

s22

From: Mark Croweller <s22 >
Sent: Friday, 8 October 2021 3:47 PM
To: National Governance
Cc: s22 ; Procure2Pay; s22 ; s22
Subject: RE: Quotation Successful - provision of Royal Commission Prioritisation Workshop Facilitation - Ethical Intelligence [SEC=OFFICIAL]

Good afternoon s22

I accept both the terms and conditions and the service provision outlined within this email.

Kind regards

Mark Croweller AFSM
Founder & Director



T s22
www.ethicalintelligence.com.au

From: National Governance
Sent: Friday, 8 October 2021 2:54 PM
To: Mark Croweller
Cc: s22 ; Procure2Pay ; s22 ; National Governance ; s22
Subject: Quotation Successful - provision of Royal Commission Prioritisation Workshop Facilitation - Ethical Intelligence [SEC=OFFICIAL]

OFFICIAL

Good afternoon Mark

I am writing to inform you of the outcome of your response to the Agency's request for quotation (RFQ) to the provision of workshop facilitation services to establish criteria for the prioritisation of Royal Commission recommendations, subsequently identify recommendations to comprise the next set of priority recommendations, and to resolve any disagreement and clarify the workshop outputs, which will then be presented to the ANZEMC for approval out of session.

I am pleased to inform you that the Agency has selected Ethical Intelligence to undertake this work in accordance with the approach set out in your response to the RFQ, as specified in the quotations received 20/09/2021 and 7/10/2021 titled QU0007 and QU0008 respectively (attached).

To support the commencement of work, I will require you to formally acknowledge and accept (by reply email)-

- the attached Commonwealth Terms and Conditions; and
- the service provision outlined within this email.

The term of this engagement will be from 21/09/2021 to 30/12/2021. With a maximum contract value of \$11,550 (including GST).

We look forward to continuing to work closely with you.

Kind regards,

s22

A/g Director | National Governance and Coordination | Disaster Risk Management Branch
National Recovery and Resilience Agency

p. s22 | m. s22

e. s22 | w. www.recovery.gov.au

121 Marcus Clarke Street Canberra ACT 2601 | PO Box 133 CANBERRA CITY ACT 2601



The National Recovery and Resilience Agency acknowledges the Traditional Owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

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C.C.1 Background:

The Customer requires the provision of certain Goods and/or Services. The Supplier has fully informed itself on all aspects of the Customer's requirements and has responded representing that it is able to meet the Statement of Requirement.

Some terms used in these *Commonwealth Contract Terms* have been given a special meaning. Their meanings are set out either in the *Commonwealth Contracting Suite Glossary* or in the relevant *Commonwealth Contract*.

C.C.2 Relationship of the Parties:

Neither party is the employee, agent, officer or partner of the other party nor, by virtue of this Contract, authorised to bind or represent the other party.

The Supplier must ensure that its officers, employees, agents or Subcontractors do not represent themselves as being an officer, employee, partner or agent of the Customer.

In all dealings related to the Contract, the parties agree to:

- (a) communicate openly with each other and cooperate in achieving the contractual objectives; and
- (b) act honestly and ethically; and
- (c) comply with reasonable commercial standards of fair conduct; and
- (d) consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces; and
- (e) comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances.

C.C.3 Conflict of Interest:

The Supplier has either declared any real or perceived conflicts of interest that might arise; or states that no conflicts of interest exist, or are anticipated, relevant to the performance of its obligations under the Contract.

If any conflict or potential conflict arises during the Contract Term, the Supplier will immediately notify the Customer and comply with any reasonable Notice given to the Supplier by the Customer in relation to the conflict. As soon as practicable, any verbal advice must be followed by written confirmation.

C.C.4 Precedence of Documents:

The Contract is comprised of:

- (a) *Additional Contract Terms* (if any);
- (b) *Statement of Work*;
- (c) *Commonwealth Contract Terms*;
- (d) *Commonwealth Contracting Suite Glossary*; and
- (e) *Contract Annex 1 – Supplementary information* (if any),

unless otherwise agreed in writing between the parties.

If there is ambiguity or inconsistency between documents comprising the Contract, the document appearing higher in the list will have precedence.

The Contract may be signed and dated by the parties on separate, but identical, copies. All signed copies constitute one (1) Contract.

C.C.5 Governing Law:

The laws of the Australian Capital Territory apply to the Contract.

C.C.6 Entire Agreement:

The Contract represents the Parties' entire agreement in relation to the subject matter, at the time this Contract was entered.

