may be that particular work (eg, the overall of a Mission System or the repair of a key part of it) is undertaken by Australian Industry, or that certain activities are performed by Australian suppliers, to ensure that supply chains are Australian-based or maximise opportunities for Australian Industry in the Contractor's supply chain, to enhance Sovereignty.*

The following clauses should not be used to specify complex Industrial Capabilities that would be subject to formal Verification and Acceptance (under the proposed Contract). AIAs such as these should be addressed as DRAICs under clause 2.

If the Commonwealth does not specify any required activities, clauses 3.2 and 3.3 may be retained in draft form in order to include any AIAs proposed by the successful tenderer (refer to TDR G). In such cases, the notes to tenderers within clauses 3.2 and 3.3 should be revised.

3.1 Planning and Implementation

- 3.1.1 The Contractor shall further define, plan and implement the required activities to be performed by Australian Industry described under this clause 3, in accordance with the Contract.

3.2 Required Activities

Note to drafters: *Amend the following two clauses (and repeat as necessary) to define each AIA that is a required activity, to be performed by Australian Industry as a contractual obligation (but not as a DRAIC). Each required activity described below should identify 'what' activities are required to be performed to implement the Industry Capability. If applicable, reference may be made to the lifecycle activities in the DIDS annex for the SDIP; for example, by referring to the sustainment and support capabilities'. However, these activities should not be constrained by the timing of lifecycle activities within the 'epochs' in the DIDS annex for the SDIP, as an activity may still be relevant to an individual Defence requirement for an Industrial Capability.*

The Contractor is to define 'how' required activities will be implemented in their AIC Plan. Notwithstanding, the required activities must be defined in sufficient detail so that the outcomes being sought by the Commonwealth are clear and able to be properly scoped by tenderers for resources and pricing purposes. Requirements should be written in outcome terms whenever possible, and should be verifiable by simple measurement or observation / audit, to enable confirmation that the activities are being performed, once the Contract is underway.

DO NOT include broad 'objectives' or generic requirements in these clauses (eg, to 'maximise participation') as these are unworkable as Essential AIC Obligations (refer COC clause 4.2).

Required activities may include specific arrangements for collaborative security partnerships, export programs, and/or enduring strategic partnerships with tier 2 suppliers, when required by the Support Procurement Strategy.

- 3.2.1 **AIA #1 - [...INSERT TITLE OF FIRST REQUIRED ACTIVITY...].** The Contractor shall ensure that the [...INSERT SUMMARY OF ACTIVITIES EG 'sustainment and support'...] activities for [...INSERT SYSTEM OR APPLICABLE PRODUCTS...] are undertaken by Australian Industry. AIA #1 requires the following activities, and is evidenced b:
- a. [...INSERT DETAILS OF THE REQUIRED ACTIVITY. ENSURE THAT OUTCOMES AND SCOPE ARE CLEAR...]; and
 - b. [...INSERT ADDITIONAL DETAILS UNTIL THE REQUIRED ACTIVITY IS FULLY DESCRIBED...].

Note to drafters: *If applicable, this second clause provides a link back to clause 1.1.2.*

- 3.2.2 AIA #1 supports the implementation of [...INSERT SDIP NUMBER ' for ' CAPABILITY AREA...] and the Detailed SDIP of [...INSERT DETAILED SDIP...] (refer clause [...INSERT CROSS-REFERENCE TO SUBCLAUSE UNDER 1.1.2...]).

ATTACHMENT F

Note to drafters: Retain the following clause for the RFT. It may be updated during negotiations to capture any AIAs proposed by the preferred tenderer that are of value to Defence.

Note to tenderers: If the preferred tenderer's AIC response (to TDR G) identifies activities (as 'Opportunities to Enhance AIC') that are considered beneficial to be identified as AIAs, these may be incorporated into this clause 3.2 during negotiations, using the following clause (repeated as necessary).

3.2.3 (...AIA #X...) - (...INSERT TITLE OF REQUIRED ACTIVITY...). The Contractor shall ensure that the (...INSERT SUMMARY OF ACTIVITIES EG 'design, development and integration of modifications'...) for (...INSERT SYSTEM OR APPLICABLE PRODUCT...) are undertaken by Australian Industry. (...AIA #X...) requires the following activities, and is evidenced by:

- a. (...INSERT DETAILS OF THE REQUIRED ACTIVITY. ENSURE THAT OUTCOMES AND SCOPE ARE CLEAR. ...); and
- b. (...INSERT ADDITIONAL DETAILS UNTIL THE REQUIRED ACTIVITY IS FULLY DESCRIBED...).

Note to tenderers: If applicable, this second clause can provide a link to clause 1.1.2.

3.2.4 (...AIA #X...) supports the implementation of (...INSERT SDIP NUMBER ' for ' CAPABILITY AREA...) and the Detailed SDIP of (...INSERT DETAILED SDIP...) (refer clause (...INSERT CROSS-REFERENCE TO SUBCLAUSE UNDER 1.1.2...)).

3.3 Other Requirements for Australian Industry

Note to drafters: The intent of this clause is to capture any other elements of the draft Contract that are to be undertaken by Australian Industry, but which do not have the complexity of a DRAIC or a required activity (under clause 3.2), and which may not be on-going. If applicable, these other requirements are to be listed under clause 3.3.1 (otherwise, clause 3.3.1 may be retained pending tender responses). Drafters should consider the following aspects when tailoring this clause:

- a. These elements are likely to be provided by lower-tier Subcontractors / suppliers, particularly Small-to-Medium Enterprises (SMEs).
- b. These 'other requirements' could be mandated by Government or offered by a preferred tenderer. Examples may include the use of Australian steel for construction, use of an Australian-developed product, or use of specialised services (eg, for Cyber Security). Other requirements may be based on the preferred tender and capture elements of the offer that the Commonwealth wants to include as an easily specified AIC Obligation.
- c. Unless specific direction applies, this clause is to facilitate market competition to the extent practicable (consistent with Commonwealth Procurement Rules, whether or not the rules in Division 2 apply). Drafters should not refer to specific products or Subcontractors in the RFT, but instead use generic terms (eg, use 'Australian-produced steel' as opposed to 'BlueScope steel'). Do not include any Commonwealth Mandated Government Furnished Material (GFM) in this clause.

DO NOT include 'objectives' or generic requirements in these clauses (eg, to 'maximise participation') as these are unworkable as Essential AIC Obligations (refer COC clause 4.2). These 'other requirements' must be specific, have a clearly defined scope, and be able to be objectively verified under any resultant Contract (eg, evidenced by the scope of a Subcontract).

Note to tenderers: If the preferred tenderer's AIC response (ie, to TDR G) identifies additional procurements / activities that may be incorporated into this clause 3.3, the following clause may be used (and repeated as necessary) to capture those elements of the tenderer's proposal(s).

3.3.1 In addition to the requirements of clause 3.2, the Contractor shall ensure that the following other requirements are performed by Australian Industry:

- a. [...INSERT DETAILS OF FIRST OTHER REQUIREMENT TO BE PERFORMED BY AUSTRALIAN INDUSTRY...]; and
- b. [...INSERT ADDITIONAL DETAILS UNTIL ALL OTHER REQUIREMENTS TO BE PERFORMED BY AUSTRALIAN INDUSTRY ARE IDENTIFIED...].

ATTACHMENT F

4 ACE MEASUREMENT (OPTIONAL)

4.1 ACE Measurement Points and Prescribed ACE Percentages

Note to drafters: Include this clause if ACE Measurement Points and Prescribed ACE Percentages will be included in the Contract; otherwise, delete the clause and annotate the heading with 'Not Used'. ACE Measurement Points in Table F-1 should match those in Table B-1 of draft Attachment B. If the proposed Contract will be high value (eg, over A\$20 million per year of Recurring Services), then Prescribed ACE Percentages for Recurring Services (only) should be requested in the tender.

Note to tenderers: Tenderers are to propose Prescribed ACE Percentages for ACE Measurement Points in their response to Annex G to Attachment A to the COT. Subject to negotiations, the Prescribed ACE Percentages tendered will be included in Table F-1. Refer to clause 9 of draft Attachment B for further information.

- 4.1.1 In respect of the Recurring Services Fees, Table F-1 sets out the ACE Measurement Points and the Prescribed ACE Percentages in respect of each ACE Measurement Point.

Table F-1: ACE Measurement Points and Prescribed ACE Percentages

ACE measurement period		Prescribed ACE Percentage
Start date / Milestone	ACE Measurement Point	
Operative Date		()%
		()%
		()%
	end of the Initial Term	()%

ATTACHMENT F

ANNEX A – DEFENCE-REQUIRED AUSTRALIAN INDUSTRIAL CAPABILITY READINESS REVIEW (OPTIONAL)

Note to drafters: Include this annex if DRAICs are included at clause 1.1.2, those DRAIC(s) will be subject to Acceptance, and one or more DRAICRRs will be required under the Contract.

1. DESCRIPTION AND INTENDED USE

- 1.1 The Defence-Required Australian Industrial Capability (DRAIC) Readiness Review (DRAICRR) forms an integral part of the assurance activities for a DRAIC, prior to Acceptance of the DRAIC. The objectives of the DRAICRR are to:
- a. demonstrate that the DRAIC meets the required criteria to enable Acceptance of the DRAIC to be achieved, including that the DRAIC meets the applicable requirements of the Contract;
 - b. confirm that the required DRAIC Elements are in place and the DRAIC can perform the required operating and support functions for the sustainment and/or evolution of the Products Being Supported and/or the Capability or Other Capabilities; and
 - c. confirm that support arrangement for sustaining the DRAIC are in place, such that it is, and will be, operational when required and for the duration required.
- 1.2 The DRAICRR applies whenever a DRAIC (or set of DRAICs) is offered for Acceptance, which may include:
- a. a DRAIC undergoing Acceptance for the first time; or
 - b. for a DRAIC that is developed or implemented in increments, undergoing a subsequent Acceptance for the new Industrial Capabilities that have been implemented.
- 1.3 For the purposes of this Annex A, the term '**Relevant DRAIC**' means the DRAIC or set of DRAICs for which the DRAICRR is being conducted.
- 1.4 This Annex A sets out the Commonwealth's requirements and minimum expectations for the conduct of a DRAICRR.

2. INTER-RELATIONSHIPS

- 2.1 The DRAICRR shall be conducted in accordance with the Approved AIC Plan, and shall include the relevant requirements of the following data items, where these data items are required under the Contract:
- a. Support Services Management Plan (SSMP);
 - b. the governing plans for each of the Support System Constituent Capabilities (eg, Contractor Engineering Management Plan (CEMP) and Contractor Supply Support Plan (CSSP));
 - c. Phase In Plan (PHIP);
 - d. Ramp Up Management Plan (RUMP);
 - e. Support Services Master Schedule (SSMS);
 - f. Health and Safety Management Plan (HSMP);
 - g. Environmental Management Plan (ENVMP);
 - h. Safety Data Sheets (SDSs) (for any Hazardous Substances in the DRAIC);
 - i. Quality Plan (QP) (in relation to the quality systems and processes associated with operating and supporting the DRAIC);
 - j. Configuration Management Plan (CMP) (in relation to Configuration Management systems and processes for implementing and supporting the DRAIC);
 - k. Technical Data List (TDL) in relation to the Technical Data required for implementing, operating and supporting a DRAIC; and

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- I. any data items required for operating and supporting the DRAIC, as listed in the Approved TDL (eg, maintenance plans, maintenance management plan, and inventory management plan).

Option: Include this clause if there will be work associated with a required DRAIC under a prior or linked Contract (Acquisition).

- 2.2 The DRAICRR shall also address any DRAIC aspects arising from, or delivered through, the Contract (Acquisition).

3. REVIEW ENTRY CRITERIA

Item	Entry Criteria
1.	All data items required to be delivered before, and linked to, the DRAICRR, including those identified in the CDRL and in other data items (eg, TDL), have been delivered and the Commonwealth Representative considers the data items to be suitable for the purposes of conducting the DRAICRR.
2.	The assurance scenarios for confirming the suitability of the Relevant DRAIC have been agreed by the Commonwealth Representative, including scenarios in relation to the use and support of the Relevant DRAIC, to ensure that the required functionality is achieved, and integrating (as applicable) with other elements of the Support System for the Products Being Supported. The assurance scenarios include traceability to: a. any scenarios identified in the Approved AIC Plan; b. any functional and performance requirements in Attachment F and any requirements for the DRAIC derived from the requirements in Attachment F; c. any operating and support concepts in Attachment F; and Note to drafters: Modify the following clause depending upon whether or not the requirements for a DRAIC will be specified under a prior or linked Contract (Acquisition), including through, for example, the Support System Specification (SSSPEC). d. other applicable requirements sources (eg, legislation, the other requirements of the Contract (Support), and Approved PHIP / RUMP / AIC Plan [...INSERT IF APPLICABLE, "and, where applicable, the Contract (Acquisition)"...]).
3.	Any precursor transfer of technology activities to establish the Relevant DRAIC within Australian Industry have been undertaken, including in relation to transfer of technology, Technical Data and Intellectual Property, and knowhow and know-why (eg, through training, secondment or other means). Note to drafters: Modify the following clause if there will be transfer of technology activities for a required DRAIC under a prior or linked Contract (Acquisition). For clarity, this criterion only applies to transfer of technology activities set out in the Approved AIC Plan [...INSERT IF APPLICABLE, "and the Contract (Acquisition)"...].
4.	If applicable, any equipment associated with the Relevant DRAIC that requires installation has been installed and functionally checked, as appropriate, except as otherwise agreed by the Commonwealth Representative.
5.	The supportability analysis for the DRAIC Elements has been conducted and all of the Support Resources and Training associated with the Relevant DRAIC, which are capable of being identified at the time of the DRAICRR, have been identified, except as otherwise agreed by the Commonwealth Representative.
6.	The ICT applicable to the Relevant DRAIC has been Verified as satisfying the relevant requirements in the Technical Data that sets out the ICT needs at the DRAIC.

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Item	Entry Criteria
7.	The applicable governing plans for the work to be undertaken in the Relevant DRAIC (eg, the HSMP, ENVMP, QP, CMP and maintenance plans, as applicable) are up-to-date, Approved, and appropriately address the operating and support functions to be conducted for the Relevant DRAIC.
8.	All required Authorisations to operate and support the Relevant DRAIC have been obtained.
9.	Note to drafters: Include this requirement if the implementation of the DRAIC will follow on from activities under a prior or linked Contract (Acquisition). Action items from any previous DRAIC activities under a linked Contract (Acquisition), affecting the readiness of the Relevant DRAIC to perform its identified functions, have been successfully addressed or action plans agreed with the Commonwealth Representative.

4. REVIEW CHECKLIST

Item	Entry Criteria
1.	Were all entry criteria satisfied before starting the DRAICRR?
2.	Have Approved and pending CCPs, which could have an effect on the Relevant DRAIC, been assessed?
3.	Have all Commonwealth Representative review comments against data items applicable to the DRAICRR been adequately addressed?
4.	Are operational-level plans for the Relevant DRAIC in place, current and authorised? For clarity, operational-level plans are used to operate the Relevant DRAIC under and within the scope of the governing plans identified in the entry criteria (eg, workshop plans).
5.	Have the work process flows to be conducted in the Relevant DRAIC been defined? For clarity, this includes operating and support processes within the Relevant DRAIC and, as applicable, functions in relation to supporting and/or evolving the Products Being Supported or the Capability or Other Capabilities. Do these process flows define external interfaces associated with the Relevant DRAIC (which, for clarity, includes the identification of both sides of the interface including in other DRAICs) in relation to: a. the flow of materials (eg, raw materials, component parts) into the Relevant DRAIC; b. data flows and data exchanges; and c. the flow of materials, including completed products, out of the Relevant DRAIC. Are there current and authorised procedures that align to these process flows? Is the requisite data for these process flows defined, and is appropriate access to this data available at the associated work areas? Is the data current and authorised? Are the materials associated with these process flows identified and physically located where needed to provide the requisite operational functionality for the Relevant DRAIC? Do processes and procedures address any special handling and related requirements (eg, in relation to Government Furnished Material (GFM), shelf life, security, storage environment, WHS, Problematic Substances, Problematic Sources, and environmental protection)?

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Item	Entry Criteria
6.	Do the physical locations and the layout of the Relevant DRAIC facilities, equipment, storage, ICT, and work areas enable the DRAIC to achieve capacity and throughput requirements, including if parallel activities are undertaken, such as when multiple Products Being Supported are being upgraded and/or sustained? If there are parallel activities applicable to the Relevant DRAIC, but these cannot be physically demonstrated, are the modelling and other assumptions, requirements and constraints underpinning the capacity / throughput analyses appropriate for the nature of the work to be performed?
7.	Have all items of equipment required to <u>operate</u> the Relevant DRAIC been identified, delivered and physically located where needed to provide the requisite operational functionality for the Relevant DRAIC? For equipment requiring installation, has each item of equipment been functionally tested to confirm installed performance?
8.	Have all items of equipment required to <u>support</u> the Relevant DRAIC been identified, delivered and physically located where needed to provide the requisite support functionality for the Relevant DRAIC? For equipment requiring installation, has each item of equipment been functionally tested to confirm installed performance? For clarity, this includes all Support and Test Equipment (S&TE) and equipment for materials handling.
9.	Is the equipment required to operate and support the Relevant DRAIC serviceable and, for equipment requiring calibration, does the equipment have current calibration certification?
10.	For each item of bespoke equipment, has a Design Certificate been signed by the applicable Contractor or Subcontractor authority, and has each Design Certificate either been witnessed by, or (if required) delivered to, the Commonwealth Representative?
11.	Are all items of equipment that form part of the DRAIC identified in the information management systems / Configuration Management systems applicable to the DRAIC?
12.	Is all of the Technical Data required to <u>operate</u> the Relevant DRAIC equipment resident in the information management systems applicable to the DRAIC?
13.	Is all of the Technical Data required to <u>support</u> the Relevant DRAIC equipment resident in the information management systems applicable to the DRAIC? For clarity, this includes data in relation to Maintenance (including calibration), Spares, inventory management (including Packaging, handling, storage and transportation), supply chain and Configuration Management.
14.	Have performance-management systems and processes for the Relevant DRAIC been defined and implemented?
15.	Are the plans, procedures and Technical Data to be used by a predominantly Australian Industry workforce provided to Simplified Technical English (STE) standards (ie, using a dictionary derived from ASD-STE100), or otherwise suitable for a workforce with the typical skills and experience to be found in Australian Industry for undertaking the type of work in the Relevant DRAIC?

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Item	Entry Criteria
16.	Does the ICT that forms part of the Relevant DRAIC implement all of the functionality required for the operation and support of the DRAIC, including to the extent applicable for the DRAIC: a. project management (eg, for scheduling or resource allocation); b. quality management; c. enterprise resource management; d. materiel requirements planning; e. manufacture resource planning; f. production engineering; g. Technical Data management; h. Configuration Management; i. Maintenance management; j. software support; k. inventory management; l. supply chain management; m. requirements management; n. integration and test management; o. V&V management; p. Work Health and Safety (WHS); and q. environmental protection?
17.	Are any items of GFM required to provide the requisite operational and/or support functionality for the Relevant DRAIC in place and serviceable?
18.	Are the necessary personnel in place in sufficient numbers and with the correct skills mix to <u>operate</u> the Relevant DRAIC, as identified in the Approved governing plan for the implementation of the DRAIC (eg, Approved PHIP / RUMP / AIC Plan)? Are the necessary personnel in place in sufficient numbers and with the correct skills mix to <u>support</u> the Relevant DRAIC, as identified in the Approved governing plan for the implementation of the DRAIC? Are the management and organisational structures (including supervisory roles) commensurate with the nature and complexity of the tasks, the hazard analyses for the Relevant DRAIC, and the associated WHS and environmental risks? Where there are shortfalls in personnel numbers and/or skills, are there plans in place to rectify these shortfalls so that the Relevant DRAIC will achieve full operational capability when required, as set out in the Contract and/or the Approved governing plan for the implementation of the DRAIC?
19.	Are there Training programs in place so that: a. personnel who are required to undertake work in the Relevant DRAIC can maintain currency; and b. to enable Training to be provided to replacement personnel when required? (Note that this will include training records and evidence of certification as necessary.)

ATTACHMENT F

Item	Entry Criteria
20.	Is the hazard log for the Relevant DRAIC, including identified Problematic Substances and Problematic Sources, up-to-date and consistent with the systems, equipment, plans, processes and procedures associated with the Relevant DRAIC? Have all hazards arising out of the Approved Hazard Log, which are applicable to the Relevant DRAIC, been addressed? For all substances, which are either hazardous to personnel or the environment (or both), are the applicable Safety Data Sheets (SDSs) in place and readily available to the workforce in the Relevant DRAIC (eg, through the WHS Management System)? Has Training been provided to ensure a safe workplace for the Relevant DRAIC? Has the workforce demonstrated an understanding of the safety considerations at the workplace?
21.	Are the required Subcontracts in place to provide the resources (eg, labour, materials, component parts and specialist services) required to meet the schedules applicable to <u>operating</u> the Relevant DRAIC and <u>undertaking</u> the support and/or evolution of the Products Being Supported or the Capability or Other Capabilities? Where these arrangements have not been fully implemented, are there plans in place to implement these arrangements at a suitable future time so that the Relevant DRAIC will achieve full operational capability when required, as set out in the Contract and/or the Approved governing plan for the implementation of the DRAIC (eg, Approved PHIP / RUMP / AIC Plan)?
22.	Are the required Subcontracts in place to provide the resources (eg, labour, spares, consumables and specialist services, including in relation to disposal) required to <u>support</u> the Relevant DRAIC? Where these arrangements have not been fully implemented, are there plans in place to implement these arrangements at a suitable future time so that the Relevant DRAIC will achieve full operational capability when required, as set out in the Contract and/or the Approved governing plan for the implementation of the DRAIC (eg, Approved PHIP / RUMP / AIC Plan)?
23.	Have the Sovereignty requirements linked to the Relevant DRAIC been achieved? For clarity, these Sovereignty requirements are those defined through the Approved AIC Plan(s) (ie, including Subcontractor AIC Plans), and related data items, as they apply to the Relevant DRAIC.
24.	Are disposal plans and waste / scrap management, reclamation and recycling plans applicable to the Relevant DRAIC in place and authorised?
25.	Have the assurance scenarios agreed through the applicable entry criterion provided the integrated view of operations for the Relevant DRAIC to confirm suitability in relation to operating and supporting the Relevant DRAIC and the support and/or evolution of the Products Being Supported or the Capability or Other Capabilities?
26.	Has a WHS audit been conducted of the Relevant DRAIC? Are safety plans, equipment and personnel training in place?
27.	Have all risks for the Relevant DRAIC identified prior to the DRAICRR been reported against?
28.	Are Contract plans and schedules consistent with the Contract activities post-DRAICRR, including the activities to address any minor omissions and defects in the Relevant DRAIC?

ATTACHMENT F

5. REVIEW EXIT CRITERIA

Item	Exit Criteria
1.	All checklist items have been addressed to the satisfaction of the Contractor and the Commonwealth Representative.
2.	To the extent applicable, the Technical Data and Software Rights Schedule is up-to-date and consistent with the systems, equipment and processes included in the Relevant DRAIC, except to the extent otherwise agreed by the Commonwealth Representative.
3.	The TDL is up-to-date and consistent with the systems, equipment and processes included in the Relevant DRAIC, except to the extent otherwise agreed by the Commonwealth Representative.
4.	All major problem and risk areas with the Relevant DRAIC have been identified and resolved and, for minor problems and risks, corrective action plans have been recorded and agreed by the Commonwealth Representative.
5.	All risks identified during the course of DRAICRR have been documented and analysed.
6.	The risks with proceeding to the next phase (ie, using the Relevant DRAIC to perform its specified functions in relation to the Products Being Supported and/or the Capability or Other Capabilities) are acceptable to the Commonwealth Representative.
7.	All major action items have been closed.
8.	All minor action items have been documented and assigned with agreed closure dates.
9.	Review Minutes have been prepared, Approved, and distributed in accordance with the Contract.

ATTACHMENT G

TECHNICAL DATA AND SOFTWARE RIGHTS (TDSR) SCHEDULE (CORE)

Note to drafters: Prior to RFT release drafters are to:

- a. *identify in TDR C-4 or as a note to tenderers in the TDSR Schedule, for items or equipment (at a product, system, subsystem or component level) likely to be included in the Services, where potential restrictions on the Commonwealth's Use or Sublicensing of the related TD and Software will not be acceptable; and*
- b. *determine and specify if the Commonwealth requires ownership of IP in any new TD and Software that will be created under the Contract (i.e. Commonwealth TD and Commonwealth Software).*

The examples in each annex are to be removed prior to RFT release and system-specific information must be inserted where necessary. The Commonwealth should have conducted a Technical Data Requirements Analysis (TDRA) for the acquisition of the Materiel System – this may be updated when preparing a draft Support Contract. Information regarding the conduct of a Commonwealth TDRA can be found in CASG Handbook (E&T) 12-2-003.

Further information on clause 5 of the draft COC and the TDSR Schedule can be found in the ASDEFCON TD / IP Commercial Handbook at:

- <https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/intellectual-property-framework>.

Note to tenderers: Attachment G and its annexes define any restrictions on the TD and Software rights granted under the Contract and provide additional information for the purposes of the TD and Software provisions in the Contract. Attachment G does not define restrictions on GFM or Products Being Supported.

Attachment G and its annexes will consist of an amalgamation of information contained in this draft Attachment G, the successful tenderer's response to TDR C-4 and any negotiated adjustments.

1.1 Attachment G consists of the following Annexes:

- A. Highly Sensitive TD and Highly Sensitive Software (Core);
- B. Delivery and Licence Restrictions on Use of TD and Software (Core);
- C. Key Commercial Items (Core);
- D. Commonwealth TD and Commonwealth Software (Core);
- E. Excluded Parties (Core); and
- F. Patents, Registrable Designs and Circuit Layouts (Core).

ANNEX A TO ATTACHMENT G

HIGHLY SENSITIVE TD AND HIGHLY SENSITIVE SOFTWARE (CORE)

Note to drafters: Highly Sensitive TD and Highly Sensitive Software are described in the note to tenderers below. Highly Sensitive TD and Highly Sensitive Software may:

- a. exist as at the Effective Date (e.g. the tenderer is licenced by an OEM for TD or Software that was not delivered to the Commonwealth during the acquisition); or***
- b. be introduced during the course of the Contract (e.g. when a modification under an S&Q Order introduces new equipment).***

By permitting the inclusion of TD or Software in this Annex A, the Commonwealth's Use of or ability to Sublicense IP may be severely restricted, as described in clause 5.2 of the draft COCs. The Commonwealth must carefully consider the remaining Life of Type for the Capability or Products Being Supported (including any impacts on related and future contracts) before agreeing to any restrictions in this Annex A.

Note to tenderers: Highly Sensitive TD and Highly Sensitive Software listed in Annex A should only include TD or Software that the tenderer would bring to the Contract (eg, not already licenced to the Commonwealth), where disclosure would have a major adverse effect on the business of the tenderer (or proposed Approved Subcontractor) and its commercial advantage.

Highly Sensitive TD and Highly Sensitive Software should be clearly identified at its lowest Configuration Item (to which the restriction is able to be distinguished) and linked to the tendered draft TDL, as appropriate. Highly Sensitive TD and Highly Sensitive Software will generally already exist as at the Effective Date and will not include TD or Software created under the Contract or a Subcontract. This Annex A is to:

- a. list and describe all items of Highly Sensitive TD and Highly Sensitive Software (columns d and e);***
- b. identify any restrictions on the Commonwealth's rights to Use and Sublicense the listed TD or Software, as contemplated by clause 5.2 of the draft COC (column f); and***
- c. specify the reasons in support of categorising the TD or Software as Highly Sensitive TD or Highly Sensitive Software and the restrictions being proposed (column g).***

Restrictions on the Commonwealth's right to grant a Sublicence in respect of TD or Software should not be included in this Annex A if the restriction only limits the grant of a Sublicence for "other Defence Purposes". These restrictions should be included in Annex B only.

ANNEX A TO ATTACHMENT G

Unique Line Item Description	Item Reference within TDL	Owner or Licensor	System/ Subsystem/ Component/CI Name	Description of TD or Software	Restrictions on Commonwealth's rights to Use or Sublicence the TD or Software (COC, clause 5.2)	Justification for Restriction(s)
(a)	(b)	(c)	(d)	(e)	(f)	(g)
<i>Example: G-A-1</i>	ABC #1295	Contractor	Fuel tank	Process for emptying and cleaning Wing fuel tanks and maintaining fuel tank pumps	The Commonwealth's rights to Use the TD is limited to performance assessment and cost review purposes only. The Commonwealth is not entitled to grant a Sublicence in respect of the TD other than to a Commonwealth Service Provider not included as an Excluded Party.	This data is highly sensitive data that underpins the Contractor's business. The disclosure of this data to a competitor of the Contractor would cause very significant damage to the Contractor's business. This data is only required for performance assessments and cost review purposes and is not required to enable the Commonwealth (or its Contractors) to use or support or maintain the Products Being Supported as envisaged under the Contract.
<i>Example: G-A-2</i>	ABC #1258	EWS Ltd (Approved Subcontractor)	Combat Management System	Electronic Warfare Maintenance and Configuration Tool (including Source Code)	The Commonwealth must not grant a Sublicence of the TD to XRY Pty Ltd or its Related Bodies Corporate for any reason.	Disclosure of the Maintenance and Configuration Tool (including Source Code) to the listed companies (or their Related Bodies Corporates) would cause very significant damage to the business of EWS Ltd and result in the Contractor being unable to exercise the maintenance licence granted directly by EWS Ltd to the Contractor for this Contract and many similar US Air Force EW system support contracts.

ANNEX B TO ATTACHMENT G

DELIVERY AND LICENCE RESTRICTIONS ON USE OF TD AND SOFTWARE (CORE)

Note to drafters: The Commonwealth's rights to Use and Sublicense TD and Software under clause 5.3.3b(ix) of the draft COC and the Commonwealth's rights to have TD and Software delivered, may be subject to restrictions as set out in this Annex B. The Commonwealth must carefully consider any restrictions proposed by a tenderer before agreeing to include them in this Annex B.

Restrictions may apply for TD and Software that the tenderer proposed to provide at the Effective Date (e.g. is licenced by an OEM for TD or Software that was not delivered to the Commonwealth as part of the acquisition of the Capability or Products Being Supported) or that will be introduced during any resultant Contract (e.g. when a modification under an S&Q Order introduces new equipment).

Drafters should, after considering Materiel System requirements from a Life of Type perspective (particularly the implications for any related and future support contracts), and after conducting or updating a TDRA if applicable, draw each tenderer's attention to any restrictions that the Commonwealth considers would not be acceptable. This information should be included as a note to tenderers or in TDR C-4.

Note to tenderers: In addition to the information provided in this Annex B, tenderers should note any guidance provided in TDR C-4 and this Annex B in relation to specific restrictions that are considered to be unacceptable to the Commonwealth. In responding, tenderers are to identify any proposed restrictions on:

- a. the Commonwealth's Sublicensing rights in respect of TD and Software under clause 5.3.3b(ix) of the draft COC (columns (f) and (g)); and***
- b. the Commonwealth's rights to require delivery of TD for the purposes of clause 5.13 of the draft COC (columns (e) and (g)). Restrictions will only be included in column (e) where tenderers have justified the basis for the restricted delivery requirements for the relevant TD or Software. These restrictions will only be agreed if the Commonwealth considers that delivery of the item to the Commonwealth is not required.***

If TD or Software currently exists that will be incorporated into Commonwealth TD or Commonwealth Software, tenderers are to list the TD or Software in this Annex B and include a reference to the relevant Unique Line Item Description of the Commonwealth TD or Commonwealth Software from Annex D and insert in column (d).

For any item of TD or Software that is subject to restrictions on delivery to the Commonwealth, the recipient of the TD or Software is the person identified in the Approved TDL.

ANNEX B TO ATTACHMENT G

Unique Line Item Description	Owner or Licensor	System/ Subsystem/ Component/CI Name	Description of TD or Software (and refer to Unique Line Item Description from Annex D, if appropriate)	Restrictions on Commonwealth's rights to the delivery of the TD or Software (Yes / No) (COC, clause 5.13) If yes, specify identity of recipient(s) or nature of the restrictions in column (g)	Restrictions on Commonwealth's rights to Use or Sublicence the TD or Software (COC, clause 5.3.3b(ix))	Justification for Restriction(s)
(a)	(b)	(c)	(d)	(e)	(f)	(g)
<i>Example: G-B-1</i>	<i>Contractor</i>	<i>Aircraft Landing System</i>	<i>Aircraft structural loads and certification data</i>	<i>No</i>	<i>Licences do not include right to grant sublicences for the purpose of a third party modifying the Capability.</i>	<i>This is competitively sensitive data as it reveals unique characteristics of the Aircraft Landing System.</i>
<i>Example: G-B-2</i>	<i>Contractor</i>	<i>Combat Management System</i>	<i>Mission Planning Software</i>	<i>No</i>	<i>Licences do not include right to grant sublicences for the purpose of modifying, developing or upgrading the Software without the prior written consent of XYZ Pty Ltd.</i>	<i>This is competitively sensitive data.</i>
<i>Example: G-B-3</i>	<i>Contractor</i>	<i>Fuelling System</i>	<i>Business Process Manual</i>	<i>Yes</i>	<i>N/A</i>	<i>Contains competitively sensitive data that are trade secrets and not required to utilise the Product Being Supported. Contractor will directly provide to a recipient where necessary.</i>

ANNEX C TO ATTACHMENT G

KEY COMMERCIAL ITEMS (CORE)

Note to tenderers: Tenderers are to list all items of Commercial TD or Commercial Software related to a Key Commercial Item procured (or to be procured) as part of the Services in accordance with clause 5.4 of the draft COC, and specify the terms applicable to the licence proposed to be granted for the item. The tenderer may complete column (f) by reference to other documents from which those terms are ascertainable.

Unique Line Item Description	Description of Key Commercial Item System/ Subsystem/ Component/CI Name	Description of related TD or Software (including version number and use)	Details of Approved Subcontractor or relevant Related Body Corporate	Owner or Licensor	Licence Terms
(a)	(b)	(c)	(d)	(e)	(f)
<i>Example: G-C-1</i>	<i>Environmental Management System</i>	<i>XYZ Software V8.5 used in Support System</i>	<i>Easy Breathe Pty Ltd.</i>	<i>Easy Breathe Pty Ltd.</i>	<i>Same terms as per clause 5.4 except no permission to sublicense to Good Air Pty Ltd.</i>
<i>Example: G-C-2</i>	<i>Aircraft Tank Cleaning System</i>	<i>Maintenance Manual for Aircraft Cleaning System</i>	<i>Clean Landing Pty Ltd.</i>	<i>Clear Landing US Inc.</i>	<i>Terms and conditions are as detailed at www.cleanlanding.com/manuals/HCS/terms and conditions.aspx as at 1 July 2018. The Commonwealth must pay to Clean Landing US Inc. an annual licence fee of \$2,000.00 for each year the system is retained and used by a different support contractor after Contract expiry.</i>

ANNEX D TO ATTACHMENT G

COMMONWEALTH TD AND COMMONWEALTH SOFTWARE (CORE)

Note to drafters: The Commonwealth's default position is to not own IP created under the Contract or a Subcontract. However, in limited cases for national security and/or strategic interest reasons, the Commonwealth can require ownership of IP in specific items of TD or Software.

In the Support context, the Commonwealth may elect to own records created by the Contractor, such as supply records which may include maintenance logs, defect reports and demands for spares. However, if the licence under clause 5.3 of the COC is adequate for the Commonwealth's purposes, the Commonwealth should not require ownership of those records.

For any TD or Software that is listed in this Annex D, any new IP in that TD or Software ownership is assigned to the Commonwealth or its nominee under clause 5.1.3 of the draft COC. Column (d) should describe the class or type in sufficient detail as to enable the identification of TD or Software that comes within the relevant class. Column (b) is to include a cross reference to the Approved TDL or other Contract document or Deliverable, where the relevant TD or Software is to be listed in greater detail.

Note to tenderers: Tenderers are to describe in column (d) of this Annex D, the classes or types of TD or Software (if not already specified by the Commonwealth) that will be created as part of the Services being provided in relation to the Products Being Supported shown below in column (c). For each item of TD or Software that falls within the class or type listed in column (d), the ownership of IP relating to that item will be assigned to the Commonwealth. The relevant TD or Software is referred to as Commonwealth TD or Commonwealth Software (as applicable).

If any Commonwealth TD or Commonwealth Software contains IP owned by the Tenderer or a proposed subcontractor (being IP in existence prior to the Effective Date or created outside the Contract and Subcontracts), the Contractor is to grant a licence to the Commonwealth of that IP under clause 5.3 of the draft COC (subject to any proposed restrictions listed in Annex B). Tenderers should note that such restrictions should not prevent the use of the Commonwealth TD or Commonwealth Software as provided for in the Contract (see clause 5.16.2b of the draft COC).

This Annex D does not deal with licences for GFM and Products Being Supported that are provided by the Commonwealth to the Contractor (see clause 5.6 of the draft COC and Attachment E).

ANNEX D TO ATTACHMENT G

Unique Line Item Description	Item Reference with TDL	Equipment/ System/ Subsystem/ Component/CI Name	Description of TD or Software	Name of Assignee	Restrictions on non-Commonwealth owned IP (refer Unique Line Item Description from Annex B if required)	Restrictions on licences granted by the Commonwealth under clause 5.5.2 of the COC
(a)	(b)	(c)	(d)	(e)	(f)	(g)
<i>Example: G-D-1</i>	<i>ABC #1299</i>	<i>Flight System</i>	<i>Wing refuelling station design</i>	<i>Commonwealth</i>	<i>Contractor owns IP in Wing refuelling clasp included in design.</i>	<i>The Contractor may use solely for the purpose of maintaining the Aircraft and must not sublicense any of the IP in the Technical Data.</i>
<i>Example: G-D-2</i>	<i>ABC #1976</i>	<i>Radar System</i>	<i>XYZ software configuration manual.</i>	<i>Commonwealth</i>	<i>Nil</i>	<i>The Contractor may use solely for the purpose of installation of updates to the XYZ subsystem and must not sublicense any of the IP in the manual.</i>
<i>Example: G-D-3</i>	<i>ABC #1982</i>	<i>Combat Management System</i>	<i>Operation and maintenance manuals for XYZ combat management system.</i>	<i>ABC Pty Ltd (via the Commonwealth).</i>	<i>Nil</i>	<i>The Contractor may use solely for the purpose of undertaking repairs and updates on XYZ subsystem and must not sublicense any of the IP in the Technical Data.</i>

ANNEX E TO ATTACHMENT G

EXCLUDED PARTIES (CORE)

Note to drafters: Listing parties as Excluded Parties means they cannot be engaged by the Commonwealth as Commonwealth Service Providers for the purposes of the Contract. The effect of this is that the Commonwealth is not entitled to grant these parties the broad Sublicences at clauses 5.3.3a and 5.7.1b(i) of the draft COC. However, Excluded Parties may still be granted Sublicences under clauses 5.3.3b, 5.3.3c, 5.7.1b(ii) or 5.7.1b(iii). The Commonwealth's preference is that there are no Excluded Parties. In most cases, there will be no need for Excluded Parties because the TDSR Schedule enables the tenderer to protect specific TD or Software that it considers sensitive. For further guidance on the impact of listing parties as Excluded Parties, see Chapter 5 of the ASDEFCON Technical Data / Intellectual Property Commercial Handbook, available from the ASDEFCON intranet page and the internet link below.

Note to tenderers: The Commonwealth has broad rights to grant a sublicense in respect of TD, Software and Contract Material to a Commonwealth Service Provider at clauses 5.3.3a and 5.7.1b(i) of the draft COC. The listing of Excluded Parties will only be agreed to by the Commonwealth in exceptional circumstances, due to the administrative and operational constraints for the Commonwealth arising from listing a party in this annex. Specifying that a party is an Excluded Party does not mean that the Commonwealth cannot sublicense to that person if they are engaged in another capacity (for example, to provide maintenance or upgrade services to the Commonwealth) and such sublicensing is not restricted in Annex A or B. For further guidance, see Chapter 5 of the ASDEFCON Technical Data / Intellectual Property Commercial Handbook at:

<https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance/intellectual-property-framework>.

1.1 The following parties are excluded from being Commonwealth Service Providers for the purposes of clause 5 of the Contract:

Unique Line Item Description	Excluded Party (a party must be capable of being clearly identified by the Commonwealth)	Period of Restriction (must not be perpetual)	Justification for Non-Disclosure Restriction
(a)	(b)	(c)	(d)
Example: G-E-1	XYZ Pty Ltd	5 years from Effective Date	XYZ Pty Ltd is a direct competitor of the Contractor in relation to the maintenance of Fuel Pumps. If XYZ Pty Ltd were to be engaged as a Commonwealth Service Provider, it would be granted a licence for access to the Contractor's documented method and processes for increasing mean time between maintenance cycles for fuel pumps, and that licence would not be subject to the restrictions on the use or disclosure of the TD that apply to subcontractors (because Commonwealth Service Providers are granted broader licences than other subcontractors). This would significantly harm the Contractor's competitive advantage as well as the Contractor's ability to generate revenue from other customers in relation to the maintenance of the fuel pumps included in the Products Being Supported.

ANNEX F TO ATTACHMENT G

PATENTS, REGISTRABLE DESIGNS AND CIRCUIT LAYOUTS (CORE)

Note to tenderers: Tenderers are to identify any restrictions that limit the licences granted to the Commonwealth in relation to a Patent, Registrable Design or Circuit Layout (in accordance with clause 5.18 of the draft COC). A full description of the relevant Products, TD or Software that contains the Patent, Registrable Design or Circuit Layout protection must be included.

Unique Line Item Description	Services containing a Patent, Registrable Design or Circuit Layout (pending or registered)	Type of IP (Patent, Registrable Design or Circuit Layout)	Owner / IP Applicant	Application / Registration No (if applicable)	Countries or regions of permitted use	Restriction
(a)	(b)	(c)	(d)	(e)	(f)	(g)
<i>Example: G-F-1</i>	<i>Signal Integrator Manual (Method of Signal Capture)</i>	<i>Patent</i>	<i>XYZ Pty Ltd</i>	<i>AU 01 233 323232</i>	<i>Australia only</i>	<i>The Commonwealth may not make an integrated circuit from the plans contained in the manual for a period of 3 years.</i>
<i>Example: G-F-2</i>	<i>Signal Integrator Device</i>	<i>Circuit Layout</i>	<i>XYZ Pty Ltd</i>	<i>N/A</i>	<i>Australia and United States only</i>	<i>The Commonwealth may not disclose the device to a third party for a period of 5 years from the Operative Date.</i>

ATTACHMENT H

SCHEDULE OF APPROVED SUBCONTRACTORS (CORE)

Note: Update the following table to list the Approved Subcontractors identified in accordance with the conditions in clause 11.9 of the COC. A Subcontractor may be required to execute an Approved Subcontractor Deed in relation to Intellectual Property rights or if the Approved Subcontractor will be considered to be an AIC Subcontractor. Refer to clause 11.9 of the COC to determine if the Subcontractor will be required to execute an Approved Subcontractor Deed.

Note to tenderers: Attachment H will consist of an amalgamation of TDR A-3, the successful tenderer's response and any negotiated adjustments.

Table H-1: Schedule of Approved Subcontractors

Approved Subcontractor (ABN/ACN if applicable)	Work to be Subcontracted (including technical significance)	CWBS reference	Australian Industry Activity references (if applicable)	Equipment / Services	Location of work to be performed (incl postcode)	Subcontract value \$A	Is an Approved Subcontractor Deed (ASD) required, and reason? (see clause 11.9 of COC)			Comments / Exclusions
							IP rights (clauses 2 and 4 of the ASD) (Yes/No)	AIC Subcontractor (clause 5 of the ASD) (Yes/No)	Other (specify in comments) (Yes/No)	
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)	(k)
ANZ Subcontractors										
XYZ Pty Ltd (ABN 123456789012)	Supply of Comms Storage Cabinets			For integration into Subsystem X			No	No	No	SOW clause x.x - Software performance measurement requirement not applicable to this Subcontract because there is no software development involved
ABC Pty Ltd (ABN1232345678901)	Supply of Comms system			For integration into Subsystem X			Yes	Yes	No	Subcontractor is performing work integral to the development of a new Industrial Capability for communications software support
Overseas Subcontractors										

ATTACHMENT I

AGREED DEEDS (CORE)

Note to tenderers: Attachment I will consist of the following annexes:

- A. Approved Subcontractor IP Deed (Core);
- B. Deed of Confidentiality and Fidelity (Core);
- C. Contract Change Proposal (Core);
- D. Bank Guarantee (RFT Core);
- E. Deed of Guarantee and Indemnity (RFT Core).

ANNEX A TO ATTACHMENT I**APPROVED SUBCONTRACTOR DEED (CORE)**

This Deed is made on (...INSERT DATE...)

BETWEEN

The Commonwealth of Australia as represented by the Department of Defence ABN 68 706 814 312
(**'the Commonwealth'**)

AND

(...INSERT NAME OF COMPANY...) (...INSERT ACN/ARBN AND ABN AS APPLICABLE...) a company duly incorporated under the laws of (...INSERT JURISDICTION...) and having its registered office at (...INSERT DETAILS...) (**'the Approved Subcontractor'**).

RECITALS

- A. The Commonwealth has entered into a Contract (...INSERT CONTRACT NUMBER...) dated (...INSERT DATE...) ('the Contract') with (...INSERT NAME OF CONTRACTOR AND ACN/ARBN AND ABN AS APPLICABLE...) ('the Contractor') for the provision of (...INSERT BRIEF DESCRIPTION...).
- B. The Contractor has entered into a contract (...INSERT CONTRACT IDENTIFIER...) dated (...INSERT DATE...) ('the Approved Subcontract') with the Approved Subcontractor for the provision of (...INSERT BRIEF DESCRIPTION...).
- C. The Approved Subcontractor has agreed to provide the commitments set out in this Deed in favour of the Commonwealth in relation to the Approved Subcontract.

AGREED TERMS

ANNEX A TO ATTACHMENT I

1 INTERPRETATION**1.1 Definitions (Core)**

1.1.1 In the interpretation of this Deed, unless the contrary intention appears:

'ACE Measurement Points' has the meaning given in the Approved Subcontract.

'ACE Measurement Rules' means method for calculating Australian Contract Expenditure and Imported Contract Expenditure as prescribed by the *ACE Measurement Rules*, August 2021.

'AIC Obligations' means the obligations of the Approved Subcontractor under the Approved Subcontract and this Deed relating to AIC and for the avoidance of doubt includes the obligation to comply with the Subcontractor AIC Plan.

'Approved Subcontract' means the Approved Subcontract identified in the recitals and includes any amendments to the Approved Subcontract.

'Approved Subcontract Material' means information, other than Technical Data (TD) or Software, reduced to a material form (whether stored electronically or otherwise) that is delivered or required to be delivered to the Commonwealth under the Approved Subcontract.

'Approved Subcontractor Personnel' means the officers, employees and agents of the Approved Subcontractor and includes employees, officers or agents of a subcontractor to the Approved Subcontractor.

'Audit' means a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled.

'Australian Contract Expenditure' has the meaning given in the *ACE Measurement Rules*.

'Australian Entity' means:

- a. a company registered under the *Corporations Act 2001* (Cth) or a company registered under the *Companies Act 1993* (New Zealand);
- b. a body corporate, partnership, joint venture or association formed or incorporated in Australia or New Zealand; or
- c. a foreign-owned company in Australia or New Zealand, and which has a registered body number (ie, ARBN or NZRBN),

carrying on business through a permanent establishment in Australia or New Zealand, including as evidenced through employment and the conduct of business operations in Australia or New Zealand.

'Australian Industry' means Australian Entities that perform work in Australia or New Zealand.

'Circuit Layout' means a circuit layout that is protected under the Circuit Layouts Act 1989 (Cth) or the corresponding laws of any other jurisdiction.

'Claim' means a claim, demand, suit or proceeding of any kind, including by way of court proceedings, proceedings in the nature of arbitration, mediation or other methods of dispute resolution and administrative claims and proceedings (whether or not before a tribunal or court).

'Commercial Item' means an item that is:

- d. available to the general public or in the market for defence goods and services for supply on standard commercial terms; and
- e. able to be used for its intended purpose under the Approved Subcontract without development or modification (except for any minor modification or reconfiguration that is necessary and commonly required to install the item).

'Commercial Software' means Software that is:

- a. a Commercial Item; or
- b. supplied, without further development or modification, as a part of, or in conjunction with a Commercial Item under the standard commercial terms applicable to that item; or

ANNEX A TO ATTACHMENT I

- c. Free and Open Source Software.

'Commercial TD' means TD that is:

- a. a Commercial Item; or
- b. supplied, without further development or modification, as a part of, or in conjunction with a Commercial Item or Commercial Software under the standard commercial terms applicable to that item or Software.

'Commercialise' means, in respect of the Commonwealth or any of its sublicensees, to exploit the Intellectual Property (IP) in TD, Approved Subcontract Material or Software in return for payment of a Royalty or a commercial return to the Commonwealth or the sublicensee.

'Commonwealth Contractor' means a person (other than the Contractor, the Approved Subcontractor or a subcontractor of either of them) engaged by the Commonwealth to provide goods or services to the Commonwealth.

'Commonwealth Officer' means any of the following:

- a. a Minister of State for the Commonwealth;
- b. a person employed or engaged under the Public Service Act 1999 (Cth) or the Members of Parliament (Staff) Act 1984 (Cth);
- c. a person who is included in Defence Personnel; and
- d. a member of the Australian Federal Police.

'Commonwealth Property' means property of any kind (including government furnished material) owned or leased by, or in the possession of, the Commonwealth.

'Commonwealth Personnel' means Commonwealth Officers, Defence Personnel, and any other agents of the Commonwealth.

'Commonwealth Service Provider' means a person (including an officer or employee of the person) engaged to perform a function, or discharge a duty, of the Commonwealth, including a person engaged to provide:

- a. professional, administrative, contract management or project management services to Defence; or
- b. technical management or assurance services, including verification and validation, safety, certification, security or capability development,

but does not include a person specified as an Excluded Party in Annex E to the TDSR Schedule.

'Commonwealth Software' means:

- a. any Software of the type described in Annex D to the TDSR Schedule in respect of a Deliverable or a Product Being Supported specified in that Annex; and
- b. any developments, modifications or improvements to that Software.

'Commonwealth TD' means:

- a. any TD of the type described in Annex D to the TDSR Schedule in respect of a Deliverable or a Product Being Supported specified in that Annex; and
- b. any developments, modifications or improvements to that TD.

'Confidential Information' means:

- a. any information provided by the Approved Subcontractor that is identified in Schedule 3; and
- b. any other information:
 - (i) that is commercially sensitive (not generally known or ascertainable);
 - (ii) the disclosure of which would cause unreasonable detriment to the owner of the information or another party; and

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- (iii) that was provided with an express or implied understanding that it would remain confidential,

but does not include information that:

- c. is or becomes public knowledge other than by breach of this Deed;
- d. is in the possession of a party without restriction in relation to disclosure before the date of receipt; or
- e. has been independently developed or acquired by the receiving party.

'Contractor Managed Commonwealth Assets' or CMCA means any item of Commonwealth Property subject to inventory and stock control that is in the care, custody or control of the Approved Subcontractor or Approved Subcontractor Personnel for the purposes of the Approved Subcontract.

'Contractor Personnel' means the officers, employees and agents of the Contractor.

'Copyright' means any existing or future copyright as defined under the Copyright Act 1968 (Cth) or the corresponding laws of any other jurisdiction in any original literary and artistic works, computer programs and Software, sound recordings and any other works or subject matter whether stored electronically or otherwise in which copyright subsists and may subsist in the future.

'Defect' means a defect, fault (including a fault which results in a Failure), damage, malfunction or omission, including in relation to:

- a. design, operation, performance or functionality;
- b. manufacture, workmanship or materials,

and 'Defective' has a corresponding meaning.

Without limiting the above, the Deliverables are Defective if they do not conform to the requirements of the Approved Subcontract.

'Defence' means the Department of Defence and/or the Australian Defence Force.

'Defence Personnel' means an employee of the Department of Defence or a member of the Australian Defence Force (whether of the Permanent Forces or Reserves as defined in the Defence Act 1903 (Cth)) and the equivalents from other organisations on exchange to Defence.

'Defence Purpose' means a purpose related to any of the following:

- a. the defence and defence interests of Australia;
- b. the national security of Australia;
- c. the provision of aid or assistance in respect of an emergency or disaster (whether natural or otherwise); and
- d. peacekeeping or peace enforcement activities.

'Deliverable' means any service, information (including TD), document (including reports, manuals, designs, drawings and the like), hardware, Software or other thing which is required to be delivered or provided under or in connection with the Approved Subcontract. 'Effective Date' means the date on which this Deed is signed by the parties, or if signed on separate days, the date of the last signature.

'Environment' in the context of environmental management, means any of the following:

- a. ecosystems and their constituent parts;
- b. natural and physical resources;
- c. the qualities and characteristics of locations, places and areas;
- d. noise; and
- e. the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraphs a, b or c.

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'Excluded Party' means a person specified in Annex E to the TDSR Schedule.

"Free and Open Source Software" means Software that:

- a. is distributed on a free to use basis without a requirement to pay a Royalty or other fee; and
- b. may be used, modified, developed or adapted by any person subject to specified conditions,

and includes open source Software, public domain Software, shareware, community source Software and freeware.

'Failure' means the inability of a system or component to perform its required functions within specified performance requirements. The fault tolerance discipline distinguishes between a human action (a mistake), its manifestation (a hardware or software fault), the result of the fault (a failure), and the amount by which the result is incorrect (the error).

'Highly Sensitive Software' means Software specified in Annex A to the TDSR Schedule.

'Highly Sensitive TD' means TD specified in Annex A to the TDSR Schedule.

'Imported Contract Expenditure' has the meaning given in the *ACE Measurement Rules*.

'Industrial Capability' means the ability, resulting from the employment of business, commercial and industry resources, to provide particular goods and/or services. An industrial capability is one that is not only able to provide the goods and services when needed, but it is also sustainable over the period that the industrial capability may be required, and 'Industrial Capabilities' has a corresponding meaning.

'Intellectual Property' or 'IP' means all present and future rights conferred by law in or in relation to any of the following:

- a. Copyright;
- b. rights in relation to a Circuit Layout, Patent, Registrable Design or Trade Mark (including service marks); and
- c. any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world whether registered or unregistered.

'Key Commercial Item' means a Commercial Item listed (or required to be listed) in Annex C to the TDSR Schedule.

'Licence' means a non-exclusive licence of IP in respect of TD, Software, or Approved Subcontract Material, being a licence that:

- a. is fully paid-up and does not require any additional payment by the licensee, including by way of Royalty or any other fee;
- b. cannot be revoked or terminated by the owner for any reason except upon expiration of a statutory protection term;
- c. operates in perpetuity without any action required on the part of the licensee to renew or extend the licence;
- d. operates on a world-wide basis; and
- e. binds each successor in title to the owner of the IP in respect of the TD, Software or Approved Subcontract Material.

'Loss' means any liability, loss (including economic loss), damage, compensation, costs and expenses.

'Moral Rights' means any of the following:

- a. a right of attribution of authorship;
- b. a right not to have authorship falsely attributed; or
- c. a right of integrity of authorship.

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'Patent' means the rights and interests in any registered, pending, or restored standard or innovation patent under the Patents Act 1990 (Cth) or the corresponding laws of any other jurisdiction, including all provisional applications, substitutions, continuations, continuations-in-part, continued prosecution applications including requests for continued examination, divisions, additions and renewals, all letters patent granted, and all reissues, re-examinations and extensions, term restorations, confirmations, registrations, revalidations, revisions and supplemental protection certificates.

'Periodic Cost Review' means means a review held in accordance with clause 1.11 of the Contract.

'Products Being Supported' means the products identified in Schedule 4, which are required to be supported under or in connection with the Contract.

"Quality" means the degree to which a set of inherent characteristics fulfils requirements.

'Registrable Design' means a design able to be protected under the Designs Act 2003 (Cth) or the corresponding laws of any other jurisdiction.

'Remediation Plan' means a plan required from the Contractor in accordance with clause 6.12 of the Contract.

'Request' means a request for tender, proposal, quotation or information or similar request for the provision of goods or services to the Commonwealth.

'Royalty' means a payment or credit made by a licensee in consideration for the exercise of a particular right or privilege by the licensor in favour of the licensee for the use of, or the right to use any IP, however calculated.

'Services' means goods and services including Deliverables, Intellectual Property and Technical Data required to be provided under the Approved Subcontract and includes items acquired in order to be incorporated in the Services.

'Software' means a collection of computer code comprising a set of instructions or statements used directly or indirectly by a computer to bring about a certain result (including using a computer programming language to control a computer or its peripheral devices), and includes computer programs, firmware and applications and includes a Software Update but excludes Software Design Data and Source Code.

"Software Design Data" means data which describes the internal design and operation of a Software program and its interface with the external Software and hardware systems in which it operates including explanations of particular codes, standard headers or distinct procedures (with inputs, outputs and processing).

'Software Update' means, in relation to Software:

- a. a new release of or change to that Software (which is designed to overcome errors or malfunctions in, or designed to improve the operation of, the Software); or
- b. a new version of that Software (which is designed to enhance or provide extra functionality to that software).

'Source Code' means the expression of Software in human readable form which is necessary to understand, maintain, modify, correct and enhance that Software.

"Subcontractor AIC Plan" means the Approved Subcontractor's AIC Plan developed, delivered and updated by the Approved Subcontractor and approved by the Contractor in accordance with the Approved Subcontract.

'Sublicence' means, in respect of a Licence of IP granted to the Commonwealth under clauses 2.2.1 or 2.3.2, a sublicence of that IP on terms that comply with the requirements of clause 2.5 of this Deed.

"Surveillance" means continual monitoring and Verification of the status of an entity and analysis of records to ensure that specified requirements are being fulfilled (the entity could be a system, process, product, project, contract, etc).

'TDSR Schedule' means Schedule 1 of this Deed.

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'Technical Data' or 'TD' means technical or scientific data, know-how or information, reduced to a material form (whether stored electronically or otherwise) in relation to the Deliverables or Products Being Supported, and includes calculations, data, databases, designs, design documentation, drawings, guides, handbooks, instructions, manuals, models, notes, plans, reports, simulations, sketches, specifications, standards, Training Materials, test results and writings, and includes Software Design Data and Source Code.

'Trade Mark' means a trade mark protected under the Trade Marks Act 1995 (Cth) or corresponding laws of any other jurisdiction.

'Use' means, in relation to a licence of any TD, Software or Approved Subcontract Material granted to a licensee, to:

- a. use, reproduce, adapt and modify the TD, Software or Approved Subcontract Material in accordance with the licence; and
- b. disclose, transmit and communicate the TD, Software or Approved Subcontract Material:
 - (i) to the licensee's employees, officers and agents; and
 - (ii) to a sublicensee under a sublicense granted in accordance with the licence.

'Verification' means confirmation by examination and provision of objective evidence that specified requirements to which a product or service, or aggregation of products and services, is built, coded, assembled and provided have been fulfilled; and 'Verify' has a corresponding meaning.

'Working Day', in relation to the doing of an action in a place, means any day in that place other than:

- a. a Saturday, Sunday or public holiday in that place; and
- b. any day within the two-week period that starts on:
 - (i) the Saturday before Christmas Day; or
 - (ii) if Christmas Day falls on a Saturday, Christmas Day.

1.2 Interpretation (Core)

1.2.1 In this Deed, unless the contrary intention appears:

- a. headings are for the purpose of convenient reference only and do not form part of the Deed;
- b. the singular includes the plural and vice versa;
- c. a reference to one gender includes any other;
- d. a reference to a person includes a body politic, body corporate or a partnership;
- e. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action shall be done no later than the end of the next Working Day;
- f. a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
- g. a reference to a clause includes a reference to a subclause of that clause;
- h. a reference to a "dollar", "\$", "\$A" or "AUD" means the Australian dollar;
- i. a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on the Effective Date, or alternatively, a reference to another version of the document if agreed in writing between the parties;
- j. the word 'includes' in any form is not a word of limitation; and
- k. a reference to a party includes that party's administrators, successors, and permitted assigns, including any person to whom that party novates any part of the Deed.

ANNEX A TO ATTACHMENT I

1.3 Precedence (Core)

- 1.3.1 Unless expressly provided for, the terms of this Deed prevail over the provisions of any Schedule to this Deed to the extent of any inconsistency.

1.4 Survival (Core)

- 1.4.1 The rights and obligations created under or in connection with this Deed survive the termination or expiry of the Contract or the Approved Subcontract.

2 TECHNICAL DATA AND SOFTWARE (OPTIONAL)

Note to drafters: If the Approved Subcontractor is not providing significant IP in items of TD or Software (ie, clause 11.9.3.c (and possibly 11.9.3f(i)) of the COC does not apply to the Approved Subcontractor but other parts of clause 11.9.3 of the COC do apply), then clause 2 will not be necessary and may be deleted and marked 'Not Used'. If the Approved Subcontractor is providing significant IP in items of TD or Software (ie, clause 11.9.3c and possibly 11.9.3f(i) of the COC do apply to the Approved Subcontractor), then all of clause 2 is a requirement of this deed.

2.1 Ownership of Intellectual Property

- 2.1.1 Nothing in this Deed affects the ownership of IP, except as expressly contemplated in this clause 2.1
- 2.1.2 The parties agree that all IP created under or in connection with the Approved Subcontract in respect of:
- Commonwealth TD or Commonwealth Software; and
 - Products Being Supported,
 - that is delivered or required to be delivered as part of the Services, is assigned to the Commonwealth (or its nominee) immediately upon its creation.

2.2 Highly Sensitive TD and Highly Sensitive Software

- 2.2.1 This clause 2.2 applies to any Highly Sensitive TD or Highly Sensitive Software delivered or required to be delivered to the Commonwealth or any other person under the Approved Subcontract.
- 2.2.2 The Approved Subcontractor grants to the Commonwealth (or shall ensure the Commonwealth is granted) a Licence in respect of all TD and Software to which this clause 2.2 applies, to:
- Use the TD or Software for any Defence Purpose; and
 - grant a Sublicence in accordance with clause 2.5 to Use the TD or Software, subject to the restrictions specified in Annex A to the TDSR Schedule.

2.3 TD and Software

- 2.3.1 This clause 2.3 applies to all TD and Software delivered or required to be delivered to the Contractor or any other person under the Approved Subcontract, other than:
- Highly Sensitive TD or Highly Sensitive Software to which clause 2.2 applies;
 - Commonwealth TD and Commonwealth Software to the extent that clause 2.5 applies to that TD or Software; and
 - Commercial TD or Commercial Software to which clause 2.4 applies.
- 2.3.2 The Approved Subcontractor grants to the Commonwealth (or shall ensure the Commonwealth is granted) a Licence in respect of all TD and all Software to which this clause 2.3 applies, to:
- Use the TD or Software for any Defence Purpose; and
 - grant a Sublicence in accordance with clauses b and 2.5 to Use the TD or Software.

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- 2.3.3 The Commonwealth may grant a Sublicence in respect of all TD and all Software to which this clause 2.3 applies, to:
- a. a Commonwealth Service Provider to Use the TD or Software to enable the Commonwealth Service Provider to perform its obligations, functions or duties to the Commonwealth;
 - b. any person to Use the TD or Software to do any of the following:
 - (i) installing or configuring the Deliverables or the Products Being Supported;
 - (ii) physically integrating the Deliverables with the Products Being Supported or other systems;
 - (iii) operating or maintaining the Deliverables or the Products Being Supported;
 - (iv) rectifying any Defect in the Deliverables or the Products Being Supported;
 - (v) undertaking training in relation to the Deliverables or the Products Being Supported;
 - (vi) removing or uninstalling the Deliverables or the Products Being Supported;
 - (vii) decommissioning or destroying the Deliverables or the Products Being Supported;
 - (viii) for the person to respond to a Request to be engaged for any of the above purposes; and
 - (ix) for any other purpose (including to modify and upgrade the Deliverables or the Products Being Supported) but subject to the restrictions specified in Annex B to the TDSR Schedule; and
 - c. any person for a purpose referred to in clause 3.1.3.
- 2.3.4 If, when exercising rights under clause 2.2.1 or 2.3.2, the Commonwealth discloses TD or Software that contains Confidential Information to a third party, the Commonwealth shall ensure that the disclosure of that information is in accordance with clause 3.1.
- 2.3.5 A Licence granted under clause 2.2.1 or 2.3.2 shall be on terms no less favourable than the terms agreed to with the Contractor for the benefit of the Commonwealth under the Contract.
- 2.4 Commercial TD and Commercial Software**
-
- 2.4.1 This clause 2.4 applies to all Commercial TD and Commercial Software referred to in clause 2.4.2 that is delivered or required to be delivered to the Contractor or any other person under the Approved Subcontract.
- 2.4.2 The Approved Subcontractor shall ensure that each Commercial Item (and related Commercial TD or Commercial Software) delivered or required to be delivered under the Approved Subcontract is specified as a Key Commercial Item in Annex C to the TDSR Schedule, if the IP in the related Commercial TD or Commercial Software is owned by the Approved Subcontractor, unless otherwise agreed by the Commonwealth in writing.
- 2.4.3 The Approved Subcontractor grants to the Commonwealth a licence in respect of all Commercial TD and all Commercial Software to which this clause 2.4 applies to Use the Commercial TD or Commercial Software, or to grant a sublicence to any person to Use the Commercial TD or Commercial Software, for any of the purposes set out in clauses 2.3.3b(i) to 2.3.3b(viii), and for any other purpose, subject to any restrictions specified in Annex C to the TDSR Schedule for that item.
- 2.4.4 The Approved Subcontractor shall ensure that any licence granted to the Commonwealth in respect of Commercial TD and Commercial Software under this clause 2.4 does not require the Commonwealth to pay a Royalty or other fee (not otherwise included in the Approved Subcontract price) unless the Commonwealth has agreed in writing to the payment.
- 2.4.5 A licence granted under clause 2.4.3 shall be on terms no less favourable than the terms agreed to with the Contractor for the benefit of the Commonwealth under the Contract.

ANNEX A TO ATTACHMENT I**2.5 Commonwealth Sublicences**

- 2.5.1 The Commonwealth's right to grant a Sublicence to a person ("Sublicensee") in accordance with clauses 2.2.1 or 2.3.2 is subject to the following conditions:
- the Sublicence shall only be granted for a Defence Purpose;
 - the Sublicence shall include (as a minimum) the same restrictions on Use and sublicensing as are applicable to the Commonwealth;
 - the rights granted under the Sublicence shall be limited to the rights that are reasonably necessary to enable the Sublicensee to Use the TD and Software (as applicable) to efficiently perform its obligations, functions or duties to the Commonwealth or a Commonwealth Contractor;
 - the rights granted under the Sublicence shall expire when no longer required for the purposes referred to in clause 2.5.1a; and
 - any right of the Sublicensee to grant a further sublicense shall be subject to the same conditions as set out in this clause 2.5.
- 2.5.2 The Approved Subcontractor shall ensure that any IP in Commonwealth TD or Commonwealth Software not assigned to the Commonwealth under clause 2.1.1 is specified in Annex D of the TDSR Schedule.

2.6 Approved Subcontractor to deliver TD and Software

- 2.6.1 The Commonwealth may by notice to the Approved Subcontractor require the delivery to the Commonwealth (or its nominee) of all TD and Software included as part of the Services.
- 2.6.2 The Approved Subcontractor shall comply with a notice given under clause 2.6.1 unless compliance with the notice would be inconsistent with any restricted delivery requirements specified in respect of the relevant TD or Software in Annex A or B (as applicable) of the TDSR Schedule.
- 2.6.3 The Commonwealth shall act reasonably when issuing a notice under clause 2.6.1, including in relation to specifying a time for delivery of the item of TD or Software.

2.7 Patents, Registrable Designs and Circuit Layouts

- 2.7.1 The Approved Subcontractor warrants and shall ensure that a licence is granted or obtained under this Deed for the Commonwealth to exercise any Patent, Registrable Design or Circuit Layout that is necessary to use or support the Services.
- 2.7.2 The Approved Subcontractor warrants and shall ensure that any restriction on a right referred to in clause 2.7 is specified in Annex F to the TDSR Schedule.

2.8 No Commercialisation

- 2.8.1 A Licence or Sublicence granted in accordance with this clause 2 does not permit the Commonwealth or its sublicensee to Commercialise any IP in the TD or Software.
- 2.8.2 For the avoidance of doubt, clause 2.8 does not prevent the Commonwealth from granting a Sublicence, in accordance with a right granted in this clause 2, to a person for the purpose of providing goods or services to the Commonwealth for a Defence Purpose.

3 CONFIDENTIAL INFORMATION (CORE)

Note to drafters: If clause 2 above is not used, delete subclause 3.1.1b and clause 3.1.2, and mark clause 3.1.2 as 'Not Used'.

3.1 Confidential Information (Core)

- 3.1.1 Each party shall ensure that Confidential Information provided by the other party under or in connection with the Deed or identified in Schedule 2 is not disclosed, except to the extent that:
- the disclosure is permitted under clause 3.1.3;
 - the Confidential Information is in TD or Software and the disclosure is in connection with the exercise of the rights provided for in clause 2; or

ANNEX A TO ATTACHMENT I

- c. the other party provides its prior written consent to the disclosure (and such consent may be subject to conditions).
- 3.1.2 Each party shall ensure that, before disclosing Confidential Information under clause 3.1.1b, the recipient:
 - a. executes a confidentiality deed poll substantially in the form of Schedule 2; or
 - b. is otherwise subject to an obligation not to disclose the Confidential Information to any other person, which is on terms substantially equivalent to those in Schedule 2.
- 3.1.3 The restriction in clause 3.1.1 does not apply to a disclosure of Confidential Information to the extent that the disclosure is for any of the following purposes:
 - a. as required or authorised by law;
 - b. as necessary for the conduct of any legal proceedings arising in connection with the Deed, the Contract or the Approved Subcontract;
 - c. is made by the Commonwealth, a Minister or Parliament in accordance with statutory or portfolio duties or functions, or for public accountability reasons, including following a request by Parliament, a parliamentary committee or a Minister; or
 - d. is to any of the following:
 - (i) a legal adviser, insurer, financier, auditor or accountant of a party, to the extent required to enable them to perform those roles;
 - (ii) a Related Body Corporate for internal management purposes;
 - (iii) any Commonwealth Personnel that need to know the information to undertake their duties or functions; or
 - (iv) Contractor Personnel or Approved Subcontractor Personnel that need to know the information to enable the Contractor or Approved Subcontractor to perform their obligations under the Contract or Approved Subcontract.
- 3.1.4 The Approved Subcontractor shall not, in marking information supplied to the Commonwealth, misuse the term "Confidential Information" or equivalent terms.
- 3.1.5 Subject to clause 3.1.6, the Approved Subcontractor agrees to deliver to the Commonwealth, as required by the Commonwealth, all documents in its possession, power or control which contain or relate to any information that is Confidential Information of the Commonwealth on the earlier of:
 - a. the date specified in a notice given by the Commonwealth (acting reasonably); and
 - b. the time the documents and other material are no longer required for the purposes of the Approved Subcontract or this Deed.
- 3.1.6 The Approved Subcontractor may retain, and will not be required to return or destroy, any documents containing or relating to Confidential Information of the Commonwealth, where such documents are:
 - a. retained in order to comply with any legal, professional or insurance obligations; or
 - b. stored in electronic backups or records that are produced in the normal course of business where it is not reasonably practicable to destroy such backups or records.
- 3.1.7 If the Commonwealth gives a notice under clause 3.1.5a and the Approved Subcontractor has placed or is aware that documents containing the Confidential Information are beyond its possession or control, the Approved Subcontractor shall provide full particulars of the whereabouts of the documents containing the Confidential Information, and the identity of the person in whose custody or control they lie.
- 3.1.8 Subject to clause 3.1.6, the Approved Subcontractor, when directed by the Commonwealth in writing, agrees to destroy any document in its possession, power or control which contain or relate to any Confidential Information of the Commonwealth.
- 3.1.9 Return or destruction of the documents referred to in this clause 3.1 does not release the Approved Subcontractor from its obligations under the Approved Subcontract or this Deed.

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4 INDEMNITIES AND WARRANTIES (OPTIONAL)

Note to drafters: If the Approved Subcontractor is not providing significant IP in items of TD or Software (ie, clause 11.9.3c (and possibly 11.9.3f.(i)) of the COC does not apply to the Approved Subcontractor but other parts of clause 11.9.3 of the COC do apply), then clause 4 is not necessary and may be deleted and marked 'Not Used'. If the Approved Subcontractor is providing significant IP in items of TD or Software (ie, clause 11.9.3c and possibly 11.9.3f.(i) of the COC do apply to the Approved Subcontractor), then all of clause 4 is a core requirement of this deed.

4.1 Intellectual Property and Confidentiality Indemnity

- 4.1.1 The Approved Subcontractor shall indemnify the Commonwealth and Commonwealth Personnel in respect of any Loss in connection with a Claim by a third party in respect of the following:
- a. an infringement or alleged infringement of the third party's IP rights (including Moral Rights) arising out of or as a consequence of:
 - (i) an activity permitted or purportedly permitted by or under a licence or assignment of IP rights under or referred to in this Deed; and
 - (ii) a failure by the Approved Subcontractor to grant (or ensure the grant) of a licence or assign (or ensure the assignment) of IP rights under or referred to in this Deed; and
 - b. a breach or alleged breach of any obligation of confidentiality owed to that third party arising out of or as a consequence of any act or omission of the Approved Subcontractor or Approved Subcontractor Personnel.
- 4.1.2 The liability of the Approved Subcontractor under clause 4.1.1 shall be reduced to the extent that the Approved Subcontractor demonstrates that the Loss arose out of or as a consequence of a Commonwealth default.
- 4.1.3 In this clause 4.1:
- "infringement" of a right includes an act or omission that would, but for the operation of section 163 of the *Patents Act 1990* (Cth), sections 96 and 96A of the *Designs Act 2003* (Cth), section 183 of the *Copyright Act 1968* (Cth), or section 25 of the *Circuit Layouts Act 1989* (Cth), constitute an infringement of the right.

4.2 Intellectual Property Warranties

- 4.2.1 The Approved Subcontractor warrants and shall ensure that, in respect of any IP in the TD or Software delivered or required to be delivered as part of the Services or under or in connection with this Deed, and as at the time of the delivery to the Contractor or, if delivered directly to the Commonwealth, the Commonwealth, of the relevant TD or Software and after making diligent inquiries:
- a. the IP is licenced to, or owned by, the Commonwealth as required by this Deed;
 - b. the Approved Subcontractor has no notice of any challenge to the validity or enforceability of any of the IP and has no knowledge of any actual or threatened claim or proceeding in relation to any of the IP; and
 - c. the Approved Subcontractor is not engaged in litigation, arbitration or other proceedings in relation to any of the IP; and
 - d. there are no proceedings threatened by or against the Approved Subcontractor in relation to any of the IP, and there is nothing that is likely to give rise to any such proceedings.
- 4.2.2 The warranty under clause 4.2.1 does not apply to the extent that the infringement arises from a failure by the Commonwealth, Commonwealth Personnel or a sublicensee of the Commonwealth to comply with a restriction specified in the TDSR Schedule.

ANNEX A TO ATTACHMENT I

5 AUSTRALIAN INDUSTRY CAPABILITY (OPTIONAL)

Note to drafters: Clause 5, including all subclauses, must be included in the deed when the Approved Subcontractor is an AIC Subcontractor. If clause 5 is included, all subclauses are core and required as part of the deed.

5.1 Subcontractor AIC Plan

- 5.1.1 The Approved Subcontractor acknowledges that the Australian Industry Capability (AIC) objectives for the Contract are to:
- a. within the context of the Commonwealth obtaining value for money, identify and pursue opportunities to maximise the participation of Australian Entities in the performance of the Contract;
 - b. facilitate the creation, enhancement and/or maintenance of Industrial Capabilities within Australia and New Zealand to satisfy the Contract requirements, achieve the ADF capability objectives, and support government's and Defence's goals for Australian Industry, as set out in Defence industry policy; and
 - c. ensure that Australian Industry has the necessary technology, IP rights, TD, know-how and know-why to participate in future development and sustainment work in relation to the capability to which the Products Being Supported relate.
- 5.1.2 The Approved Subcontractor's approach and obligations for giving effect to the objectives described in clause 5.1 shall be set out in the Subcontractor AIC Plan, which shall detail the specific activities and other commitments that the Approved Subcontractor will undertake in connection with the performance of the Approved Subcontract.
- 5.1.3 The Approved Subcontractor shall undertake the required activities to comply with the AIC Obligations in accordance with the Approved Subcontract. Without limiting the AIC Obligations, and with the aim of achieving the AIC objectives referred to in clause 5.1, the Approved Subcontractor shall continually:
- a. identify and promote opportunities for enhancing the quality of Australian Industry participation in the performance of the Approved Subcontract, particularly in relation to developing, enhancing and maintaining Industrial Capabilities;
 - b. monitor and explore opportunities for the increased involvement of Australian Industry in the performance of the Approved Subcontract; and
 - c. liaise with the Contractor in relation to AIC in the performance of the Approved Subcontract and report on its performance of the AIC Obligations in accordance with the Approved Subcontract.
- 5.1.4 The Approved Subcontractor shall comply with the Subcontractor AIC Plan.

5.2 Independent AIC Audit Program

- 5.2.1 Without limiting the Commonwealth's rights under clause 5.3.2e, the Approved Subcontractor acknowledges and agrees that the Approved Subcontractor's compliance with the AIC Obligations may be audited as part of the Commonwealth's Independent AIC Audit Program.
- 5.2.2 Each person conducting the Commonwealth's Independent AIC Audit Program is a person authorised by the Commonwealth for the purposes of clause 5.3.2e.

5.3 Reporting

- 5.3.1 Within 30 Working Days of the Effective Date, or otherwise on request by the Commonwealth in relation to a proposed Contract Change Proposal to the Contract, the Approved Subcontractor shall provide the Commonwealth with a report which provides a breakdown of the Approved Subcontract price to level 4 of the contract work breakdown structure for the Approved Subcontract in respect of each of the following categories, separating amounts in respect of each category into budgeted Australian Contract Expenditure (ACE) and budgeted Imported Contract Expenditure (ICE) (and where reference to a subcontract means a 'Subcontract' to the Approved Subcontract):
- a. labour costs (excluding labour provided through a Subcontract);

ANNEX A TO ATTACHMENT I

- b. materials costs (excluding materials provided through a Subcontract);
 - c. other direct costs¹, including travel and accommodation costs;
 - d. Subcontract costs (inclusive of all subcontractors to the Approved Subcontractor, with the breakdown of the subcontract price into ACE and ICE amounts to be provided for each of the top 10 Subcontractors (by price), with all other subcontractors provided as the 11th entry, showing consolidated amounts for ACE and ICE;
 - e. indirect costs (including overheads and general administrative costs); and
 - f. all remaining price elements, including management reserve, profit and incentives, as applicable to the Approved Subcontractor's work scope and in relation to subcontracts.
- 5.3.2 Within 30 Working Days after the occurrence of an ACE Measurement Point, or otherwise on request by the Commonwealth in relation to a proposed Contract Change Proposal to the Contract, the Approved Subcontractor shall provide the Commonwealth with a report which provides a breakdown of the actual costs incurred in performing the Approved Subcontract up until and including the ACE Measurement Point or the date specified in the Commonwealth's request (as applicable), with this breakdown to be provided to level 4 of the contract work breakdown structure for the Approved Subcontract in respect of each of the following categories, separating amounts in respect of each category into ACE and ICE (and where reference to a '**Subcontract**' means a subcontract to the Approved Subcontract):
- a. labour costs (excluding labour provided through a Subcontract);
 - b. materials costs (excluding materials provided through a Subcontract);
 - c. other direct costs, including travel and accommodation costs;
 - d. Subcontract costs (inclusive of all subcontractors to the Approved Subcontractor, with the breakdown of the subcontract price into ACE and ICE amounts to be provided for each of the top 10 Subcontractors (by price), with all other Subcontractors provided as the 11th entry, showing consolidated amounts for ACE and ICE; and
 - e. Indirect costs (including overheads and general administrative costs).
- 6 COMMONWEALTH ACCESS (CORE)**
- 6.1.1 During the performance of the Approved Subcontract, the Approved Subcontractor shall, subject to the Commonwealth giving five Working Days' prior notice to the Approved Subcontractor, provide the Commonwealth and any person authorised by the Commonwealth, access to Approved Subcontractors' premises, and to records and accounts in connection with the performance of work under the Approved Subcontract, including the right to copy. However, in the event of an emergency, an accident or incident investigation, a threat to WHS or the Environment, the Commonwealth may require, and the Approved Subcontractor shall provide, immediate access to the premises, records or accounts for any purpose related to such emergency, investigation or threat. The Commonwealth may copy any records or accounts for such purposes.
- 6.1.2 Without limiting clauses 6.1.1 and 6.1.3, the Approved Subcontractor acknowledges and agrees that:
- a. the Auditor-General has the power under the *Auditor Act 1997* (Cth) to conduct audits (including performance audits) of the Approved Subcontractor in relation to the Approved Subcontract;
 - b. the Auditor-General may give a copy of, or an extract from, a report on an audit in relation to the Approved Subcontract to any person (including a Minister) who, in the Auditor-General's opinion, has a special interest in the report or the content of the extract; and

¹ Refer to the CASG Cost Principles regarding the scope of direct costs / direct expenses.

ANNEX A TO ATTACHMENT I

- c. the Commonwealth may authorise the Auditor-General, or member of the staff of the Australian National Audit Office, to access premises, records and accounts under clause 6.1.1.
- 6.1.3 Without limiting the generality of clause 6.1.1, the purposes for which the Commonwealth or any person authorised by the Commonwealth may require access include:
- a. inspecting CMCA, attending, conducting or checking stocktakes of CMCA, including viewing and assessing the Approved Subcontractor's inventory control and stocktaking systems, and removing CMCA that is no longer required for the performance of the Approved Subcontract;
 - b. performing Audit and Surveillance activities in relation to Quality;

Option: Include the following subclause when the Approved Subcontractor is an AIC Subcontractor.

- c. auditing the Approved Subcontractor's compliance with the AIC Obligations including validating progress in meeting the Subcontractor AIC Plan;
- d. investigating the reasonableness of proposed prices or costs in any CCP submitted to the Contractor under the Approved Subcontract;
- e. investigating:
 - (i) postponement costs claimed;
 - (ii) schedule recovery costs claimed;
 - (iii) cost reimbursement payments;
 - (iv) Defect rectification costs claimed; and
 - (v) any other claims made by the Approved Subcontractor under the Approved Subcontract;
- f. determining whether and to what extent steps should be taken to register or otherwise protect Commonwealth IP;

Option: Include this subclause if clause 2 is included in the deed.

- g. validating the Contractor's compliance with clause 2 and the TDSR Schedule;
- h. auditing raw data, Software, and Source Code for the purpose of validating the Approved Subcontractor's performance under this Deed and the Approved Subcontract;
- i. without being under any obligation to do so, monitoring the Approved Subcontractor's compliance with any applicable laws or Approved plans in connection with the protection of Work Health and Safety (WHS) or the Environment, including the development and implementation of any systems, policies or procedures related to WHS and environmental compliance as required under the Approved Subcontract;
- j. assessing the performance of the Approved Subcontractor, including against performance measures and including accessing and inspecting relevant information technology systems to analyse and interrogate data supporting the Approved Subcontractor's assessment of its performance against performance measures;
- k. assessing how and if the Approved Subcontractor has achieved agreed innovations / efficiencies;
- l. assessing the financial viability of the Approved Subcontractor to perform and complete the Approved Subcontract;

Option: Include this subclause if Periodic Cost Reviews have been included at clause 1.11 of the COC.

- m. conducting a Periodic Cost Review under the Contract;

ANNEX A TO ATTACHMENT I

- n. validating the progress against the requirements of any approved Remediation Plan provided by the Contractor under the Contract; and
 - o. such other matters specified in the Approved Subcontract.
- 6.1.4 The Commonwealth shall comply with, and shall require any delegate or person authorised by the Commonwealth to comply with, any reasonable Approved Subcontractor safety and security requirements or codes of behaviour for the premises.

7 LAW**7.1 Goods and Services Tax (Core)**

- 7.1.1 In this clause, '**GST**' means a Commonwealth goods and services tax imposed by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the expressions '**adjustment event**', '**taxable supply**' and '**tax invoice**' have the meaning as in that Act.
- 7.1.2 If a party to this Deed ('the **Supplier**') makes a taxable supply under or in connection with this Deed or in connection with any matter or thing occurring under this Deed to another party to this Deed ('the **Recipient**') and the consideration otherwise payable for the taxable supply does not include GST, the Supplier will be entitled, in addition to any other consideration recoverable in respect of the taxable supply, to recover from the Recipient the amount of any GST on the taxable supply.
- 7.1.3 If the amount paid by the Recipient to the Supplier in respect of GST differs from the GST on the taxable supply (taking into account any adjustment events that occur in relation to the taxable supply), an adjustment shall be made. If the amount paid by the Recipient exceeds the GST on the taxable supply, the Supplier shall refund the excess to the Recipient. If the amount paid by the Recipient is less than the GST on the taxable supply, the Recipient shall pay the deficiency to the Supplier.
- 7.1.4 A party will not be obliged to pay any amount in respect of GST to the other party unless a valid tax invoice has been issued in respect of that GST.

7.2 No Exclusion of Law or Equity (Core)

- 7.2.1 Subject to its terms, this Deed shall not be construed to exclude the operation of any principle of law or equity intended to protect and preserve the confidentiality of the Confidential Information.

7.3 Waiver (Core)

- 7.3.1 Failure by either party to enforce a provision of this Deed shall not be construed as in any way affecting the enforceability of that provision or the Deed as a whole.

7.4 Remedies (Core)

- 7.4.1 The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.
- 7.4.2 Subject to the terms of this Deed, the rights and obligations of the parties under this Deed are in addition to and not in derogation of any other right or obligation between the parties under any other deed or agreement to which they are parties.

7.5 Variation (Core)

- 7.5.1 This Deed may only be varied by written agreement of the parties.

7.6 Applicable Law (Core)

- 7.6.1 The laws of the [...**INSERT RELEVANT STATE OR TERRITORY**...] apply to this Deed, and the courts of that State or Territory have non-exclusive jurisdiction to decide any matter relating to this Deed.

7.7 Notices (Core)

- 7.7.1 Unless the contrary intention appears, any notice or communication under this Deed shall be effective if it is in writing and sent from and delivered to the relevant party at the following address:

ANNEX A TO ATTACHMENT I**[...INSERT COMMONWEALTH ADDRESS AND EMAIL...]****[...INSERT APPROVED SUBCONTRACTOR ADDRESS AND EMAIL...]**

- 7.7.2 A notice or communication is deemed to be delivered:
- a. if sent by pre-paid post, when received at the address; or
 - b. if hand delivered, when received at the address, or by the addressee if sooner;
 - c. if sent as an email, when the email enters the addressee's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the addressee,
- but if the receipt, or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Working Day.

ANNEX A TO ATTACHMENT I

SIGNED AS A DEED

SIGNED for and on behalf of

THE COMMONWEALTH OF AUSTRALIA:

(signature)_____
(print name and position)_____
(date)

In the presence of:

(signature)_____
(print name)_____
(date)

SIGNED, SEALED AND DELIVERED for and on behalf of

THE APPROVED SUBCONTRACTOR:

Note for Deed Signature: Guidance on executing agreements, including some statutory requirements to ensure the execution is effective, are detailed in the 'Executing Agreements Fact Sheet', found on the Procurement and Contracting intranet page at:

- ***<http://ibss/PublishedWebsite/LatestFinal/%7B836F0CF2-84F0-43C2-8A34-6D34BD246B0D%7D/Item/EBDAF9B0-2B07-45D4-BC51-67963BAA2394>***

This guidance is developed for Commonwealth Personnel and should be used to assess the Approved Subcontractor's execution of the Deed. The Approved Subcontractor should seek its own independent legal advice on its execution of the Deed.

[...INSERT APPROPRIATE APPROVED SUBCONTRACTOR'S EXECUTION CLAUSE...]

ANNEX A TO ATTACHMENT I

SCHEDULE 1

TECHNICAL DATA & SOFTWARE RIGHTS (TDSR) SCHEDULE

Note to Drafters: This schedule including all of its annexes should be included, and tables populated appropriately, when clause 2 is included in the Approved Subcontractor Deed.

The TDSR Schedule used in this Deed should reflect the restrictions on TD and Software supplied by the Approved Subcontractor and included in the TDSR Schedule to the Contract. If the Approved Subcontractor is engaged before the TDSR Schedule under the Contract is updated to take into account that engagement, a CCP under clause 11.1 of the Contract should be raised to update the TDSR Schedule in the Contract in conjunction with the execution of this Deed.

- 1.2 This Schedule consists of the following Annexes:
- a. Annex A – Highly Sensitive TD and Highly Sensitive Software;
 - b. Annex B – Delivery and Licence Restrictions on Use of TD and Software;
 - c. Annex C- Key Commercial Items
 - d. Annex D – Commonwealth TD and Commonwealth Software;
 - e. Annex E – Excluded Parties;
 - f. Annex F – Patents, Registrable Designs and Circuit Layouts

ANNEX A TO ATTACHMENT I

SCHEDULE 1

ANNEX A – HIGHLY SENSITIVE TD AND HIGHLY SENSITIVE SOFTWARE (CORE)

Note to Tenderers: This table should reflect Annex A in the TDSR Schedule for the Contract, in respect of Highly Sensitive TD and Highly Sensitive Software provided by the Approved Subcontractor.

Unique Line Item Description	Item Reference within TDL	Owner or Licensor	System/ Subsystem/ Component/ CI Name	Description of TD or Software	Restrictions on Commonwealth's rights to Use or Sublicence the TD or Software	Justification for Restriction(s)
(a)	(b)	(c)	(d)	(e)	(f)	(g)

ANNEX A TO ATTACHMENT I

SCHEDULE 1

ANNEX B – DELIVERY AND LICENCE RESTRICTIONS ON USE OF TD AND SOFTWARE (CORE)

Note to Tenderers: This table should reflect Annex B in the TDSR Schedule for the Contract, in respect of TD and Software provided by the Approved Subcontractor.

Unique Line Item Description	Owner or Licensor	System/ Subsystem/ Component/ CI Name	Description of TD or Software subject to Restriction (refer Unique Line Item Description from Annex D if appropriate)	Restricted Delivery Arrangements? (Yes/No) If yes, specify identity of recipient(s) or nature of the restrictions in column (g)	Restrictions on Commonwealth's rights to Use or Sublicence the TD or Software	Justification for Restriction(s)
(a)	(b)	(c)	(d)	(e)	(f)	(g)

ANNEX A TO ATTACHMENT I

SCHEDULE 1

ANNEX C – KEY COMMERCIAL ITEMS (CORE)

Note to tenderers: This table should reflect Annex C in the TDSR Schedule for the Contract, in respect of Commercial Items required to be delivered by the Approved Subcontractor and for which the Approved Subcontractor owns the IP in the related Commercial TD or Commercial Software (which should also be listed). The terms applicable to the licence proposed to be granted for the item are also to be specified. The tenderer may complete column (d) by reference to other documents from which those terms are ascertainable.

Unique Line Item Description	Description of Key Commercial Item System/ Subsystem/ Component/CI Name	Description of related Commercial TD or Commercial Software (including version number and use)	Licence Terms
(a)	(b)	(c)	(d)

ANNEX A TO ATTACHMENT I

SCHEDULE 1

ANNEX D – COMMONWEALTH TD AND COMMONWEALTH SOFTWARE (CORE)

Note to Tenderers: This table should reflect Annex D in the TDSR Schedule for the Contract, in respect of Commonwealth TD and Commonwealth Software that will be created by the Approved Subcontractor.

Unique Line Item Description	Item Reference within TDL	Related Deliverable or Product Being Supported (Equipment System/ Subsystem/ Component/ CI Name)	Description of TD or Software	Name of Assignee	Restrictions on non-Commonwealth owned IP (refer Unique Line Item Description from Annex B if required)	Restrictions on licences granted by the Commonwealth to Commonwealth TD or Commonwealth Software
(a)	(b)	(c)	(d)	(e)	(f)	(g)

ANNEX A TO ATTACHMENT I

SCHEDULE 1

ANNEX E – EXCLUDED PARTIES (CORE)

Note to Tenderers: This table should reflect Annex E in the TDSR Schedule for the Contract, in respect of Excluded Parties identified by the Approved Subcontractor.

Unique Line Item Description	Excluded Party (party must be capable of being clearly identified by the Commonwealth)	Period of Restriction (must not be perpetual)	Justification for Non-Disclosure Restriction
(a)	(b)	(c)	(d)

ANNEX A TO ATTACHMENT I

SCHEDULE 1

ANNEX F – PATENTS, REGISTRABLE DESIGNS AND CIRCUIT LAYOUTS (CORE)

Note to Tenderers: This table should reflect the equivalent table under Annex F of the TDSR Schedule for the Contract, in respect of restrictions on a Patent, Registrable Design or Circuit Layout provided by the Approved Subcontractor.

Unique Line Item Description	Services containing a Patent, Registrable Design or Circuit Layout (pending or registered)	Type of IP (Patent, Registrable Design or Circuit Layout)	Owner / IP Applicant	Application / Registration No (if applicable)	Countries or regions of permitted use	Restrictions
(a)	(b)	(c)	(d)	(e)	(f)	(g)

ANNEX A TO ATTACHMENT I

SCHEDULE 2

CONFIDENTIALITY DEED POLL

(...INSERT NEGOTIATED FORM OF CONFIDENTIALITY DEED POLL...)

ANNEX A TO ATTACHMENT I

SCHEDULE 3

CONFIDENTIAL INFORMATION

(...INSERT EXTRACT OF NEGOTIATED ATTACHMENT N TO THE CONDITIONS OF CONTRACT...)

ANNEX A TO ATTACHMENT I

SCHEDULE 4

PRODUCTS BEING SUPPORTED

ANNEX B TO ATTACHMENT I**DEED OF CONFIDENTIALITY AND FIDELITY (CORE)**

This Deed Poll is made on (...INSERT DATE...) by:

(...INSERT NAME OF CONFIDANT AND ACN/ARBN AND ABN AS APPLICABLE...) ('the **Confidant**') in favour of the Commonwealth of Australia as represented by the Department of Defence ABN 68 706 814 312 ('the **Commonwealth**') and the Relevant Third Party.

RECITALS:

- A. In performance of any of its obligations in relation to the (...INSERT CONTRACT NUMBER...) dated (...INSERT DATE...) for the provision of (...INSERT BRIEF DESCRIPTION...) ('**Agreement**'), the Confidant may become aware of or have access to Confidential Information belonging to the Commonwealth, the Relevant Third Party or another person.
- B. The Commonwealth requires and the Confidant agrees that it is necessary to take all necessary steps (including the execution of this Deed for the benefit of the Commonwealth and the Relevant Third Party) to ensure that the Confidential Information is kept confidential, is not disclosed to any party that is not authorised to receive it and is only used for the Permitted Purposes.

AGREED TERMS**1. ACKNOWLEDGEMENT**

- 1.1 The Confidant acknowledges the truth and accuracy of the statements in the Recitals in every particular.

2. DEFINITIONS

- 2.1 In the interpretation of this Deed, unless the contrary intention appears:

'Confidential Information' means information (whether or not owned by the Commonwealth or a Relevant Third Party) that meets all of the following criteria:

- a. is specifically identified at Schedule 1 to this Deed;
- b. is commercially sensitive (not generally known or ascertainable);
- c. disclosure would cause unreasonable detriment to the owner of the information or another party; and
- d. was provided with an express or implied understanding that it would remain confidential; but does not include information which:
 - e. is or becomes public knowledge other than by breach of this Deed;
 - f. is in the possession of the party without restriction in relation to disclosure before the date of receipt; or
 - g. has been independently developed or acquired by the receiving party.

'Documents' include:

- a. any paper or other materials on which there are writing, marks, figures, symbols or perforations having meaning for persons qualified to interpret them; and
- b. any article or material from which sound, images or writings are capable of being reproduced with or without the aid of any other article or device.

'Permitted Purposes' means

- a. the purposes described in Schedule 1 to this Deed; and
- b. any other purpose that may be approved in writing by the Commonwealth from time to time.

'Personnel' means any officer, employee, agent, adviser or independent contractor of the Confidant.

'Relevant Third Party' means each entity, if any, described in Schedule 1 to this Deed, or as notified to the Confidant by the Commonwealth from time to time.

'Working Day', means, in relation to the doing of an action in a place, means any day in that place other than:

- a. a Saturday, Sunday or public holiday in that place; and
- b. any day within the two-week period that starts on:
 - (i) the Saturday before Christmas Day; or
 - (ii) if Christmas Day falls on a Saturday, Christmas Day.

3. INTERPRETATION

3.1 In this Deed, unless the contrary intention appears:

- a. headings are for the purpose of convenient reference only and do not form part of this Deed;
- b. the singular includes the plural and vice versa;
- c. a reference to one gender includes any other;
- d. a reference to a person includes a body politic, body corporate or a partnership;
- e. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action shall be done no later than the next Working Day;
- f. a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
- g. a reference to a clause includes a reference to a subclause of that clause;
- h. a reference to a 'dollar', '\$', '\$A' or 'AUD' means the Australian dollar unless otherwise stated;
- i. a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on date of entering into the Deed, or alternatively, a reference to another version of the Document if agreed in writing between the parties;
- j. the word "includes" in any form is not a word of limitation; and
- k. a reference to a party includes that party's administrators, successors, and permitted assigns, including any person to whom that party novates any part of this Deed.

4. CONFIDENTIALITY UNDERTAKINGS

4.1 The Confidant:

- a. acknowledges and agrees that this Deed is for the benefit of the Commonwealth and any Relevant Third Party and is directly enforceable by the Commonwealth or any Relevant Third Party, even though they are not parties to this Deed;
- b. shall ensure that the Confidential Information is kept confidential and secure from disclosure;
- c. shall only use the Confidential Information for the Permitted Purposes;
- d. shall not without the prior written consent of the Commonwealth, disclose or permit any person to disclose any of the Confidential Information to any person, other than its Personnel who:
 - (i) have a need to know and access the Confidential Information in order for the Confidant to carry out the Permitted Purposes; and
 - (ii) where required by the Commonwealth, have executed a similar undertaking to this Deed in favour of the Commonwealth and each Relevant Third Party,and the Commonwealth may grant or withhold its consent; and

- e. shall promptly notify the Commonwealth of any unauthorised possession, disclosure or use of the Confidential Information contrary to this Deed, and take all steps necessary to prevent the recurrence of such possession, disclosure or use.
- 4.2 The restrictions imposed by this Deed in relation to Confidential Information will not apply to the disclosure by the Confidant or its Personnel of any Confidential Information to the extent it is required to be disclosed by law or court order.
- 4.3 The Confidant acknowledges that it may be provided with the ability to access Commonwealth-held information (in addition to the Confidential Information) in connection with its performance of the Permitted Purposes, including through access to Commonwealth information technology systems. Without limiting the Confidant's other obligations under this Deed or otherwise at law, the Confidant shall not seek to access or use Commonwealth-held information except to the extent strictly required to undertake the Permitted Purposes.

5. CONFIDANT'S REPRESENTATIVES

- 5.1 The Confidant shall ensure that its Personnel (whether or not still employed or engaged in that capacity) do not do or omit to do anything which, if done or omitted to be done by the Confidant, would be a breach of the Confidant's obligations under this Deed.
- 5.2 The Confidant shall give the Commonwealth all assistance it reasonably requires to take any action or bring any proceedings for breach of the undertaking contained in clause 5.1.

6. RETURN OF CONFIDENTIAL INFORMATION

- 6.1 Without limiting the Confidant's obligations at law, the Confidant shall deliver to the Commonwealth or the Relevant Third Party (as applicable), or destroy or erase, as required by the Commonwealth, all Documents and any other material (including electronically stored or otherwise) in its possession, power or control which contain or relate to the Confidential Information on the earlier of:
 - a. demand by the Commonwealth, and
 - b. the time the Documents and any other material are no longer required for the Permitted Purposes.
- 6.2 If the Commonwealth makes a demand under this clause 6, and the Confidant has placed or is aware that Documents containing the Confidential Information are beyond its possession or control, then the Confidant shall provide full particulars of the whereabouts of the Documents containing the Confidential Information, and the identity of the person in whose custody or control they lie.
- 6.3 The Confidant shall ensure that its Personnel and each person to whom it (or its Personnel) has disclosed any Confidential Information comply with the requirements of this clause 6 as if personally bound by it.
- 6.4 Return or destruction of any Confidential Information does not release the Confidant from its obligations under this Deed.

7. SURVIVAL

- 7.1 This Deed shall survive the termination or expiry of the Agreement.

8. INDEMNITY

- 8.1 The Confidant indemnifies the Commonwealth and the Relevant Third Party, their officers, employees and agents against all liability or loss arising directly or indirectly from, and any costs, charges and expenses (including the cost of settling any action) arising or incurred in connection with:
 - a. any breach by the Confidant of this Deed; or
 - b. any act or omission by any of the Confidant's Personnel which, if done or omitted to be done by the Confidant, would be a breach of the Confidant's obligations under this Deed.

9. INJUNCTIVE RELIEF

- 9.1 The Confidant acknowledges that damages may not be a sufficient remedy for the Commonwealth or a Relevant Third Party for any breach of this Deed and that the Commonwealth and each Relevant Third Party is entitled to injunctive relief (as appropriate) as a remedy for any breach or threatened breach by the Confidant, in addition to any other remedies available at law or in equity.

10. WAIVER

- 10.1 Failure by the Commonwealth or a Relevant Third Party to enforce a provision of this Deed shall not be construed as in any way affecting the enforceability of that provision or this Deed as a whole.

11. REMEDIES CUMULATIVE

- 11.1 The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law, in equity or any other such right or remedy.

12. OTHER INSTRUMENTS

- 12.1 Subject to the other covenants of this Deed, the rights and obligations of the Commonwealth, each Relevant Third Party and the Confidant pursuant to this Deed are in addition to and not in derogation of any other right or obligation between the Commonwealth, Relevant Third Party and the Confidant under any other deed or agreement to which they are parties.

13. VARIATIONS AND AMENDMENTS

- 13.1 No term or provision of this Deed shall be amended or varied unless such amendment or variation is agreed by the Commonwealth in writing.

14. APPLICABLE LAW

- 14.1 The laws of [...INSERT STATE/TERRITORY...] shall apply to this Deed. The courts of that State or Territory shall have non-exclusive jurisdiction to decide any matter arising out of this Deed.

15. NOTICES

- 15.1 Unless the contrary intention appears, any notice under this Deed shall be effective if it is in writing and sent from and delivered to the Commonwealth or Confidant, as the case may be, as detailed below:
- a. [...INSERT COMMONWEALTH ADDRESS AND EMAIL...]; or
 - b. (...INSERT CONFIDANT ADDRESS AND EMAIL...).
 - c.
- 15.2 A notice given in accordance with this clause 15 is deemed to be delivered:
- a. if hand delivered, when received at the address;
 - b. if sent by pre-paid post, in three Working Days when sent within Australia and in eight Working Days when sent by air mail from one country to another; or
 - c. if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the recipient,
- 15.3 but if the receipt or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is deemed to be delivered at 9.00am (recipient's local time) on the next Working Day.

SIGNED AS A DEED POLL

Note for Deed Signature: Guidance on executing agreements, including some statutory requirements to ensure the execution is effective, are detailed in the 'Executing Agreements Fact Sheet', found on the Procurement and Contracting intranet page at:

- <http://ibss/PublishedWebsite/LatestFinal/%7B836F0CF2-84F0-43C2-8A34-6D34BD246B0D%7D/Item/EBDAF9B0-2B07-45D4-BC51-67963BAA2394>

This guidance is developed for Commonwealth Personnel and should be used to assess the Confidant's execution of the Deed. The Confidant should seek its own independent legal advice on its execution of the Deed.

(...INSERT APPROPRIATE CONFIDANT'S EXECUTION CLAUSE...)

SCHEDULE 1

16. CONFIDENTIAL INFORMATION

Note to drafters: It is essential to describe the specific Confidential Information that may be used and provided to the Confidant.

16.1 (...INSERT CONFIDENTIAL INFORMATION BEING PROVIDED...)

17. PERMITTED PURPOSES

Note to drafters: It is essential to describe the Permitted Purposes for which the Confidential Information may be used by the Confidant. The intention of this part of this Annex is to clearly and accurately define the scope of those Permitted Purposes and so confine its use for only those purposes.

18. RELEVANT THIRD PARTY

Note to drafters: Identify any Relevant Third Party with as much precision as possible. If necessary, this can be done by identifying an entity such as a company, or by describing a class of persons that can be readily identified, eg the authors of specified material.

ANNEX C TO ATTACHMENT I

CONTRACT CHANGE PROPOSAL (CCP) (CORE)

(CONTRACT NUMBER: (...INSERT CONTRACT NUMBER...))

Note to Contractor: Contract Change Proposals which involve consideration may be executed in the form of an agreement rather than a deed and the CCP execution clause needs to be tailored accordingly.

For the purposes of the CCP, consideration may include a change in the contract price or the delivery of additional goods or services (even if at no cost to the Commonwealth).

A CCP shall identify separately the cost of preparation of the CCP and any proposed variation to the payments required under the Contract and, where approved in accordance with clause 11.1 of the COC, the reasonable cost of preparation shall be taken into account in calculating the varied payments under the Contract.

If this CCP relates to changes of an administrative nature, which have no impact upon the payments required under the Contract or on the Statement of Work, the Contractor may provide minimal details of the change. Responses are only required for headings denoted as mandatory.

This CCP is made on (...INSERT DATE...)

Between

The Commonwealth of Australia as represented by the Department of Defence ABN 68 706 814 312 ('the Commonwealth')

and

(...INSERT CONTRACTOR...ACN/ARBN AND ABN IF APPLICABLE...) having its registered office at (...INSERT DETAILS...) ('the Contractor')

RECITALS:

- A. The Commonwealth has entered into a contract (...INSERT CONTRACT NUMBER...) dated (...INSERT DATE...) ('the Contract') for the supply of [...INSERT BRIEF DESCRIPTION OF THE SERVICES...].
- B. The Contract provides that changes are to be dealt with by CCP.
- C. The Commonwealth or the Contractor proposes a change to the Contract as set out in this CCP.

AGREED TERMS:

CCP Number (Mandatory):

ECP Number (If applicable):

Date Raised (Mandatory):

Validity period for CCP (Mandatory):

Originator (Mandatory):

Reference in Contract (Mandatory): (...INSERT CLAUSE NUMBER...)

1. Details of Proposed Change (Mandatory):

- a. Old Text:
- b. New Text:

2. Justification for Proposed Change (Mandatory):**3. Effect of Proposed Change (If applicable):**

- a. Payments Required under the Contract:
 - (i) Price and Delivery Schedule:

ANNEX C TO ATTACHMENT I

- (ii) Payment Schedule including payment method:
- (iii) New or Revised Key Performance Indicators:
- (iv) Cost of Preparation of CCP:
- b. Delivery:
 - (i) Location:
 - (ii) Date:
- c. Scope of Work:

Note to Contractor: This should include a description of the effect of the change on the scope of work, including where appropriate: Quality, AIC, technical / functional specification, warranty, training, documentation, WBS and whether it is for S&Q Services.

- d. Australian Industry Capability:
 - (i) Australian Industry Activities (AIAs):

Option: For when the Contract does not include Prescribed ACE Percentages:

- (ii) Australian Contract Expenditure (ACE):

Option: For when the Contract includes Prescribed ACE Percentages:

- (iii) the Prescribed ACE Percentage at future ACE Measurement Points:

Option: For when the parties intend this CCP to take effect on a date other than the date of signature:

4. Date of effect of this CCP:

5. Warranty:

- 5.1 In signing this CCP the Contractor warrants that the submitted cost of preparation of this CCP is true and correct.

6. Approval:

- 6.1 The CCP and its attachments are approved. The Contract shall be deemed to be changed on the date specified in this CCP or when this CCP has been properly executed by both parties.

Note for Contract Change Proposal Signature: Guidance on executing agreements, including some statutory requirements to ensure the execution is effective, are detailed in the 'Executing Agreements Fact Sheet', found on the Procurement and Contracting intranet page at:

- <http://ibss/PublishedWebsite/LatestFinal/836F0CF2-84F0-43C2-8A34-6D34BD246B0D/Item/EBDAF9B0-2B07-45D4-BC51-67963BAA2394>

This guidance is developed for Commonwealth Personnel and should be used to assess the Contractor's execution of the Contract Change Proposal. The Contractor should seek its own independent legal advice on its execution of the Contract Change Proposal.

SIGNED (...INSERT EITHER "AS AN AGREEMENT" OR "AND DELIVERED AS A DEED" AS APPROPRIATE...)

SIGNED for and on behalf of

THE COMMONWEALTH OF AUSTRALIA:

(signature)

(print name and position)

(date)

In the presence of:

(signature)

(print name)

(date)

SIGNED for and on behalf of

THE CONTRACTOR:

(...INSERT APPROPRIATE CONTRACTOR'S EXECUTION CLAUSE...)

Appendix:

1. Engineering Change Proposal (ECP) (if applicable).

ANNEX D TO ATTACHMENT I

BANK GUARANTEE

This DEED is made on (...INSERT DATE...)

For the benefit of the Commonwealth of Australia represented by the Department of Defence ABN 68 706 814 312 ('the Commonwealth')

by (...INSERT NAME OF COMPANY...), (...ACN/ARBN and ABN if applicable...) whose registered office is (...INSERT DETAILS...) ('the Promisor').

RECITALS

- A. The Commonwealth has a Contract (...INSERT CONTRACT NUMBER...) dated (...INSERT DATE...) ('the Contract') with (...INSERT NAME OF CONTRACTOR...), (...ACN/ARBN and ABN if applicable...) having its registered office at (...INSERT DETAILS...) (the 'Contractor') for the supply of (...INSERT BRIEF DESCRIPTION...).
- B. The Contractor is required by the Contract to obtain this undertaking for the Commonwealth.

OPERATIVE PART

1. The Promisor undertakes to pay on demand to the Commonwealth any amount or amounts which may be demanded by the Commonwealth from time to time, up to a maximum of \$(...INSERT AMOUNT...) (the 'Sum'). This undertaking is unconditional.
2. To make a demand, the Commonwealth shall give the Promisor a written notice setting out the amount demanded and the time within which it is to be paid.
3. The Promisor shall not make any inquiry in relation to the demand.
4. This undertaking continues in force until the earlier of:
 - a. the Promisor has received written notice from the Commonwealth that the undertaking is no longer required; and
 - b. the Commonwealth has received from the Promisor the whole of the Sum, or the balance after any part payment of the Sum.
5. Any payments made by the Promisor to the Commonwealth under this undertaking are to be made by electronic funds transfer with the Commonwealth of Australia identified as the payee.
6. This undertaking cannot be varied or waived under any circumstances. To avoid doubt, this undertaking is not affected if the Contract is varied, the Contractor is granted an extension of time to perform the Contract, or the Commonwealth waives a breach, failure or default of the Contractor.
7. Unless the contrary intention appears, any notice under this undertaking shall be effective if it is in writing and sent from and delivered to the Commonwealth or Promisor, as the case may be, as detailed below:

[...INSERT COMMONWEALTH ADDRESS AND EMAIL...];

(...INSERT PROMISOR ADDRESS AND EMAIL...).

8. A notice given in accordance with clause 7 is delivered:
 - a. if sent by pre-paid post, when received at the address;
 - b. if hand delivered, when received at the address, or
 - c. if sent as an email, when the email enters the addressee's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the addressee

but if the receipt or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Working Day. For the purpose of this clause, 'Working Day' in relation to the doing of an action in a place, means any day other than a Saturday, Sunday or public holiday in that place.

ANNEX D TO ATTACHMENT I

9. The laws of the (...INSERT STATE OR TERRITORY...) apply to this undertaking. The courts of that State or Territory have non-exclusive jurisdiction to decide any matter arising out of this undertaking.

SIGNED AS A DEED:

Note for Deed Signature: Guidance on executing agreements, including some statutory requirements to ensure the execution is effective, are detailed in the 'Executing Agreements Fact Sheet', found on the Procurement and Contracting intranet page at:

- <http://ibss/PublishedWebsite/LatestFinal/836F0CF2-84F0-43C2-8A34-6D34BD246B0D/Item/EBDAF9B0-2B07-45D4-BC51-67963BAA2394>

This guidance is developed for Commonwealth Personnel and should be used to assess the Promisor's execution of the Deed. The Promisor should seek its own independent legal advice on its execution of the Deed.

(...INSERT THE PROMISOR'S USUAL SEALING CLAUSE...)

ANNEX E TO ATTACHMENT I

Note to tenderers: If the tenderer has a Master Guarantee and Indemnity Deed with Defence and elects to apply that deed to the Contract, this Attachment will be marked 'Not Used'.

DEED OF GUARANTEE AND INDEMNITY (RFT CORE)

This DEED is made on (...INSERT DATE...)

BETWEEN

The Commonwealth of Australia as represented by the Department of Defence ABN 68 706 814 312 ('the Commonwealth')

AND

(...INSERT NAME OF COMPANY...) (...INSERT ACN/ARBN AND ABN IF APPLICABLE...), having its registered office at (...INSERT DETAILS...) ('the Guarantor').

RECITALS

- A. The Commonwealth and the Contractor are a party to the Guaranteed Agreements.
- B. The Guarantor has agreed to guarantee to the Commonwealth all of the Relevant Obligations and to indemnify the Commonwealth on the terms and conditions in this Deed.

AGREED TERMS

ANNEX E TO ATTACHMENT I

1 DEFINITIONS AND INTERPRETATION (CORE)**1.1 Definitions (Core)**

1.1.1 In the interpretation of this Deed, unless the contrary intention appears:

“Authorisation” means a licence, accreditation, permit, registration, regulatory approval, or other documented authority (however described), required by law.

“Contractor” means (...INSERT NAME OF COMPANY...) (...INSERT ACN/ABN AND ABN IF APPLICABLE...).

“Constitution” means, in relation to any person, the constitution, or similar governing document(s), of that person (if any).

“Corporations Act” means the *Corporations Act 2001* (Cth).

“Event of Default” means any event which entitles the Commonwealth to terminate a Guaranteed Agreement for Contractor default.

“Event of Insolvency” means, in respect of a person:

- a. the person:
 - (i) becoming insolvent;
 - (ii) ceasing to carry on all or a material part of its business; or
 - (iii) taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- b. the appointment of a Controller (as defined in the *Corporations Act 2001* (Cth)) , a liquidator or provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property;
- c. the person becoming subject to external administration provided for in Chapter 5 of the *Corporations Act 2001* (Cth);
- d. the person suffering execution against, or the holder of a Security Interest or any agent on its behalf taking possession of, any of the person's property (including seizing the person's property within the meaning of section 123 of the *Personal Property Securities Act 2009* (Cth));
- e. the person being taken under section 459F(1) of the *Corporations Act 2001* (Cth) to have failed to comply with a statutory demand;
- f. an order or resolution for the winding up or deregistration of the person;
- g. a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- h. any analogous event under the law of any applicable jurisdiction.

Note to drafters: Drafters to consider whether any additional agreements should be included in this definition.

“Guaranteed Agreements” means:

- a. the contract no. (...INSERT CONTRACT NUMBER...) dated (...INSERT DATE...) between the Commonwealth and the Contractor for the supply of (...INSERT REQUIREMENT...); and
- b. (...INSERT DETAILS...).

“Guaranteed Money” means all amounts the payment or repayment of which from time to time forms part of the Relevant Obligations and includes any amount recoverable as a debt to the Commonwealth in relation to the Guaranteed Agreement.

“Obligor” means the Contractor or the Guarantor.

“Power” means any right, power, authority, discretion, remedy or privilege.

ANNEX E TO ATTACHMENT I

“Relevant Obligations” means all of the liabilities and obligations of the Contractor to the Commonwealth under or by reason of the Guaranteed Agreements and includes any liabilities or obligations of the Contractor which:

- a. are liquidated or unliquidated;
- b. are present, prospective or contingent;
- c. are in existence before or come into existence on or after the date of this Deed; or
- d. relate to the payment of money or the performance or omission of any act.

“Security Interest” means each of the following:

- a. a security for the payment of money or performance of an obligation, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement;
- b. a “security interest” as defined in section 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth); and
- c. an agreement to create any of these or allow any of these to exist.

“Unpaid Sum” means any sum due and payable by the Guarantor under this Deed but unpaid.

“Working Day” in relation to the doing of an action in a place, means any day in that place other than:

- a. a Saturday, Sunday or public holiday; and
- b. any day within the two-week period that starts on:
 - (i) the Saturday before Christmas Day; or
 - (ii) if Christmas Day falls on a Saturday, Christmas Day.

1.2 Interpretation (Core)

1.2.1 In this Deed, unless the contrary intention appears:

- a. headings are for the purpose of convenient reference only and do not form part of this Deed;
- b. the singular includes the plural and vice-versa;
- c. a reference to one gender includes any other;
- d. a reference to a person includes a body politic, body corporate or a partnership;
- e. if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action shall be done no later than the end of the next Working Day;
- f. a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
- g. a reference to a clause includes a reference to a sub-clause of that clause;
- h. a reference to a “dollar”, “\$”, “\$A” or “AUD” means the Australian dollar;
- i. a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on the date of this Deed, or alternatively, a reference to another version of the document if agreed in writing between the parties;
- j. the word “includes” in any form is not a word of limitation;
- k. a reference to a party includes that party’s administrators, successors, and permitted assigns, including any person to whom that party novates any part of this Deed; and
- l. a reference to a document (including any Guaranteed Agreement) is to that document as varied, novated, ratified, replaced or restated from time to time.

ANNEX E TO ATTACHMENT I**1.3 Joint and Several Liability (Optional)**

Note to drafters: Include this clause where the Guarantor comprises more than one party.

- 1.3.1 The expression "Guarantor" refers to each person identified as a Guarantor, and the obligations of the Guarantors under this Deed bind each person identified as a Guarantor, jointly and severally.

1.4 Liability as Guarantor and Indemnifier (Core)

- 1.4.1 Any reference in this Deed to the obligations or liabilities of the Guarantor shall be construed as a reference to its obligations or liabilities, whether as a guarantor or an indemnifier or both, under this Deed.

1.5 Principal Obligation (Core)

- 1.5.1 Each obligation of the Guarantor under this Deed constitutes a principal, not a secondary or ancillary obligation, such that, without limiting in any way the operation of any of the other provisions of this Deed, any limitation on the liability of the Guarantor which would otherwise arise by reason of its status as a guarantor, co-guarantor, indemnifier or co-indemnifier, is negated.

1.6 No Bias against Drafting Party (Core)

- 1.6.1 No term or provision of this Deed shall be construed against a party on the basis that this Deed or the term or provision in question was put forward or drafted by that party.

2 GUARANTEE (CORE)**2.1 Guarantee (Core)**

- 2.1.1 Subject to clause 2.4, the Guarantor irrevocably and unconditionally guarantees to the Commonwealth the due and timely performance by the Contractor of all the Relevant Obligations.

2.2 Performance of Relevant Obligations (Core)

- 2.2.1 Subject to clause 2.4, if the Contractor fails to perform any of the Relevant Obligations in accordance with the relevant Guaranteed Agreement, the Guarantor shall, in addition to its obligations under clause 2.3, on demand from time to time by the Commonwealth, immediately cause to be performed, such Relevant Obligations required to be performed by the Contractor in accordance with that Guaranteed Agreement.

2.3 Payment by Guarantor (Core)

- 2.3.1 Subject to clause 2.4, if the Contractor does not pay the Guaranteed Money when due in accordance with the terms of the relevant Guaranteed Agreement, the Guarantor shall within three Working Days following demand by the Commonwealth, pay to the Commonwealth the Guaranteed Money which is then due and unpaid.

2.4 Limitation of Liability (Core)

- 2.4.1 Subject to clause 7.1.1, the Guarantor's liability pursuant to this Deed in respect of any Guaranteed Agreement shall be no greater than the aggregate of the remaining Relevant Obligations of the Contractor as they exist from time to time pursuant to or arising out of that Guaranteed Agreement and the Guarantor shall be entitled to all defences and limitations of liability to which the Contractor is entitled under that Guaranteed Agreement. The total sum recoverable from the Guarantor under this Deed in respect of any Guaranteed Agreement shall not exceed the liability the Contractor would otherwise have for the Relevant Obligations under that Guaranteed Agreement.

3 INDEMNITY (CORE)

- 3.1.1 Subject to clause 2.4, the Guarantor, as a separate additional and primary liability, shall irrevocably and unconditionally indemnify the Commonwealth against any liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor

ANNEX E TO ATTACHMENT I

and own client basis), compensation or expense sustained or incurred by the Commonwealth arising out of or as a consequence of:

- a. any failure by the Contractor to perform the Relevant Obligations in accordance with the Guaranteed Agreements; or
- b. any obligation or liability that would otherwise form part of the Relevant Obligations being void, voidable or unenforceable against or irrecoverable from the Contractor for any reason (including the insolvency of the Contractor), whether or not the Commonwealth knew or ought to have known of that reason.

4 NATURE AND PRESERVATION OF LIABILITY (CORE)**4.1 Absolute and Unconditional Liability (Core)**

4.1.1 Subject to clause 2.4, the liability of the Guarantor under this Deed:

- a. is absolute and is not subject to the performance of any condition precedent or subsequent; and
- b. shall not be affected by any act, omission, matter or thing which may release the Guarantor from that liability or reduce the liability of the Guarantor (other than an express release of the Guarantor from all of its liabilities under this Deed) including any of the following:
 - (i) the occurrence before, on or at any time after, the date of this Deed of any Event of Insolvency in relation to any Obligor;
 - (ii) any Guaranteed Agreement or any payment or other act, the making or doing of which would otherwise form part of the Relevant Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason whether past, present or future;
 - (iii) the Commonwealth granting time, waiver or other concession to, or making any composition, arrangement or compromise with any other Obligor (including to or with the Contractor in respect of the liability of the Guarantor) or any other person;
 - (iv) the Commonwealth not exercising or delaying (whether deliberately, negligently, unreasonably or otherwise) in the exercise of any Power it has for the enforcement of any Guaranteed Agreement or any Relevant Obligation;
 - (v) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Commonwealth or any other Obligor of any Guaranteed Agreement or any Relevant Obligation;
 - (vi) any variation to any Guaranteed Agreement or any Relevant Obligation, whether or not that variation is substantial or material or imposes an additional liability on or disadvantages any Obligor;
 - (vii) the full, partial or conditional release or discharge by operation of law of any other Obligor from any Guaranteed Agreement or any Relevant Obligation;
 - (viii) the transfer, assignment or novation by the Commonwealth or any Obligor of all or any of its rights or obligations under any Guaranteed Agreement;
 - (ix) any person, whether named as a party or not, does not execute any Guaranteed Agreement or the execution of any Guaranteed Agreement by any person is invalid, forged or irregular in any way; or
 - (x) any failure by the Commonwealth to disclose to the Guarantor any material or unusual fact, circumstance, event or thing known to, or which ought to have been known by, the Commonwealth relating to or affecting any Obligor at any time before or during the term of any Guaranteed Agreement, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Commonwealth was under a duty to disclose that fact, circumstance, event or thing to any Obligor.

ANNEX E TO ATTACHMENT I**4.2 No Merger (Core)**

- 4.2.1 The guarantee and indemnity from the Guarantor under this Deed is in addition to and does not merge with, postpone, lessen or otherwise prejudicially affect any Guaranteed Agreement or any other Power of the Commonwealth.

4.3 No Obligation to Gain Consent (Core)

- 4.3.1 The Guarantor has no right or entitlement to consent to or be made aware of any event referred to in clause 4.1.1b, any transaction between the Commonwealth and any Obligor or any particulars concerning any obligation or liability that forms part of the Relevant Obligations.

4.4 Appropriation (Core)

- 4.4.1 The Commonwealth is under no obligation to marshal or appropriate in favour of the Guarantor, or to exercise, apply, transfer or recover in favour of the Guarantor, any Security Interest or any funds or assets which the Commonwealth holds, has a claim on, has received or is entitled to receive, but may do so in the manner and order as the Commonwealth determines in its discretion.

4.5 Void or Voidable Transactions (Core)

- 4.5.1 If a claim that a payment to the Commonwealth in connection with this Deed or any Guaranteed Agreement is void or voidable (including a claim under laws relating to liquidation, administration, insolvency or protection of creditors) is upheld by a court of competent jurisdiction or conceded or compromised then the Commonwealth is entitled immediately as against the Guarantor to the rights to which it would have been entitled under this Deed if the payment had not occurred.

4.6 Claim or Demand on the Guarantor (Core)

- 4.6.1 Where any Guaranteed Agreement obliges the Commonwealth to deliver a notice or demand to the Contractor or to comply with an obligation (including observing time periods for performance and Contractor opportunities to cure defaults) prior to the Commonwealth exercising a right under that Guaranteed Agreement in respect of a failure by the Contractor to comply with a Relevant Obligation, the Commonwealth shall deliver that notice or demand to the Contractor or comply with that obligation (including observing time periods for performance and Contractor opportunities to cure defaults) before making a demand under this Deed in respect of a failure by the Contractor to comply with that Relevant Obligation.
- 4.6.2 Subject to the Commonwealth complying with clause 4.6.1, the Guarantor agrees that the Commonwealth is not required to make any claim or demand on any Obligor, or to otherwise enforce any Guaranteed Agreement or any other right, power or remedy against any other Obligor, before making any demand or claim on the Guarantor.

4.7 Waiver of Rights (Core)

- 4.7.1 The Guarantor may not exercise any right of contribution, indemnity or subrogation which it might otherwise be entitled to claim and enforce against or in respect of any other Obligor before the Relevant Obligations are satisfied in full and irrevocably waives all of those rights of contribution, indemnity or subrogation it may have before the Relevant Obligations are satisfied in full.

5 REPRESENTATIONS AND WARRANTIES (CORE)**5.1 General Representations and Warranties (Core)**

- 5.1.1 The Guarantor represents and warrants to the Commonwealth that:
- a. this Deed constitutes its valid and legally binding obligation and is enforceable against it in accordance with its terms, subject to any necessary stamping and registration requirements and laws affecting creditors' rights generally;
 - b. the execution, delivery and performance of this Deed and each transaction contemplated by this Deed does not violate or breach any law or any document or agreement to which it is a party or which is binding on it or any of its assets;

ANNEX E TO ATTACHMENT I

- c. all Authorisations required to be obtained by it in connection with the execution, delivery and performance of this Deed, the transactions contemplated by this Deed and the legality, validity and enforcement of this Deed have been obtained and are valid and subsisting and it is not aware of any breach of any of the conditions of any of those Authorisations or aware of any fact or circumstance which may cause any of those Authorisations to be suspended, forfeited, cancelled or rendered void;
- d. no Event of Default has occurred which has not been remedied or waived in accordance with the terms of the relevant Guaranteed Agreement;
- e. it is not the trustee of any trust; and
- f. it does not enjoy immunity from suit or execution in relation to its obligations under this Deed.

5.2 Corporate Representations and Warranties (Core)

- 5.2.1 The Guarantor represents and warrants to the Commonwealth that:
- a. it is duly registered and remains in existence;
 - b. its execution, delivery and performance of this Deed does not (and the transactions contemplated by this Deed do not) violate its Constitution nor, if the Guarantor is listed on a stock exchange, any listing requirements or business rules of the applicable stock exchange;
 - c. it has the power to enter into, deliver and perform this Deed and to carry out the transactions contemplated by this Deed;
 - d. it has taken all corporate action required to enter into, deliver and perform this Deed and to carry out the transactions contemplated by this Deed; and
 - e. the entry into and the performance of its obligations under this Deed is in its best interests and for a proper purpose.

5.3 Representations and Warranties Repeated (Core)

- 5.3.1 Each representation and warranty in clauses 5.1 and 5.2 shall be repeated on each day while any of the Relevant Obligations remain outstanding with reference to the facts and circumstances then subsisting, as if made on each such day.

6 PAYMENTS (CORE)**6.1 Payments on Demand (Core)**

- 6.1.1 All payments by the Guarantor under this Deed are to be made to the Commonwealth in Australian dollars in immediately available funds and on the due date specified in the notice to the Guarantor or if no due date is specified, within three Working Days following receipt of demand by the Commonwealth.

6.2 Payments of Interest on Unpaid Sums (Core)

- 6.2.1 The Guarantor shall pay default interest on all Unpaid Sums. Default interest shall be calculated:
- a. where a Guaranteed Agreement provides for the payment of default interest for late payment by the Contractor, in accordance with the relevant provisions of the Contract; and
 - b. otherwise in accordance with clause 6.2.2.
- 6.2.2 Where this clause 6.2.2 applies, default interest shall be calculated in accordance with the following formula:

$$\text{Interest payment} = \frac{I\% \times P \times n}{365}$$

Where:

ANNEX E TO ATTACHMENT I

"I%" means the Australian Taxation Office sourced General Interest Charge rate current at the due date of payment of the Unpaid Sum expressed as a percentage;

"P" means the amount of the Unpaid Sum; and

"n" means the number of days after the due date for payment that the payment of the Unpaid Sum is made.

- 6.2.3 Notwithstanding any of the terms of the Guaranteed Agreement, default interest accruing under this clause 6.2 shall be immediately payable by the Guarantor on demand by the Commonwealth.

6.3 No Set-off or Counterclaim (Core)

- 6.3.1 All payments by the Guarantor under this Deed shall be without any set off or counterclaim, and the Guarantor irrevocably waives any rights of set-off or counterclaim which it may have against the Commonwealth.

6.4 Merger (Core)

- 6.4.1 If the liability of the Guarantor to make any payment under this Deed becomes merged in any judgment or order, the Guarantor shall as an independent obligation pay to the Commonwealth interest at the rate which is the higher of that payable under clause 6.2 and that fixed by or payable under the judgment or order.

6.5 No Deduction for Taxes (Core)

- 6.5.1 All payments by the Guarantor under this Deed shall be without deduction or withholding for any present or future taxes, unless the Guarantor is compelled by law to deduct or withhold the same.
- 6.5.2 If the Guarantor is compelled by law to make any deduction or withholding from any payment under this Deed on account of taxes, the Guarantor shall on demand by the Commonwealth pay to the Commonwealth any additional amounts necessary to ensure that the Commonwealth receives (after all deductions and withholdings for taxes) a net amount equal to the full amount which it would have been entitled to receive and retain had the deduction or withholding not been made.

7 EXPENSES (CORE)

7.1 Reimbursement (Core)

- 7.1.1 The Guarantor shall reimburse the Commonwealth on demand for, and shall indemnify the Commonwealth against any liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor and own client basis), compensation or expense sustained or incurred by the Commonwealth arising out of or as a consequence of the Commonwealth exercising, enforcing or preserving, or attempting to exercise, enforce or preserve, any rights under this Deed. The limitation of liability in clause 2.4 does not apply to this clause.

8 GOODS AND SERVICES TAX (CORE)

8.1 Goods and Services Tax (Core)

- 8.1.1 In this clause, 'GST' means the Commonwealth tax imposed by the *A New Tax System (Goods and Services Tax) Act 1999*, and 'adjustment event', 'input tax credits', 'taxable supply' and 'tax invoice' have the respective meanings given to them by that Act.
- 8.1.2 If a party (the 'Supplier') makes a taxable supply to another party in relation to this Deed or any matter or thing occurring under this Deed (the 'Recipient'), and the consideration otherwise payable for the taxable supply does not include GST, the Supplier will be entitled to recover from the Recipient the amount of any GST on the taxable supply, in addition to any other consideration recoverable for the taxable supply.
- 8.1.3 If the amount paid by the Recipient to the Supplier for GST differs from the actual amount of GST payable for the taxable supply (taking into account any adjustment events that occur in relation to the taxable supply), the following adjustments apply:

ANNEX E TO ATTACHMENT I

- a. if the amount paid by the Recipient exceeds the GST on the taxable supply, the Supplier will refund the excess to the Recipient; or
 - b. if the amount paid by the Recipient is less than the GST on the taxable supply, the Recipient will pay the balance to the Supplier.
- 8.1.4 If a party is entitled to recover or be compensated for all or a proportion of its costs in relation to this Deed or any matter or thing occurring under this Deed, the amount of the recovery or compensation is reduced by the amount of (or the same proportion of the amount of) any input tax credits available in relation to those costs.
- 8.1.5 A party is not required to pay any amount for GST to another party unless a valid tax invoice has been issued for that GST.

9 NO REPRESENTATION BY OR RELIANCE (CORE)

- 9.1.1 The Guarantor acknowledges that:
- a. the Commonwealth does not have any duty to supply it with information in relation to or affecting the Contractor or the Commonwealth before the date of this Deed or during the term of any Guaranteed Agreement;
 - b. it has relied on its own inquiries as to the Contractor, the nature and extent of the entire relationship between the Contractor and the Commonwealth (whether or not recorded in the Guaranteed Agreements) and the nature and effect of the Guaranteed Agreements; and
 - c. it does not enter into this Deed in reliance on any representation, promise, statement, conduct or inducement by or on behalf of the Commonwealth, except for any inducement expressly set out in this Deed.

10 ASSIGNMENT AND NOVATION (CORE)

- 10.1.1 Neither party may, without the prior written consent of the other party, assign, novate or otherwise transfer any of its rights or obligations under this Deed.

11 RESOLUTION OF DISPUTES (CORE)

- 11.1.1 A party shall not commence court proceedings relating to any dispute arising from this Deed except when that party seeks urgent relief from a court or when dispute resolution has failed under this clause 11. If a party fails to comply with this clause 11, the other party is not required to undertake dispute resolution for the dispute in accordance with clause 11.
- 11.1.2 The parties shall negotiate in good faith to settle a dispute arising between them and, if the dispute cannot be settled by negotiation (including negotiation between senior management of the parties) within (...INSERT PERIOD...) days, the parties may agree to use an alternative dispute resolution process to attempt to resolve the dispute.
- 11.1.3 The parties shall at all times during the dispute continue to fulfil their obligations under this Deed.

12 MISCELLANEOUS (CORE)**12.1 Notices (Core)**

- 12.1.1 Unless the contrary intention appears, any notice or communication under this Deed shall be effective if it is in writing and sent from and delivered to the Commonwealth or Guarantor, as the case may be, at the following address:

[...INSERT COMMONWEALTH ADDRESS AND EMAIL...]

(...INSERT GUARANTOR ADDRESS AND EMAIL...)

- 12.1.2 A notice or communication is deemed to be delivered:
- a. if sent by pre-paid post, in three Working Days when sent within Australia and in eight Working Days when sent by air mail from one country to another;

ANNEX E TO ATTACHMENT I

- b. if hand delivered, when received at the address, or by the recipient if sooner; or
 - c. if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the recipient,
- 12.1.3 but if the receipt or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Working Day.

12.2 Laws (Core)

- 12.2.1 The laws of (...**INSERT RELEVANT STATE OR TERRITORY...**) apply to this Deed, and the courts of that State or Territory have non-exclusive jurisdiction to decide any matter relating to this Deed.

12.3 Entire Agreement (Core)

- 12.3.1 This Deed represents the parties' entire agreement in relation to the subject matter and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

12.4 Further Assurances (Core)

- 12.4.1 Each party shall take the steps, sign the documents, and do all other acts and things as may be reasonably required by the other party to give effect to this Deed and to perfect the Powers afforded or created by this Deed.

12.5 Powers Cumulative (Core)

- 12.5.1 The Powers conferred by this Deed on the Commonwealth are cumulative and in addition to all other Powers available to the Commonwealth by law or under any Guaranteed Agreement.

12.6 Form of Demand (Core)

- 12.6.1 A demand on the Guarantor for payment under this Deed may be in any form and contain any information as the Commonwealth determines.

12.7 Severability (Core)

- 12.7.1 If any part of this Deed is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the Deed shall not be affected and shall be read as if that part had been severed.

12.8 Waiver (Core)

- 12.8.1 Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, any Power provided by law or under this Deed by the Commonwealth does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other Power provided by law or under this Deed.
- 12.8.2 A waiver or consent given by the Commonwealth under this Deed is only effective and binding if it is given or confirmed in writing by the Commonwealth.
- 12.8.3 No waiver of a breach of a term of this Deed operates as a waiver of another breach of that term or of a breach of any other term of this Deed.

12.9 Consents (Core)

- 12.9.1 A consent required under this Deed from the Commonwealth may be given or withheld, or may be given subject to any conditions, as the Commonwealth (in its discretion) thinks fit, unless this Deed expressly provides otherwise.

12.10 Moratorium Legislation (Core)

- 12.10.1 To the fullest extent permitted by law, all laws which at any time operate directly or indirectly to lessen or affect in favour of the Guarantor any obligation under this Deed, are expressly waived.

ANNEX E TO ATTACHMENT I**12.11 Binding on each Signatory (Core)**

12.11.1 This Deed binds and is enforceable against the Guarantor despite:

- a. any other person not executing this Deed or its execution being defective in any way; or
- b. any obligation or liability of any other party under this Deed not being binding or enforceable against that party for any reason.

12.12 Counterparts (Core)

12.12.1 This Deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the Deed of each party who has executed and delivered that counterpart.

SIGNED AS A DEED

SIGNED

by the COMMONWEALTH OF AUSTRALIA

.....

in the presence of

.....

Note for Deed Signature: Guidance on executing agreements, including some statutory requirements to ensure the execution is effective, are detailed in the 'Executing Agreements Fact Sheet', found on the Procurement and Contracting intranet page at:

- ***<http://ibss/PublishedWebsite/LatestFinal/836F0CF2-84F0-43C2-8A34-6D34BD246B0D/Item/EBDAF9B0-2B07-45D4-BC51-67963BAA2394>***

This guidance is developed for Commonwealth Personnel and should be used to assess the Guarantor's execution of the Deed. The Guarantor should seek its own independent legal advice on its execution of the Deed.

(...INSERT EXECUTION CLAUSE OF THE GUARANTOR...)

ANNEX F TO ATTACHMENT I

FORM OF AIC COMPLIANCE CERTIFICATE (CORE)

[TO BE PRINTED ON COMPANY LETTERHEAD]

From: [Contractor/AIC Subcontractor]

To: Commonwealth of Australia represented by the Department of Defence

[CONTRACT DETAILS] (the "Contract")

[I am a director]/[We are directors] of [Contractor/AIC Subcontractor] of [address] ("**Company**") and [am]/[are each] authorised to execute this Certificate in the name of the Company.

[I/We] refer to the Contract. Terms defined in the Contract shall have the same meaning in this certificate unless given a different meaning in this Certificate.

This Certificate is an AIC Compliance Certificate for the purposes of the Contract.

This Certificate is provided in conjunction with the ***[select which of the two following options is appropriate]***:

- a. [Contract/Subcontract] Status Report prepared by the Company in relation to the period from [] to [] (the "**Review Period**") in accordance with the terms of the [Contract/Subcontract]; and
- b. ***[Paragraph to apply to Contractor version only.]*** ACE measurement report prepared by the Company to support and justify the Achieved ACE Percentage at the most recent ACE Measurement Point in accordance with the terms of the Contract.

[I/We] certify that during the Review Period and as at the date of this Certificate [(except as disclosed in paragraph e below)]:

- a. The obligations contained in [clauses 4.1 and 4.2 of the Contract / clauses [] and [] of the Subcontract] have been complied with since the date of the last AIC Compliance Certificate provided to the Commonwealth under the [Contract/Subcontract].
- b. ***[Paragraph to apply to Contractor version only.]***As at the date of this Certificate:
 - (i) the ACE information provided in the [Contract Status Report]/[ACE measurement report] is complete and accurate;
 - (ii) the calculation of the ACE has been undertaken in accordance with the ACE Measurement Rules; and
 - (iii) status reporting against the AIC requirements of the Contract is complete and accurate.
- c. ***[Paragraph to apply to AIC Subcontractor version only.]***As at the date of this Certificate:
 - (i) Subcontract status reporting against the AIC requirements of the Subcontract is complete and accurate;
 - (ii) the calculation of the ACE has been undertaken in accordance with the ACE Measurement Rules; and
 - (iii) there are no material non-compliances with the Company's commitments set out in the Subcontract AIC Plan.
- d. The Essential AIC Obligations of the [Contract/Subcontract] have been complied with and [I/we] [was/were] not aware of the occurrence of any breach or potential breach of any Essential AIC Obligation under the [Contract/Subcontract].
- e. The disclosed exceptions are as follows:

Exception	Remedial action status proposed/undertaken
<i>[Clause and description]</i>	<i>[Describe action undertaken/proposed]</i>

ANNEX F TO ATTACHMENT I

[I/We] acknowledge that disclosure of exceptions to compliance will not prejudice the rights of the Commonwealth under the Contract.

The representations and warranties in this Certificate are correct and not misleading by reference to the facts and circumstances subsisting as at the date of this Certificate.

[Director]

[Director]

ATTACHMENT J

SECURITY CLASSIFICATION AND CATEGORISATION GUIDE (OPTIONAL)

Note to drafters: A Security Classification and Categorisation Guide (SCCG) is to be included where the procurement involves classified information or security-protected assets.

For information on developing a SCCG refer to Directorate of Security Assurance (DoSA) page guidance on Business Impact Levels at:

- <https://dpeintranet-seg.defence.gov.au/guidance-compliance/security-management/policy-advice/project-security>

and contact the Project Security Team at: DSA.ProjectSecurity@defence.gov.au.

[...DRAFTERS TO INSERT SECURITY CLASSIFICATION AND CATEGORISATION GUIDE PRIOR TO RELEASE OF RFT...].

DRAFT DATA ITEMS (OPTIONAL)

Note to drafters: If required, drafters are to identify the draft data items that the tenderer shall submit in response to the RFT, and that for the successful tenderer will be included as annexes to Attachment K, for completion after the Effective Date (ED) by the Contractor. For example, a draft Contractor Supply Support Plan (CSSP) may be required in each of the tender responses to assist with tender evaluation. The version of this data item from the successful tenderer would be included here and updated to a final version by the Contractor in accordance with clause 2.5 of the SOW and the CDRL (eg, for Approval prior to Operative Date).

The draft data items selected for inclusion should be listed below as annexes to Attachment K.

Tendered updates to Attachments, such as the TDSR Schedule, are not be included in Attachment K as these must be completed (ie, not draft) and attached to the Contract at ED.

Data items identified in the CDRL for Approval 'by ED' should not be proposed for inclusion in Attachment K because Approval by ED means that the Commonwealth intends to reach agreement on a final version prior to Contract (eg, during negotiations). An exception can occur (after negotiations) if a data item was scheduled for Approval by ED but agreement had not been reached on a final version. Under these circumstances, the Commonwealth could decide to include the non-Approved data item as a draft in Attachment K and amend the CDRL to require Approval after ED.

1. INCLUSION OF DRAFT DATA ITEMS

- 1.1 Annexes to this Attachment K contain draft data items that were incorporated into the Contract at the Effective Date specified in the Details Schedule.
- 1.2 The draft data items will be superseded by further versions of these data items in accordance with clause 2.5 of the SOW.

ANNEXES:

- A. [...INSERT TITLE OF DRAFT DATA ITEM...]
- B. [...INSERT TITLE OF DRAFT DATA ITEM...]
- C. [...INSERT TITLE OF DRAFT DATA ITEM...]

RESIDENT PERSONNEL (OPTIONAL)

Note to drafters: Attachment L contains a recommended structure that should be developed and amended to suit the needs of the proposed Contract. Further considerations include:

- a. if RP will be located at multiple locations, using annexes for the facilities and ICT requirements for each location;
- b. if RP will reside with Approved Subcontractors, amending clauses accordingly; and
- c. the need to accommodate both on-going positions in the RP and temporary staff (eg, when performing regulatory audits or other activities).

1. INTRODUCTION

- 1.1 The purpose of this Attachment L is to detail the roles of Resident Personnel (RP) and to define the resources required to be provided by the Contractor to enable the RP to efficiently undertake those roles.

Note to drafters: The introduction should be updated to reflect the objectives for using RP.

- 1.2 The parties acknowledge that the objectives of locating RP at Contractor premises are:
 - a. to provide the Commonwealth with visibility of day-to-day Contract activities without the need for a greater number of formal meetings;
 - b. to facilitate communication between the Contractor and the Commonwealth; and
 - c. to expedite Contract administrative functions within the RP's scope of responsibility.

2. RESIDENT PERSONNEL

Note to drafters: If the RP team is small a simple list rather than the following table may be suitable. If a table is to be used, delete the examples and insert the required details.

- 2.1 Table 1 lists the ongoing positions in the RP team.

Table 1: Resident Personnel

serial	Position Title	Grade / Rank	Start	Completion
Location 1				
1	RP Team Leader		ED + 20	
2	Logistics Manager		OD - 20	
3	Maintenance Coordinator			
4	Commercial Manager		OD + 20	
5	Contract Support			
Location 2				
6	Technical Representative			

3. ROLE OF RESIDENT PERSONNEL

Note to drafters: If the RP team is small, details of the roles may be inserted here; alternatively, an annex for duty statements or terms of reference may be added. Consideration should be given to identifying Commonwealth activities that are required under the Contract (eg, Commonwealth action for data items in accordance with the CDRL, acting as the Commonwealth Representative's delegate at specific meetings, etc) where this can be done succinctly. Where specific roles are to be excluded (eg, processing of CCPs), these should also be identified here.

- 3.1 [...DRAFTER TO INSERT DETAILS OF RP TEAM AND MEMBER ROLES / TERMS OF REFERENCE...].

ATTACHMENT L

4. CONTRACTOR-PROVIDED FACILITIES FOR RESIDENT PERSONNEL

Note to drafters: Insert details and amend the following suggested clauses as required.

- 4.1 Unless otherwise agreed by the Commonwealth Representative, the work area provided by the Contractor for the RP shall:
- a. accommodate all members of the RP within a single area (ie, RP team members should not be physically isolated unless otherwise agreed);
 - b. include a lockable office for the RP Team Leader; and
 - c. include at least [...DRAFTER TO INSERT...] workstations (including desks and chairs) for temporary RP team members and visitors as may be required from time to time.
- 4.2 The Contractor shall provide a workstation for each RP team member that includes:
- a. the Information and Communications Technology (ICT) required by clause 6; and
 - b. [...DRAFTER TO INSERT...].
- 4.3 The Contractor shall provide the RP with a secure storage facility for classified matter up to and including [...DRAFTER TO INSERT...].
- 4.4 The Contractor shall provide the RP with access to a private meeting room facility, on an as-required basis, sufficient to accommodate at least [...DRAFTER TO INSERT...] persons.

Note to drafters: Consider also company cafeteria (if available), washroom facilities, etc.

5. WORK HEALTH AND SAFETY

Note to drafters: The following clauses should be reviewed, amended, and expanded as necessary to address WHS requirements for the RP. Refer also to clause 11.4 of the COC and clause 12 of the SOW for standard Contract requirements for WHS and the code of practice referenced in clause 12.3.4 of the SOW.

- 5.1 The Contractor shall provide, and shall ensure that the Subcontractors provide the RP with:
- a. a safe working environment in accordance with clause 12.3.4 of the SOW;
 - b. access to all safety-related training and briefings as may be reasonably required to ensure the health and safety of the RP when located at the Contractor's or Subcontractor's workplace(s) (as the case may be); and
 - c. access to all WHS procedures, safety risk assessments and other WHS-related information applicable to the RP when located at the Contractor's or Subcontractor's workplace(s) (as the case may be).
- 5.2 In the event of a Notifiable Incident involving RP, the Contractor shall:
- a. immediately notify the RP Team Leader or, if the RP Team Leader is not immediately contactable, the next available member of the RP team; and
 - b. report the Notifiable Incident in accordance with clause 12.4 of the SOW.

6. INFORMATION AND COMMUNICATIONS TECHNOLOGY REQUIREMENTS

- 6.1 The Contractor shall provide the RP with access to the Data Management System (DMS) in accordance with clause 2.3 of the SOW.

Note to drafters: Add further requirements as applicable. Consideration may be given to telephones, access to the Defence Protected and/or Secret Network, a secure area, access to Contractor systems, printers, photocopiers, video-conferencing facilities, etc. Additional considerations may include which ICT resources may be shared versus exclusive use. Refer also to clause 11.10 of the COC, Defence Security.

- 6.2 [...DRAFTER TO INSERT...].

7. ANNEXES

- A. [...DRAFTER TO INSERT...]

ATTACHMENT M

GLOSSARY (CORE)

Note to drafters: If drafters consider that an additional definition, acronym or abbreviation should be added, careful consideration needs to be given to the legal and practical effect of the proposed addition in the context of the tender pack or contract as a whole.

The listing of all acronyms, abbreviations, definitions and referenced documents, and the version numbers of all referenced documents, should be reviewed for currency prior to both the RFT release and the Effective Date.

1. ACRONYMS AND ABBREVIATIONS

Abbreviation	Description	Abbreviation	Description
ABN	Australian Business Number	CEMP	Contractor Engineering Management Plan
ABS	Australian Bureau of Statistics	CFA	Commercial and Financial Analysis
ACE	Australian Contract Expenditure	CI	Configuration Item
ACM	Asbestos Containing Material	CIE	Capability Innovations and Efficiencies
ACN	Australian Company Number	CM	Configuration Management
ACSC	Australian Cyber Security Centre	CMAINT	Contingency Maintenance
ACSI	Australian Communications Security Instruction	CMC	Common Management Code
ADF	Australian Defence Force	CMCA	Contractor Managed Commonwealth Assets
ADFP	Australian Defence Force Publication	CMP	Configuration Management Plan
AGSVA	Australian Government Security and Vetting Agency	COC	Conditions of Contract
AFD	Application for a Deviation	COMSEC	Communications Security
AIA	Australian Industry Activity	COTS	Commercial-Off-The-Shelf
AIC	Australian Industry Capability	CPI	Consumer Price Index
AIO	Australian Industry Opportunity	CPR	Contract Performance Review
ANP	Australian Naval Publication	CPRs	Commonwealth Procurement Rules
ANZ	Australian and New Zealand	CR	Commonwealth Representative
APS	Adjusted Performance Score	CSA	Configuration Status Accounting
ARBN	Australian Registered Body Number	CSC	Contractor Standing Capability
ASD	Australian Signals Directorate	CSCR	Cyber Security Case Report
ASARP	As Secure As Reasonably Practicable	CSCRP	Cyber Supply Chain Risk Plan
ATO	Australian Taxation Office	CSIRO	Commonwealth Scientific and Industrial Research Organisation
ATO	Authorisation to Operate	CSR	Contract Status Report
ATO-C	Authorisation to Operate with Conditions	CSRL	Contract Services Requirements List
AUSMIMPS	Australian Standard Materiel Issue and Movement Priority System	CSSP	Contractor Supply Support Plan
BER	Beyond Economic Repair	CSSR	Combined Services Summary Report
BPR	Beyond Physical Repair	CSWBS	Contract Summary Work Breakdown Structure
CAGE	see NCAGE	CTIS	Cyber Threat Intelligence Sharing
CASG	Capability Acquisition and Sustainment Group	CWBS	Contract Work Breakdown Structure
CASP	Commonwealth Assets Stocktaking Plan	DASA	Defence Aviation Safety Authority
CASR	Commonwealth Assets Stocktaking Report	DASR	Defence Aviation Safety Regulations
CCB	Configuration Control Board	DCERT	Design Certificate
CCP	Contract Change Proposal	DCwS	Defence Cyberworthiness System
CCR	Configuration Change Register	DDG	Defence Digital Group
CDRL	Contract Data Requirements List	DEOP	Defence Explosive Ordnance Publication

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Abbreviation	Description	Abbreviation	Description
DESE	Digitally Enabled Systems and Equipment	GFS(IT)	Government Furnished Services (Information Technology)
DI	Defence Instruction	GST	Goods and Services Tax
DID	Data Item Description	H	Hardcopy
DIDS	Defence Industry Development Statement	HSMP	Health and Safety Management Plan
DISP	Defence Industry Security Program	ICE	Imported Contract Expenditure
DMH (PROJ)	Defence Materiel Handbook (Project Management)	ICT	Information and Communications Technology
DMS	Data Management System	IE	Innovations / Efficiencies
DPN	Defence Protected Network	IEAIR	IE Analysis and Implementation Report
DRAIC	Defence-Required Australian Industrial Capability	IEIP	IE Implementation Plan
DRAICRR	DRAIC Readiness Review	IETP	Interactive Electronic Technical Publication
DSD	Detailed Service Descriptions	IIL	Item Identification List
DSM	Defence Stocktake Manual	ILS	Integrated Logistics Support
DSPF	Defence Security Principles Framework	IMSP	In-service Materiel Safety Plan
DSTG	Defence Science and Technology Group	Incl	Include/s/d
DTR-A	Director of Technical Regulation - Army	IP	Intellectual Property
DW&D	Defence Warehousing and Distribution (contract or contractor)	IPP	Indigenous Procurement Policy
E8MM	Essential Eight Maturity Model	IPB	Illustrated Parts Breakdown
EAM	Enterprise Asset Management (ERP work stream)	ISSMP	In-Service Security Management Plan
ECP	Engineering Change Proposal	IT	Information Technology
ED	Effective Date	IV&V	Independent Verification & Validation
EMM	Engineering and Maintenance Manual	JAS-ANZ	Joint Accreditation System for Australia and New Zealand
EMSEC	Emanation Security	KPI	Note to drafters: Include if KPIs are included in the Contract. Key Performance Indicator
ENVMP	Environmental Management Plan	LCAM	Logistics Compliance and Assurance Manual
ENVMS	Environmental Management System	LCC	Life Cycle Cost
ERP	Enterprise Resource Planning (or Defence ERP Solution)	LCCA	Life Cycle Costing Analysis
ESCP	Emanation Security Control Plan	LCN	Logistic (Support Analysis) Control Number
ETA	EMSEC Threat Assessment	LMP	Learning Management Package
FBL	Functional Baseline	LMSM	Land Materiel Safety Manual
FCA	Functional Configuration Audit	LOT	Life-of-Type
FMECA	Failure Mode, Effects and Criticality Analysis	LSAR	Logistic Support Analysis Record
FMS	Foreign Military Sales	MEC	Multiple Entry Consolidated
FSCAP	Flight Safety Critical Aircraft Parts	MMP	Maintenance Management Plan
FTE	Full-Time Equivalent	MOA	Memorandum of Agreement
G&A	General and Administrative	MOTS	Military-Off-The-Shelf
GFD	Government Furnished Data	MRU	Members Required in Uniform
GFE	Government Furnished Equipment	MSR	Mandated System Review
GFF	Government Furnished Facilities	MTBF	Mean Time Between Failure
GFI	Government Furnished Information	NATA	National Association of Testing Authorities
GFM	Government Furnished Material	NCAGE	NATO Commercial and Government Entity
GFS	Government Furnished Services		

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Abbreviation	Description	Abbreviation	Description
NMSwAA	Naval Materiel Seaworthiness Assurance Agency	SE	Systems Engineering
Non-RI	Non-Repairable Item	SEG	Security and Estate Group
NSF	(Australian) National Skills Framework	SHI	System Health Indicator
NTE	Not-To-Exceed	SICC	Security Incident Coordination Centre
OD	Operative Date	SME	Small to Medium Enterprise
ODIS	Office for Defence Industry Support	SOE	Standard Operating Environment
OEM	Original Equipment Manufacturer	SOW	Statement of Work
OSP	Operating Support Plan	SPM	Strategic Performance Measure
OT	Operational Technology	SPO	System Program Office
PCA	Physical Configuration Audit	SPTPW	Support Pricing Workbook
PHIP	Phase In Plan	SRMP	Security Risk Management Plan
PHOP	Phase Out Plan	SSMP	Support Services Management Plan
PHS&T	Packaging, Handling, Storage and Transportation	SSMS	Support Services Master Schedule
PIP	Performance Implementation Period	SSOP	Security Standard Operating Procedure
PMMR	Performance Measure Monthly Report	SSP	System Security Plan
POD	Planned Operative Date	STR	Statement of Tax Record
PPR	Periodic Performance Review	SWCR	Software Change Request
PT PCP	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC.	SWG	Security Working Group
	Payment Times Procurement Connected Policy	SWMP	Software Management Plan
QAR	Quality Assurance Representative	SWSP	Software Support Plan
QMS	Quality Management System	TBD	To be determined
QP	Quality Plan	TD	Technical Data
Qty	Quantity	TCO	Total Cost of Ownership
RAAF	Royal Australian Air Force	TDL	Technical Data List
RAN	Royal Australian Navy	TDSR	Technical Data and Software Rights
Ref	Reference	TMC	Technical Management Code
RI	Repairable Item	ToSA	Target of Security Assessment
ROE	Rate of Effort	TRS	TEMPEST Requirements Statement
RSQ	Reserve Stockholding Quantity	TRS	Training Requirements Specification
S	Softcopy	TSP	Training Support Plan
S&Q	Survey and Quote	TXRR	Transition Requirements Review
S&TE	Support and Test Equipment	UOC	Unit of Competency
SAC	Supplies Acceptance Certificate	VET	Vocational Education and Training
SCCG	Security Classification and Categorisation Guide	V&V	Verification and Validation
SCM	Supply Chain Management (ERP work stream)	V&VP	Verification and Validation Plan
SCR	Safety Case Report	WBS	Work Breakdown Structure
SDIP	Sovereign Defence Industrial Priority	WHS	Work Health and Safety
SDS	Safety Data Sheet	WHSMS	Work Health and Safety Management System
		WSL	Working Stockholding Level

ATTACHMENT M

2. DEFINITIONS

Note to drafters: Review the definitions and delete any optional definitions that will not be used in the draft Contract.

Term	Status	Definition
Acceptance	(Core)	means acceptance of Deliverables delivered in the course of providing the Services in accordance with clause 6.8 of the COC, signified by the Commonwealth Representative's signature (or by an Authorised Person's signature) of the SAC, and 'Accept' has a corresponding meaning.
Accreditation	(Optional)	means formal recognition by an authoritative body that: a. an organisation has demonstrated competence to carry out certain duties and tasks; or b. a system is authorised to operate in a defined configuration, with a specified role and in a particular environment (having regard to the associated residual risk with the operation of a system).
ACE Measurement Point	(Core)	means, in respect of Recurring Services Fees, each ACE Measurement Point specified in Table F-1 of Attachment F.
ACE Measurement Rules	(Core)	means the referenced document titled ' <i>Australian Contract Expenditure Measurement Rules</i> ', which defines the methods to be applied to determine the values for ACE and ICE for the Contract.
ACE Value	(Core)	means the Australian dollar value of ACE.
Achieved ACE Percentage	(Core)	means, in respect of an ACE Measurement Point, the ACE expressed as a percentage of the Total Contract Expenditure.
Ad Hoc Services	(Core)	means Task-Priced Services, S&Q Services and Pre-Authorised Ad Hoc Services.
Adaptive Maintenance	(Optional)	means the modification of a Software Product, after delivery, to keep the Software Product usable in a changed or changing environment.
ADF Capability Objectives	(Core)	has the meaning given in clause 1.3.1b of the COC.
Adjusted Performance Score	(Optional)	Note to drafters: Insert this definition if Performance Payments are included in the Contract. for a KPI for a Review Period, means the percentage score determined, in accordance with Attachment P, as the Contractor's Adjusted Performance Score, representing the relative value of the achieved performance to the Commonwealth.
Adjustment Date	(Core)	Note to drafters: This definition may be amended to align Adjustment Dates with financial years or a different cycle. means: a. for Milestone Payments, the Base Date and each anniversary of the Base Date; b. for the Mobilisation Payment, the Base Date and the date the Mobilisation Payment is made by the Commonwealth; and c. for Services other than Services included in Milestones, the Base Date and each anniversary of the Base Date.
Adjustment Note	(Core)	has the same meaning as in the GST Act.

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Term	Status	Definition
AIC Compliance Certificate	(Core)	means a certificate in the form of Annex F to Attachment I.
AIC Objectives	(Core)	has the meaning given in clause 1.3.1c of the COC.
AIC Obligations	(Core)	means the obligations under the Contract relating to AIC and for the avoidance of doubt includes the following obligations: a. the obligations on the Contractor under clause 4 of the COC, clause 10 of the SOW and Attachment F; and b. the Essential AIC Obligations.
AIC Subcontractor	(Core)	means a Subcontractor identified as an AIC Subcontractor in Attachment H in accordance with clause 11.9 of the COC.
AIC Subcontractor Obligations	(Core)	means the obligations of an AIC Subcontractor under the relevant Approved Subcontract relating to AIC and for the avoidance of doubt includes the obligation to comply with the relevant Subcontractor AIC Plan.
Allocated Baseline	(Optional)	means the current Approved documentation for a CI, which describes the functional, performance, interoperability and interface characteristics that are allocated from those of the higher-level CI and the Verification required to demonstrate achievement of those specified characteristics.
Allowable Costs	(Core)	means a cost incurred by the Contractor that is an allowable cost in accordance with the meaning in the <i>Defence Cost Principles</i> .
Application for a Deviation	(Core)	means an Application for a Deviation in the form of the annex to DID-PM-MGT-AFD or other form agreed between the parties.
Approval	(Core)	a. for a data item, has the meaning given by clause 2.4.4 of the SOW; and b. in every other context, means the act of the Commonwealth Representative approving a particular claim, proposal or course of action as a basis for further work, under the Contract. Approval in either case does not constitute Acceptance; and 'Approve' and 'Approved' have a corresponding meaning.
Approved Subcontractor	(Core)	means a Subcontractor that is listed in Attachment H or the Approved Subcontractor section of an S&Q Order and 'Approved Subcontract' means a contract between the Contractor and an Approved Subcontractor or between a Subcontractor and an Approved Subcontractor to that Subcontractor. For the avoidance of doubt, an AIC Subcontractor is an Approved Subcontractor.
Approved Subcontractor Deed	(Core)	means a deed substantially in the form of Annex A to Attachment I.
Approved Substance	(Core)	means a Problematic Substance that is: a. specified for use by the Commonwealth in writing, including a Problematic Substance used for a purpose(s) stated in Technical Data that has been specified by the Commonwealth for use in providing the Services; b. Approved and used for the purpose(s) specified in an Approved Application for a Deviation; or c. Approved and used for the purpose(s) specified in the Approved HSMP or the Approved SSMP, as applicable.

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Term	Status	Definition
As Secure As Reasonably Practicable or ASARP	(Core)	means that, in relation to a Security System-of-Interest (SSoI), or elements thereof, an adequate level of security has been achieved, such that an incremental improvement in security would: a. require a disproportionate deterioration in relation to meeting other system cost, schedule, or performance objectives; b. violate system constraints; or c. require unacceptable concessions, such as an unacceptable change in the way operations are performed.
Asbestos Containing Material	(Core)	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).
Assets Register	(Core)	means the log used by the Contractor for recording Contractor Managed Commonwealth Assets.
Associated Parties	(Core)	means other entities (including other contractors and Commonwealth organisations) performing activities related to the Products, the Services, the Capability, the parent system or platform (if applicable), or otherwise having a connection with the Services being provided or the work to be performed under the Contract.
At-Risk Amount	(Optional)	Note to drafters: Insert this definition if Performance Payments are included in the Contract. means the portion of the Core Services Fee that is either fully earned or reduced relative to the Contractor's performance in providing the Services that are measured by KPIs and determined in accordance with Annex C to Attachment B. The At-Risk Amount may be expressed as a percentage of the Core Services Fee or as a dollar amount for the given period, as the context requires.
Attachment	(Core)	means an Attachment to the Contract.
Audit	(Core)	means a systematic, independent and documented process for obtaining audit evidence and evaluating it objectively to determine the extent to which audit criteria are fulfilled.
Australian Contract Expenditure or ACE	(Core)	has the meaning given in clause 2.2 of the ACE Measurement Rules.
Australian Entity	(Core)	means: a. a company registered under the <i>Corporations Act 2001</i> (Cth) or a company registered under the <i>Companies Act 1993</i> (New Zealand); b. a body corporate, partnership, joint venture or association formed or incorporated in Australia or New Zealand; or c. a foreign-owned company in Australia or New Zealand, and which has a registered body number (ie, ARBN or NZRBN), carrying on business through a permanent establishment in Australia or New Zealand, including as evidenced through employment and the conduct of business operations in Australia or New Zealand.
Australian Industry	(Core)	means Australian Entities that perform work in Australia or New Zealand.

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Term	Status	Definition
Australian Industry Activity or AIA	(Core)	means an activity identified as an Australian Industry Activity in Attachment F.
Australian Industry Capability or AIC	(Core)	means the program of activities set out in the Contract to achieve the Government and Defence policies for Australian Industry.
Australian Privacy Principles	(Core)	has the same meaning as in the <i>Privacy Act 1988</i> (Cth)
Authorisation	(Core)	means a licence, accreditation, permit, registration, regulatory approval, Export Approval or other documented authority (however described), required by law and necessary for the provision of Services or the performance of the Contract.
Authorised Person	(Core)	means a person who is delegated a function or authorised to carry out a function on behalf of the Commonwealth Representative in accordance with the Contract.
Authorisation to Operate or ATO	(Optional)	Note to drafters: This term is only applicable for Security Authorisations relating to Cyber Security. has the meaning given through the Defence Security Principles Framework (DSPF).
Authorisation to Operate with Conditions or ATO-C	(Optional)	Note to drafters: This term is only applicable for Security Authorisations relating to Cyber Security. has the meaning given through the DSPF.
Award Assessment Period	(Optional)	Note to drafters: Insert this definition if Option A is selected at clause 1.9 of the COC. has the meaning given in clause 1.9 of the COC.
Award Term	(Optional)	Note to drafters: Insert this definition if Option A is selected at clause 1.9 of the COC. means the period by which the Term is extended, as determined in accordance with clause 1.9 of the COC.
Award Term Determination Date	(Optional)	Note to drafters: Insert this definition if Option A is selected at clause 1.9 of the COC. has the meaning given in clause 1.9 of the COC.
Base Date Currency Exchange Rate	(Core)	means the currency exchange rate between source currency and Australian dollars available from www.rba.gov.au/statistics/frequency/exchange-rates.html that applied at the Base Date.
Base Fee	(Optional)	Note to drafters: Insert this definition if Performance Payments are included in the Contract. means, in respect of a given period, the amount equal to the Core Services Fee less the At-Risk Amount, for that period.
Baseline	(Core)	has the same meaning as Configuration Baseline.
Beyond Economic Repair	(Optional)	means the categorisation given to an unserviceable Product when the cost of repairing the Product outweighs the cost of buying a replacement Product.
Beyond Physical Repair	(Optional)	means the categorisation given to an unserviceable Product when it cannot physically be repaired (eg due to damage).
Cannibalisation	(Optional)	means the removal of a serviceable Item from one system or high-level spare, in order to use that Item to make another system

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Term	Status	Definition
		available to undertake operations; and 'Cannibalise' has a corresponding meaning.
Capability	(Core)	Note to drafters: Insert the applicable Capability name where indicated. Amend the following definition if there is no Mission System included at Annex A to the SOW. Instead, replace the term 'Mission System' with the actual higher-level platform(s) to which the Products Being Supported relate. means the [...INSERT NAME...] Capability. Capability is the power to achieve a desired operational effect in a nominated environment within a specified time and to sustain that effect for a designated period. For the [...INSERT NAME...] Capability, this is achieved through the employment of the Mission System(s), the Support System, and other inputs provided by Defence.
Carried Forward Unserviceability	(Optional)	means a deferred unserviceability that does not prejudice the technical integrity of a Product or the safety of any person.
Cataloguing	(Optional)	means the act of recording and promulgating selected management data relating to Stock Items in the catalogues of inventory management systems.
Certificate of Conformity	(Optional)	means a formal certification by a responsible member of the supplier's quality control organisation that the goods supplied are authentic, their origin traceable, that they meet the specification and conditions contained in the original order.
Certification	(Core)	means: a. for the purposes of clauses 11 and 12 of the SOW, certification by an organisation accredited by the JAS-ANZ, or an equivalent certification body acceptable to the Commonwealth, and Certified has a corresponding meaning; and b. in relation to the certification of Products, the end result of a process, which formally examines and documents compliance of a Product against predefined standards, to the satisfaction of the certifying authority.
Certification Basis	(Optional)	means the suite of standards against which materiel is to be certified, derived from or judged to be equivalent to a subset of the materiel standards approved by an applicable regulatory authority.
Certification Basis Description	(Optional)	means the document listing, inter-alia, the individual Certification Basis requirements and the evidence that demonstrates Contractor compliance with the requirements.
Change of Control	(Core)	means: a. a body corporate or entity that Controls the Contractor or the Guarantor ceases to Control the Contractor or the Guarantor; or b. a body corporate or entity that does not Control the Contractor or the Guarantor comes to Control the Contractor or the Guarantor.
Circuit Layout	(Core)	means a circuit layout that is protected under the <i>Circuit Layouts Act 1989</i> (Cth) or the corresponding laws of any other jurisdiction.
Claim	(Core)	means a claim, demand, suit or proceeding of any kind, including by way of court proceedings, proceedings in the nature of arbitration, mediation or other methods of dispute resolution and administrative claims and proceedings (whether or not before a tribunal).
Cloud Computing	(Optional)	has the meaning given in NIST Special Publication 800-145.

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Term	Status	Definition
Codification	(Optional)	means the act of establishing and maintaining Stock Item identification and related data under the Defence cataloguing system and/or the national system of another country participating in the NATO Codification System.
Codification Data	(Core)	means: a. for Deliverables (other than data, services, and IP) not already codified in the NATO Codification System, the engineering drawings, standards, specifications and/or technical documentation required to fully identify the items designated by the Commonwealth to support the equipment covered by the Contract; or b. for Deliverables already codified in the NATO Codification System, the details of that Codification.
Commercial and Government Entity Code	(Core)	means the code that identifies the manufacturer of an item in the NATO Codification System.
Commercial Item	(Core)	means an item or service that is: a. available to the general public or in the market for defence goods and services for supply on standard commercial terms; and b. able to be used for its intended purpose under the Contract without development or modification (except for any minor modification or reconfiguration that is necessary and commonly required to install the item or use the service).
Commercial Software	(Core)	means Software that is: a. a Commercial Item; b. supplied without further development or modification in conjunction with a Commercial Item, under the standard commercial terms applicable to that item; or c. Free and Open Source Software.
Commercial TD	(Core)	means TD that is: a. a Commercial Item; or b. supplied, without further development or modification in conjunction with a Commercial Item or Commercial Software under the standard commercial terms applicable to that item or Software.
Commercialise	(Core)	means, in respect of the Commonwealth or any of its sublicensees, to exploit the IP in TD, Contract Material or Software in return for payment of a Royalty or a commercial return to the Commonwealth or the sublicensee.
Commonwealth Contractor	(Core)	means a person (other than the Contractor or a Subcontractor) engaged by the Commonwealth to provide goods or services to the Commonwealth.
Commonwealth Default	(Core)	means a Default by the Commonwealth, a Commonwealth Officer or a Commonwealth Contractor.
Commonwealth Funded Resources	(Core)	has the meaning set out in clause 3.18 of the COC.

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Term	Status	Definition
Commonwealth Mandated GFM	(Optional)	means GFE or GFD identified as 'Commonwealth Mandated GFM' in: a. Annex A to Attachment E; or b. the GFM section of an S&Q Order.
Commonwealth Mandated GFS	(Optional)	means GFS identified as 'Commonwealth Mandated GFS' in: a. Annex B to Attachment E; or b. the GFS section of an S&Q Order.
Commonwealth Officer	(Core)	means any of the following: a. a Minister of State for the Commonwealth; b. a person employed or engaged under the <i>Public Service Act 1999</i> (Cth) or the <i>Members of Parliament (Staff) Act 1984</i> (Cth); c. a person who is included in Defence Personnel; and d. a member of the Australian Federal Police.
Commonwealth Personnel	(Core)	means any Commonwealth Officers, Defence Personnel and any other agents of the Commonwealth.
Commonwealth Premises	(Core)	means any of the following that is owned, leased, occupied or operated by the Commonwealth: a. an area of land or any other place (whether or not it is enclosed or built on); b. a building or other structure; and c. a vehicle, a vessel (including a submarine) or an aircraft.
Commonwealth Property	(Core)	means property of any kind (including GFM) owned or leased by, or in the possession of, the Commonwealth.
Commonwealth Service Provider	(Core)	means a person (including an officer or employee of the person) engaged to perform a function, or discharge a duty, of the Commonwealth, including a person engaged to provide: a. professional, administrative, contract management or project management services to Defence; or b. technical management or assurance services, including Verification and Validation, safety, certification, security or capability development, but does not include Excluded Parties.
Commonwealth Software	(Core)	<i>Note to tenderers: The Commonwealth will own any IP created under the Contract or a Subcontract in respect of Commonwealth Software.</i> means: a. any Software of the type described in Annex D to the TDSR Schedule in respect of a Deliverable specified in that annex; b. any Software described as such in an S&Q Order; and c. any developments, modifications or improvements to that Software.
Commonwealth Supplier Code of Conduct	(Core)	means the Commonwealth Supplier Code of Conduct, as amended from time to time.

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Term	Status	Definition
Commonwealth TD	(Core)	<i>Note to tenderers: The Commonwealth will own any IP created under the Contract or a Subcontract in respect of Commonwealth TD.</i> means: a. any TD of the type described in Annex D to the TDSR Schedule in respect of a Deliverable specified in that annex; b. any TD described as such in an S&Q Order; and c. any developments, modifications or improvements to that TD.
Commonwealth-sponsored Training	(Optional)	means those elements of Training that are either owned by the Commonwealth or licensed to the Commonwealth by a third party and that are provided to the Contractor for the purposes of the Contract.
Competency	(Optional)	means the consistent application of knowledge and skill to the standard of performance required in the workplace. It embodies the ability to transfer and apply skills and knowledge to new situations and environments.
Confidential Information	(Core)	means: a. any information in the Contract that is identified in Attachment N or in the Confidential Information section of an S&Q Order; and b. any other information: (i) is commercially sensitive (not generally known or ascertainable); (ii) the disclosure of which would cause unreasonable detriment to the owner of the information or another party; and (iii) that was provided with an express or implied understanding that it would remain confidential, but does not include information which: c. is or becomes public knowledge other than by breach of the Contract; d. is in the possession of a party without restriction in relation to disclosure before the date of receipt; or e. has been independently developed or acquired by the receiving party.
Configuration Audit	(Core)	means Product configuration Verification accomplished by inspecting documents, Products and records; and reviewing procedures, processes, and systems of operation to Verify that the Product has achieved its required attributes (performance requirements and functional constraints) and the Product's design is accurately documented. Includes both functional and physical configuration audits.
Configuration Baseline (or 'Baseline')	(Core)	means: a. in the context of a Product, an agreed-to description of the attributes of a Product, at a point in time, which serves as a basis for defining change; b. in the context of documentation, an approved and released document, or a set of documents, each of a specific revision; the

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Term	Status	Definition
		purpose of which is to provide a defined basis for managing change; c. in the context of Configuration Management documents, the currently approved and released configuration documentation; and d. in the context of a Software Product, a released set of files comprising a Software version and associated configuration documentation.
Configuration Control	(Core)	means: a. in the context of configuration documentation, a systematic process that ensures that changes to released configuration documentation are properly identified, documented, evaluated for impact, approved by an appropriate level of authority, incorporated, and verified; and b. in the context of a Product, the Configuration Management activity concerning: the systematic proposal, justification, evaluation, coordination, and disposition of proposed changes; and the implementation of all approved and released changes into: (i) the applicable configurations of a Product; (ii) associated Product information; and (iii) supporting and interfacing Products and their associated information.
Configuration Control Board	(Core)	means the group of functional and other representatives responsible for the Configuration Control of a Mission System, Configuration Item, or other Product. There may be Commonwealth, Contractor and Subcontractor CCBs, as applicable to the Contract. The composition of the required CCBs is normally defined in each organisation's CM plans.
Configuration Identification	(Core)	means: a. in the context of an identification process, the unique identifiers for a Product and its configuration documents; and b. in the context of a Configuration Management activity, the systematic process of selecting the Product attributes, organising associated information about the attributes, and stating the attributes. This Configuration Management activity encompasses the: (i) selection of Configuration Items; (ii) determination of the types of configuration documentation required for each Configuration Item; (iii) issuance of numbers and other identifiers affixed to the Configuration Items and to the technical documentation that defines the Configuration Item's configuration; and (iv) release of Configuration Items and their associated configuration documentation, and establishment of Configuration Baselines for Configuration Items.
Configuration Item	(Core)	means an aggregation of hardware/Software (or any of its discrete proportions), which satisfies an end item use function and is designated for Configuration Management.

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Term	Status	Definition
Configuration Management	(Core)	means a technical and management process for establishing and maintaining consistency of a Product's performance, functional, and physical attributes with its requirements, design and operational information throughout its life.
Configuration Status Accounting	(Core)	means the Configuration Management activity that formalises the recording and reporting of the established product configuration information, the status of requested changes, and the implementation of approved changes including changes occurring to Product units during operation and maintenance.
Consolidated Group	(Optional)	means a Consolidated Group or a MEC group as those terms are defined in section 995-1 of the <i>Income Tax Assessment Act 1997</i> (Cth).
Consumable	(Core)	means a Non-Repairable Item (Non-RI) which is consumed, or used beyond recovery in normal use, including non-RIs such as ammunition, adhesives, rivets, paint, fuel, lubricants, sealants, sheet metal, lock wire, nuts, bolts, cleaning materials and electrical wiring cables.
Contamination	(Core)	means the presence in, on or under land, air or water of a substance or emission (whether solid, liquid, gas, odour, heat, sound, vibration or radiation) at a concentration above the concentration at which the substance is normally present in, on or under the land, air or water in the same locality, that presents a risk of Environmental Harm, including harm to human health or any other aspect of the Environment, or could otherwise give rise to a risk of non-compliance with any statutory requirement for the protection of the Environment.
Continuation Training	(Core)	means Training undertaken by Commonwealth Personnel in order to maintain currency and skill in relation to the Capability.
Contingency	(Optional)	means the provision of support by the Contractor, in addition to the requirements of the Contract, to meet the Commonwealth's requirements for support during heightened ADF operations. Contingency is an element of Surge.
Contingency Maintenance	(Optional)	means that Maintenance carried out on technical equipment during heightened ADF operations, when the availability of that equipment is crucial to force capability, and peacetime maintenance procedures are inappropriate.
Contract	(Core)	means the COC (including the Details Schedule), the attachments including the SOW, any S&Q Order and any document expressly incorporated as part of the Contract.
Contract Change Proposal	(Core)	has the meaning given by clause 11.1 of the COC.
Contract Governance Framework	(Core)	means the governance forums and associated governance arrangements set out in Attachment T to the Contract.
Contract Material	(Core)	means information, other than TD or Software, reduced to a material form (whether stored electronically or otherwise) that is delivered or required to be delivered to the Commonwealth under the Contract.
Contractor Default	(Core)	means a Default in relation to the Contract by the Contractor or Contractor Personnel.

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Term	Status	Definition
Contractor Maintained Licensed Fittings	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. for a GFF Licensed Area, means the Licensed Fittings identified in the list titled 'Contractor Maintained Licensed Fittings' included in Appendix 2 of the relevant annex to Attachment O.
Contractor Managed Commonwealth Asset	(Core)	means any item of Commonwealth Property subject to inventory and stock control that is in the care, custody or control of the Contractor or Contractor Personnel for the purposes of the Contract.
Contractor Personnel	(Core)	means each of the following: a. an employee, officer or agent of the Contractor; b. a Subcontractor; and c. an employee, officer or agent of a Subcontractor.
Contractor Premises	(Core)	means any of the following: a. premises owned by the Contractor, a Related Body Corporate of the Contractor, or a Subcontractor; and b. premises (including any GFF): (i) that is leased by, or licensed to, the Contractor, a Related Body Corporate of the Contractor, or a Subcontractor; and (ii) where the Contractor, Related Body Corporate or the Subcontractor is responsible for controlling physical access to the premises.
Contractor-sponsored Training	(Optional)	means Training that is either owned by the Contractor or licensed to the Contractor by a third party to enable the Contractor to provide the Training Services.
Contract Summary Work Breakdown Structure or CSWBS	(Core)	means the Work Breakdown Structure (WBS) set out at Annex F to the SOW.
Control	(Core)	means, in relation to the Contractor or the Guarantor, any of the following: a. the ability to exercise or control the exercise of the right to vote in respect of more than 50% of the voting shares or other form of voting equity in the Contractor or the Guarantor; b. the ability to dispose or exercise control over the disposal of more than 50% of the shares or other form of equity in the Contractor or the Guarantor; c. the ability to appoint or remove a majority of the directors of the Contractor or the Guarantor; d. the ability to exercise or control the exercise of the casting of a majority of the votes at the meeting of the board of directors of the Contractor or the Guarantor; or e. any other means, direct or indirect, of dominating the decision making and financial and operating policies of the Contractor or the Guarantor.
Controller	(Core)	has the same meaning as in the <i>Corporations Act 2001</i> (Cth).

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Term	Status	Definition
Copyright	(Core)	means any existing or future copyright as defined under the <i>Copyright Act 1968</i> (Cth) or the corresponding laws of any other jurisdiction in any original literary and artistic works, computer programs and Software, sound recordings and any other works or subject matter whether stored electronically or otherwise in which copyright subsists and may subsist in the future.
Core Services	(Core)	means the Recurring Services other than the Excluded Services.
Core Services Fee	(Core)	means in respect of a given period, the amount specified in Annex B to Attachment B as the Core Services Fee for that period.
Corrective Maintenance	(Core)	means those actions necessary to restore items or systems (both hardware and Software) to a satisfactory condition or level of performance after Failure or other unsatisfactory condition has been detected. It may be performed on any item, irrespective of whether another form of Maintenance (such as Preventive Maintenance) is also defined for the item. In some cases the Corrective Maintenance action necessary may be equivalent to a Preventive Maintenance task defined for the item. Corrective Maintenance may also occur as a result of a suspected Failure, even if further investigation indicates that no actual Failure occurred. with respect to Software, means modification of a Software Product after delivery to correct discovered problems.
Correctly Rendered Invoice	(Optional)	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC. for the purposes of clause 11.9.12 of the COC, means an invoice which is: - rendered in accordance with all of the requirements of the relevant PT PCP Subcontract; and - for amounts that are correctly calculated and due for payment and payable under the terms of the relevant PT PCP Subcontract.
Cost Review Period	(Optional)	means a time period within the Term for which a Periodic Cost Review is conducted.
Cyber Security	(Optional)	has the meaning given in the Australian Government Information Security Manual (ISM).
Cyber Security Assurance Basis	(Optional)	means the suite of requirements against which the Materiel System is to be assessed in relation to Cyber Security.
Cyber Supply Chain	(Core)	means the Contractor and the associated network of Subcontractors (including direct Subcontractors and lower-tier Subcontractors) that provide Digitally Enabled Systems and Equipment (DESE), Software and/or Cloud Computing services (eg, software as a service) directly or indirectly to the Commonwealth to satisfy the requirements of the Contract.
Cyberworthiness	(Optional)	means the desired outcome of a range of policy and assurance activities that allow the operation of Australian Defence Force platforms, systems and networks in a contested cyberspace environment, in accordance with the capability manager's operating intent. Assessing Cyberworthiness takes into consideration output from security assessments of enabling systems, the intended operating context, and any mitigation measures to be applied. The aim of Cyberworthiness is to ensure a capability is fit for purpose by

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		assuring the confidentiality, integrity and availability of the systems required for survivability in a contested cyber environment.
Dangerous Goods	(Core)	has the meaning given in the <i>Australian Code for the Transport of Dangerous Goods by Road and Rail</i> (extant edition and as amended from time to time).
Data Management System	(Core)	means the Contractor's system for providing on-line access to DMS Contract Data in accordance with clause 2.3 of the SOW.
day	(Core)	means a calendar day.
Default		means any of the following: a. a breach of an express or implied provision of the Contract by a party to the Contract; and b. a breach of a general law duty or an applicable law in relation to the Contract by any of the following: (i) the Commonwealth or Commonwealth Personnel; (ii) a Commonwealth Contractor or an employee, officer or agent of a Commonwealth Contractor; and (iii) the Contractor or Contractor Personnel. A breach of a general law duty or an applicable law by Commonwealth Personnel, a Commonwealth Contractor or an employee, officer or agent of a Commonwealth Contractor is taken to be a Default by the Commonwealth. A breach of a general law duty or an applicable law by Contractor Personnel is taken to be a Default of the Contractor.
Defect	(Core)	means: a. in respect of a Product or Deliverable, any fault, defect, damage, omission or deficiency in design, materials, workmanship or quality (other than fair wear and tear), which: (i) results in the Product or Deliverable not conforming to a requirement of this Contract or applicable legislation or recognised standards of practice; or (ii) renders the Product or Deliverable unfit for its intended use; and b. in respect of any other Service, the provision of the Service otherwise than in accordance with this Contract, applicable legislation or recognised standards of practice.
Defence	(Core)	means the Department of Defence and/or the Australian Defence Force.
Defence Cost Principles	(Core)	means the referenced document titled ' <i>Defence Cost Principles</i> ', which provides a framework to deliver greater understanding and clarity regarding how costs may be attributed to Defence Contracts.
Defence Cyberworthiness System	(Optional)	means the framework provisioned by Chief of Joint Capability (CJC) as the ADF Cyberworthiness Authority, for the purposes of ensuring that Capability Managers understand and manage their risks to achieve Cyberworthiness outcomes. It complements the process and directives within existing frameworks, including seaworthiness, land worthiness and airworthiness.

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Term	Status	Definition
Defence Personnel	(Core)	means an employee of the Department of Defence or a member of the Australian Defence Force (whether of the Permanent Forces or Reserves as defined in the <i>Defence Act 1903</i> (Cth)) and the equivalents from other organisations on exchange to Defence.
Defence Property	(Core)	means Commonwealth Property administered by Defence.
Defence Purpose	(Core)	means a purpose related to any of the following: a. the defence and defence interests of Australia; b. the national security of Australia; c. the provision of aid or assistance in respect of an emergency or disaster (whether natural or otherwise); and d. peacekeeping or peace enforcement activities.
Defence-Required Australian Industrial Capability or DRAIC	(Optional)	means an Industrial Capability provided by one or more Australian Entities that provides specific outcomes required by Defence, and described in Attachment F. A DRAIC is a combination of DRAIC Elements that can be: a. organised and operated to provide the required outcome; and b. applicable to the acquisition and/or the sustainment of a materiel system.
Defence Service Provider	(Core)	means a person, other than Defence Personnel, involved in Defence work or engaged by Defence.
Defence Supply Chain	(Optional)	means that portion of the overall supply chain for a Stock Item in which one or more Defence agencies are involved in the Supply actions (eg, receipting, storage and delivery) for that Stock Item.
Defined Contract Value	(Core)	means the sum of the Mobilisation Payment (if applicable), Milestone Payments and the Recurring Services Fee for the Term.
Deliverable(s)	(Core)	means any service, information (including Technical Data and Contract Material), document (including report, manuals, designs, drawings and the like), hardware, Software or other thing which is, or is required by the Contract to be, delivered or provided by the Contractor or its agents to the Commonwealth or its agents in the course of the performance of the Services.
Delivery Schedule	(Core)	means Attachment C to the Contract.
Demand	(Optional)	means a request for the supply of a Stock Item from the Commonwealth to the Contractor or from the Contractor to the Commonwealth, made by the person authorised to do so for the Commonwealth or the Contractor, as the case may be.
Design Support Network	(Optional)	see Technical Support Network.
Detailed Sovereign Defence Industrial Priority	(Optional)	means a detailed description of how an SDIP is to be delivered to support Defence capabilities. Detailed SDIPs include information needed by all levels of the supply chain, to consistently and continuously guide and grow the sovereign defence industrial base, aligned to Defence's needs.
Deviation	(Core)	means written authorisation to depart from the originally specified requirements for a Product. An Application for a Deviation is submitted before the event, when a condition is identified as not being able to be achieved, such as any of the following:

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		a. test requirement; b. process requirement; c. material requirement (eg, a variance); and d. quality system requirement.
Digitally Enabled Systems and Equipment or DESE	(Core)	Note to drafters: Amend the following clause to suit the Cyber Security requirements of the Contract. This definition acts to scope the Cyber Security requirements (eg, for the purposes of Cyber Supply Chain analyses). means those systems and items of equipment that are categorised as Information and Communications Technology (ICT) Equipment, Operational Technology (OT) Equipment, internet of things devices (ie, devices that connect together via the internet), or Cloud Computing.
Disposal	(Optional)	means a process used by the Contractor to dispose of Commonwealth Stock Items and Non-Stock Items.
Dispute	(Core)	means any dispute, difference or disagreement between the parties arising out of or in connection with this Contract, including any dispute or difference as to the formation, validity, existence or termination of this Contract.
Distribution	(Optional)	means the management process and physical functions associated with the movement of Items between pickup and delivery points.
Distribution System	(Optional)	means the Defence Distribution System available for use by the Contractor, principally through the Defence Warehousing and Distribution (DW&D) contract.
DMS Contract Data	(Optional)	means the data for which online access is provided to the Commonwealth through the DMS in accordance with clause 2.3 of the SOW.
document	(Core)	includes each of the following: a. any paper or other materials on which there are writing, marks, figures, symbols or perforations having meaning for persons qualified to interpret them; and b. any article or material from which sound, images or writings are capable of being reproduced with or without the aid of any other article or device.
DRAIC Element	(Optional)	means a component element of a DRAIC, and includes, as separate DRAIC Elements, infrastructure, hardware, Software, materiel, facilities, personnel, ICT, processes, and Technical Data.
Employee	(Core)	means an employee of Defence or a member of the Australian Defence Force (whether of the Permanent Forces or Reserves as defined in the <i>Defence Act 1903</i> (Cth)) and the equivalents from other organisations on exchange to Defence.
Engineering Change Proposal	(Core)	means a formal written proposal by the Commonwealth or the Contractor, prepared in accordance with the terms of the Contract, to vary the specific requirements of an article, either delivered or to be delivered, which will require revision of any of the following: a. the Configuration Baseline; b. the engineering drawings; and

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		c. any document referenced from the documents identified in either subclause a or b.
Engineering Information System	(Core)	means the Contractor's system, as required under clause 6.2.2 of DSD-ENG-SERV, which is used and generated by the engineering processes to provide access to the relevant technical information, decisions and rationale that describe the current state of engineering activities and associated approvals. The EIS includes information produced by the Contractor and Approved Subcontractors.
Engineering Services	(Core)	means those Services associated with performing activities of an engineering nature, including design management, technical integrity management, Configuration Management and Software support, as well as the management of these engineering activities.
Engineering Support	(Core)	means the organisation of hardware, Software, materiel, Facilities, Personnel, processes and Technical Data needed to enable Engineering Services to be competently provided for the Materiel System throughout its life.
Environment	(Optional)	in the context of environmental management, means any of the following: a. ecosystems and their constituent parts; b. natural and physical resources; c. the qualities and characteristics of locations, places and areas; d. noise; and e. the social, economic, aesthetic and cultural aspects of a thing mentioned in paragraph a, b or c.
Environmental Harm	(Optional)	means any actual or threatened adverse impact on, or damage to, the Environment.
Environmental Incident	(Optional)	means any Environmental Harm or Contamination caused by or in relation to the Contractor's activities.
Environmental Management System	(Optional)	has the meaning given to that term in AS/NZS ISO 14001:2018.
Environmental Outcomes	(Core)	means the minimisation of Environmental Harm wholly or partially caused by the Products Being Supported or their use, achieved through the elimination of environmental hazards and minimisation of environmental risks.
Essential AIC Obligations	(Core)	means each of the obligations set out in clause 4.2 of the COC.
Excepted Risk	(Core)	means an event or circumstance that is any of the following: a. an act of God, including a natural disaster, such as a bushfire, an earthquake, a flood, a landslide or a cyclone; b. war, invasion, acts of foreign enemies, hostilities between nations, a terrorist act as defined in section 100.1 of the Criminal Code, civil insurrection or militarily usurped power; c. confiscation by governments or public authorities; or d. ionising radiation, contamination by radioactivity from nuclear fuel or waste, or combustion of nuclear fuels.

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Excess Capacity	(Optional)	means the extent to which the potential capacity of the GFM, GFS, GFF and MRU exceeds the capacity of the GFM, GFS, GFF and MRU required to be used by the Contractor to provide the Services.
Excluded Parties	(Core)	means the parties identified as such in Annex E to the TDSR Schedule.
Excluded Services	(Core)	means the Services (if any) specified in Annex B to Attachment B, in relation to pass-through costs, including Technical Data, Software and Contract Material, required to be provided under the Contract in relation to those Services.
Excluded Services Fee	(Core)	means in respect of a given period, the amount specified in Annex B to Attachment B as the Excluded Services Fee for that period.
Exigency	(Optional)	means the provision of support for a period of up to two months in any six month period, with no less than two weeks' notice, and for up to 150% of the average monthly ROE. Exigency is an element of Surge. Note to drafters: The drafter should amend the parameters above to suit Contract needs. More than one Exigency period (eg, exercise) may be identified.
Export Approval	(Core)	means an export licence, agreement, approval or other documented authority (however described) relating to export, required from the relevant authority in the country of origin and necessary for the performance of the Contract, including the provision and use of the Services.
Extension Notice	(Optional)	has the meaning given in clause 1.9 of the COC.
Facilities	(Core)	means all mobile, fixed, permanent and semi-permanent buildings, structures, installations, and the associated machinery, plant and utilities for the operating, engineering, Maintenance, supply, Training, and administrative elements of a Materiel System.
Facilities Condition Report	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. In relation to a GFF Licensed Area, means the report at Appendix 3 of the relevant annex to Attachment O.
Failure	(Core)	means the inability of a system or component to perform its required functions within specified performance requirements.
Free and Open Source Software	(Core)	means Software that: a. is distributed on a free to use basis without a requirement to pay a Royalty or other fee; and b. may be used, modified, developed or adapted by any person subject to specified conditions, c. and includes open source Software, public domain Software, shareware, community source Software and freeware.
Freight Distribution Centre	(Optional)	means the Defence or Defence-managed organisation (including contractors) in a particular location that is responsible for receiving, storing (if required), documenting and dispatching Defence freight to customer organisations in accordance with priorities assigned by the Commonwealth Representative.
Full-Time Equivalent or FTE	(Optional)	means the equivalent of one person employed in a defined staff position on a full time basis, allowing for associated employment agreement obligations and entitlements.

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Term	Status	Definition
Functional Baseline	(Core)	means the current Approved documentation for a system or top level CI, which describes the functional, performance, interoperability, and interface characteristics and the Verification required to demonstrate the achievement of those specified characteristics.
General Interest Charge	(Core)	means the Australian Taxation Office sourced rate determined under section 8AAD of the <i>Taxation Administration Act 1953</i> (Cth) expressed as a decimal rate per day.
GFF Common Area	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. means an area of a GFF Licensed Area or the Commonwealth Premises in which the GFF is located, identified in the plans in Appendix 1 of the relevant annex to Attachment O as a GFF Common Area.
GFF Delay Event	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. means any of the following: a. the Commonwealth excludes the Contractor or Contractor Personnel from the GFF (or a substantial part of it) other than as reasonably necessary for the normal operation and maintenance of the Commonwealth Premises in which the GFF is located; b. the Commonwealth requires the Contractor to relocate from the GFF to another location; c. the GFF Licence is terminated by the Commonwealth; and d. the Contractor cannot exercise (or fully exercise) a right granted under the GFF Licence due to a Commonwealth Default or a breach of a general law duty or an applicable law by an Unrelated Party, other than as a result of a Contractor Default or an Excepted Risk.
GFF Licence	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. means the licence granted by clause 3.7 of the COC.
GFF Licence Application Date	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. in relation to a GFF Licensed Area, means the date specified in the annex to Attachment O for that GFF Licensed Area as the date on which the GFF Licence applies to the GFF Licensed Area.
GFF Licence Commencement Date	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. in relation to the GFF Licence for a GFF Licensed Area, means the date specified in the relevant annex to Attachment O as the date on which the GFF Licence applies to that GFF Licensed Area.
GFF Licence Expiry Date	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. in relation to the GFF Licence for a GFF Licensed Area, means the date specified in the relevant annex to Attachment O as the date on which the GFF Licence ceases to apply to that GFF Licensed Area.

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GFF Licence Term	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. in relation to a GFF Licence, means the period determined in accordance with clause 1.1 of Attachment O.
GFF Licensed Area	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. in relation to a GFF Licence, means the area forming part of a Commonwealth Premises and identified as such in Appendix 1 of the relevant annex to Attachment O, including all buildings in that area and all Licensed Fittings in that area or those buildings.
GFF Permitted Purpose	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. means any of the following: - the purpose of performing the Contractor's obligations under and in connection with the Contract; and - if the Commonwealth Representative consents in writing to the use of a GFF Licensed Area for a purpose under or in connection with another contract to which the Commonwealth is a party, the other purpose.
Goods and Services Tax	(Core)	has the same meaning as in the GST Act.
Governing Security Documents	(Optional)	Note to drafters: Amend the following definition to suit the security requirements of the Contract. This definition is critical to the successful operation of the security provisions of the SOW, and particular attention is drawn to clause 4.6.7 of the SOW. Do not include commercial standards within this definition. Be aware that many of the Defence EMSEC documents (eg, the ACSIs) are classified and have releasability constraints. ACSI-61D and ACSI-71D, for example, are only available on the DSN. means the following documents applicable to the security provisions of the SOW: - the Protective Security Policy Framework (PSPF); - the Australian Government Information Security Manual (ISM); - the Defence Security Principles Framework (DSPF); - the Essential Eight Maturity Model (E8MM); - the Security Classification and Categorisation Guide (SCCG) at Attachment J to the COC; Option: Include this option (amended as required) if EMSEC is applicable to the scope of system security. - the applicable Australian Communications Security Instructions (ACSIs) identified at Annex A to the SOW or in the Approved Emanation Security Control Plan (ESCP); - Project EMSEC Threat Assessment (ETA) and Project TEMPEST Requirements Statement (TRS); and h. [...INSERT OTHER APPLICABLE DEFENCE SECURITY DOCUMENTS...].

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Term	Status	Definition
Government Agency	(Core)	means a person or body performing governmental functions, including any of the following: a. a body politic; b. a government or government department or other body; c. a governmental, semi-governmental or judicial person; and d. a person (whether autonomous or not) charged with the administration of a law.
Government Furnished Data or GFD	(Optional)	means the Technical Data and other documentation provided by the Commonwealth to the Contractor to enable or otherwise assist in the performance of the Contract and which, under the terms of the Contract, the Commonwealth Representative has represented as being fit for its intended purpose. GFD is identified in: a. Annex A to Attachment E; and b. as applicable, the GFM section of an S&Q Order.
Government Furnished Equipment or GFE	(Optional)	means equipment including Software, provided by the Commonwealth to the Contractor to enable or otherwise assist in the performance of the Contract and which, under the terms of the Contract, the Commonwealth Representative has represented as being serviceable for use. GFE is identified in: a. Annex A to Attachment E; and b. as applicable, the GFM section of an S&Q Order.
Government Furnished Facilities or GFF	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. means hard infrastructure such as buildings or test sites and facilities provided by the Commonwealth to the Contractor for the purposes of the Contract, under the terms of the Contract and the applicable GFF Licence. GFF is identified: a. as the GFF Licensed Area(s) identified in Attachment O; and b. as applicable, within the GFF section of an S&Q Order.
Government Furnished Information or GFI	(Optional)	means Technical Data and other documentation provided by the Commonwealth to the Contractor on the basis that it may assist in the performance of the Contract. For clarity, the Commonwealth Representative does not represent that GFI is free from Defects or fully aligned to the specific needs of the Contract, and the Contractor is to assess the suitability of the GFI and remains responsible for the outcomes resulting from its use. GFI is identified in: a. Annex A to Attachment E; and b. as applicable, the GFM section of an S&Q Order.
Government Furnished Material or GFM	(Optional)	is the collective name for the GFE, GFD and GFI identified in: a. Annex A to Attachment E; and b. as applicable, the GFM section of an S&Q Order.

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Government Furnished Services or GFS	(Optional)	means services provided by the Commonwealth to the Contractor to enable or otherwise assist in the performance of the Contract. GFS is identified in: a. Annex B to Attachment E; and b. as applicable, the GFS section of an S&Q Order.
Government Furnished Services (Information Technology) or GFS(IT)	(Optional)	means GFS that requires the use of a Defence information system, such as a data management system or other Software application hosted on a Defence information network.
GST Act	(Core)	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and associated taxation legislation.
GST Group	(Optional)	means a GST group formed in accordance with Division 48 of the GST Act.
Guarantor		means the guarantor (if any) specified in the Deed of Guarantee and Indemnity, as identified in Item 9 of the Contract Details.
Hazardous Chemical	(Core)	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).
Highly Sensitive Software	(Core)	means Software specified in Annex A to the TDSR Schedule.
Highly Sensitive TD	(Core)	means TD specified in Annex A to the TDSR Schedule.
Information and Communications Technology Equipment or ICT Equipment	(Optional)	means any device that can process, store or communicate data electronically in a digital form, such as computers, multifunction devices, network devices, smartphones, digital cameras, electronic storage media, smart devices and other radio devices.
ICT System	(Optional)	means a set of Software or combined hardware and Software Products whose primary function is to acquire, process, store, and disseminate information, and which is identified as an ICT System in Annex A to the SOW.
Imported Contract Expenditure or ICE	(Core)	has the meaning given in clause 2.3 of the ACE Measurement Rules.
Independent AIC Audit Program	(Core)	means the Commonwealth's Independent AIC Audit Program for auditing compliance with the AIC Obligations and AIC Subcontractor Obligations.
Indigenous Enterprise	(Optional)	means an organisation, operating a business, that is 50 per cent or more Indigenous owned. It may take the form of a company, incorporated association or trust. A social enterprise or registered charity may also be an Indigenous enterprise if it is operating a business. Supply Nation (www.supplynation.org.au) maintains a list of Indigenous Enterprises that meet this definition.
Industrial Capability	(Core)	means the ability, resulting from the employment of business, commercial and industry resources, to provide particular goods and/or services. An industrial capability is one that is not only able to provide the goods and services when needed, but it is also

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		sustainable over the period that the industrial capability may be required. 'Industrial Capabilities' has a corresponding meaning.
Initial Term	(Core)	has the meaning given in the Details Schedule.
Innovation / Efficiency or IE	(Core)	means any means by which the Contractor enables: a. Defence's Total Cost of Ownership for the Capability and/or the total cost of ownership for Other Capabilities to be reduced; b. the Capability to be enhanced to address technology evolution, technology insertion and changing operational imperatives and threats (as advised by the Commonwealth); and c. the AIC Objectives to be enhanced, while ensuring that Outcomes are achieved. Such means may include one or more of the following: d. any means by which the Contractor is able to more efficiently, cost effectively, or professionally perform any or all of the Services; e. enhancements to the Products Being Supported; f. changes to the responsibilities of, and the modes of interaction between, any of the parties involved in the operation and support of the Products Being Supported, including both within and between the Commonwealth, Contractor and Subcontractors; g. changes to the modes of operation and support for the Capability or related capabilities (or both), including through repatriation to Australia or New Zealand of services, which are currently being provided by overseas entities, to enhance Sovereignty; h. enhancements to wider Defence or other Commonwealth capability arrangements (eg, requirements bundling); i. obtaining cost reductions to be passed on to the Commonwealth (eg, through implementing Subcontractor arrangements that assist with reducing support costs); and j. any other identified opportunities. 'Innovations / Efficiencies' has a corresponding meaning.
Insolvency Event	(Core)	means, in respect of a person, any of the following: a. the person: (i) becoming insolvent; (ii) ceasing to carry on all or a material part of its business; or (iii) taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; b. the appointment of a Controller, a liquidator or provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property; c. the person becoming subject to external administration provided for in Chapter 5 of the <i>Corporations Act 2001</i> (Cth); d. the person suffering execution against, or the holder of a Security Interest or any agent on its behalf taking possession of, any of the person's property (including seizing the person's property within the meaning of section 123 of the <i>Personal Property Securities Act 2009</i> (Cth));

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		e. the person being taken under section 459F(1) of the <i>Corporations Act 2001</i> (Cth) to have failed to comply with a statutory demand; f. an order or resolution for the winding up or deregistration of the person; g. a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; and h. any analogous event under the law of any applicable jurisdiction.
Intellectual Property	(Core)	means all present and future rights conferred by law in or in relation to any of the following: a. Copyright; b. rights in relation to a Circuit Layout, Patent, Registrable Design or Trade Mark (including service marks); and c. any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world whether registered or unregistered.
Internal System Review	(Core)	means a System Review, other than a Mandated System Review, that the Contractor or a Subcontractor conducts as part of the program of activities for the Contract.
Issue	(Core)	means a concern or action whose progress needs to be monitored, but which is technically not a risk because it does not represent any cost or schedule threat to the Contract at this point in time. Typical issues include action items from meetings, corrective actions, and concerns or actions arising from correspondence, metrics collection and analysis, deviation from progress against plans, and reviews of process application.
Issue Register	(Core)	means the log used by the Contractor for recording each Issue and the associated actions.
Item	(Core)	means a general term used to denote any element of the Support System.
Justification	(Core)	means the determination and authorisation of a stocking level at a particular Commonwealth or Contractor location.
Key Commercial Item	(Core)	means: a. a Commercial Item listed (or required to be listed) in Annex C to the TDSR Schedule; or b. a Commercial Item described as a Key Commercial Item in an S&Q Order.
Key Performance Indicator	(Optional)	means a Performance Measure specified in Annex C to Attachment P as a KPI, being a measure that is used to determine the Contractor's entitlement to Performance Payments under Annex C to Attachment B.
Key Person	(Optional)	means a person filling a Key Staff Position.
Key Requirement	(Optional)	means each obligation or requirement described as such in Attachment D.
Key Staff Position	(Optional)	means a position that requires a person with highly specialised skills or such capabilities that are crucial to the success of the Contract, as identified in accordance with clause 9.1 of the SOW.

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Latent Defect	(Core)	means a Defect that: a. was not discoverable by reasonable care or inspection before Acceptance of the Products, Deliverables or Services; and b. other than in relation to Software, falls outside the incidence of random Failures to be expected of Products, Deliverables or Services of the relevant kind.
LD Amount	(Optional)	means an amount specified in, or calculated in accordance with, Attachment D as the LD Amount for the Key Requirement.
Lead Time	(Core)	means the time it will take (in days) for the Contractor to deliver the goods or items to the place nominated in the Contract.
Licence	(Core)	means a non-exclusive licence of IP in respect of TD, Software or Contract Material, being a licence that: a. is fully paid-up and does not require any additional payment by the licensee, including by way of Royalty or any other fee; b. cannot be revoked or terminated by the licensor for any reason except upon expiration of a statutory protection term; c. operates in perpetuity without any action required on the part of the licensee to renew or extend the licence; d. operates on a world-wide basis; and e. binds each successor in title to the owner of the IP in respect of the TD, Software or Contract Material.
Licensed Fittings	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. means the following items in a GFF Licensed Area: a. fixed internal partitioning and panelling; b. floor coverings, window blinds and awnings; c. cabling and connection points of any installed telecommunication systems; d. lines, conduits, connections, taps, outlets, controls and regulatory and safety devices of any reticulated electricity, gas or water supply; e. sinks and basins, f. fire sprinkler systems; g. light, heating and air-conditioning fittings; h. installed warning or alarm systems; i. signage supporting the function or the intended function of the GFF; j. hoses and compressor units; k. other fixed plant and equipment (not being GFE), including that listed in an appendix to an annex to Attachment O; and l. any other items made available in a GFF Licensed Area by the Commonwealth for the Contractor's use, and any items that replace those while the GFF Licence is in force, but does not include items that are GFE.

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Term	Status	Definition
		<i>Note to drafters: This list should be reviewed and updated depending on the actual licensed fittings. If a fitting which is being licensed does not appear on the list above, you will need to include it. Conversely, if an item is listed as being a 'licensed fitting' above, but is not being licensed to the Contractor, it should be deleted from the list above.</i>
Life Cycle Cost	(Core)	means the total cost to the Commonwealth of acquisition and ownership (both direct and indirect) of the Products Being Supported under the Contract over the LOT of the Mission System(s). The LCC includes all costs associated with acquisition, in-service operations, logistics support and disposal.
Life-of-Type or LOT	(Core)	means the period in which the Commonwealth will use an item of equipment or Defence capability. The Commonwealth may vary this period from time to time at its discretion including based on strategic or operational requirements.
Local Business	(Core)	<i>Note to tenderers: The definition of Local Business for any resultant Contract will be based on the successful tenderer's response to Annex H to Attachment A to the Conditions of Tender.</i> means [...INSERT DEFINITION...].
Loss	(Core)	means any liability, loss (including economic loss), damage, compensation, costs and expenses.
Maintenance	(Core)	means all actions taken to retain material in, or restore it to, a specified condition or to restore it to serviceability; and 'Maintain' has a corresponding meaning. It includes inspection, condition monitoring, servicing, repair, overhaul, testing, calibration, rebuilding, reclamation, upgrades, modification, recovery, classification and the salvage of technical equipment. Maintenance includes both Corrective Maintenance and Preventive Maintenance. <i>Note: The terms Adaptive Maintenance and Perfective Maintenance are not considered subcategories of Maintenance. These terms are used in commercial Software standards and are used for consistency with these standards, but are considered to be part of Engineering Services.</i>
Maintenance Management System	(Core)	means the information management system that is used for managing the provision and performance of Maintenance Services. There may be more than one Maintenance Management System used under the Contract (eg Commonwealth-provided system and Contractor system).
Maintenance Requirements Determination	(Optional)	means the systematic application of a number of processes (eg failure mode, effects and criticality analysis; and reliability centred maintenance) that are used to develop maintenance requirements for a Product.
Maintenance Services	(Core)	means those Services associated with performing Maintenance, including the management of Maintenance activities.
Maintenance Support	(Core)	means the organisation of hardware, Software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable Maintenance Services to be competently provided for the Materiel System throughout its life.

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Term	Status	Definition
Major Change	(Core)	<i>Note to drafters: Prior to RFT release amend this definition to suit the requirements of the Contract, particularly in relation to the Products Being Supported.</i> means an engineering change that: - contains an engineering design for which the impact assessment is classified as significant in relation to the technical risk introduced by the implementation of the design; - affects the FBL of the Mission System(s) and/or of an item of Commonwealth-owned equipment; - affects the payments to be provided under the Contract; - affects any Key Performance Indicators (KPIs) included in the Contract; - results in significant retrofit action, particularly in relation to installed systems; - with respect to Software, any change that involves Adaptive Maintenance or Perfective Maintenance (but, for clarity, not Corrective Maintenance, except where otherwise may be determined in accordance with paragraphs a or g); - affects requirements (other than the Functional Baseline) and/or the design, and the Commonwealth considers the change has a significant impact upon one or more of the following: - the operational or performance characteristics of the Materiel System, including in relation to safety, security, survivability, reliability, maintainability, availability and supportability; - the ability to meet schedule requirements (eg, for a ship availability); - Government Furnished Equipment (GFE); - Interface Control Documents or specified interoperability with interfacing CIs, support equipment or support Software, spares, trainers or training devices, equipment or Software; - the content of operating instructions, maintenance documentation or other Technical Data (TD), other than those classified as Minor Changes; - interchangeability or replaceability as applied to CIs, and to all subassemblies and parts except the pieces and parts of non-repairable subassemblies; - sources of CIs or Repairable Items at any level defined by source-control drawings; and - skills, personnel numbers, training, biomedical factors or human-engineering design.
Malware	(Core)	means Software or Source Code the intent or effect of which is malicious (ie, Software that may appear to be dormant or perform a useful or desirable function, but that actually gains unauthorised access to system resources or induces the user to execute other malicious logic). Malware is a generic term for a number of different types of malicious code including adware, spyware, bots, ransomware, rootkits, trojans, viruses and worms.

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Term	Status	Definition
Mandated System Review	(Optional)	means a System Review that is mandated in the Contract.
Material Requirements Planning	(Core)	means the process which establishes the quantity of Stock to be procured, and comprises the assessment, requirement computation, and procurement determination based on historical use/consumption data.
Materiel Safety	(Core)	means that the Materiel Systems, including elements thereof, are, so far as is reasonably practicable, without risks to the health and safety of persons who: - use those Materiel Systems or elements for a purpose for which they were designed and manufactured; - handle those Materiel Systems or elements; - store those Materiel Systems or elements; - construct those Materiel Systems or elements; - carry out any reasonably foreseeable activity in relation to the manufacture, assembly or use of the Materiel Systems or elements or proper storage decommissioning, or disposal (eg, inspection, operation, cleaning, Maintenance or repair of Materiel Systems or elements); and - are at or in the vicinity of a workplace and who are exposed to Materiel Systems or elements at that workplace or whose health or safety is affected by any activity referred to in sub-paragraph (a) to (e) above.
Materiel System	(Core)	means the Mission System(s) combined with the Support System.
Maximum Probable Loss	(Core)	means the financial consequence (to the Commonwealth and to any third party) of a risk event occurring after taking into account any risk treatments that mitigate consequence – it is NOT discounted by the likelihood of it occurring.
Members Required in Uniform	(Optional)	means the ADF members specified at Attachment R.
Milestone	(Core)	means an event specified as a Milestone in Attachment C.
Milestone Date	(Core)	in relation to a Milestone, means the date for achievement of the Milestone as set out in Attachment C.
Milestone Payment	(Core)	in relation to a Milestone, means the amount set out in Annex A to Attachment B in respect of the Milestone.
Minor Change	(Core)	<i>Note to drafters: If this definition is required, amend it prior to RFT release to suit the requirements of the Contract, particularly in relation to the Products at Annex A to the SOW.</i> means an engineering change that does not meet the criteria for a Major Change and that: - changes a Baseline; - substitutes a component with one that is built to the same build standard; or - amends TD, and the amendments have no technical impact on the supported materiel's form, fit, function, physical performance, logistic or maintenance support arrangements, and include amendments such as:

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Term	Status	Definition
		(i) typographic errors; (ii) grammatical errors; (iii) misspellings; (iv) incorrect page numbering; (v) incorrect nomenclature; and (vi) incorrect contact information.
Mission Critical Capabilities	(Optional)	<i>Note to drafters: Amend the following definition, as required, to support the classification of the severity of Failures (eg, see DSD-OPS-HLPDSK). In more complex situations, it may be more appropriate to create a table or indented structure identifying Mission Critical Capabilities for each group of Products Being Supported.</i> means those functions that: a. [...DRAFTER TO INSERT...]; and b. [...DRAFTER TO INSERT...]. A Mission Critical Capability means one, all, or any of the identified functions, as the case requires.
Mission System	(Core)	means a Product designated as a Mission System in Annex A to the SOW.
Mobilisation Payment	(RFT Core)	means the payment identified as a Mobilisation Payment in Attachment B.
Modification Order	(Optional)	means the documentation that provides the means by which an approved configuration change resulting from an ECP process is incorporated into a Product.
month	(Core)	means a calendar month.
Moral Rights	(Core)	means any of the following: a. a right of attribution of authorship; b. a right not to have authorship falsely attributed; and c. a right of integrity of authorship.
MRU Credit Rate	(Optional)	means the rates for calculating MRU credits as set out in Table 2 of Attachment R.
Non Mission Critical Capabilities	(Optional)	means those functions that are not classified as Mission Critical Capabilities.
Non-Repairable Item	(Core)	means a Stock Item which: a. is a Consumable; b. loses its original identity during periods of use by being incorporated into or attached on to another assembly; or c. as a result of wear and tear, cannot be reconditioned because its design does not make it possible or its actual value does not justify reconditioning.
Non-Standard Repairs	(Optional)	means repairs that are not documented in approved maintenance publications or instructions.

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Non-Stock Item	(Core)	means all Items which are not Stock Items, and can include Software, Technical Data or Facilities.
Not-To-Exceed	(Core)	means a price (inclusive of any extra fees) that shall not be exceeded for the provision and completion of a Service, a Deliverable or of an approved work activity.
Notifiable Incident	(Core)	has the meaning given in sections 35 to 37 of the <i>Work Health and Safety Act 2011</i> (Cth).
Objective Evidence	(Core)	means documentary evidence as reasonably required to confirm that an item meets its specified requirements and/or that an item is suitable for a specific application.
Obsolescence	(Core)	means the process of becoming out-of-date or superseded. Obsolescence can affect all equipment, Software, tools, processes, Technical Data and other support elements.
Obsolescent	(Core)	means, for a hardware Item, that the Item is subject to an announced end of production date; and, for a Software Item, that the Item is subject to an announced end of support date.
Obsolescent Item	(Core)	means the status of a Stock Item or of an equipment system, which indicates that it is no longer to be provisioned although it may remain in use until worn out or declared an Obsolete Item.
Obsolete	(Core)	means, for a hardware Item, that the Item is no longer in production by the manufacturer; and, for a Software Item, that the Item is no longer supported.
Obsolete Item	(Core)	means the status of a Stock Item or of an equipment system, which indicates that it will not be purchased or issued in the future, as the Stock Item is no longer required and is not to be used.
Off Ramp Date	(Optional)	Note to drafters: Include the following if Option A or C is selected at clause 1.9 of the COC. Insert an off ramp period sufficient to allow for alternative arrangements to be established. means the date that is [...INSERT OFF RAMP PERIOD IN YEARS E.G. TWO YEARS...] before the end of the current Term, or such other date as is determined in accordance with the Contract.
Open Book Basis	(Optional)	means the provision of any pricing, costing and other information on an open book basis, to enable an assessment of actual costs and profit margins, cost savings, including a breakdown of all relevant preliminaries, insurances, labour, equipment, materials, Subcontract costs, margins and discount rates used to calculate net present values in a clear and transparent manner to allow the Commonwealth to understand fully the basis upon which the Contractor is being, or seeking to be, paid.
Operating Expenses	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. This list should be reviewed and amended to ensure completeness and accuracy. means the total of all costs, charges, fees, expenses, Taxes and other outgoings paid or payable, charged or chargeable, assessed or assessable upon or otherwise incurred by the Commonwealth in respect of the Commonwealth Premises in which the GFF is located or in managing, supervising, operating, cleaning, painting, maintaining and keeping secure the Commonwealth Premises in which the GFF is located and not otherwise recouped by the Commonwealth under the GFF Licence, including all of the following:

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		a. all amounts paid or payable to any Government Agency in respect of the Commonwealth Premises in which the GFF is located (not including a GFF Licence fee, if any); b. all insurance premiums payable in respect of the insurances effected by the Commonwealth in respect of the Commonwealth Premises in which the GFF is located against risks referable to the Commonwealth Premises in which the GFF is located or to the Commonwealth in relation to the Commonwealth's ownership or interest in the Commonwealth Premises in which the GFF is located; c. amounts incurred in respect of the maintenance, operation, renovation, repair, upgrade and upkeep of the Commonwealth Premises in which the GFF is located (other than those parts of the Commonwealth Premises in which the GFF is located from which the Contractor derives no benefit from a right of access); d. amounts incurred in respect of cleaning, lighting, maintaining and servicing common areas; e. amounts incurred in respect of caretaking, security and other expenses associated with facilities provided on or from the Commonwealth Premises in which the GFF is located; f. amounts incurred in respect of control and security (including fees payable to the Commonwealth's security contractors, car parking attendants and traffic supervisors) in connection with the Commonwealth Premises in which the GFF is located (including amounts incurred in respect of salaries and wages, labour on costs and accident compensation insurance premiums); g. amounts incurred in respect of maintenance, repair and testing of firefighting and protection equipment (including sprinkler installations, hydrants, fire extinguishers, smoke detectors and other firefighting equipment) installed by the Commonwealth on the Commonwealth Premises in which the GFF is located, including amounts paid or payable to a Government in respect of the supply, maintenance, servicing and monitoring of fire alarms; h. amounts incurred in respect of any other services (including IT services) provided in respect of the Commonwealth Premises in which the GFF is located, including: (i) amounts payable to specialist contractors; (ii) wages paid to permanent staff employed; and (iii) the cost of materials used by the Commonwealth, in connection with those services; i. amounts that the Commonwealth incurs in respect of the management and supervision of the Commonwealth Premises in which the GFF is located and arrangements for use or occupation of or access to the Commonwealth Premises in which the GFF is located; j. amounts incurred in complying with any requirement of a Government Agency in relation to the Commonwealth Premises in which the GFF is located (other than those parts of the Commonwealth Premises in which the GFF is located, to which there is no access or use by the public or the Contractor) but excluding requirements which are the responsibility of a particular

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		tenant, licensee or occupier of the Commonwealth Premises in which the GFF is located; and k. any other expenditure reasonably and properly incurred by the Commonwealth in the operation and maintenance of the Commonwealth Premises in which the GFF is located, but excluding any of the following: l. costs of capital repairs (provided these are not needed because of Contractor Default); m. amounts that the Commonwealth is not permitted by law to recover from the Contractor; n. amounts of GST in respect of the GFF Licence; and o. any other amounts payable or to be borne by the Contractor under Attachment O.
Operating Support	(Core)	means the organisation of hardware, Software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable the Mission System to be competently operated throughout its life.
Operating Support Services	(Core)	means those Services associated with: a. operating a Mission System; b. performing activities that directly enable the operation of the Mission System (eg refuelling, fire-fighting and ordnance loading); and c. managing Operating Support activities, but excludes Maintenance at the operational level of the Mission System and the provision of the associated Supply Services.
Operational Technology Equipment or OT Equipment	(Optional)	means the programmable components of a system (hardware and/or software) that detect or cause a change through the direct monitoring and/or control of physical devices, processes or events. These components interact with the physical environment or manage devices that interact with the physical environment. Embedded systems are also included in the sphere of operational technology (eg, smart instrumentation), along with a large subset of scientific data acquisition, control, and computing devices. Systems that process operational data (including electronic, telecommunications, computer systems and technical components) are included under the term operational technology. An OT device could be as small as the engine control unit (ECU) of a car or as large as the distributed control network for a national electricity grid.
Operative Date	(Core)	means the date specified in a notice under clause 1.5.4 or 1.5.5b of the COC.
Other Capabilities	(Core)	means Capabilities that are provided and maintained by the Commonwealth and/or by third parties under separate contractual arrangements with the Commonwealth, and which interoperate and/or integrate with the Products Being Supported.
Other Direct Costs	(Core)	has the same meaning as 'direct expense' in accordance with the meaning in the Defence Cost Principles.
Outcome	(Core)	means the desired resultant effect on a Defence Capability that is an objective of, and enabled through, the Services provided by the Contract as specified in clause 1.3 of the COC.

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Term	Status	Definition
Ozone Depleting Substance	(Core)	means any substance identified as having ozone depleting potential in the <i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth) or any regulations made under that Act.
Packaging	(Core)	means the wrapping, container, cushioning materials and palletisation materials, as required, in which an Item is delivered, handled, stored or distributed until required for use or to be disposed of.
Patent	(Core)	means the rights and interests in any registered, pending, or restored standard or innovation patent under the <i>Patents Act 1990</i> (Cth) or the corresponding laws of any other jurisdiction, including all provisional applications, substitutions, continuations, continuations-in-part, continued prosecution applications including requests for continued examination, divisions, additions and renewals, all letters patent granted, and all reissues, re-examinations and extensions, term restorations, confirmations, registrations, revalidations, revisions and supplemental protection certificates.
Perfective Maintenance	(Optional)	means the modification of a Software Product after delivery to improve performance or maintainability.
Performance Band	(Optional)	Note to drafters: Insert this definition if KPIs are included in the Contract. means any or all of Performance Band A, Performance Band B, Performance Band C and Performance Band D, as applicable.
Performance Band A	(Optional)	Note to drafters: Insert this definition if KPIs are included in the Contract. has the same meaning as in Attachment P.
Performance Band B	(Optional)	Note to drafters: Insert this definition if KPIs are included in the Contract. has the same meaning as in Attachment P.
Performance Band C	(Optional)	Note to drafters: Insert this definition if KPIs are included in the Contract. has the same meaning as in Attachment P.
Performance Band D	(Optional)	Note to drafters: Insert this definition if KPIs are included in the Contract. has the same meaning as in Attachment P.
Performance Event	(Core)	means an event or circumstance which prevents the Contractor from complying with clauses 6.1.1d or e of the COC.
Performance Implementation Period	(Optional)	Note to drafters: Insert this definition if a PIP is included in the Contract. means the period defined in Annex C to Attachment B and in Attachment P, being the period during which the KPI performance assessment processes are introduced in one or more stages.
Performance Incentive	(Optional)	Note to drafters: Insert this definition if Performance Incentives are included in the Contract. for a KPI for a Review Period, means the amount determined in accordance with clause 3.3 of Annex C to Attachment B in respect of the Contractor's performance against that KPI in that Review Period. The Performance Incentive is a part of the Performance Payment.

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Term	Status	Definition
Performance Measure	(Core)	means a measure of performance specified in Attachment P or the Approved SSMP.
Performance Payment	(Optional)	Note to drafters: Insert this definition if Performance Payments are included in the Contract. for a KPI for a Review Period, means the amount determined in accordance with clause 3 of Annex C to Attachment B as the Performance Payment payable in respect of the Contractor's performance against that KPI in that Review Period.
Performance Relief	(Core)	means relief from compliance with clauses 6.1.1d and e of the COC for a period specified by the Commonwealth.
Periodic Cost Review	(Optional)	means a review held in accordance with clause 3.4.6 of the SOW and clause 1.11 of the COC.
Periodic Performance Review	(Core)	means a review held in accordance with clauses 3.4.1, 3.4.2, 3.4.4 and 3.4.5 of the SOW and the Approved SSMP. Periodic Performance Reviews include CPRs, Performance Assessment Reviews (unless specified as an ad hoc meeting), Combined Services Performance Reviews and individual Services performance reviews, as specified in the Contract.
Personal Information	(Core)	has the same meaning as in the <i>Privacy Act 1988</i> (Cth).
Personnel	(Core)	means all staff involved in the operation and support of the Products Being Supported, including Commonwealth Personnel, Contractor Personnel and Subcontractor Personnel.
Prescribed ACE Percentage	(Core)	means the ACE percentage in respect of the Recurring Services Fees specified in Table 1 of Attachment F in respect of an ACE Measurement Point.
Phase In	(Optional)	means the set of activities to be undertaken by the Contractor and Commonwealth, in respect of, and to prepare for, the commencement of the provision of the Services, which culminates in, and concludes on, the achievement of the Operative Date.
Phase Out	(Core)	means the set of activities undertaken by the Contractor and Commonwealth in respect of, and to prepare for, the expiry or earlier termination of the Contract or where there is a reduction in scope of the Contract.
Postponement	(Core)	means the postponement of a due date for the provision of a Service.
Postponement Event	(Core)	means an event or circumstance which prevents the Contractor from complying with clauses 6.1.1 a, b or c of the COC.
Pre-Authorised Ad Hoc Service	(Optional)	means an Ad Hoc Service undertaken in accordance with clause 3.16 of the COC.
Prescribed Activities	(Core)	means any of the following: a. the use, handling or storage of: (i) a prohibited carcinogen, restricted carcinogen or lead, each as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth); or (ii) Hazardous Chemicals the use of which is restricted under regulation 382 of the <i>Work Health and Safety Regulations 2011</i> (Cth) including polychlorinated biphenyls;

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		b. unless otherwise agreed by the Commonwealth, the use, handling or storage of Hazardous Chemicals that are defined in the <i>Work Health and Safety Regulations 2011</i> (Cth) as: (i) Schedule 11 Hazardous Chemicals exceeding manifest quantities; or (ii) Schedule 15 Chemicals where the applicable State or Territory regulator has determined the storage facility to be a major hazard facility; c. the use, handling or storage of a Problematic Source; d. the use, handling or storage of ordnance; e. high risk work as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth) that requires dedicated work plans; f. electrical work on energised electrical equipment as contemplated by the <i>Work Health and Safety Regulations 2011</i> (Cth); g. high risk construction work, demolition work or excavation work, each as defined in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth); h. work involving ACM contemplated by subregulation 419(2) of the <i>Work Health and Safety Regulations 2011</i> (Cth); i. work that requires a confined space entry permit in accordance with <i>Work Health and Safety Regulations 2011</i> (Cth); or j. remote or isolated work as defined in subregulation 48(3) of the <i>Work Health and Safety Regulations 2011</i> (Cth).
Preventive Maintenance	(Core)	means all scheduled Maintenance actions performed to retain the systems in a serviceable condition, to ascertain the condition and correct functioning of the system hardware or Software, and to improve the reliability of the systems by providing systematic inspection, detection, prevention and delaying of known Failure Modes. Preventive Maintenance tasks include: a. scheduled inspection on-condition tasks; b. scheduled inspection Failure-finding tasks; c. scheduled removal rework tasks; and d. scheduled removal discard tasks. With respect to Software, Preventive Maintenance also means the modification of a Software Product after delivery to detect and correct latent faults in the Software Product before they become effective faults.
Privacy Commissioner	(Core)	means any person performing any 'privacy function' within the meaning of the <i>Australian Information Commissioner Act 2010</i> (Cth).
Problematic Source	(Core)	means a source of ionising or non-ionising radiation, from a material or apparatus, that is required to be licensed with the Australian Radiation Protection and Nuclear Safety Agency.
Problematic Substance	(Core)	means an Ozone Depleting Substance, Synthetic Greenhouse Gas, Dangerous Good or Hazardous Chemical.
Process Audit	(Core)	means a systematic, independent and documented review of a process (a process being a set of interrelated or interacting activities which transforms inputs into outcomes) resulting in the obtaining of

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Term	Status	Definition
		audit evidence and evaluating such evidence to objectively determine the extent to which the process complies with stated requirements. The review may include any documentation and records associated with the process.
Product	(Core)	means any element that forms part of the Capability, including elements of the Mission System(s) (if any) and the Support System.
Products Being Supported	(Core)	means the Products identified in Annex A to the SOW together with other Products identified in the SOW, which are required to be supported by the Contractor in performing the Contract and include, where applicable, subordinate components. A 'Product Being Supported' has a corresponding meaning.
Products Being Supported Restrictions Schedule	(Core)	means Attachment S.
Product Audit	(Core)	means a systematic, independent and documented review of a product (a product being the result of a process) resulting in the obtaining of audit evidence and evaluating such evidence to objectively determine the extent to which the product complies with stated requirements. The review may include the inspection of the product and analysis of its processes, documentation and records.
Product Baseline	(Core)	means the current Approved documentation that describes the configuration of a CI during the production, fielding/deployment and operational support phases of its life cycle. The Product baseline describes all necessary physical or form, fit, and function characteristics of a CI, the selected functional characteristics designated for production Acceptance testing, and the production Acceptance test requirements.
Proportionate Liability Law	(Core)	means any of the following: a. <i>Civil Liability Act 2002</i> (NSW) – Part 4; b. <i>Wrongs Act 1958</i> (Vic) – Part IVAA; c. <i>Civil Liability Act 2002</i> (WA) – Part 1F; d. <i>Civil Liability Act 2003</i> (Qld) – Chapter 2, Part 2; e. <i>Civil Law (Wrongs) Act 2002</i> (ACT) – Chapter 7A; f. <i>Proportionate Liability Act 2005</i> (NT); g. <i>Law Reform (Contributory Negligence and Apportionment of Liability Act) 2001</i> (SA) – Part 3; h. <i>Civil Liability Act 2002</i> (Tas) – Part 9A; i. <i>Competition and Consumer Act 2010</i> (Cth) – Part VIA; j. <i>Corporations Act 2001</i> (Cth) – Part 7.10, Div 2A; and k. <i>Australian Securities & Investments Commission Act 2001</i> (Cth) – Part 2, Division 2, Subdivision GA.
PT PCP	(Optional)	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC. means the Commonwealth's 'Payment Times Procurement Connected Policy'.

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Term	Status	Definition
PT PCP Policy Team	(Optional)	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC. means the relevant Minister, department or authority that administers or otherwise deals with the PT PCP on the relevant day.
PT PCP Subcontract	(Optional)	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC. means a Subcontract between a Reporting Entity and another party (Other Party) where: - the Subcontract is (wholly or in part) for the provision of goods or services for the purposes of the Contract; - both parties are carrying on business in Australia; and - the component of the Subcontract for the provision of goods or services for the purposes of the Contract has a total value of less than (or is reasonably estimated will not exceed) \$1,000,000 (inc GST) during the period of the Subcontract, not including any options, extensions, renewals or other mechanisms that may be executed over the life of the Subcontract; but does not include the following Subcontracts: - Subcontracts entered into prior to the Reporting Entities' tender response for the Contract; - Subcontracts which contain standard terms and conditions put forward by the Other Party and which cannot reasonably be negotiated by the Reporting Entity; or - Subcontracts for the purposes of: - procuring and consuming goods or services overseas; or - procuring real property, including leases and licences.
PT PCP Subcontractor	(Optional)	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC. means the party that is entitled to receive payment for the provision of goods or services under a PT PCP Subcontract.
PTR Act	(Optional)	Note to drafters: Include if clauses 11.9.15-11.9.19 (regarding PT PCP) are included in the COC. means the Payment Times Reporting Act 2020 (Cth), as amended from time to time, and includes a reference to any subordinate legislation made under the Act.
Quality	(Core)	means the degree to which a set of inherent characteristics fulfils requirements.
Quality Assurance	(Core)	means that part of Quality Management focused on providing confidence that Quality requirements will be fulfilled.
Quality Management	(Core)	means coordinated activities to direct and control an organisation with regard to Quality.
Quality Management System	(Core)	means the management system implemented by the Contractor in accordance with clause 11.1 of the SOW for the purposes of Quality Management.
Ramp Up	(Optional)	means the set of activities that are required in order to increase the Contractor's capability and capacity to provide the Services in accordance with clause 1.13 of the COC.

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Term	Status	Definition
Rate of Effort	(Core)	means the set level of operational activity (or range of operational activities) conducted by the Commonwealth during a period nominated in the Contract and as specified in clause 2.2 of the SOW.
Recurring Services	(Core)	means all of the Services, other than any S&Q Services, Pre-Authorised Ad Hoc Services, Task-Priced Services and Phase In Services, required to be provided by the Contractor under the Contract.
Recurring Services Fee	(Core)	means, in respect of a given period, the amount determined in accordance with Annex B to Attachment B as the Recurring Services Fee for that period.
Registrable Design	(Core)	means a design able to be protected under the <i>Designs Act 2003</i> (Cth) or the corresponding laws of any other jurisdiction.
Related Body Corporate	(Core)	has the meaning given by section 9 of the <i>Corporations Act 2001</i> (Cth).
Remediation Plan	(Core)	means a plan required by clause 6.12 of the COC.
Removed Services	(Core)	has the meaning given in clause 13.6.1 of the COC.
Renewal Term	(Optional)	Note to drafters: Include this definition if Option C is selected at clause 1.9 of the COC. means a period by which the Term is extended, as determined in accordance with clause 1.9 of the COC.
Required Delivery Date	(Optional)	means the calendar date specified in a Demand on or by which materiel is required to be delivered. The Required Delivery Date specified on a Demand normally reflects the standard delivery date allocated by Defence's ERP system in accordance with the AUSMIMPS priorities, but the standard delivery date may be modified by the demanding unit to reflect operational and/or logistics requirements.
Repairable Item	(Core)	means an Item that, when unserviceable, can be reconditioned or economically repaired to a serviceable state for further use.
Repairable Item Pipeline	(Core)	means the defined process flow (pipeline) of an RI from being fitted to a parent equipment at an operating unit, through either the Commonwealth or Contractor storage and distribution system, to a repair venue, back into the Commonwealth or Contractor storage and distribution system and ultimately back to an operating unit for fitment to a parent equipment.
Reporting Entity	(Optional)	Note to drafters: Include if clauses 11.9.11-11.9.15 (regarding PT PCP) are included in the COC. has the meaning given to this term in the PTR Act.
Reporting Entity Subcontractor	(Optional)	Note to drafters: Include if clauses 11.9.11-11.9.15 (regarding PT PCP) are included in the COC. means any person that: - is a Reporting Entity; and - provides goods or services directly or indirectly to the Contractor for the purposes of the Contract where the value of such goods or services are estimated to exceed \$4,000,000 (inc GST). 'Reporting Entity Subcontract' has a corresponding meaning.

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Term	Status	Definition
Request	(Core)	means a request for tender, proposal, quotation or information or similar request for the provision of goods or services to the Commonwealth.
Required Performance Level	(Optional)	Note to drafters: Insert this definition if KPIs are included in the Contract. for a KPI, means the minimum level of performance, as measured by the KPI for each Review Period, required to be achieved by the Contractor as specified in Annex C to Attachment P.
Reserve Stock	(Core)	means the quantities of Stock Items required to be held by the Contractor to service a level of operations over and above that which is contracted for normal operations.
Reserve Stockholding Quantity	(Core)	means the minimum holding of Reserve Stock to be maintained by the Contractor unless otherwise Approved by the Commonwealth Representative.
Resident Personnel	(Core)	means the Commonwealth Personnel and Commonwealth engaged contractors and representatives located at the Contractor's and Subcontractor's premises for the purpose of the Contract and included at Attachment L or the Resident Personnel section of an S&Q Order, but excludes MRU.
Review	(Core)	in relation to a data item, has the meaning given by clause 2.4.3 of the SOW.
Review Period	(Core)	means the three-month period over which a Performance Measure is measured and assessed, except when a different period is otherwise specified for a particular Performance Measure in Attachment P or the Approved SSMP.
Risk Register	(Core)	means the log used by the Contractor for recording each risk, risk assessment and risk-management strategy in accordance with the Approved SSMP.
Rotable	(Core)	means a Repairable Item which needs special management.
Royalty	(Core)	means a payment or credit made by a licensee in consideration for the exercise of a particular right or privilege by the licensor in favour of the licensee for the use of, or the right to use, any IP, however calculated.
S&Q Order	(Core)	means an order issued by the Commonwealth, in respect of an S&Q Service and an S&Q Quote, in the form of Part 3 of Annex A to DID-SSM-S&Q.
S&Q Quote	(Core)	has the meaning given in clause 3.15 of the COC.
S&Q Request	(Core)	means a request issued by the Commonwealth in respect of a proposed S&Q Service, prepared in the form of Part 1 of Annex A to DID-SSM-S&Q.
S&Q Services	(Core)	means the Services identified as S&Q Services in the SOW and other such services requested by the Commonwealth in accordance with clause 3.15 of the COC that are directly related to the Services.
Schedule 11 Hazardous Chemical	(Core)	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).
Schedule 15 Chemical	(Core)	has the meaning given in subregulation 5(1) of the <i>Work Health and Safety Regulations 2011</i> (Cth).

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Term	Status	Definition
Security Authorisation	(Core)	means a security-related Certification, Accreditation, risk assessment outcome, regulatory approval, or other documented authority provided by a Defence security authority and necessary for the provision of the Services or the performance of the Contract. Note to drafters: Amend the following clause to suit the security requirements of the Contract. Note: The DSPF and ISM are continually evolving. The language below in relation to Cyber Security reflects the endorsed version of these policy documents at the time that the template was drafted, where the terms 'ATO-C' and 'ATO' have replaced 'PICTA' and 'ICTA', respectively. For the purposes of the security requirements of the Contract, the applicable Security Authorisations are: a. physical security Certification; b. EMSEC Certification; c. ATO-C / ATO; Option: Include the following requirement if a cyber-maturity assessment is required under the Contract. d. cyber-maturity assessment against the Defence Cyberworthiness System (DCwS); and e. the security considerations as part of the applicable regulatory / assurance framework for the Contract (eg, seaworthiness or airworthiness).
Security Interest	(Core)	means any of the following: a. a security for the payment of money or performance of an obligation, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement; b. a 'security interest' as defined in section 12(1) or (2) of the <i>Personal Property Securities Act 2009</i> (Cth); and c. an agreement to create any of these or allow any of these to exist.
Security Outcomes	(Core)	means that a Security System-of-Interest (SSoI), including elements thereof, has achieved a level of security performance such that the SSoI (or any update to the SSoI) is determined to be As Secure As Reasonably Practicable (ASARP), including that: a. security considerations have been addressed as they apply to the design, development, implementation, V&V, and Security Authorisations for the SSoI; b. the SSoI is able to operate effectively, achieve the Safety Outcome, and undertake the intended missions in the environment in which the system is expected to operate, as set out in the Contract; c. the SSoI is resilient to cyber threats, including that the SSoI is able to: (i) withstand, respond to, and adapt to adverse system conditions caused by cyber threats; and (ii) recover from effects, attacks or compromises caused by cyber threats;

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		d. the security risks applicable to the SSol have either been eliminated or the likelihood and/or consequence have been reduced to the extent practicable; and e. the Commonwealth's security obligations have been met as they pertain to the confidentiality, classification, availability and integrity of information and data processed, stored and/or communicated electronically or by similar means by the SSol.
Security System-of-Interest or SSol	(Core)	Note to drafters: Amend the following definition to incorporate any additional SSols, which are those systems that would be subject to the requirements of the System Security Program clause of the SOW. Drafters should consider the relationship between SSols and ToSAs when amending this definition. means: a. the Mission System; b. the Support System; and c. [...DRAFTER TO INSERT...].
Serviceable	(Core)	means the condition of a Stock Item when it is fit for its intended use.
Services	(Core)	means services and goods (including Deliverables) required to be provided under the Contract and includes: a. any items acquired in order to be incorporated in the Services; and b. all services, functions and responsibilities that are reasonably related or required for the proper provision of the Services, even if they are not otherwise expressly mentioned in the Contract.
Services being Phased Out	(Core)	has the meaning given in clause 14.1.1 of the COC.
Sewerage Treatment Plant	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. Ensure the Sewerage Treatment Plant is identified on the plan. means the facility so identified on the plan at Appendix 1 of an Annex to Attachment O.
Shared Facilities	(Optional)	Note to drafters: Include this if a GFF Licence is to be provided to the Contractor. in relation to the GFF Licence, means: a. if a part of a GFF Licensed Area is identified in a plan at Appendix 1 to an annex to Attachment O as Shared Facilities, that part of the GFF Licensed Area; and b. any part of a GFF Licensed Area specified as Shared Facilities in a notice by the Commonwealth Representative under clause 4 of Attachment O.
Small to Medium Enterprise	(Core)	means an Australian Entity which has up to 200 full-time equivalent employees.
Software	(Core)	means a collection of computer code comprising a set of instructions or statements used directly or indirectly by a computer to bring about a certain result, (including using a computer programming language to control a computer or its peripheral devices) and includes computer programs, firmware, applications, and Software Updates, but excludes Software Design Data and Source Code.

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Term	Status	Definition
Software Design Data	(Core)	means data which describes the internal design and operation of a Software program and its interface with the external Software and hardware systems in which it operates including explanations of particular codes, standard headers or distinct procedures (with reference to inputs, outputs and processing).
Software Incident	(Optional)	means any event that is not part of the standard operation of a system that results in some form of action to provide Services in support of Software Products.
Software Release	(Optional)	means a collection of new and/or changed Software CIs, which are tested and introduced into the live environment together.
Software Update	(Core)	means, in relation to Software: a. a new release of or change to that Software (which is designed to overcome errors or malfunctions in, or designed to improve the operation of, the Software); or b. a new version of that Software (which is designed to enhance or provide extra functionality to that Software).
Source Code	(Core)	means the expression of Software in human readable form which is necessary to understand, maintain, modify, correct and enhance that Software.
Sovereign Defence Industrial Priority or SDIP	(Core)	has the meaning given in the 2024 Defence Industry Development Strategy. SDIPs applicable to the Contract are identified in Attachment F.
Sovereignty	(Core)	means Australia having sovereign control over the ability to employ Defence capability or force when and where required, and for the period required, to produce the desired military effect. Sovereignty is a component of Capability, particularly in relation to preparedness. Sovereignty embraces all of the Industrial Capabilities identified in Attachment F for delivery under the Contract.
Special Packaging	(Optional)	means Packaging that is uniquely adapted for a specific Item that it protects, or because it facilitates a particular Commonwealth Supply process.
Statement of Tax Record	(Optional)	has the same meaning as in the Shadow Economy Procurement Connected Policy – Increasing the integrity of government procurement – March 2019.
Statement of Work	(Core)	means Attachment A, including the annexes to the SOW and any specifications referred to in the SOW.
Stock Assessment	(Optional)	means the analysis, optimisation, determination and authorisation of the level of Stock Items to be procured and/or held at a particular Commonwealth or Contractor location(s), which analysis is based on ROE, Item reliability, cost and Support System parameters.
Stock Item	(Optional)	means an Item which is either a RI or a Non-RI and held either by the Commonwealth or the Contractor to support the Materiel System. Stock Items include spares.
Stock Optimisation	(Optional)	means the process undertaken by the Commonwealth or the Contractor to determine the best assortment of Stock Items based on a combination of failure rate and another variable, usually cost.
Stop Payment Milestone	(Core)	means a Milestone identified as a Stop Payment Milestone in Attachment C.

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Term	Status	Definition
Strategic Performance Measure	(Optional)	Note to drafters: Insert this definition if SPMs are included in the Contract. means a Performance Measure defined in Attachment P as a Strategic Performance Measure.
Subcontractor	(Core)	means any person (not the Commonwealth) that, for the purposes of the Contract, provides items or services directly or indirectly to the Contractor and includes Approved Subcontractors; and 'Subcontract' has a corresponding meaning.
Subcontractor AIC Plan	(Core)	means the AIC plan developed, delivered and updated by the AIC Subcontractor and approved by the Contractor or another Approved Subcontractor (as applicable) in accordance with the relevant Approved Subcontract.
Subcontractor Personnel	(Core)	means any officers, employees or agents of a Subcontractor.
Sublicence	(Core)	in respect of a Licence to IP granted to the Commonwealth in accordance with clause 5.2, 5.3 or 5.7 of the COC , means a sublicence of that IP on terms that comply with the requirements of clause 5.8 of the COC.
Supplies Acceptance Certificate	(Core)	means a certificate in the form of Annex A to DID-PM-MGT-SAC or other form agreed between the parties.
Supply	(Core)	means the comprehensive function of providing Products and Services needed by users at the time and place required, and includes identification, requirement determination, procurement, receipt, inspection, storage, distribution, stock recording and accounting, reclamation and disposal.
Supply Chain	(Core)	means the network of Subcontractors that deliver products and services to the Contractor, either directly or indirectly through other Subcontractors, which are incorporated into the Services.
Supply Management System	(Core)	means the logistic information management system that is used for managing the provision and performance of Supply Services. There may be more than one Supply Management System used under the Contract (eg, Commonwealth-provided system and Contractor system).
Supply Services	(Core)	means those Services associated with performing Supply activities, including the management of those Supply activities.
Supply Support	(Core)	means the organisation of hardware, Software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable Supply Services to be competently provided for the Materiel System throughout its life. Supply Support also includes the Support Resources of spares, piece parts, Consumables and Packaging.
Support and Test Equipment	(Core)	means the equipment needed to support the operation, support and disposal of the Mission System and Support System Components, as and when required, throughout the life of the Materiel System. S&TE includes ground handling equipment, tools, personal protective equipment, metrology and calibration equipment, test equipment and automated test equipment, and diagnostic Software for support equipment Maintenance. S&TE does not include either Training Equipment or Mission System equipment that is used by the Mission System when it is directly engaged in the performance of its mission.

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Term	Status	Definition
Support Resources	(Core)	means the physical Products, including spares, equipment, materials, Facilities, Technical Data, Personnel, and any other physical resources required to operate and support all or a particular part of the Materiel System as the case requires.
Support System	(Core)	means the organisation of hardware, Software, materiel, Facilities, Personnel, processes, and Technical Data required to enable the Mission System to be effectively operated and supported so that the Mission System can meet its operational requirements. The Support System includes the support required for Support System Components. The Support System includes the support responsibilities undertaken by the Commonwealth, support contractors (including the Contractor), and support subcontractors (including Subcontractors).
Support System Components	(Core)	means the physical end items of the Support System that can be defined using a specification. Support System Components are a subset of Support Resources and include Packaging, Technical Data, equipment, materials and Facilities, as well as spares and other physical components required for the support of those Support System end-items. Support System Components do not include Personnel or spares for the Mission System.
Support System Constituent Capabilities	(Core)	means the five subsystems of the Support System including Operating Support, Engineering Support, Maintenance Support, Supply Support and Training Support. Each Support System Constituent Capability includes the Commonwealth, support contractors (including the Contractor), and support subcontractors (including Subcontractors).
Supportability	(Core)	means the degree to which the Mission System design characteristics and the planned or existing Support System enable preparedness requirements to be met.
Surge	(Optional)	means a short to medium-term change to the ROE. Surge is categorised into two types: Exigency and Contingency.
Surveillance	(Core)	means continual monitoring and Verification of the status of an entity and analysis of records to ensure that specified requirements are being fulfilled (the entity could be a system, process, Product, project, contract etc).
Synthetic Greenhouse Gas	(Core)	means any gas identified as a Synthetic Greenhouse Gas in the <i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989</i> (Cth) or in any regulations made under that Act.
System Audit	(Core)	means a systematic, independent and documented review of a system (a system being a set of interrelated or interacting elements) resulting in the obtaining of audit evidence and evaluating such evidence to objectively determine the extent to which the system and its associated processes, documentation and records comply with stated requirements. The review may include any elements of the system.
System Health Indicator	(Optional)	Note to drafters: Insert this definition if SHIs are included in the Contract. means a Performance Measure defined in Attachment P or the Approved SSMP as a System Health Indicator.
System Owner	(Core)	Note to drafters: Amend the following definition to incorporate the System Owner for the Mission System. If different SSols (or

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Term	Status	Definition
		<i>parts thereof) will have different System Owners, amend the definition accordingly.</i> has the meaning given in the Defence Cyber Security Assessment & Authorisation Framework. For the purposes of the Cyber Security requirements of the Contract, the System Owner is [...INSERT APPLICABLE APPOINTMENT...].
System Review	(Core)	means an event at which the progress of the technical effort (including that of engineering and integrated logistics support) is assessed relative to its governing plans and technical and contractual requirements.
Target of Security Assessment or ToSA	(Optional)	in relation to Cyber Security, means an information system, a system comprising DESE, and all associated documentation, that is the subject of a security evaluation. The Mission System, as a whole, could be a ToSA (as well as being a Security System-of-Interest (SSoI)) or specific subsystems or components of the Mission System could be separate ToSAs (eg, the mission management system and the communications system within a platform could be separate ToSAs). For the Support System, the entire system will never be a ToSA (but it is always an SSoI), while relevant elements of the Support System (eg, an item of Training Equipment) may be defined as either a ToSA within the Support System or a standalone SSoI with one or more ToSAs.
Task-Priced Services	(Optional)	means the items identified as Task-Priced Services in Annex D to Attachment B.
Tax	(Core)	means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.
Tax Invoice	(Core)	has the same meaning as in the GST Act.
taxable supply	(Core)	has the same meaning as in the GST Act.
Technical Data	(Core)	means technical or scientific data, know-how or information, reduced to a material form (whether stored electronically or otherwise) in relation to the Materiel System, and includes calculations, data, databases, designs, design documentation, drawings, guides, handbooks, instructions, manuals, models, notes, plans, reports, simulations, sketches, specifications, standards, Training Materials, test results and writings, and includes Software Design Data and Source Code.
Technical Data and Software Rights Schedule or TDSR Schedule	(Core)	means Attachment G to the Contract.
Technical Instruction	(Optional)	<i>Note to drafters: This definition may be amended to include the name of the applicable document used by the ADF regulatory / assurance framework.</i> means a technical document, which is used to provide a rapid means of formally providing advice from an appropriate issuing authority to users and which is managed in accordance with its impact on technical integrity.
Technical Substitution	(Optional)	means the identification, selection and authorisation of the use of alternative Items (either as interchangeable with, or to be used in

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		lieu of, the Item currently approved for use in the Configuration Baseline) to ensure that only approved Items are used in the support of Products.
Technical Support Network	(Optional)	a group of agencies that provide advice relating to the development and sustainment of the design for materiel.
Term	(Core)	means the period referred to in clause 1.9 of the COC.
Total Contract Expenditure	(Core)	means, in the context of an ACE Measurement Point, the sum of: a. Australian Contract Expenditure; and b. Imported Contract Expenditure, each calculated for the applicable ACE measurement period identified in Attachment F for Recurring Services.
Total Cost of Ownership	(Core)	means the total cost to the Commonwealth (both direct and indirect) of the relevant Products over the LOT of the Capability. The TCO includes all costs associated with in-service operations, logistics support and disposal. The TCO of the Capability means all costs associated with operating, supporting and disposing of all Products that comprise the Capability.
Total Cost of Ownership Independent Verification and Validation Agent or TCO IV&V Agent	(Optional)	means an agent of the Commonwealth that performs an independent review of cost information to Verify and Validate any aspect of the TCO, where independent means that the agent is technically, managerially, and financially independent of the Contractor. For clarity, the TCO IV&V Agent may be the Commonwealth or a third party appointed by the Commonwealth.
Trade Mark	(Core)	means a trade mark protected under the <i>Trade Marks Act 1995</i> (Cth) or corresponding laws of any other jurisdiction.
Training	(Core)	means the processes, systems, materials, resources, and Services for bringing Personnel to the required standard of competency by instruction, practice or other prescribed methodology.
Training Equipment	(Core)	means any item of equipment required to perform Training.
Training Materials	(Core)	means materials, necessary for a suitably qualified instructor to effectively and efficiently provide Training to a body of students who meet the defined entry requirements. This material includes Training specifications, course curricula, Competency standards, lesson plans, assessment instruments (including recording/tracking tools), student workbooks, précis and other publications (excluding publications developed for non-Training purposes), exams, Training aids including presentation, image, audio and video files, and, if applicable, computer-based training content, Software and manuals.
Training Services	(Core)	means those Services associated with performing Training activities, including the management of those Training activities.
Training Support	(Core)	means the organisation of hardware, Software, materiel, Facilities, Personnel, processes, and Technical Data needed to enable Training Services to be competently provided for the Materiel System throughout its life.
Turn-Around-Time	(Core)	means that element of time needed to transport, service, repair or check out an Item for recommitment. This constitutes the time that it takes a Stock Item to go through the complete cycle from dispatch to

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		the Contractor, through Contractor repair, and return the Stock Item ready for use.
Type Certification	(Optional)	has the same meaning as given in the Defence Aviation Safety Regulations.
Type Record	(Optional)	has the same meaning as given in the Defence Aviation Safety Regulations.
Unit of Competency or UOC	(Optional)	an agreed statement of the skills and knowledge required for effective performance in a particular job or job function. A UOC is made up of elements of competency, together with performance criteria, a range of variables, and an evidence guide.
Unrelated Party	(Core)	means any person other than any of the following: a. the Commonwealth and Commonwealth Personnel; b. the Contractor and Contractor Personnel; c. a Related Body Corporate of the Contractor; and d. an employee, officer or agent of a Related Body Corporate of the Contractor.
Use	(Core)	means, in relation to a licence of any TD, Software or Contract Material granted to a licensee, to: a. use, reproduce, adapt and modify the TD, Software or Contract Material in accordance with the licence; and b. disclose, transmit and communicate the TD, Software or Contract Material: (i) to the licensee's employees, officers and agents; and (ii) to a sublicensee under a sublicense granted in accordance with the licence.
Validation	(Core)	means confirmation by examination and provision of objective evidence that the specific intended use or application of a product or service, or aggregation of products and services, is accomplished in an intended usage environment; and 'Validate' and 'Validated' have corresponding meanings.
Verification	(Core)	means confirmation by examination and provision of objective evidence that specified requirements to which a product or service, or aggregation of products and services, is built, coded, assembled and provided have been fulfilled; and 'Verify' has a corresponding meaning.
Warehouse	(Optional)	means the logical segregation of Stock Items at a secure facility controlled by the Contractor.
Warehousing	(Optional)	means the term used to encompass receipt, storage, stock maintenance, packaging, retrieval, issue and consignment actions by the Contractor.
WHS Legislation	(Core)	means any of the following: a. the <i>Work Health and Safety Act 2011</i> (Cth) and the <i>Work Health and Safety Regulations 2011</i> (Cth); and b. any corresponding WHS law as defined in section 4 of the <i>Work Health and Safety Act 2011</i> (Cth).

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Term	Status	Definition
WHS Management System	(Core)	has the meaning given to OHS Management System in ISO 45001:2018.
Wilful Default	(Core)	means a Default where the breach relates to an act or omission that is intended to cause harm, or otherwise involves recklessness in relation to an obligation not to cause harm.
Work Breakdown Structure	(Core)	means a product-oriented family tree division of hardware, Software, services and other work tasks, which organises, defines, and graphically displays the products to be produced as well as the work to be accomplished to achieve the specified outcomes.
Working Day	(Core)	in relation to the doing of an action in a place, means any day other than: a. a Saturday, Sunday or public holiday; or b. any day within the two-week period that starts on: (i) the Saturday before Christmas Day; or (ii) if Christmas Day falls on a Saturday, Christmas Day, provided that paragraph b of this definition will not apply to the calculation of Working Days in respect of: c. a notice issued by the Commonwealth under clauses 6.11 or 13 of the COC; or d. the calculation of liquidated damages or any grace period in respect of liquidated damages.
Working Stock	(Optional)	means the combination of <i>operating stock</i> and <i>safety stock</i>, where: a. <i>operating stock</i> is that part of the Working Stock used to enable routine issues to be made in the intervals between routine replenishments; and b. <i>safety stock</i> is that part of the Working Stock which is maintained over and above <i>operating stocks</i> to ensure the continuity of Supply during unforeseen interruptions in normal stock replenishments and unpredictable fluctuations in Demands. Working Stock excludes Reserve Stocks.

3. REFERENCED DOCUMENTS

Reference	Description
AAP 5030.001	RAAF Publication System – Technical and Non-Technical Manuals
AAP 7001.054	Airworthiness Design Requirements Manual
AAP 7001.059	Transition Aviation Maintenance Management Manual
ABS Catalogue 5206 Table 4	Australian National Accounts: National Income, Expenditure and Product, Table 4 - Chain Price Indexes
ABS Catalogue 6345	Wage Price Index, Australia
ABS Catalogue 6427	Producer Price Indexes, Australia
ABS Catalogue 6457	International Trade Price Indexes, Australia

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Reference	Description
ACE Measurement Rules	<i>Australian Contract Expenditure Measurement Rules</i> . A copy is available from: https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance
	ACSC Publication, 'Cyber Supply Chain Risk Management', May 2023
	ACSC Publication, 'Essential Eight Maturity Model', as amended from time to time
	ACSC Publication, 'Guidelines for Security Documentation', September 2023
	ACSC Publication, 'Guidelines for System Monitoring', September 2023
	ACSC Publication, 'Identifying Cyber Supply Chain Risks', May 2023
	ACSC Publication, 'Strategies to Mitigate Cyber Security Incidents', February 2017
	ACSC Publication, 'Strategies to Mitigate Cyber Security Incidents – Mitigation Details', February 2017
	ACSC System Security Plan (SSP) Annex A, as amended from time to time
ACSI 61D	Emanation Security Installation Manual
ACSI 71D	Emanation Security Manual
ADFP 6.0.4	Radiofrequency Spectrum Management
AFSMAN	Air Force Security Manual, Volume 1, 7 May 2024
ANP2200	Navy Safety Management System
ANP3411-0101	Naval Materiel Assurance Publication
ANP3412-4004	Naval Materiel Configuration Management
ANP3702	Royal Australian Navy Training
ANP4605	Navy Cyberworthiness
AS/NZS ISO 9000:2006	Quality Management Systems – Fundamentals and Vocabulary
AS/NZS ISO 9001:2016	Quality Management Systems – Requirements
AS/NZS ISO 10005:2018	Quality Management – Guidelines for Quality Plans
AS/NZS ISO 14001:2018	Environmental management systems – Requirements with guidance for use
AS/NZS ISO/IEC 14764:2022	Software Engineering – Software Life Cycle Processes – Maintenance
AS/NZS ISO 19011: 2003	Guidelines for Quality and/or Environmental Management Systems Auditing
AS/NZS ISO 31000:2018	Risk Management – Principles and Guidelines
AS/NZS ISO 45001:2018	Occupational health and safety management systems – Requirements with guidance for use
AS ISO/IEC 12207:2019	Information Technology – Software Life Cycle Processes
AS 4964-2004	Method for the qualitative identification of asbestos in bulk samples
ASIO 18-9938	Security Manager's Guide: Supply Chain Security, 2018
	<i>Auditor-General Act 1997</i> (Cth)

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Reference	Description
	<i>Australian Information Commissioner Act 2010</i> (Cth)
	<i>Australian Securities & Investments Commission Act 2001</i> (Cth)
	<i>Circuit Layouts Act 1989</i> (Cth)
	<i>Civil Law (Wrongs) Act 2002</i> (ACT)
	<i>Civil Liability Act 2002</i> (NSW)
	<i>Civil Liability Act 2002</i> (Tas)
	<i>Civil Liability Act 2002</i> (WA)
	<i>Civil Liability Act 2003</i> (Qld)
CMU/SEI-96-HB-001	IDEAL – A Users Guide to Software Process Improvement
	Code of Practice, <i>Managing the Work Environment and Facilities</i> (an approved code of practice under section 274 of the <i>WHS Act</i>)
	Code of Practice, <i>Preparation of Safety Data Sheets for Hazardous Chemicals</i> (an approved code of practice under section 274 of the <i>WHS Act</i>)
	Combined RIO Consequence Descriptors and Matrix
CPRs	Commonwealth Procurement Rules – November 2025
	Commonwealth Supplier Code of Conduct, as amended from time to time
	<i>Companies Act 1993</i> (New Zealand)
	<i>Competition and Consumer Act 2010</i> (Cth)
	Complaints and Alternative Resolutions Manual
	<i>Copyright Act 1968</i> (Cth)
	<i>Corporations Act 2001</i> (Cth)
CTIS	Australian Cyber Security Centre (ACSC) Cyber Threat Intelligence Sharing (CTIS) platform
DASPMAN	Defence Aviation Safety Program Manual
DASR	DASPMAN Volume 2, Defence Aviation Safety Regulations
DEF(AUST)1000C	ADF Packaging
DEF(AUST) 5000, Volume 6, Part 2, Section 12, Issue 2	Emanation Security
DEF(AUST)CMTD- 5085C	Engineering Design Data for Defence Materiel
DEF(AUST)5691	Logistic Support Analysis
	<i>Defence Act 1903</i> (Cth)
Defence Cost Principles	<i>Defence Cost Principles</i> . Available from: https://www.defence.gov.au/business-industry/procurement/policies-guidelines-templates/procurement-guidance
	Defence Cyber Security Assessment & Authorisation Framework, Version 5.0, 25 November 2025
	Defence Cyberworthiness System (DCwS) Maturity Model

ATTACHMENT M

Reference	Description
Defence ICT/Cyber SCRM Framework	The Defence ICT/Cyber Procurement Supply Chain Risk Management Framework, October 2020
DEOP 100 Volume 2	Defence Explosives Safety Regulatory Framework
DEOP 101	Department of Defence Explosives Regulations
DI AG5	Incident Reporting and Management
DI AG5	Conflicts of interest and Post-Separation employment
DI PPL7	Required behaviours in Defence
DI-IPSC-81431A	System/Subsystem Specification (SSS) DID
DI-IPSC-81432A	System/Subsystem Design Description (SSDD) DID
DI-IPSC-81433A	Software Requirements Specification (SRS) DID
DI-IPSC-81434A	Interface Requirements Specification (IRS) DID
DSM	Defence Stocktake Manual
DSPF	Defence Security Principles Framework, as amended from time to time
DWRM	Defence Workplace Relations Manual
	<i>Designs Act 2003 (Cth)</i>
EMM	Engineering and Maintenance Manual
	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
	Financial Policy Gifts and Benefits (Including Hospitality) - Receiving
	Financial Policy Gifts and Benefits (Including Hospitality) - Spending
	Financial Policy Sponsorship
GHS	Globally Harmonised System of Classification and Labelling of Chemicals, 3 rd Revised Edition
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
	Incident Reporting and Management Manual
	<i>Income Tax Assessment Act 1997 (Cth)</i>
IPP	<i>Commonwealth Indigenous Procurement Policy</i> , as amended from time to time. A copy of the IPP is available from: https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy
IPSM	Integrated Product Support Manual
ISA/IEC 62433 series	Security for Industrial Automation and Control Systems
ISM	Information Security Manual, as amended from time to time
ISO 216	Writing Paper and Certain Classes of Printed Matter – Trimmer Sizes – A and B series
ISO/IEC 10918	Information Technology – Digital compression and coding of continuous-tone still images, lossless (JPEG)
ISO/IEC 27001:2022	Information security, cybersecurity and privacy protection – Information security management systems – Requirements

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Reference	Description
ISO/IEC 27005:2022	Information security, cybersecurity and privacy protection – Guidance on managing information security risks
ISO/IEC 27032:2012	Cybersecurity – Guidelines for internet security
AS/NZS ISO/IEC/IEEE 15939 – 2022 (ISO/IEC/IEEE 15939 – 2017)	Systems and software engineering - Measurement process
	<i>Judiciary Act 1903 (Cth)</i>
LCAM	Logistics Compliance and Assurance Manual
LMSM	Land Materiel Safety Manual
	<i>Law Reform (Contributory Negligence and Apportionment of Liability Act) 2001 (SA)</i>
	Legal Services Directions 2017
	<i>Members of Parliament (Staff) Act 1984 (Cth)</i>
MIL-HDBK-1467	Acquisition of Software Environments and Support Software
MILPERSMAN	Military Personnel Policy Manual
MIL-PRF-28000	Digital Representation for Communication of Product Data: IGES Application Subsets and IGES Application Protocols
MIL-PRF-28001	Markup Requirements and Generic Style Specification for Electronic Printed Output and Exchange of Text
MIL-PRF-28002	Raster Graphics Representation in Binary Format
MIL-STD-882E	Department of Defense Standard Practice – System Safety
	National Code of Practice for the Preparation of Safety Data Sheets for Hazardous Chemicals
NIST CSF	National Institute of Standards and Technology (NIST) Cybersecurity Framework (CSF), Version 2.0, February 26, 2024
NIST SP 800-18	Guide for Developing Security Plans for Federal Information Systems, Revision 1, February 2006
NIST SP 800-30	Guide for Conducting Risk Assessments, Revision 1, September 2012
NIST SP 800-37	Risk Management Framework for Information Systems and Organizations: A System Life Cycle Approach for Security and Privacy, Revision 2, December 2018
NIST SP 800-53	Security and Privacy Controls for Information Systems and Organizations, Revision 5, September 2020
NIST SP 800-53A	Assessing Security and Privacy Controls in Information Systems and Organizations, Revision 5, January 2022
NIST SP 800-82	Guide to Operational Technology Security, Revision 3, September 2023
NIST SP 800-145	The NIST Definition of Cloud Computing
	<i>Ozone Protection and Synthetic Greenhouse Gas Management Act 1989 (Cth)</i>
	<i>Patents Act 1990 (Cth)</i>
	<i>Personal Property Securities Act 2009 (Cth)</i>
	Physical Security Standards – HMA Ships, Submarines & Watercraft, Version 4.0, 17 December 2020

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Reference	Description
	<i>Privacy Act 1988 (Cth)</i>
	<i>Proportionate Liability Act 2005 (NT)</i>
PSPF	Protective Security Policy Framework, as amended from time to time
PSM	Product Support Manual
PSM Chapter 7	<i>Defence Supplier Quality Assurance</i>
	<i>Public Service Act 1999 (Cth)</i>
	<i>Radiocommunications Act 1992 (Cth)</i>
S1000D™	International specification for technical publications using a common source database
SafetyMan	Defence Safety Manual
SCRM Procurement Tool	ICT/Cyber Procurement Supply Chain Risk Assessment (SCRA) Tool, version 1.0, April 2021
SDM	Supply and Distribution Manual
SDM Part 4 Chapter 12	Supply Chain Management of Aeronautical Product
Shadow Economy Procurement Connected Policy	Shadow Economy Procurement Connected Policy – Increasing the integrity of government procurement – March 2019
	<i>Taxation Administration Act 1953 (Cth)</i>
	<i>Trade Marks Act 1995 (Cth)</i>
WHS Act	<i>Work Health and Safety Act 2011 (Cth)</i>
WHS Regulations	<i>Work Health and Safety Regulations 2011 (Cth)</i>
	<i>Workplace Gender Equality Act 2012 (Cth)</i>
	<i>Workplace Gender Equality Procurement Principles</i>
	<i>Wrongs Act 1958 (Vic)</i>
	The United Nations Convention on Contracts for the International Sale of Goods

ATTACHMENT N

CONFIDENTIAL INFORMATION AND REPORTING (CORE)

Note to tenderers: Attachment N will consist of the successful tenderer's response to this draft Attachment and any negotiated amendments.

Note: The Commonwealth's policy on the identification of Confidential Information, including the 'Confidentiality Test', is contained on the Department of Finance (DoF) website at:

- <https://www.finance.gov.au/government/procurement/buying-australian-government/confidentiality-throughout-procurement-cycle>

The following four criteria comprise the 'Confidentiality Test', and must all be met before commercial information will be considered to be Confidential Information:

- Criterion 1:** The information to be protected must be specifically identified;
- Criterion 2:** The information must be commercially sensitive;
- Criterion 3:** Disclosure would cause unreasonable detriment to the owner of the information or another party; and
- Criterion 4:** The information was provided with an express or implied understanding that it would remain confidential.

The period of confidentiality must be specified for each item (eg for the period of the Contract, a period specified in the Contract). It should not be for an unlimited period.

Pricing provisions in Attachment B must only be listed in Attachment N if they meet the Confidentiality Test.

Note to drafters: Drafters must review their draft Contract to determine if it contains commercial information that meets the Confidentiality Test. Drafters should then review the examples provided below, prior to release of the RFT, and complete the tables as appropriate. Commercial information claimed to be confidential must be assessed against the Confidentiality Test and only information that meets this test can be included in Attachment N. Only the information in Attachment N can be considered for reporting confidentiality provisions on AusTender and for Senate Order 192.

Item	Clause Title	Reason for classification	Party for whom the information is confidential	Period of confidentiality
Confidentiality (Contract)				
Conditions of Contract, for example				
Clause 10.10 (eg if not standard template liability regime)	Liability Caps		Commonwealth / Contractor	
Any tailored clauses or any confidential clauses inserted in the contract additional to the template clauses	(Insert any clauses which are not standard template clauses and that meet the DoF Confidentiality Test)			
Attachments, for example				
Attachment A: Annex A	List of Products Being Supported (Identify specific clause/s)		Commonwealth / Contractor	

ATTACHMENT N

Item	Clause Title	Reason for classification	Party for whom the information is confidential	Period of confidentiality
Confidentiality (Contract)				
Conditions of Contract , for example				
Attachment B	Price and Payments (Identify specific clause, table or section)		Contractor	
Attachment G	Technical Data And Software Rights Schedule		Contractor	

ATTACHMENT O

GOVERNMENT FURNISHED FACILITIES LICENCE

Note to drafters: This Attachment is to be used if a GFF Licence is to be provided to the Contractor (see COC clause 3.7).

All necessary approvals under the Lands Acquisition Act 1989 (Cth) (LAA) to grant a GFF Licence must be obtained before the Contract is signed. Failure to obtain the necessary LAA approvals before the Contract is signed will breach the LAA.

Drafters must engage with Directorate of Estate Licensing and Leasing (DELL), Security and Estate Group (SEG) to ensure the necessary approvals are in place before Contract signature.

Drafters should include details of any proposed or required GFF Licensed Area in an annex to the GFF Licence prior to release of the RFT.

Note to tenderers: This Attachment O will consist of an amalgamation of TDR E-9, the draft annex(es) to this GFF Licence, the successful tenderer's response and any negotiated adjustments. The date for provision of access to the GFF should be included in TDR E-9.

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ANNEXES

- A. GFF Licensed Area #1
- B. [...INSERT OTHER ANNEXES...]

APPENDIXES

- A-1 Plans
- A-2 Licensed Fittings
- A-3 Facilities Condition Report
- [...INSERT OTHER APPENDIXES...]

ATTACHMENT O

1 TERM**1.1 GFF Licence Term**

Note to drafters: The term of the GFF Licence must be within the Term of the Contract.

- 1.1.1 The GFF Licence commences on the GFF Licence Commencement Date and ends on the earlier of:
- a. the day on which the GFF Licence is terminated;
 - b. the GFF Licence Expiry Date; and
 - c. the day on which the Contract expires or is terminated.
- 1.1.2 The GFF Licence applies to a GFF Licensed Area from the relevant GFF Licence Application Date until the earlier of:
- a. the date specified in the annex as the date the GFF Licence ceases to apply to the GFF Licensed Area; and
 - b. the end of the GFF Licence Term in accordance with clause 1.1.1.

2 GFF**2.1 Use of GFF**

- 2.1.1 The Contractor shall only use a GFF Licensed Area for a GFF Permitted Purpose.

2.2 Licensed Fittings

- 2.2.1 The Contractor's right to occupy and use a GFF Licensed Area includes the right to use the Licensed Fittings in that area for a GFF Permitted Purpose.

2.3 State and Condition of the GFF

- 2.3.1 The Contractor acknowledges and agrees that the state and condition of a GFF Licensed Area, at the GFF Licence Application Date for that area, is as described in the Facilities Condition Report for that area and accepts the GFF Licensed Area in that state and condition subject to any works agreed to be carried out by either party and as recorded in the Facilities Condition Report.
- 2.3.2 The Commonwealth has not made, and the Contractor acknowledges and agrees that the Commonwealth has not made, any promise, representation or warranty as to the suitability of a GFF Licensed Area or the Commonwealth Premises in which a GFF Licensed Area is located for a GFF Permitted Purpose or any other purpose.

2.4 Commonwealth Access

- 2.4.1 The Contractor acknowledges and agrees that, without limiting any other rights of the Commonwealth under the Contract, the Commonwealth may access a GFF Licensed Area at any time for the purposes of:
- a. exercising its rights and powers under this GFF Licence or the Contract;
 - b. monitoring or inspecting the performance of the Contractor of its obligations under this GFF Licence or the Contract; or
 - c. for any other reasonable purpose.
- 2.4.2 The Contractor acknowledges and agrees that Commonwealth Contractors may access a GFF Licensed Area in accordance with their contracts with the Commonwealth.
- 2.4.3 The Commonwealth shall comply with, and shall require any Commonwealth Contractors to comply with, any reasonable Contractor safety and security requirements for a GFF Licensed Area notified to, and approved by, the Commonwealth.

3 RIGHTS UNDER THE GFF LICENCE

Note to drafters: The purpose of the GFF Licence is to provide the Contractor with a non-exclusive right to access Defence premises. Defence does not intend to provide the Contractor

with a lease. Therefore, clause 3.1 must remain unchanged to ensure that Defence's intentions are carried into effect.

3.1 Contractor's Rights

3.1.1 The Contractor's rights under the GFF Licence:

- a. are personal rights in contract;
- b. do not create any interest or estate in a GFF Licensed Area;
- c. do not create the relationship of landlord and tenant between the Contractor and the Commonwealth; and
- d. do not confer exclusive possession of a GFF Licensed Area on the Contractor.

3.2 Access Arrangements for GFF

3.2.1 The Commonwealth shall provide access to a GFF Licensed Area for persons Approved under this clause 3.2, as necessary for the Contractor's carrying out a GFF Permitted Purpose.

3.2.2 Unless otherwise agreed, the Contractor shall seek written Approval from the Commonwealth Representative, at least five Working Days prior to entry being required, for each person the Contractor wishes to have access to a GFF Licensed Area.

3.2.3 The Commonwealth Representative may, by notice to the Contractor, exclude the Contractor and specified Contractor Personnel from a GFF Licensed Area, or any part of it, at any time and for any period.

3.2.4 The Contractor shall comply with, and require persons given access under clause 3.2.2 to comply with, any relevant Commonwealth safety and security requirements, regulations, standing orders, or codes of behaviour applicable to a GFF Licensed Area or the Commonwealth Premises in which a GFF Licensed Area is located.

4 SHARED FACILITIES

4.1 Shared Facilities

4.1.1 The Contractor acknowledges and agrees that:

- a. the Commonwealth Representative may, at any time, notify the Contractor that a specified part (or the whole) of a GFF Licensed Area is Shared Facilities; and
- b. Shared Facilities may be used by the Commonwealth and other persons authorised by the Commonwealth.

4.1.2 The Commonwealth may, by direction to the Contractor, determine the priority of use of the Shared Facilities as between the Contractor and other users. The Commonwealth shall do this on the basis of the operational priority of the tasks requiring the use of the Shared Facilities. The Contractor shall act in accordance with, and give effect to, such a direction.

5 DEALINGS WITH THE GFF

5.1 Sublicensing

5.1.1 The Contractor shall not sublicense or part with possession of any part of a GFF Licensed Area or any right or obligation under the GFF Licence without the prior written Approval of the Commonwealth.

5.1.2 The Contractor shall ensure that each sublicense of any part of a GFF Licensed Area or any right or obligation under the GFF Licence includes, as far as possible, terms corresponding to the terms on which the Contractor occupies the GFF Licensed Area (including terms limiting the purposes for which the sublicensee may use the sublicensed area to a GFF Permitted Purpose).

5.2 Security Interests

5.2.1 The Contractor shall not create or allow to be created any Security Interest in respect of any part of a GFF Licensed Area.

6 OBLIGATIONS**6.1 Occupation and Use of GFF**

- 6.1.1 The Contractor shall at all times comply with the laws in force in the locality in which a GFF Licensed Area is situated that relate to the use or occupation of the area and shall ensure that all persons whom it gives access to the area do the same.
- 6.1.2 The Contractor shall:
- a. keep all GFF Licensed Areas clean and tidy;
 - b. not do anything that is, or may be, dangerous, annoying, or offensive, or that may interfere with the Commonwealth or other persons using a GFF Licensed Area, the Commonwealth Premises in which a GFF Licensed Area is located or properties adjoining the Commonwealth Premises; and
 - c. comply with the requirements of the Commonwealth concerning the storage and removal of waste and debris.
- 6.1.3 The Contractor's obligation to keep a GFF Licensed Area clean and tidy only applies to the extent to which the uncleanliness or untidiness is not materially caused or contributed to by the Commonwealth or any other person using a GFF Licensed Area with the authority of the Commonwealth.
- 6.1.4 The Contractor shall not obstruct or permit the obstruction, in any way, of a GFF Common Area or a fire door or escape door of a GFF Licensed Area.

6.2 Altering the GFF

- 6.2.1 The Contractor shall not carry out any alteration to, improvement of or other works (including structural works) on a GFF Licensed Area without the prior written Approval of the Commonwealth.
- 6.2.2 The Contractor shall ensure that any such works are carried out:
- a. by:
 - (i) tradespersons nominated by the Commonwealth; or
 - (ii) if the Commonwealth Approves in advance of the works, by other suitably qualified and licensed tradespersons;
 - b. in accordance with applicable laws and any applicable requirements of Government Agencies;
 - c. in accordance with the terms of any Commonwealth Approval (which may include a requirement for the provision of security in respect of the proposed works); and
 - d. to the satisfaction of the Commonwealth.
- 6.2.3 All costs incurred by the Commonwealth in connection with any such works under clauses 6.2 and 6.2.2, including the costs of obtaining relevant professional advice, shall be met by the Contractor and the Commonwealth may elect to recover the amount of the costs under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 6.2.3 until the Commonwealth elects to recover the amount.
- 6.2.4 This clause 6.2 does not prevent the Commonwealth from carrying out any alteration to, improvement of or other works (including structural works) on a GFF Licensed Area.

6.3 Maintenance Obligations

- 6.3.1 For a GFF Licensed Area, the Contractor shall maintain any Contractor Maintained Licensed Fittings for that area in accordance with clause 3.19 of the SOW.
- 6.3.2 If the Contractor fails to comply with clause 6.3, the Commonwealth may undertake the required maintenance itself or by a third party. All reasonable costs incurred by the Commonwealth in connection with such maintenance shall be met by the Contractor and the Commonwealth may elect to recover the amount of those costs under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 6.3.1 until the Commonwealth elects to recover the amount.

6.4 Commonwealth to Maintain GFF

- 6.4.1 Unless required by clause 3.19 of the SOW to maintain a GFF Licensed Area, if the Contractor becomes aware of a need for maintenance for the GFF Licensed Area (other than the Contractor Maintained Licensed Fittings), the Contractor shall report the matter to the Commonwealth Representative as soon as practicable and in any event:
- a. for maintenance required urgently, within 24 hours; and
 - b. otherwise, within five Working Days.
- 6.4.2 The Commonwealth shall undertake such maintenance as is necessary to keep a GFF Licensed Area (other than the Contractor Maintained Licensed Fittings) in good and functional repair and condition having regard to:
- a. the condition of the GFF Licensed Area as at the GFF Licence Application Date for the area (as evidenced in the relevant Facilities Condition Report); and
 - b. in the case of the fixed plant and equipment that are included in the Licensed Fittings in the GFF Licensed Area, the expected life of the plant and equipment as at the GFF Licence Application Date for the area.
- 6.4.3 The Commonwealth shall, other than in relation to urgent maintenance, provide prior reasonable notice to the Contractor of any proposed maintenance that may cause significant delay or disruption to the Contractor's use of a GFF Licensed Area for a GFF Permitted Purpose.
- 6.4.4 Nothing in this clause 6.4 affects or limits any liability of the Contractor under clause 10.8 of the COC in relation to loss of, or damage to, any GFF.

6.5 Sewerage and Trade Waste

- 6.5.1 The Contractor shall not, and shall ensure that Contractor Personnel do not, discharge trade waste from a GFF Licensed Area through the sewerage system interface to the Commonwealth's Sewerage Treatment Plant on the Commonwealth Premises in which the GFF Licensed Area is located.

7 RELOCATION**7.1 Relocation**

- 7.1.1 The Commonwealth may, by notice to the Contractor, require the Contractor to relocate from a GFF Licensed Area into another specified area no later than a date specified in the notice (which shall be no less than two months after the date of the notice).
- 7.1.2 The notice may require specified amendments to the provisions of this Attachment O (including the details of the GFF Licensed Area included in this GFF Licence) in relation to the relocation.
- 7.1.3 If the Commonwealth issues a notice under clause 7.1.1, the Contractor shall submit a CCP that is consistent with the notice.
- 7.1.4 The Contractor shall vacate the GFF Licensed Area by no later than the date specified in the notice.
- 7.1.5 The Contractor shall vacate the GFF Licensed Area in accordance with clause 10.4.1 and a reference to the expiry or termination of the GFF Licence in that clause shall be taken to be a reference to the date specified in the notice under clause 7.1.1.

8 GFF LICENCE FEE AND RELATED ARRANGEMENTS**8.1 GFF Licence Fee**

- 8.1.1 No fee is payable by the Contractor in respect of the GFF Licence.

8.2 Operating Expenses

- 8.2.1 No amount is payable by the Contractor under the Contract by way of contribution to the Operating Expenses of a GFF Licensed Area or the Commonwealth Premises in which a GFF Licensed Area is located.

- 8.2.2 The Contractor shall pay to the Commonwealth an amount in respect of Operating Expenses for a GFF Licensed Area, if the Commonwealth is reasonably satisfied the amount is attributable to an unreasonable or extravagant use of the GFF Licensed Area by the Contractor.

8.3 Utilities and Telecommunications Facilities

- 8.3.1 No amount is payable by the Contractor under the Contract by way of contribution to the costs of utilities or telecommunications facilities in relation to a GFF Licensed Area or the Commonwealth Premises in which a GFF Licensed Area is located.
- 8.3.2 The Contractor shall pay to the Commonwealth an amount in respect of the costs of utilities or telecommunications facilities (to the extent not included in an amount referred to in clause 8.2.2) for a GFF Licensed Area, if the Commonwealth is reasonably satisfied the amount is attributable to an unreasonable or extravagant use of those facilities in the GFF Licensed Area by the Contractor.

9 DAMAGE TO OR DESTRUCTION OF THE GFF

9.1 Damage or Destruction

- 9.1.1 If the Contractor cannot access or use all or a part of a GFF Licensed Area for a GFF Permitted Purpose because of damage to, or destruction of, all or a part of the GFF Licensed Area or the Commonwealth Premises in which the GFF Licensed Area is located:
- a. subject to clause 7.1, the right of the Contractor to continue to use so much of the GFF Licensed Area as it is safe and practicable for it to use is not affected; and
 - b. the Commonwealth may (but is not required to), repair, re-build or re-instate the damaged or destroyed parts of the GFF Licensed Area or the Commonwealth Premises in which the GFF Licensed Area is located.

10 TERMINATION AND MAKE GOOD

10.1 Commonwealth's Right to Terminate GFF Licence for Breach

- 10.1.1 Without limiting clause 13 of the COC, the Commonwealth may, by notice to the Contractor, terminate the GFF Licence or cease the application of the GFF Licence to one or more GFF Licensed Areas, without terminating the Contract if the Contractor:
- a. fails to comply with a Default Notice under clause 13.3.1 of the COC in relation to a Contractor Default in respect of any GFF, or a direction under clause 13.3.2b of the COC issued in connection with such a Default Notice; or
 - b. fails to comply with any of the following by the relevant due date:
 - (i) **[LIST SPECIFIC REQUIREMENTS]**

10.2 Right to Terminate on Damage to, or Destruction of, the GFF or Commonwealth Premises

- 10.2.1 Either the Commonwealth or the Contractor may, by notice to the other, terminate the GFF Licence or cease the application of the GFF Licence to one or more GFF Licensed Areas (without terminating the Contract), if:
- a. the Contractor cannot access or use all or a part of a GFF Licensed Area for a GFF Permitted Purpose because of damage to, or destruction of, all or a part of the GFF Licensed Area or the Commonwealth Premises in which the GFF Licensed Area is located; and
 - b. either:
 - (i) the Commonwealth notifies the Contractor that it does not propose to repair, re-build or re-instate the damaged or destroyed parts of the GFF Licensed Area or the Commonwealth Premises in which the GFF Licensed Area is located; or
 - (ii) the Commonwealth notifies the Contractor that it will repair, re-build or re-instate the damaged or destroyed parts of the GFF Licensed Area or the Commonwealth

Premises in which the GFF Licensed Area is located but does not complete that within a reasonable period,

and the Commonwealth does not, within a reasonable period after the notice, give a notice under clause 7.1.1.

10.3 Commonwealth's Right to Terminate GFF Licence for Convenience

- 10.3.1 In addition to clause 13.4 of the COC, the Commonwealth may, by notice to the Contractor, terminate the GFF Licence or cease the application of the GFF Licence to one or more GFF Licensed Areas, for convenience (without terminating the Contract).
- 10.3.2 None of the other provisions of the Contract limit the Commonwealth's ability to terminate the GFF Licence under this clause 10.3.

10.4 CCP to be Submitted

- 10.4.1 If the GFF Licence is terminated, or the GFF Licence ceases to apply to one or more GFF Licensed Areas (and the Contract has not been terminated), the Contractor shall, within 10 Working Days after the termination or cessation takes effect or such longer period agreed to by the Commonwealth, submit a CCP to amend the Contract to address the consequences of the termination or cessation.

10.5 Contractor to Vacate GFF

- 10.5.1 If the GFF Licence ceases to apply to a GFF Licensed Area, the Contractor shall vacate the GFF Licensed Area and return it and any other Commonwealth Property on the GFF Licensed Area to the Commonwealth in the same condition as they were:
- a. at the GFF Licence Application Date for the GFF Licensed Area (as evidenced by the relevant Facilities Condition Report); or
 - b. in the case of Commonwealth Property brought onto the GFF Licensed Area after the GFF Licence Application Date for the area, at the time it was first brought onto the GFF.
- 10.5.2 Without limiting clause 10.5, except to the extent otherwise agreed by the Commonwealth Representative:
- a. by the date the GFF Licence ceases to apply to a GFF Licensed Area, the Contractor shall remove from the GFF Licensed Area all of the Contractor's property and shall take down, remove and carry away, without causing any damage to the GFF Licensed Area or any Commonwealth Property, all removable items or equipment that the Contractor has fixed to or brought onto the GFF Licensed Area; and
 - b. if the Contractor causes any such damage, the Contractor shall immediately make good that damage.
- 10.5.3 If, after an inspection of the GFF Licensed Area in accordance with clause 3.19 of the SOW, any part of the GFF Licensed Area or Commonwealth Property is found not to be in the condition described in clause 10.5, then:
- a. the Contractor shall return the GFF Licensed Area or Commonwealth Property to the condition referred in clause 10.5; or
 - b. the Commonwealth may return the GFF Licensed Area or Commonwealth Property to that condition and the Commonwealth may elect to recover the amount of any reasonable costs incurred by the Commonwealth in doing so under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 10.5.3 until the Commonwealth elects to recover the amount.
- 10.5.4 Clause 10.5.3 does not apply to the extent that the difference in the condition of the GFF Licensed Area is due to:
- a. fair wear and tear;
 - b. alterations or improvements or other works made in accordance with clause 6.2; or
 - c. loss or damage of the type referred to in clause 10.8.3 of the COC.
- 10.5.5 Any items that the Contractor is required to remove under clause 10.5.2 that are not removed within five Working Days (or such other period agreed to in writing by the Commonwealth)

after the date the GFF Licence ceases to apply to a GFF Licensed Area, are taken to be abandoned and become Commonwealth Property. Any costs incurred by the Commonwealth in removing or disposing them, and storing them for a reasonable period awaiting disposal, shall be met by the Contractor and the Commonwealth may elect to recover the amount of those costs under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 10.5.5 until the Commonwealth elects to recover the amount.

- 10.5.6 The Contractor's obligations under this clause 10.4.1 are not affected by any decision by the Commonwealth as to the future use or disposal of any part of the GFF Licensed Area, whether or not the Commonwealth restores, continues in use unrestored, retains unused or disposes of the part of the area or Commonwealth Property to which the obligations relate.

ANNEX A TO ATTACHMENT O

DETAILS OF GFF LICENSED AREA #1 [...INSERT DESCRIPTIVE TITLE...]

Note to drafters: A separate annex should be included for each geographically distinct GFF Licensed Area to be covered by the GFF Licence. For example, a building on Garden Island and a building at a RAAF Base in Victoria to be supplied as GFF under the Contract would each require separate GFF Licensed Area annexes.

Drafters should complete the GFF Licence application and cessation dates for each GFF Licensed Area included in the GFF Licence. For a GFF Licensed Area that is to be covered by the GFF Licence during the whole term of the GFF Licence, drafters should include a reference to the GFF Licence Commencement Date in column 1 and the GFF Licence Expiry Date for column 2.

1. GFF LICENCE APPLICATION PERIOD

- 1.1 For the purposes of clause 1.1.2 of Attachment O, the GFF Licence applies to the GFF Licensed Area described in this annex as set out below:

Date the GFF Licence applies ...
(column 1)

[...INSERT DATE...]

Date the GFF Licence ceases to apply ...
(column 2)

[...INSERT DATE...]

APPENDIXES:

1. Plans
2. Licensed Fittings (including any Contractor Maintained Licensed Fittings)
3. Facilities Condition Report

ATTACHMENT O - SUPPLEMENT**GFF ADDITIONAL CLAUSE BANK**

Note to drafters: This clause bank contains additional clauses for use in Attachment O (GFF Licence) and other provisions of the Contract. The formatting in this document is designed to preserve cross referencing within the clauses where possible, as such the paragraph numbering does not align with what it should be once the paragraphs are copied and pasted into Attachment O. Drafters should refer to the drafting instructions for guidance on where to insert the additional clauses, and further should review and check the numbering and cross references once the clauses have been incorporated into Attachment O.

Directorate of Estate Licensing and Leasing, Security and Estate Group will notify drafters of which of these additional requirements are to be included in Attachment O as well as any other tailored clauses to be included.

A. Contractor has maintenance obligations

Note to drafters: If the Contractor is to be obliged to maintain more than the Contractor Maintained Licensed Fittings (ie, the GFF itself or the Licensed Fittings), replace clause 6.3 in Attachment O.

1 OBLIGATIONS**1.1 Contractor to Maintain GFF**

- 1.1.1 The Contractor shall undertake maintenance in accordance with clause 3.19 of the SOW.
- 1.1.2 If the Contractor fails to comply with clause 1.1, the Commonwealth may undertake the required maintenance itself or by a third party. All reasonable costs incurred by the Commonwealth in connection with such maintenance shall be met by the Contractor and the Commonwealth may elect to recover the amount of those costs under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 1.1.2 until the Commonwealth elects to recover the amount.

B. Commonwealth has maintenance obligations

Note to drafters: Include clauses 6.4.5 and 6.4.6 if the Contractor is to be required to contribute towards maintenance costs.

1.2 Commonwealth to Maintain GFF

- 1.2.1 The Commonwealth Representative may, by notice to the Contractor, determine that the Contractor is to make a contribution specified in the notice to the cost of maintenance for a GFF Licensed Area. If the Commonwealth Representative does this:
- a. the amount of the contribution is to be reasonable, having regard to the period of the Contractor's use of and access to, and the nature and extent of the use by Contractor Personnel of, the GFF Licensed Area; and
 - b. the amount so determined is payable by the Contractor to the Commonwealth on demand.
- 1.2.2 To avoid doubt:
- a. the Commonwealth Representative may give more than one such notice; and
 - b. a notice may specify the times at which contributions are payable.

GFF ADDITIONAL CLAUSE BANK**C. Use of Sewerage System**

Note to drafters: If the Contractor is permitted to discharge trade waste through the sewerage system interface to the Commonwealth's Sewerage Treatment Plant on the Commonwealth Premises in which the GFF is located, replace clause 6.5 of Attachment O with the following and insert definitions for capitalised terms in the Glossary.

1.3 Sewerage and trade waste

1.3.1 The Contractor may discharge trade waste from the GFF Licensed Area at Annex [...INSERT ANNEX #...] to Attachment O, after processing through the Trade Waste Treatment Plant, through the sewerage system interface to the Sewerage Treatment Plant, subject to the following conditions:

- a. the Commonwealth Representative may, at any time, by notice to the Contractor, suspend or terminate the Contractor's rights under clause 1.3.1;
- b. the Contractor shall at its cost maintain the effective operation of the Trade Waste Treatment Plant and the sewerage system interface to the Sewerage Treatment Plant. The Contractor is entitled to reasonable access to the Sewerage Treatment Plant for that purpose;
- c. in maintaining the effective operation of the sewerage system interface to the Sewerage Treatment Plant, the Contractor shall:
 - (i) repair any damage that it causes to the Commonwealth's Sewerage Treatment Plant;
 - (ii) cause as little interference to the Commonwealth's activities on the Commonwealth Premises in which the GFF Licensed Area is located as reasonably possible;
 - (iii) comply with any directions of the Commonwealth; and
 - (iv) comply with all applicable laws and Authorisations;
- d. the Contractor shall ensure that any discharge of material through the sewerage system interface will not adversely affect the operation of the Sewerage Treatment Plant or adversely affects the Commonwealth Premises in which the GFF Licensed Area is located or any other property in any way;
- e. if the Commonwealth Representative so requires, the Contractor shall make good, as soon as practicable and at its cost, any damage to the GFF or the Commonwealth Premises in which the GFF Licensed Area is located resulting from:
 - (i) the repair or removal of the sewerage interface or the Sewerage Treatment Plant; or
 - (ii) the connection to the Sewerage Treatment Plant,

except to the extent that the Contractor is not liable for any such damage in accordance with clause 10.8.3 of the COC;
- f. the Contractor shall notify the Commonwealth Representative of any breach of standards for discharge quality from the Trade Waste Treatment Plant no later than one Working Day after it becomes aware of the breach; and
- g. the Contractor shall provide to the Commonwealth every three months (or otherwise as agreed by the Commonwealth Representative):
 - (i) reports regarding the testing and performance of the Trade Waste Treatment Plant; and
 - (ii) copies of all laboratory reports prepared as a result of such testing.

1.3.2 If the Contractor discharges trade waste from the GFF Licensed Area that, in the Commonwealth's opinion, adversely affects the operation of the Sewerage Treatment

GFF ADDITIONAL CLAUSE BANK

Plant or adversely affects the Commonwealth Premises in which the GFF Licensed Area is located or any other property:

- a. the Commonwealth Representative may direct the Contractor to cease discharging such waste;
 - b. if the Contractor fails to comply with the direction, the Commonwealth may sever the sewerage system interface itself or by a third party. All reasonable costs incurred by the Commonwealth in connection with such works shall be met by the Contractor and the Commonwealth may elect to recover the amount of those costs under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 1.3.2b until the Commonwealth elects to recover the amount; and
 - c. the Contractor agrees that it is not entitled to damages or compensation for any Loss it suffers resulting from, and is not entitled to a postponement of a date for delivery under the Contract or a Milestone Date, or postponement costs on account of, complying with a direction under clause 1.3.2a or the Commonwealth severing the sewerage system interface.
- 1.3.3 The Commonwealth shall use its reasonable endeavours to keep the Sewerage Treatment Plant in operation.
- 1.3.4 If the Commonwealth exercises its rights under clause 1.3.1a, the Contractor shall immediately make its own arrangements for the safe removal and disposal of all its trade waste from the GFF Licensed Area.

and include a new clause 8.4 into Attachment O...

2 GFF LICENCE FEE AND RELATED ARRANGEMENTS

2.1 Sewerage and trade waste

- 2.1.1 The Contractor shall meet the cost of upgrading the processing of the Trade Waste Treatment Plant and the Commonwealth's Sewerage Treatment Plant to the extent that the upgrade is required due to the Contractor's increased use of the sewerage interface for the GFF Licensed Area at Annex [...**INSERT ANNEX #...**] to Attachment O.
- 2.1.2 If separate metering of the Contractor's interface to the Sewerage Treatment Plant is not available:
 - a. the Commonwealth Representative may, at any time, by notice to the Contractor, require the Contractor to pay to the Commonwealth so much of the amount of the charges incurred that, in the opinion of the Commonwealth Representative, is attributable on a pro-rata basis to the Contractor's use of the Sewerage Treatment Plant under the Contract; and
 - b. the Commonwealth may elect to recover the amount of those charges under clause 13.7 of the COC within 30 days after the date of the notice. No amount shall be owing to the Commonwealth under this clause 2.1.2b until the Commonwealth elects to recover the amount.
- 2.1.3 If separate metering of the Contractor's interface to the Sewerage Treatment Plant is available, the Contractor shall pay the charges incurred in respect of the Contractor's use of the Sewerage Treatment Plant.
- 2.1.4 If the Contractor breaches clause 1.3.1d, the Commonwealth may repair the resultant damage to the Sewerage Treatment Plant or the Commonwealth Premises in which the GFF Licensed Area is located itself or by a third party. All reasonable costs incurred by the Commonwealth in connection with such works shall be met by the Contractor and the Commonwealth may elect to recover the amount of those costs under clause 13.7 of the COC. No amount shall be owing to the Commonwealth under this clause 2.1.4 until the Commonwealth elects to recover the amount.

GFF ADDITIONAL CLAUSE BANK

and insert an additional subparagraph 6.4.4d of the COC ...

- a. as provided in clause 1.3.2c of Attachment O.

and include the following definitions in the Glossary in their appropriate alphabetical positions ...

Trade Waste means the facility so identified on the plan at Appendix 1 of Annex
Treatment Plant [...INSERT ANNEX #...] to Attachment O.

D. Fire protection equipment

Note to drafters: If the Commonwealth is not providing and maintaining fire protection equipment in the GFF and the Contractor is required to install and maintain its own fire protection equipment, add new clause 6.6 after clause 6.5 of Attachment O ...

3 OBLIGATIONS**3.1 Fire Protection Equipment**

- 3.1.1 The Contractor shall, for the GFF Licensed Area at Annex [...INSERT ANNEX #...] to Attachment O, do the following:
- a. install and maintain fire protection equipment which is adequate for the GFF Licensed Area and the conduct of a GFF Permitted Purpose; and
 - b. maintain the fire protection equipment for the GFF Licensed Area in accordance with applicable laws and any applicable requirements of Government Agencies.

E. GFF Licence Fee

Note to drafters: If the Contractor is permitted to do non-contract work in a specific GFF Licensed Area (ie, the conduct of specified non-contract work has been provided for in the GFF Licence), it will be required to pay a market-based GFF Licence Fee. Replace clause 8 of Attachment O with the following (with the exception of clause 8.4 if already included as set out above in item C of this Clause Bank).

4 GFF LICENCE FEE AND RELATED ARRANGEMENTS**4.1 GFF Licence Fee**

- 4.1.1 The Contractor shall pay the Commonwealth the GFF Licence Fee in respect of the GFF Licensed Area at Annex [...INSERT ANNEX #...] to Attachment O, without set off or deduction, on or before each due date for payment, which is [...INSERT DAY OF MONTH...].
- 4.1.2 No demand for payment is necessary.
- 4.1.3 No fee is payable by the Contractor in respect of any other GFF Licensed Area.

4.2 GFF Licence Fee Review

- 4.2.1 The Commonwealth may, in the period from 2 months before and at any time after a Market Review Date, give the Contractor a notice:
- a. specifying an adjusted GFF Licence Fee with effect from the Market Review Date; and
 - b. requiring the Contractor to submit a CCP to incorporate the adjusted GFF Licence Fee into the Contract and to do so:
 - (i) within 20 Working Days after the date of the notice; or

GFF ADDITIONAL CLAUSE BANK

- (ii) if the Contractor objects to the specified adjusted GFF Licence Fee, within 10 Working Days after the parties agree on the adjustment, or the valuer makes a determination, under clause 4.2.2c(iii).

4.2.2 If the Contractor objects to the specified adjusted GFF Licence Fee:

- a. the Contractor shall give the Commonwealth a notice of objection within 20 Working Days after the date of the notice under clause 4.2.1;
- b. the parties shall negotiate in good faith to try to agree on the adjustment to the GFF Licence Fee;
- c. if the parties do not so agree within 20 Working Days after the Commonwealth receives the notice under clause 4.2.2a:
 - (i) within a further 20 Working Days, the parties shall jointly appoint a valuer and give the valuer instructions in accordance with this clause 4.2.2;
 - (ii) if, within that 20 Working Days, the parties have not agreed on the identity of the valuer, they shall request the President of the Australian Property Institute (or, if that organisation no longer exists, an equivalent organisation) in the jurisdiction in which the GFF Licensed Area is located to appoint an independent valuer; and
 - (iii) the valuer shall, in accordance with this clause 4.2 determine the adjusted GFF Licence Fee within 15 Working Days after appointment.

Each time limit in this clause 4.2.2 is of the essence.

4.2.3 The valuer shall be a member of the Australian Property Institute (or, if that organisation no longer exists, an equivalent organisation) and have at least five years experience in valuing similar premises in the location of the Commonwealth Premises in which the GFF Licensed Area is located.

4.2.4 The valuer shall act as an independent expert and not as an arbitrator, and shall give written reasons for the determination.

4.2.5 The Contractor and the Commonwealth shall share the valuer's costs equally.

4.2.6 In determining or agreeing upon an adjusted GFF Licence Fee, the Commonwealth and the Contractor shall (and shall require any valuer to):

- a. assume that the Commonwealth is a willing but not anxious licensor and the Contractor is a willing but not anxious licensee; and
- b. take into account all relevant matters as at the relevant Market Review Date, including:
 - (i) the licence fee value or equivalent rental value (other than values that have been escalated to a predetermined amount or in accordance with movements in the consumer price index or another index) at the Market Review Date of comparable premises in the locality in which the Commonwealth Premises in which the GFF Licensed Area is located is located, whether that value is in respect of new lettings with vacant possession or occupied premises;
 - (ii) the GFF Permitted Purpose for the GFF Licensed Area subject to the GFF Licence Fee;
 - (iii) the period Market Review Dates, or if there is no further Market Review Date, the remaining period of the GFF Licence Term;
 - (iv) the increased value of the GFF Licensed Area resulting from the Commonwealth upgrading or improving the GFF Licensed Area (or any part of it, including the Licensed Fittings) or any services available to the GFF Licensed Area;

GFF ADDITIONAL CLAUSE BANK

- (v) any increase in value in the GFF Licensed Area as a result of any structural alterations or other improvements made to the GFF Licensed Area (including repair or replacement of, and provision of additional, Licensed Fittings) by the Commonwealth (having regard to any contribution by the Contractor to the costs of those improvements, including by way of paying for outgoings);
 - (vi) the terms and conditions generally of the GFF Licence; and
 - (vii) any period for which no GFF Licence Fee is payable, and any financial or capital contribution of the Commonwealth,
- but not take into account:
- (viii) any partitions and other improvements installed in or made to the GFF Licensed Area by or for the Contractor, a permitted sublicensee or a predecessor of any of them during the term of the GFF Licence;
 - (ix) any special interest of the Contractor;
 - (x) goodwill occasioned by the Contractor, a permitted sublicensee or a predecessor of any of them during the GFF Licence Term;
 - (xi) areas other than the GFF Licensed Area (except as provided for by clause 4.2.6b(i)); or
 - (xii) amounts equivalent to GST paid or payable in respect of a taxable supply for which the Commonwealth is entitled to an input tax credit.

4.2.7 A determination of a valuer made in accordance with this clause 4.2 binds the parties.

4.3 Operating Expenses

4.3.1 If the Contractor uses a GFF Licensed Area for a purpose other than performing the Contractor's obligations under and in connection with the Contract, the Commonwealth Representative may, at any time, by notice to the Contractor, require the Contractor pay to the Commonwealth the amount of any increase in Operating Expenses that, in the opinion of the Commonwealth Representative, is attributable to that use.

4.3.2 The Contractor shall pay to the Commonwealth an amount notified to it in accordance with clause 4.3.1 within 20 Working Days after the date of the notice.

4.3.3 The Contractor shall pay to the Commonwealth an amount in respect of Operating Expenses if the Commonwealth is reasonably satisfied the amount is attributable to an unreasonable or extravagant use of the GFF Licensed Area by the Contractor in relation to a GFF Permitted Purpose.

4.4 Utilities and telecommunications facilities

4.4.1 If the Contractor uses a GFF Licensed Area for a purpose other than performing the Contractor's obligations under and in connection with the Contract, the Commonwealth Representative may, at any time, by notice to the Contractor, require the Contractor pay to the Commonwealth the amount of any increase in the costs of:

- a. Defence internal and external telephone and fax facilities and internal and external data link facilities; and
- b. electricity, gas, water, sewerage and drainage services,

that, in the opinion of the Commonwealth Representative, is attributable to that use.

4.4.2 The Contractor shall pay to the Commonwealth an amount notified to it in accordance with clause 4.4.1 within 20 Working Days after the date of the notice.

4.4.3 The Contractor shall pay to the Commonwealth an amount in respect of the costs of utilities or telecommunications facilities (to the extent not included in an amount referred to in clause 4.2.7), if the Commonwealth is reasonably satisfied the amount

GFF ADDITIONAL CLAUSE BANK

is attributable to an unreasonable or extravagant use of those facilities by the Contractor in relation to a GFF Permitted Purpose.

and, if the Commonwealth requires the Contractor to install separate metering for a particular GFF Licensed Area, add ...

- 4.4.4 The Contractor shall, at its cost, install separate electricity, telecommunications or other metering to the GFF Licensed Area at Annex [...INSERT ANNEX #...] to Attachment O no later than three months after the GFF Licence Application Date for that area or a later time agreed by the Commonwealth Representative.

Note to drafters: Defence is obliged, under the Energy Efficiency in Government Operations Policy 2006 (EEGO) to install progressively sub-meters at relevant Commonwealth Premises used by Defence to measure and monitor energy usage and to identify efficiency opportunities, address problems and evaluate outcomes.

Advice should be sought from [Defence's environmental team] or the Australian Greenhouse Office before agreeing to deleting or modifying clause 8.4.4.

Please also consider the cost implications for Defence, as well as the broader EEGO requirements, before agreeing to pay the Contractor's costs of installing separate digital electricity metering.

and include the following definition in the Glossary in its appropriate alphabetical position ...

GFF Licence Fee means [...INSERT AMOUNT...] adjusted as provided in clause 8.2 of Attachment O.

Market Review Date means each of the following dates:
a. [...INSERT DATES...].

F. Airfield rights

Note to drafters: If a GFF Licensed Area includes airfield facilities, add the following clause as a new clause 3.3.

5 RIGHTS UNDER THE GFF LICENCE**5.1 Airfield rights**

- 5.1.1 The Commonwealth shall provide the Contractor with reasonable access to and use of the Airfield and the navigational facilities, air traffic control, aviation rescue, firefighting facilities and meteorological services on the Commonwealth Premises in which the GFF Licensed Area at Annex [...INSERT ANNEX #...] to Attachment O is located to enable the Contractor to carry out its obligations under the Contract.
- 5.1.2 The Commonwealth Representative may, by notice to the Contractor, require the Contractor to pay to the Commonwealth so much of the amounts incurred by the Commonwealth in relation to the Airfield and the services referred to in clause 5.1.1 as, in the opinion of the Commonwealth Representative, is attributable to the Contractor's access to and use of the Airfield.
- 5.1.3 The Contractor shall pay to the Commonwealth an amount notified to it in accordance with clause 5.1.2 within 20 Working Days after the date of the notice.

and include the following definition in the Glossary in its appropriate alphabetical position ...

Airfield	means the area so identified on the plan at Appendix 1 of an annex to Attachment O.
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ATTACHMENT P

PERFORMANCE MEASURES (CORE)

Note to drafters: All four annexes are optional; however, it is expected that the majority of contracts developed using ASDEFCON (Support) will include some contract Performance Measures.

There are substantial risks and complexity when implementing KPIs linked to Performance Payments. Therefore, if procurement teams are contemplating using KPIs and associated Performance Payments they must contact the PBC Directorate (PBC.enquiry@defence.gov.au).

Note to tenderers: Attachment P (and, if applicable, the related Annex C to Attachment B) will consist of an amalgamation of this draft Attachment and the successful tenderer's response.

PERFORMANCE MEASURES (Core)	1
1 Overview of Performance Measurement (Core).....	2
ANNEX A – Strategic Performance Measures (Optional)	1
1 Introduction (Core).....	1
2 SPM-01: [...INSERT NAME...] (Core)	1
ANNEX B – System Health Indicators (Optional)	1
1 Introduction (Core).....	1
2 SHI-01 [...INSERT NAME...] (Core)	1
ANNEX C – Key Performance Indicators (Optional)	2
1 Introduction (Core).....	2
2 Key Features of the Performance Assessment Process (Core).....	2
3 Outcomes and KPI Information (Core).....	3
4 KPI-01: [...INSERT NAME...] (Core).....	4
5 KPI-02: [...INSERT NAME...] (Optional)	6
ANNEX D – PERFORMANCE IMPLEMENTATION PERIOD (Optional)	1
1 Introduction (Core).....	1
2 KPI Changes During the PIP (Core).....	1
3 KPI-01: [...INSERT NAME...] (Core).....	2
4 KPI-02: [...INSERT NAME...] (Optional)	2

ATTACHMENT P

1 OVERVIEW OF PERFORMANCE MEASUREMENT (CORE)**1.1 Scope (Core)**

- 1.1.1 This Attachment P defines the performance measurement and assessment process, which is used to measure and assess one or more of the following:
- a. the Contractor's performance against the Contract Outcomes;
 - b. Contractor behaviours;
 - c. Enterprise or Capability outcomes; and
 - d. the health of the Materiel System.

1.2 Performance Assessment and Performance Management – For Information Only

- 1.2.1 This clause 1.2 provides an overview of the main Contract provisions related to performance measurement.

Note to drafters: Modify the list in the clause below as appropriate. If an Annex is not used replace the associated subclause with "Not Used".

- 1.2.2 Within this Attachment P:
- a. Annex A specifies the Strategic Performance Measures which are used to measure and assess:
 - (i) Contractor behaviours; or
 - (ii) Enterprise or Capability outcomes, the achievement of which may or may not be within the Contractor's scope of work.

SPM assessments inform Commonwealth Contract Term extension decisions.
 - b. Annex B specifies the System Health Indicators which may be used to measure:
 - (i) the health of the Materiel System;
 - (ii) Contractor performance of the Services; or
 - (iii) aspects that inform Continuous Improvement and Efficiencies Programs.

SHIs may be lead indicators of future Capability or enterprise risks and issues.
 - c. Annex C specifies the KPIs against which the Contractor's performance will be assessed. Annex C contains the methodology used to determine the Performance Band and the Adjusted Performance Score (APS) for each KPI. KPI assessments inform Commonwealth Contract Term extension decisions and are used to determine the Contractor's entitlement to Performance Payments.
 - d. Annex D describes the interim performance assessment processes that apply to KPIs during the early stages of the Contract. Any related changes to the Performance Payment calculations are defined in Annex C to Attachment B.

Note to drafters: modify the list in the clause below as appropriate.

- 1.2.3 In addition to this Attachment P, the following parts of the Contract contain associated performance management provisions:
- a. COC clause 1.3 contains the Objectives of the Contract;
 - b. COC clause 1.9 contains Term extension provisions;
 - c. COC clause 6 contains provisions for performance management;
 - d. COC clause 7 contains provisions for Performance Payments;
 - e. Annex C to Attachment B details the method of calculation for Performance Payments;
 - f. SOW clause 3.2.5 details the performance measurement activities, including tools and data access arrangements that are relevant to measurement; and

ATTACHMENT P

- g. SOW clause 3.4 contains the parties' obligations to participate in performance reviews and the associated reports that provide information relevant to those reviews.

1.3 Review Periods

- 1.3.1 The Contractor's performance against each Performance Measure shall be measured for each Review Period.

Note to drafters: If the first Review Period does not commence on the Operative Date, amend the following clause accordingly. If the Review Periods for different Performance Measures commence at different times, this clause will require additional tailoring and it may be more appropriate to delete this clause and have a separate Review Period clause in each Annex.

- 1.3.2 The first Review Period for each Performance Measure shall begin on the Operative Date and continue for the duration specified for that Performance Measure in this Attachment P.
- 1.3.3 Each subsequent Review Period for a Performance Measure commences after the end of the previous Review Period and continues for the duration specified.

ANNEX A TO ATTACHMENT P

ANNEX A – STRATEGIC PERFORMANCE MEASURES (OPTIONAL)

Note to Drafters: In many cases, it is preferred that SPM-01 is the highest level performance measure identified by the ADF or end customer. For example, a top level performance measure taken from the Capability Sponsor's Product Schedule, Product Delivery Agreement, or similar document.

1 INTRODUCTION (CORE)**1.1 Purpose**

1.1.1 The purpose of this Annex is to define:

- a. the Strategic Performance Measures (SPMs) used in the performance assessment process; and
- b. the performance measurement methodology for each SPM.

1.1.2 The following SPMs are described in this Annex:

- a. SPM-01: [...INSERT NAME...]; and
- b. SPM-02: [...INSERT NAME...].

2 SPM-01: [...INSERT NAME...] (CORE)

ANNEX B TO ATTACHMENT P

ANNEX B – SYSTEM HEALTH INDICATORS (OPTIONAL)

Note to tenderers: The Commonwealth seeks tenderers to propose SHIs and measurement data presentation methods for Commonwealth consideration. Note that some SHIs may be scored (e.g. pass/fail, or green/amber/red etc). Other SHIs may be more useful if measurement data is presented as raw data and/or trend lines.

The Commonwealth will use proposed SHIs in tender evaluation as evidence that the tenderer understands the Services and understands how to effectively measure the health of the Materiel System, including the Services.

The Commonwealth intends to further develop the SHIs collaboratively with the preferred tenderer.

Notes to drafters: If the Commonwealth has specific SHIs that must be used, include those SHIs here. Otherwise consider including several example SHIs for consideration by the Tenderers. Note that SHIs do not need to be assessed, often measurement alone is sufficient to achieve the purpose of the SHI.

1 INTRODUCTION (CORE)

1.1 Purpose

- 1.1.1 The purpose of this Annex is to define:
- a. the System Health Indicators (SHIs) used in the performance assessment process; and
 - b. the performance measurement methodology for each SHI.
- 1.1.2 The following SHIs are described in this Annex:
- a. SHI-01: [...INSERT NAME...];
 - b. SHI-02: [...INSERT NAME...];
 - c. Other SHIs: TBC.

1.2 Changes to System Health Indicators (SHIs)

- 1.2.1 The parties acknowledge and agree that the SHIs set out in this Attachment P provide the agreed set of SHIs for the Contract at ED.
- 1.2.2 The parties further acknowledge and agree that:
- a. the SHIs set out in this Attachment P may need to be varied over the Term to ensure that the Commonwealth is able to satisfy its information needs in relation to the Capability and/or the Contract; and
 - b. the SHIs must lead to the provision of relevant and timely information, but should not involve undue measurement effort.
- 1.2.3 Where either party identifies the need to change an SHI or to implement an additional or replacement SHI, the parties agree:
- a. to negotiate in good faith to define and establish the revised SHI requirements to satisfy the Commonwealth's information needs; and
 - b. that any revised SHI requirements will be documented in an update to the Approved SSMP instead of through a CCP in accordance with clause 11.1 of the COC.

2 SHI-01 [...INSERT NAME...] (CORE)

ANNEX B TO ATTACHMENT P

ANNEX C – KEY PERFORMANCE INDICATORS (OPTIONAL)

Note to drafters: If procurement teams are contemplating including KPIs and associated Performance Payments in the Contract, they must seek advice from the PBC Directorate via PBC.Enquiry@defence.gov.au.

If KPIs are not included in the Contract, this Annex should be replaced with “Not Used”.

1 INTRODUCTION (CORE)

1.1 Purpose

- 1.1.1 This Annex C is used to define:
- a. the KPIs used in the performance assessment process; and
 - b. the methodology for determining the Performance Band and APS for each KPI for each Review Period.
- 1.1.2 KPIs are Performance Measures that affect the Contractor's entitlement to Performance Payments calculated under Annex C to Attachment B.

2 KEY FEATURES OF THE PERFORMANCE ASSESSMENT PROCESS (CORE)

2.1 Required Outcomes and KPIs

- 2.1.1 The performance assessment process is designed to measure the extent to which the Contractor's performance has contributed to the achievement of the Outcomes.

Note to drafters: If the Contract will not include a PIP then delete “Subject to clause 2.1.3,” from the following clause and do not include optional clause 2.1.3.

- 2.1.2 **[Subject to clause 2.1.3]**, the Contractor's performance is assessed using the KPIs and the methodology specified in this Annex C and the Approved SSMP.

Option: Include the following clause if a PIP will be included in the Contract.

- 2.1.3 During the Performance Implementation Period (PIP), the KPIs and associated calculations of APS and Performance Bands, shall be subject to the modifications set out in Annex D.

2.2 Contractor's Performance and the Adjusted Performance Score

- 2.2.1 In order to link achieved performance to Performance Payments, mathematical calculations are required.
- 2.2.2 The purpose of the calculations is to convert the measurement results for each KPI, “achieved performance”, into a percentage score representing the relative value of the Service to the Commonwealth, “Adjusted Performance Score” or “APS”.
- 2.2.3 The resultant APS represents the percentage of the maximum Performance Payment allocated to a KPI for a Review Period that is earned by the Contractor. For example, if the Contractor achieves a 90% APS for a KPI for a Review Period, the Contract would be entitled to claim payment for 90% of the maximum Performance Payment allocated to that KPI for that Review Period in accordance with Annex C to Attachment B.
- 2.2.4 All figures in this Annex are for illustrative purposes only and in the event of any inconsistency between a figure and a clause or formula, the clause or formula has precedence.
- 2.2.5 The Contractor's performance against each KPI for each Review Period shall be:
- a. assessed using validated measurement data and the methodology set out in this Annex C; and
 - b. used to determine the Performance Band and APS.

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2.3 Performance Bands

2.3.1 The Achieved Performance for each KPI will fall into one of four Performance Bands depicted in Figure P-1 (as shown along the horizontal-axis).

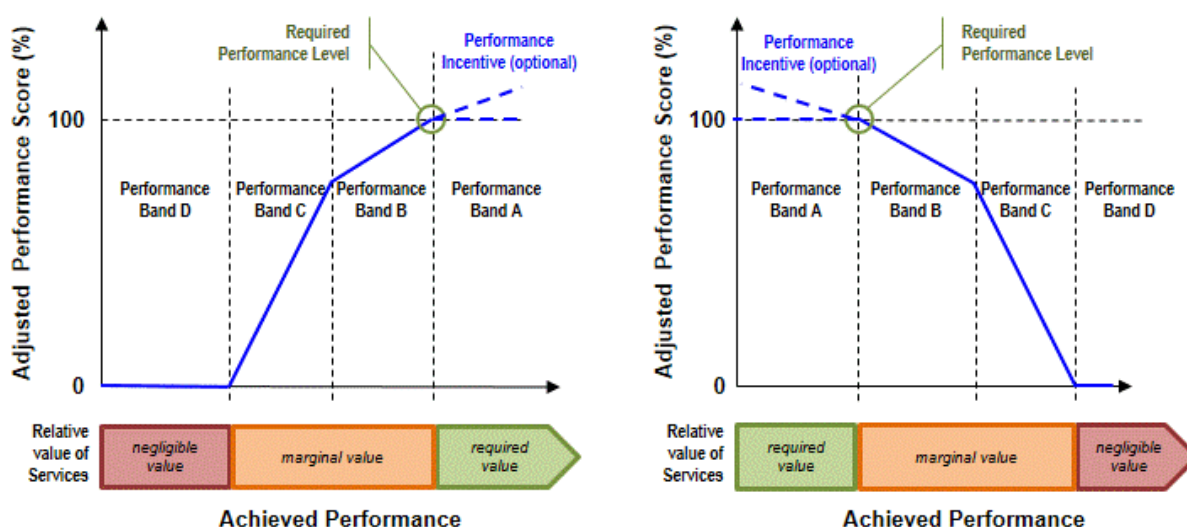


Figure P-1: Example Performance Bands and Performance Curves

Note to drafters: If the procurement team is contemplating Incentive Payments, it should seek advice and assistance from the PBC Directorate via PBC.Enquiry@defence.gov.au. Otherwise, modify the definition of Performance Band A below to remove reference to Incentives.

2.3.2 The Performance Bands and performance curves shown in Figure P-1, used in relation to the calculation of an APS, are described as follows:

- a. **Performance Band A.** This band represents levels of performance that equal or exceed the Required Performance Level for the respective KPI. Where over-performance is of sufficient value to the Commonwealth, in regards to the required Outcomes, the Contract may specify a Performance Incentive to be included in the Performance Payment; otherwise, the APS is set to 100%.
- b. **Performance Band B.** This band represents levels of performance that are slightly less than the Required Performance Level. This band allows for minor variations in results, which are considered to have a small, but tangible, impact on the value of the Services provided to the Commonwealth. The APS will be between 80% and 100%.
- c. **Performance Band C.** This band represents levels of performance that may be tolerable for a short term but unsatisfactory in the medium or longer term because of the diminished value of the Services. Performance in this band is strongly discouraged by the Commonwealth. Performance in this band likely reflects systemic failures and in addition to significant loss of Performance Payments, other remedies may apply.
- d. **Performance Band D.** This band represents levels of performance where the value of the Services delivered is considered to be negligible because the Commonwealth's ability to attain the required Outcomes are significantly affected. The APS is set to 0% and other remedies may apply.

3 OUTCOMES AND KPI INFORMATION (CORE)

3.1 KPIs and traceability to Outcomes

Note to drafters: It is important that the Contract Outcome(s) is(are) defined in COC Clause 1.3 "Objectives". If KPIs are used in the Contract, the Outcome(s) in COC Clause 1.3 should be duplicated into Table P-1, to ensure the KPIs are directly contributing to the achievement of the Outcome(s).

Rows may be deleted or added for the number of KPIs. There is no rule for an optimal number of KPIs, as requirements will vary with scope and complexity; however, more than 3 KPIs can

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reduce the incentivising effect of individual KPIs. More than 5 KPIs would almost never be appropriate. Too many KPIs will also increase the overheads to both parties for limited or no benefit.

3.1.1 Significant attributes for each KPI are summarised in Table P-1. An explanation of each column is detailed below:

- a. Outcome: The desired resultant effect on a Defence Capability that is an objective of, and enabled through, the Services as defined in COC clause 1.3.
- b. Contributory Outcome: The contribution that a particular Service or group of Services provide to enable an Outcome to be achieved. An Outcome may require more than one contributory outcome.
- c. KPI: The Performance Measure used to determine the extent to which the Contractor achieves a contributory outcome.
- d. Required Performance Level: The specified minimum level of Achieved Performance or performance for an individual event (as applicable), as measured by the KPI for the Review Period, to deliver the contributory outcome.
- e. Review Period: The duration over which the performance against the KPI is measured and assessed.

Table P-1: Required Outcomes and KPIs

Outcome	Contributory Outcome	KPI	Required Performance Level	Review Period
(a)	(b)	(c)	(d)	(e)
[...INSERT OUTCOME...]	[...INSERT CONTRIBUTORY OUTCOME...]	KPI-01: [...INSERT KPI NAME...]		
	[...INSERT CONTRIBUTORY OUTCOME...]	KPI-02: [...INSERT KPI NAME...]		
	[...INSERT CONTRIBUTORY OUTCOME...]	KPI-03: [...INSERT KPI NAME...]		

Note to drafters: The following clauses are intended to promote consistency when describing the measurement of Contractor performance. However, each KPI will be unique and require substantial modification to the following clauses. Drafters should seek specialist advice from the PBC Directorate via PBC.Enquiry@defence.gov.au.

4 KPI-01: [...INSERT NAME...] (CORE)

4.1 KPI Explanation

4.1.1 KPI-01: [...INSERT NAME...], is a measure of the Contractor's performance in delivering [...INSERT DESCRIPTION...].

4.1.2 For KPI-01:

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- a. the performance result for each [...INSERT DESCRIPTION OF EVENT OR AREA OF MEASUREMENT...] shall be determined in accordance with clause 4.2;
- b. the achieved performance for the Review Period shall be calculated in accordance with clause 4.3;
- c. the APS and Performance Band for the Review Period shall be calculated in accordance with clause 4.4.

4.2 Performance Results for KPI-01

4.2.1 [...INSERT KPI DEFINED TERMS AND CALCULATIONS...].

4.3 Calculating the Achieved Performance for KPI-01

Note to drafters: The Achieved Performance must be determined over the duration of a Review Period even when interim results are reported mpthly.

- 4.3.1 The achieved performance for KPI-01 shall be calculated as an overall result for the Review Period in accordance with the following formula:

Note to drafters: Insert an appropriate formula, followed by the definitions for the factors used in the formula. For example, 'A' in the following formula may be the sum of daily performance results and 'B' the number of days in the Review Period.

Achieved Performance (KPI-01) = [...INSERT FORMULA eg, $A / B \times 100\%$...]

where:

[...INSERT DEFINITIONS IF REQUIRED...]

4.4 Calculating the Adjusted Performance Score and Performance Band for KPI-01

- 4.4.1 The APS and the Performance Band for KPI-01 for a Review Period shall be calculated from the achieved performance in accordance with Table P-2.

Note to drafters: The following clauses represent a KPI where a higher level of achieved performance results in a higher APS. Different formulae will be required if higher levels of achieved performance represent less value and lower APS scores (eg, failure rates, or average days late out of Maintenance activities).

The drafter should ensure that the APS formulae in Table P-2, the points in Table P-3, and the diagram in Figure P-2 all match the KPI.

For each Performance Band, an individual formula in Table P-2 defines a straight-line segment of the relationship between the achieved performance and APS. In Table P-3, drafters should include the value for 'a' (the Required Performance Level from Table P-1), and values for 'b' and 'c' (the boundaries between Performance Bands B and C and Performance Bands C and D, respectively). These values are used to calculate the gradient of the lines for Performance Bands B and C in Table P-2.

When the KPI is finalised, usually post negotiations, it is possible to remove Table P-3 and simplify the formula in Table P-2. The PBC Directorate can assist if required.

Table P-2: KPI-01 Adjusted Performance Score Formulae

If the Achieved Performance (x) for KPI-01 for a Review Period is...	the Performance Band is...	the APS (%) is calculated using the formula below using the values defined in Table P-3 ...
$x \geq a$	A	$APS = 100\%$
$b \leq x < a$	B	$APS = \left[\frac{(100\% - 80\%)}{(a - b)} \times (Achieved\ Performance(x) - b) \right] + 80\%$
$c \leq x < b$	C	$APS = \frac{(80\% - 0\%)}{(b - c)} \times (Achieved\ Performance(x) - c)$
$x < c$	D	$APS = 0\%$

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4.4.2 The values of a, b and c, for the calculation of the APS for KPI-01, are defined in Table P-3.

Table P-3: KPI-01 Achieved Performance Values (horizontal-axis)

Point	Value
a (Required Performance Level)	
b	
c	

4.4.3 Figure P-2 illustrates the relationship between the achieved performance and the APS for KPI-01, and the operation of the formulae in Table P-2.

Note to drafters: Figure P-2 must be replaced with one applicable to the KPI's achieved performance to APS relationship. Note that the coordinates on the example below correspond to the coordinates in the table above and assist in the development of the formulae.

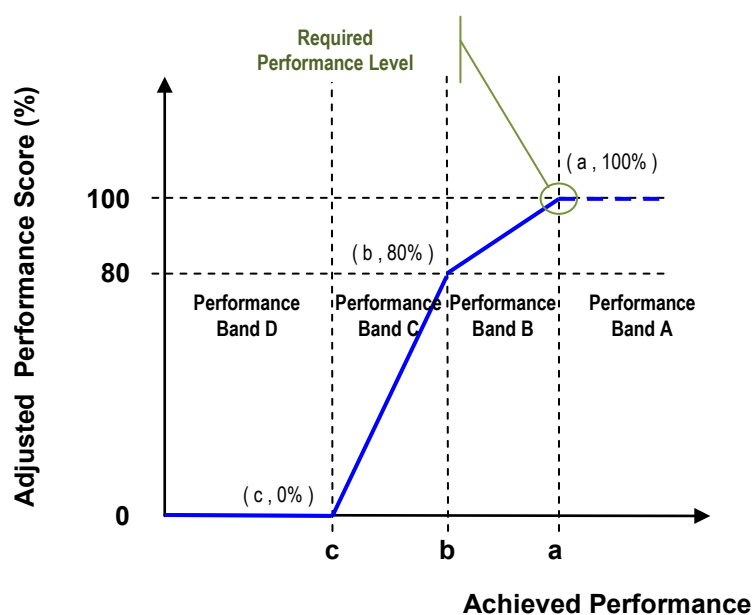


Figure P-2: KPI-01 Achieved Performance to APS (Performance Curve)

5 KPI-02: [...INSERT NAME...] (OPTIONAL)

ANNEX D TO ATTACHMENT P

ANNEX D – PERFORMANCE IMPLEMENTATION PERIOD (OPTIONAL)

Note to drafters: *If KPIs are not included in the Contract at Annex C, this Annex should be replaced with “Not Used”.*

If a Performance Implementation Period (PIP) is not required to introduce the KPIs over a period of time, then replace all clauses in Annex D with a single ‘Not used’. When drafting clauses for the PIP in this Annex D, drafters need to be consistent with the development of clause 4 of Annex C to Attachment B, where PIP duration and stages are defined.

1 INTRODUCTION (CORE)

1.1 Purpose

- 1.1.1 The purpose of this Annex D is to define the managed introduction of the KPI regime to the Contract.
- 1.1.2 The objectives of the Performance Implementation Period (PIP) are defined in clause 1.2 and if applicable, any changes to KPIs and KPI assessment methodology during the PIP, are defined in clause 2 onwards.

1.2 Objectives

- 1.2.1 The Contractor acknowledges that the objectives of the PIP are to:

Note to drafters: *Amend the following subclauses as appropriate. Subclause a. may not be applicable when the Contract is replacing a previous support contract of similar scope and the KPIs have been proven. Subclauses e. to g. are primarily applicable when the Contract is being implemented to support Products being delivered, over a period of time, from an acquisition project.*

- a. validate the accuracy of the KPIs as appropriate measures of the extent to which the Contractor is contributing to the Outcomes;
 - b. confirm that the data collected and used to measure performance provides an accurate and statistically valid measure of that performance;
 - c. verify the Contractor's processes for the measurement and reporting of KPIs;
 - d. minimise the impact of unrepresentative performance discrepancies while newly established resources and processes are stabilising;
 - e. scale the KPIs and overall performance measurement regime consistent with the ramp up of the Services and Products Being Supported, as applicable;
 - f. allow for the delivery and operation of sufficient systems to reach a level of maturity sufficient to be representative of long-term support requirements; and
 - g. allow sufficient time to accurately measure and confirm new equipment reliability.
- 1.2.2 The parties acknowledge that the PIP is not a period for trialling or changing the KPIs or associated calculations; rather, the intent of the PIP is to refine measurement and recording processes and to overcome any initial instability in Product and Support System performance and related processes.

2 KPI CHANGES DURING THE PIP (CORE)

2.1 Types of Changes Applicable During the PIP

- 2.1.1 If there are any changes to the weightings of KPIs or the determination of Performance Payments during the PIP, those changes are defined in Annex C to Attachment B.

Note to drafters: *If there are no changes to the KPIs or measurement methodology during the PIP, replace the following clause with “There are no changes to KPIs or the KPI measurement methodology during the PIP”.*

- 2.1.2 If there are any changes to KPIs or the KPI measurement methodology during the PIP, those changes are defined in the following clauses.

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Note to drafters: The following clause should be used when the drafter does not require the Performance Band linkages to Remediation Plans and termination provisions during the PIP. The following clause should be removed or modified if the drafter requires the Performance Band linkages to Remediation Plans or termination (or both).

- 2.1.3 Except as otherwise provided in this Annex D, the Commonwealth is not entitled to exercise its rights in respect of clauses 6.12.1b, 13.2.1f or 13.2.1g in respect of any Review Period falling within the PIP.

3 KPI-01: [...INSERT NAME...] (CORE)

Notes to drafters: The following clauses will require specialist drafting support from the PBC Directorate via PBC.Enquiry@defence.gov.au.

References to “stage 1” should be removed if the PIP only has one stage.

3.1 Overview of PIP Stages for KPI-01 – FOR INFORMATION ONLY (Optional)

Note to drafters: If a complicated set of PIP stages is included in the Contract (as defined in Annex C to Attachment B), then it may be beneficial to include an overview of the stages in this clause (the following clause is an example only). This clause is intended to be ‘For Information Only’ so do not include any mandatory statements or other text that could overlap and conflict with the formal description of the KPIs in the subsequent clauses. If not required, delete the heading and clause and replace with ‘Not used’.

- 3.1.1 KPI-01 is measured from the first stage of the PIP. KPI-01 is implemented over the three stages of the PIP based on the number of Mission Systems that have been delivered under the Contract (Acquisition).

3.2 PIP stage 1 changes to KPI-01

Note to drafters: If the KPI used during the PIP stage is different to the mature KPI requirement, then include and further develop the following clauses to describe the changes for the relevant stage of the PIP. The clauses below may be copied and re-used for each stage in a multi-stage PIP.

- 3.2.1 The Contractor's performance against KPI-01, for the first stage of the PIP, shall be determined in accordance with Annex C except for the changes identified in this clause 3.2.
- 3.2.2 For clause [...INSERT...], when obtaining the parameters and measurement data used to determine the Contractor's performance against KPI-01 the following conditions shall apply: [...INSERT CONDITIONS...].

Note to drafters: The following clause may be deleted if the PIP only has one stage.

3.3 PIP Stage 2 changes to KPI-01 (Optional)

- 3.3.1 The Contractor's performance against KPI-01, for the second stage of the PIP, shall be determined in accordance with Annex C, except for the changes identified in this clause 3.3.

Note to drafters: Copy the applicable clauses, captions and tables from stage 1 of the PIP (above) and insert below. Amend accordingly.

4 KPI-02: [...INSERT NAME...] (OPTIONAL)

Note to drafters: Copy and paste the clauses used for KPI-01 for each additional KPI And amend accordingly.

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NOT USED

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MEMBERS REQUIRED IN UNIFORM (OPTIONAL)

Note to drafters: Drafters should provide details of any MRU requirements (or other embedded personnel) prior to release of the RFT. The clauses included in Attachment R are not restrictive, and are intended as a starting point for further development. These clauses should be reviewed, amended, and expanded as necessary.

1. INTRODUCTION

- 1.1** The purpose of this Attachment R is to detail the requirements for the management, training and utilisation of Members Required in Uniform (MRU) under the Contract.
- 1.2** The Contractor and Commonwealth agree that the overall objective of MRU is to ensure the long-term capabilities of the ADF, enabled through the development of knowledge, skills and experience of Defence Personnel gained through their placement with the Contractor under the Contract. MRU skills and experience are typically fostered in order to provide deployable support to ADF operations during times of Contingency. Specifically, for the [...INSERT MISSION SYSTEM OR CAPABILITY...], the objectives of MRU are as follows:
- a. [...INSERT BRIEF DESCRIPTION OF OBJECTIVE...]; and
 - b. [...INSERT BRIEF DESCRIPTION OF OBJECTIVE...].
- 1.3** The Contractor and Commonwealth further acknowledge that the objectives set out in clause 1.2 will be achieved by placing Defence Personnel within the Contractor's work teams.
- 1.4** References to Contractor in this Attachment R are to be read as including references to an Approved Subcontractor when the MRU are appointed to work with an Approved Subcontractor.

2. MRU COMPOSITION AND TENURE

- 2.1** Subject to over-riding needs of ADF rotation requirements, the MRU that will be made available to the Contractor are detailed in Table 1.

Note to drafters: Table 1 should be populated to describe the composition of the MRU. If the scope of support is unknown (ie, support for a new system) and the composition of the MRU is unclear, the following note to tenderers should be included; otherwise, it should be deleted.

Note to tenderers: The proposed MRU composition is based on an estimated scope of future support requirements and may be revised during negotiations for any resultant contract.

Table 1: MRU Composition and Tenure

Specialisation / Trade / Skill Category	Trade Skill Level (Rank)	Strength (routine)	Tenure	Strength (contingency)
[eg, Electronics Technicians]	[eg, Trade Supervisor (CPL / LS)]		[eg, 2 years]	
	[eg, Technician (LCPL / LAC(W) / AS)]		[eg, 2 years]	
	[EG, Fitter / Apprentice (PTE / AC(W) / SMN)]		[eg, 6 months]	
Other	Engineer			
	Logistics Officer			

Table 1 Notes:

- a. Strength (routine) identifies the intended number of personnel per skill category and level but cannot account for exceptional circumstances (eg, discharge, posting for compassionate reasons and Defence contingencies). Contingency is indicative only. The period of reduction to the level of Contingency may not necessarily match the period of a Contingency under the Contract.**

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- b. The tenure represents the minimum time necessary to achieve a balance between skills development and workforce rotation requirements.**

3. MANAGEMENT OF MRU

Note to drafters: This section should be further developed to describe the management of MRU from a contractual and human resources management perspective.

3.1 Commonwealth MRU Manager

- 3.1.1** The Commonwealth Representative shall delegate the responsibility for implementing Commonwealth obligations of this Attachment R to [...INSERT TITLE / APPOINTMENT...] (the 'Commonwealth MRU Manager').
- 3.1.2** The Commonwealth MRU Manager shall be responsible for:
- a. coordinating the allocation of the MRU to the Contractor;
 - b. military-unique administration and discipline for the MRU; and
 - c. [...DRAFTER TO INSERT...].
- 3.1.3** Unless exceptional circumstances prevail, the Commonwealth MRU Manager will provide the Contractor MRU Manager with [...INSERT NUMBER, eg, 20...] Working Days' prior notice of the pending allocation and withdrawal of all or some of the MRU (eg, in the event of posting or being operational deployment).
- 3.1.4** [...DRAFTER TO INSERT ANY ADDITIONAL REQUIREMENTS...].

3.2 Contractor MRU Manager

- 3.2.1** The Contractor shall appoint a representative (the 'Contractor MRU Manager') for the purpose of implementing the requirements of this Attachment R.
- 3.2.2** The Contractor MRU Manager shall be responsible for:
- a. overall management and utilisation of MRU within the Contractor's organisation;
 - b. ensuring that MRU are trained and employed on tasks that develop, reinforce and enhance their knowledge and skills consistent with the objectives set out in clause 1.2;
 - c. day-to-day tasking and supervision of MRU; and
 - d. [...DRAFTER TO INSERT...].
- 3.2.3** [...DRAFTER TO INSERT ANY ADDITIONAL REQUIREMENTS...].

3.3 Issues Management

- 3.3.1** The Commonwealth and Contractor shall each use their best endeavours to resolve any issues involving the MRU in a timely manner.
- 3.3.2** In the event of a complaint or grievance regarding MRU, the aggrieved party is to raise the matter with the Contractor MRU Manager or Commonwealth MRU Manager, as applicable, in the first instance. If the matter cannot be resolved between the respective MRU managers [...INSERT DETAILS OF THE ESCALATION PROCEDURE...].

3.4 Commonwealth Policy

- 3.4.1** The Contractor shall ensure that Commonwealth policies identified under clause 11.3 of the COC are applied in the context of the MRU.

4. MRU DUTIES AND ACTIVITIES

Note to drafters: This section should be further developed to describe the duties and trade-related tasks to be undertaken by the MRU. Where suitable, drafters may include duty

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statements and job specification as annexes, provided that these are not overly restrictive and would result in underutilisation and restrict MRU from gaining suitable experience.

4.1 MRU Tasking

4.1.1 MRU may:

- a. be employed on all tasks for which they are qualified;
- b. be employed on tasks for which competencies and authorisations have not yet been achieved, while under the supervision of a person authorised to supervise trainees undertaking those tasks; and
- c. be employed in a mixed (civilian/military) or separate (MRU only) teams.

4.1.2 The Contractor shall not employ MRU on non-Contract activities without the prior written approval of the Commonwealth Representative.

4.2 Areas of Utilisation

4.2.1 MRU shall be employed within their specialisation / trade / skills category appropriate to their skill level, and be engaged, whenever practicable, on tasks that will enable retention and enhancement of their skills, consistent with the objectives set out in clause 1.2. Specifically, these tasks include:

- a. [...DRAFTER TO INSERT...],
- b. [...DRAFTER TO INSERT...], and
- c. [...DRAFTER TO INSERT...].

4.2.2 Subject to clause 4.2.1, except where otherwise specified, the Contractor may allocate MRU with additional duties appropriate to their rank, seniority and supervisory roles. Additional duties should be selected to develop management, leadership, and other skills that are transferrable to the Defence environment.

5. SUPERVISION OF MRU

Note to drafters: This section should be further developed to describe the supervision of MRU in their utilisation and day-to-day work activities.

5.1 Induction

5.1.1 As part of induction of MRU, the Contractor shall interview all MRU to confirm existing qualifications, competencies and training needs.

5.1.2 The Contractor shall provide induction training / briefings to MRU that includes:

- a. an introduction to the Contractor's organisation;
- b. the Contractor's procedures and documentation relevant to the duties of the MRU;
- c. an introduction with the Contractor MRU Manager and on-site supervisors;
- d. the Contractor's WHS Management System;
- e. emergency procedures;
- f. security requirements and procedures;
- g. administrative work procedures; and
- h. [...DRAFTER TO INSERT...].

5.1.3 The Contractor shall invite the Commonwealth MRU Manager to provide a briefing at the induction training / briefings held in accordance with clause 5.1.2.

5.1.4 The Contractor shall organise all access passes, identity cards and other Contractor requirements that may be necessary to allow the MRU to access their workplace.

5.2 Routine Supervision

5.2.1 The Contractor shall provide routine supervision of the MRU as applicable to their duties and work activities with the Contractor.

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- 5.2.2** The Contractor may give MRU supervisory responsibilities for Contractor personnel and other MRU within the area of their responsibility, qualifications and competence.
- 5.2.3** The Commonwealth MRU Manager retains control over all matters of military discipline, military personnel administration, and the authorisation of overtime work by the MRU.

6. TRAINING DEVELOPMENT AND PERSONNEL ADMINISTRATION

Note to drafters: *This section should be further developed to describe requirements for Training administration and personal administration of MRU. Clause 8 of the SOW and the Training DSDs address the assessments reporting, issuing certificates and, when applicable, carrying out responsibilities of an RTO. Accordingly, this clause need only reflect requirements particular to the MRU.*

6.1 Training and Skills Development

Note to drafters: *Insert details of any trade-specific Training to be provided to MRU during their tenure with the Contractor. This should not include general training or briefings (eg, site safety briefings) but only Training related to the development of trade skills. Details for these Training courses should be included in DSD-TNG-DEL. If there are no specific courses to list, amend the following clauses to refer only to the objectives set out in clause 1.2 (ie, delete words after clause 1.2, including the draft subclauses and delete clause 6.1.2).*

- 6.1.1** The Contractor shall provide MRU with all necessary Training to meet the objectives set out in clause 1.2, including the following specific Training courses:
- a. [...DRAFTER TO INSERT TRADE CATEGORY / LEVEL...]:
 - (i) [...DRAFTER TO INSERT COURSE NUMBER / NAME...]; and
 - (ii) [...DRAFTER TO INSERT COURSE NUMBER / NAME...],
 - b. [...DRAFTER TO INSERT TRADE CATEGORY / LEVEL...]:
 - (i) [...DRAFTER TO INSERT COURSE NUMBER / NAME...]; and
 - (ii) [...DRAFTER TO INSERT COURSE NUMBER / NAME...].
- 6.1.2** Details for the specific Training courses listed under clause 6.1.1 are included in DSD-TNG-DEL.
- 6.1.3** Training of MRU by the Contractor shall be conducted in accordance with clause 8 of the SOW.

6.2 Records of Training and Competency

Note to drafters: *Include details for updating or providing information to update, as applicable, Defence training and employment records for individual members of the MRU.*

- 6.2.1** The Contractor acknowledges that the Commonwealth places a high level of importance on the accuracy and currency of records of training and employment for the MRU.
- 6.2.2** Without limiting any other requirements of the Contract, the Contractor MRU Manager, or delegated training coordinator, shall be responsible for [...DRAFTER TO INSERT DETAILS FOR RECORDING, PROVIDING INFORMATION, ETC, IN RELATION TO TRAINING RECORDS...].
- 6.2.3** The Contractor MRU Manager shall meet with the Commonwealth MRU Manager to review the records of training and employment for the MRU at intervals of approximately [...INSERT INTERVAL, eg, two OR three...] months, unless otherwise agreed by the Commonwealth MRU Manager.

6.3 Personal Performance Appraisals

Note to drafters: *Insert details of Contractor assistance with information to inform personal assessments and appraisals, appraisals by immediate (Contractor) supervisors, or facilitating appraisals by the Commonwealth MRU Manager, as applicable.*

- 6.3.1** [...DRAFTER TO INSERT DETAILS...]

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7. WORK ROUTINE

Note to drafters: This section should be used to describe working conditions and entitlements such as hours of work, leave entitlements, etc. The following example clauses should be considered as a starting point for further development.

7.1 Working Hours

- 7.1.1** The Contractor acknowledges and agrees that in addition to their trade / specialisation work the MRU have obligations that are required to be performed in order to enable them to continue to be employed as members of the ADF, including physical fitness, medical and dental assessments, Commonwealth drug and/or alcohol testing, small arms proficiency assessments, and mandatory Defence-related training programs (**Military Service Obligations**).

Note to drafters: Insert applicable details and make amendments as appropriate.

- 7.1.2** The Contractor acknowledges and agrees that, in consideration of Military Service Obligations and leave entitlements, the MRU are made available to the Contractor for, on average, [...INSERT NUMBER OF DAYS...] Working Days per year or, subject to other provisions in this Attachment R, not less than [...INSERT NUMBER OF WEEKS...] fulltime weeks per year.
- 7.1.3** In coordination with the Commonwealth MRU Manager, the Contractor MRU Manager shall release MRU to enable them to undertake their Military Service Obligations.
- 7.1.4** Subject to clauses 7.1.1 and 7.1.2, MRU will be available to work at the Contractor's premises for, on average, 37.5 hours per week on Working Days between 0700 hours and 1700 hours. MRU will, as far as practicable, work no more than eight hours per Working Day. MRU are entitled to a main meal break of between 45 and 60 minutes, and two shorter breaks during a Working Day, sufficient to promote healthy working conditions.
- 7.1.5** The Contractor shall not task the MRU to work outside of the core working hours (eg, overtime and shift work) or change the conditions described in clause 7.1.4 without the written agreement of the Commonwealth MRU Manager.

7.2 Working Dress

- 7.2.1** MRU are to wear working dress uniform while working at the Contractor's premises unless:
- working dress uniform is incompatible with and/or limits the effectiveness of personal protective equipment; or
 - otherwise agreed or directed by the Commonwealth MRU Manager.

8. MRU ENTITLEMENTS

Note to drafters: In further developing this section, drafters should be aware that MRU entitlements are cross-referenced from clause 3.10 of the COC – hence it is useful to keep them under the one heading.

8.1 Time in Lieu

Note to drafters: Include and amend, or delete, as applicable. The number of hours should match clause 7.1.4.

- 8.1.1** Where a member of the MRU is required to work in excess of 37.5 hours per week, the member will be compensated on a one-for-one basis (ie, one hour off for each hour worked in excess of 37.5 hours per week) (**time in lieu**).
- 8.1.2** The Contractor MRU Manager shall keep a record of the hours worked by each of the MRU and make this record available to the Commonwealth MRU Manager upon request.
- 8.1.3** The Commonwealth MRU Manager shall be responsible for granting time in lieu, which will be granted in consultation with the Contractor MRU Manager.
- 8.1.4** The Contractor shall plan work by the MRU to minimise the accumulation of time in lieu and, unless otherwise agreed by the Commonwealth MRU Manager, ensure that no more than 16 hours of time in lieu is accrued by any member of the MRU.

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8.2 Leave Entitlements

- 8.2.1** The Commonwealth MRU Manager shall be responsible for granting annual leave, which will be granted in consultation with the Contractor MRU Manager.

Note to drafters: Amend the following where sick leave and compassionate leave may also be granted by, for example, the Contractor MRU Manager or the most senior available MRU.

- 8.2.2** The Commonwealth MRU Manager shall be responsible for granting sick leave and compassionate leave, when applicable, and will inform the Contractor MRU Manager of the absence as soon as practicable.

Note to drafters: Insert details of any further leave provisions applicable to the MRU (eg, study leave).

8.2.3 [...DRAFTER TO INSERT DETAILS...]

8.3 Access to Contractor Staff Facilities

- 8.3.1** The Contractor shall ensure that the MRU have access to the Contractor's ICT systems that are appropriate to the performance of their duties.

- 8.3.2** The Contractor shall provide the MRU with access to the Contractor's canteen, recreational, and other facilities, as available to Contractor staff of equivalent status.

9. WORK HEALTH AND SAFETY

Note to drafters: The following clauses should be reviewed, amended, and expanded as necessary to address WHS requirements for the MRU. Refer to clause 11.4 of the COC and clause 12 of the SOW for standard Contract requirements regarding WHS, including for Commonwealth Personnel on Contractor Premises.

9.1 General Requirements

- 9.1.1** The Contractor shall provide a safe working environment for the MRU in accordance with clause 12.3.3 of the SOW.
- 9.1.2** The Contractor shall provide the MRU with all safety-related training and briefings as may be reasonably required to ensure the health and safety of the MRU when undertaking duties and attending the Contractor's workplace(s).
- 9.1.3** The Contractor shall be responsible for providing suitable personal protective equipment as may be required by the MRU to undertake their allocated tasks with the Contractor.
- 9.1.4** The Contractor shall provide the MRU with access to all WHS procedures, safety risk assessments, Hazardous Chemicals data, and all other WHS-related information as may be required by the MRU to undertake their allocated duties and tasks with the Contractor.
- 9.1.5** The Contractor shall not appoint MRU as WHS representatives for mixed (civilian and military) work teams but MRU may be invited to contribute to WHS working groups.

9.2 Incident Reporting

- 9.2.1** In the event of a Notifiable Incident involving MRU, the Contractor shall:
- a. immediately notify the Commonwealth MRU Manager or, if the Commonwealth MRU Manager is not immediately contactable, the most senior available member of the MRU; and
 - b. report the Notifiable Incident in accordance with clause 12.4 of the SOW.

9.3 Drugs and Alcohol

- 9.3.1** MRU shall not be subject to Contractor drug and alcohol testing programs without the prior written agreement of the Commonwealth MRU Manager. Any drug and/or alcohol testing of MRU that has been agreed by the Commonwealth Representative shall only be carried out in a manner consistent with Commonwealth policy (refer DI, PPL3 and PPL4 and MILPERSMAN Part 4) and as directed by the Commonwealth MRU Manager.
- 9.3.2** If any of the MRU are found to be affected by non-prescription drugs or alcohol, the Contractor shall be immediately refer the matter to the Commonwealth MRU Manager.

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10. FINANCIAL

10.1 MRU Credits (Optional)

Note to drafters: Table 2 is to capture the amounts credited to the Commonwealth for the work undertaken by the MRU. The first two columns of the table should match those in Table 1.

For tender purposes, the drafter may wish to include a copy of Table 2 in TDR D, with a requirement for tenderers to populate the table.

MRU credits are optional. In assessing if MRU credits should be included in the Contract, the drafter should have regard to the number of MRU, the Training Services to be provided to MRU, MRU staff turn-over and the benefit the Contractor is expected to obtain from having the MRU after their training. ,

10.1.1 The Contractor shall, in accordance with clause 3.10 of the COC, credit the Commonwealth for the hours worked by the MRU at the credit rates listed in Table 2.

Table 2: MRU Credit Rates

Specialisation / Trade / Skill Category	Trade Skill Level (Rank)	MRU Credit Rate / hour (ex GST)	MRU Credit Rate / hour (inc GST)
[eg, Electronics Technicians]	[eg, Trade Supervisor (CPL / LS)]		
	[eg, Technician (LCPL / LAC(W) / AS)]		
	[eg, Fitter / Apprentice (PTE / AC(W) / SMN)]		
Other	Engineer		
	Logistics Officer		

ATTACHMENT S

PRODUCTS BEING SUPPORTED RESTRICTIONS SCHEDULE

Note to Drafters: Prior to RFT release drafters are to:

- a. ensure that any licence restrictions applicable to TD and Software in the Products Being Supported that may affect a Tenderer's provision of the Services (not otherwise sufficiently addressed by the restrictions in clause 5.6 of the COC) are specified in this Attachment S;
- b. determine if Commonwealth requirements (addressing the Capability's Life of Type requirements relating to licensing) mean additional licence restrictions are appropriate and specify those additional restrictions; and
- c. determine and specify Export Approval restrictions on the Products Being Supported that may affect a Tenderer's provision of the Services (i.e. being unable to provide TD to a subcontractor not listed on a Technical Assistance Agreement etc).

The examples contained in Attachment S are to be removed prior to RFT release and project specific information must be inserted where necessary. Further information on clause 5 of the draft COC and the TDSR Schedule can be found in the ASDEFCON TD / IP Commercial Handbook at:

- <http://drnet.defence.gov.au/casq/commercial/CommercialPolicyFramework/Pages/Handbooks.aspx>.

Note to Tenderers: Attachment S identifies licence restrictions and export approvals on the TD and Software rights granted under the Contract in respect of Products Being Supported. The tenderer may also indicate in its tender response that it proposes to own the IP in newly created TD or Software that is, or is a part of, a Product Being Supported.

Note to drafters: Choose ONE of the following two options and delete the other option. Option A should be used if the TD and Software provided as or as part of the Products Being Supported are subject to a small number of licences which can be attached or provided, or whether the restrictions can be set out in the table. Option B should be used if the licences and restrictions are extensive and cannot be set out here, but can be provided to the Contractor in the CSA data.

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Option A: For where there is no CSA data and/or there are less than 20 licences**1. SPECIFIC LICENCE RESTRICTIONS**

- 1.1 Clause 5.6 of the COC sets out the terms of the licences granted by the Commonwealth to TD and Software provided as, or as a part of, Products Being Supported.
- 1.2 Table S-1 sets out:
- a. specific licence restrictions that apply to TD and Software provided as, or as a part of, Products Being Supported, in addition to the terms set out in clause 5.6 of the COC; and
 - b. if the Contractor is to own IP created under the Contract or a Subcontract in respect of a particular Product Being Supported.

TABLE S-1: LICENCE RESTRICTIONS APPLICABLE TO PRODUCTS BEING SUPPORTED

Unique identifier	Reference Number	Licensor	Description of TD or Software	Contractor to Own New IP (Yes/No)	Identify the restriction or the licence that contains the restriction
(a)	(b)	(c)	(d)	(e)	(f)
S1	ABC #1276	EW Pty Ltd (Approved Subcontractor)	Electronic Warfare Software Source Code	No	The Contractor must not grant a sublicense of the TD to any of the following companies (or their Related Bodies Corporate): a. XYZ Pty Ltd; b. ...
S2	G-B-2	XYZ Pty Ltd	Combat Management System	No	The Contractor must not, and must not grant a sublicense to, modify, develop or upgrade the Mission Planning Software without the prior written consent of the licensor, to be requested from the Commonwealth.
S3	12345	Contractor	Mission Planning Software	Yes, Contractor is OEM of Pump	N/A

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Option B: For where there is CSA data and/or more than 20 licences

2. APPLICABLE LICENCES

- 2.1 The restrictions that apply to the Products Being Supported provided by the Commonwealth to the Contractor under the Contract are contained in licences that are available in the CSA data [if there is no CSA data, specify the location of the licences].

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3. ADDITIONAL RESTRICTIONS

- 3.1 Table S-2 sets out additional restrictions that apply to the TD and Software provided as, or as part of, the Products Being Supported (for example, restrictions imposed by the Commonwealth, which are additional to restrictions contained in any licences set out above at section 1 of this Attachment S).

TABLE S-2: ADDITIONAL RESTRICTIONS ON PRODUCTS BEING SUPPORTED

Unique identifier	Reference Number	Description of TD or Software	Identify the restriction or the licence that contains the restriction
(a)	(b)	(c)	(d)

4. EXPORT APPROVAL RESTRICTIONS

- 4.1 Table S-3 sets out specific Export Approval restrictions that apply to the Contractor's provision of the Services in respect of each Product Being Supported identified below.

TABLE S-3: EXPORT APPROVALS

Unique identifier	Reference Number	Country of Origin	Description of Product Being Supported (i.e. item or component)	Restriction
(a)	(b)	(c)	(d)	(e)

ATTACHMENT T

CONTRACT GOVERNANCE FRAMEWORK

1 GOVERNANCE OVERVIEW**1.1 Scope**

- 1.1.1 This Attachment sets out the governance arrangements through which the Commonwealth and the Contractor will manage their bilateral relationship, oversee and guide performance of the Contract, and perform their respective obligations under the Contract to maximise achievement against the objectives specified in clause 1.3 of the COC ('the Objectives').
- 1.1.2 This Attachment addresses:
- the general principles and aims of the governance arrangements; and
 - the bilateral framework and governance bodies that will oversee and guide performance of the Contract.
- 1.1.3 Nothing in this Attachment, or agreements resulting from the application of this Attachment, changes the scope of the Contract without the change being implemented through a CCP or Approval, as applicable to the nature of the change.
- 1.1.4 For the purposes of this Attachment, 'Enterprise' refers to the combination of the systems program office or program office, capability manager, Contractor and Subcontractors, and other 'fundamental inputs to capability', that together deliver the most effective and efficient Capability outcome for Defence.

1.2 Aim

- 1.2.1 The aim of the governance arrangements is to facilitate the performance of the Contract, including the parties' obligations under the Contract, to achieve the Objectives and to promote 'best for Enterprise' decision making by:
- providing leadership, oversight and guidance on performance of the Contract;
 - facilitating informed, effective and timely decision making;
 - facilitating problem solving and Dispute resolution;
 - maximising the value of the skills and knowledge and experience available within the Commonwealth's and the Contractor's organisations by appointing or inviting (as applicable) suitably skilled, knowledgeable and experienced individuals to the governance bodies; and
 - ensuring the governance arrangements operate efficiently and effectively.

2 STEERING COMMITTEE GOVERNANCE ARRANGEMENTS**2.1 Membership**

- 2.1.1 The members of the Steering Committee are:

Note to drafters: Add details for members of the Steering Committee, consistent with the functions described below. Permanent members of the Steering Committee, including external parties, should have a long-term involvement with the Capability and/or Contract.

- the Senior Representatives specified in the Details Schedule;
- [...INSERT Capability Manager or senior representative...]**; and
- [...INSERT OTHER MEMBERS AS REQUIRED...]**.

2.2 Functions

- 2.2.1 The principal function of the Steering Committee is to be the most senior forum for the management of the relationship of the parties. Accordingly, the Steering Committee will provide the overarching, high level governance of the Contract in terms of providing strategic oversight and guidance and initiation of action within the Commonwealth and the Contractor

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to maximise the extent to which the Objectives are achieved through performance of the Contract.

2.2.2 The functions of the Steering Committee include:

- a. to exchange views about key matters relevant to work under the Contract, particularly where the work may affect the achievement of the Objectives;
- b. to provide guidance to the Leadership Team;
- c. to provide guidance in relation to, and to prioritise and co-ordinate, any significant CCPs in a manner consistent with achievement of the Objectives;
- d. to act as an advocate for the Enterprise;
- e. to agree key messaging for external communications in relation to the Contract;
- f. to act as the final internal point of Dispute resolution if the Dispute cannot be resolved by the Leadership Team, including by supporting the Senior Representatives to resolve a Dispute in accordance with the Dispute resolution procedure set out in clause 13.1 of the COC; and
- g. to discharge any other function that the parties agree in writing is to be a function of the Steering Committee.

2.3 Meetings

- 2.3.1 The Steering Committee shall meet twice yearly, or at such other times as either party may require. At least 10 Working Days' prior notice shall be given for meetings. Reduced notice may be given, as is reasonable in the circumstances.
- 2.3.2 The Steering Committee may invite external advisers and observers to attend Steering Committee meetings from time to time.
- 2.3.3 The parties agree that meetings shall be conducted in accordance with the arrangements for ad hoc meetings set out in clause 3.4 of the SOW as if the Commonwealth is the party calling the meeting.

3 LEADERSHIP TEAM GOVERNANCE ARRANGEMENTS

3.1 Membership

- 3.1.1 The members of the Leadership Team are:

Note to drafters: Add details for members of the Leadership Team, consistent with the functions described below. Permanent members of the Leadership Team should have a long-term involvement with the Capability and/or Contract, and may include representatives from key Approved Subcontractors and Capability Manager's representatives from Other Capabilities.

- a. the Management Representatives specified in the Details Schedule; and
- b. [...INSERT OTHER MEMBERS AS REQUIRED...].

3.2 Functions

- 3.2.1 The principal functions of the Leadership Team are to:
 - a. be a forum for the management of the relationship of the parties;
 - b. oversee and provide guidance on key concerns relevant to the performance of work under the Contract (including co-ordination with related programs, projects or sustainment activities); and
 - c. report to the Steering Committee on significant risks impacting the performance of the Contract or achievement against the Objectives.
- 3.2.2 The functions of the Leadership Team include:
 - a. to exchange views about matters relevant to the work under the Contract;
 - b. to monitor performance of the Contract and identify and review key opportunities and risks, including progress against any Remediation Plan;

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- c. to ensure that appropriate action is taken to mitigate risks and that such action is managed by Personnel best suited to do so;
- d. to monitor the parties' progress towards achieving the Objectives;
- e. to coordinate and collaborate with related programs, projects or sustainment activities, as needed, to ensure the effective performance of the Contract and any related programs, projects or sustainment activities;
- f. to assess the health of the relationship between the parties, and take rectification action, as necessary and appropriate;
- g. to give guidance to the Contract Team and to hold the Contract Team to account for the performance of its functions;
- h. to respond to matters referred for consideration by the Contract Team;
- i. to give advice to the Steering Committee, as required, including generally on the status of the Contract and Disputes that have not been resolved;
- j. to act as a further internal point of Dispute resolution if the Dispute is not resolved by the Contract Team, including by supporting the Management Representatives to resolve a Dispute in accordance with the Dispute resolution procedure set out in clause 13.1 of the COC; and
- k. to discharge any other function that the parties agree in writing is to be a function of the Leadership Team.

3.3 Meetings

- 3.3.1 The Leadership Team shall meet at least three times a year, or at such other times as the parties may agree, generally scheduled to coincide with a Combined Services Performance Review, Contract Performance Review, or other significant review or Milestone.
- 3.3.2 The Leadership Team may invite the Commonwealth Representative and the Contractor Representative to attend meetings as advisers.
- 3.3.3 The Leadership Team may invite external advisers and observers to attend Leadership Team meetings from time to time.
- 3.3.4 The parties agree that meetings shall be conducted in accordance with the arrangements for ad hoc meetings set out in clause 3.4 of the SOW as if the Commonwealth is the party calling the meeting.

4 CONTRACT TEAM GOVERNANCE ARRANGEMENTS**4.1 Membership**

- 4.1.1 The members of the Contract Team are:

Note to drafters: Add details for members of the Contract Team that will perform the functions described below. Permanent members of the Contract Team should have a long-term involvement with the Contract, and may include representatives from Approved Subcontractors, Other Capabilities, and other Associated Parties including ADF regulatory / assurance agencies and customer units.

- a. the Commonwealth Representative;
- b. the Contractor Representative; and
- c. **[...INSERT OTHER MEMBERS AS REQUIRED...]**.

4.2 Functions

- 4.2.1 The principal functions of the Contract Team are to:
 - a. be responsible for the day to day performance of the Contract; and
 - b. report to the Leadership Team on material risks impacting the performance of the Contract or achievement against the Objectives.
- 4.2.2 The functions of the Contract Team include:

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- a. to be informed and keep up to date about the progress of work under the Contract;
- b. to exchange views about matters relevant to the work under the Contract;
- c. to ensure the parties' obligations under the Contract are being appropriately monitored and managed, with prompt action taken as necessary and appropriate by the relevant party (eg, through reallocation of resources, closer management oversight, as necessary) to support performance of the Contract;
- d. to consider and implement, where appropriate, improvements to working level arrangements and activities between the parties to achieve efficiencies and improvements in the quality of performance of the delivery of the Capability;
- e. to identify and review opportunities and risks;
- f. to ensure that appropriate action is taken to give effect to opportunities and to mitigate risks, with such action managed by Personnel best suited to do so;
- g. to assess the health of the relationship between the parties, and take rectification action, as necessary and appropriate;
- h. to give advice to the Leadership Team, as required, including by promptly escalating risks appropriately, particularly those risks which may have a material impact on achievement against the Objectives;
- i. to act as the first internal point of Dispute resolution for the parties for the purposes of the Dispute resolution procedure set out in clause 13.1 of the COC; and
- j. to discharge any other function that the parties agree in writing is to be a function of the Contract Team.

4.3 Meetings

- 4.3.1 Without limiting the Contract (including any requirement to conduct Periodic Performance Reviews or ad hoc meetings as required or permitted by the SOW), the Contract Team shall meet or otherwise communicate on an ongoing basis to ensure the effective performance of the Contract.
- 4.3.2 The Contract Team may invite external advisers and observers to attend Contract Team meetings from time to time.