Anything that occurred before the making of this Contract shall be disregarded (unless incorporated into the Contract in writing). However, the Supplier represents that the claims made in its Response to the ATM were correct when made and remain correct.

The Parties agree that no agreement or understanding varying or extending the Contract will be legally binding upon either Party unless in writing and agreed by both Parties.

If either Party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.

C.C.7 Survival:

All Additional Contract Terms (if any), plus Clauses C.C.14 [*Liability of the Supplier*], C.C.17 [*Supplier Payments*], C.C.20 [*Transition Out*], C.C.22 [*Compliance with Commonwealth Laws and Policies*], C.C.22(A) [*Access to Supplier's Premises and Records*], C.C.22(F) [*Fraud*] survive termination or expiry of the Contract.

C.C.8 Notices:

A Notice is deemed to be effected:

- (a) if delivered by hand - upon delivery to the relevant address;
- (b) if sent by registered post - upon delivery to the relevant address; or
- (c) if transmitted electronically - upon actual delivery as evidenced by an acknowledgement of receipt from the recipient's system by any means (including by means of delivery receipt).

A Notice received after 5.00 pm, or on a day that is not a working day in the place of receipt, is deemed to be effected on the next working day in that place.

C.C.9 Assignment:

The Supplier may not assign any rights under the Contract without the Customer's written consent. To seek consent, the Supplier must provide the Customer with a Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.

To decline consent, the Customer must provide a Notice to the Supplier, setting out its reasons, within twenty-eight (28) calendar days of receiving the Notice seeking consent. Otherwise, the Customer is taken to have consented.

C.C.10 Subcontracting:

Subcontracting any part of, or the entire Supplier's obligations under the Contract, will not relieve the Supplier from any of its obligations under the Contract.

The Supplier must ensure that Subcontractors specified in Item C.A.6 [*Subcontractors*] (if any) perform that part of the Services Specified in that item. Unless otherwise agreed by the Customer (in writing) the Supplier must not subcontract any part of its obligations under the Contract other than to Subcontractors named in Item C.A.6. The Supplier must ensure that specified Subcontractors (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.

At the Customer's request, the Supplier, at no additional cost to the Customer, must promptly remove from involvement in the Contract any Subcontractor that the Customer reasonably considers should be removed.

The Supplier must make available to the Customer the details of all Subcontractors engaged to provide the Goods and/or Services under the Contract. The Supplier acknowledges that the Customer may be required to publicly disclose such information.

The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under the Contract, imposes on the Subcontractor the same obligations that the Supplier has under the Contract (including this requirement in relation to subcontracts).

C.C.11 Delivery and Acceptance:

The Supplier must provide the Goods and/or Services as specified in the *Statement of Work* and meet any requirements and standard specified in the *Statement of Work*.

The Supplier must promptly notify the Customer if the Supplier becomes aware that it will be unable to provide all or part of the Goods and/or Services specified in the *Statement of Work* and advise the Customer when it will be able to so.

Any Goods must be delivered free from any security interest. Unless otherwise stated in the Contract, Goods must be new and unused. Any Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar services and any standard specified in the *Statement of Work*.

The Customer may reject the Goods and/or Services within fourteen (14) calendar days after delivery or such longer period specified in the Contract at Item C.A.2(d) [*Delivery and Acceptance*], if the Goods and/or Services do not comply with the requirements of the Contract ("Acceptance Period").

If during the Acceptance Period circumstances outside the Customer's reasonable control cause a delay in the Customer's evaluation of the compliance of the Goods and/or Services with the Contract, the Customer may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).

If the Customer does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable), the Customer will be taken to have accepted the Goods and/or Services, though the Customer may accept the Goods and/or Services sooner. Title to Goods transfers to the Customer only on acceptance.

If the Customer rejects the Goods and/or Services, the Customer must issue a Notice clearly stating the reason for rejection and the remedy the Customer requires. No payment will be due for rejected Goods and/or Services until their acceptance.

C.C.12 Licences Approvals and Warranties:

At no cost to the Customer, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for any Goods.

The Supplier must provide the Customer with all relevant third Party warranties in respect of Goods. If the Supplier is a manufacturer, the Supplier must provide the Customer with all standard manufacturer's warranties in respect of the Goods it has manufactured and supplied.

To the extent permitted by laws and for the benefit of the Customer, the Supplier consents, and must use its best endeavours to ensure that each author of Material consents in writing, to the use by the Customer of the Material, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or Moral Rights.

C.C.13 Specified Personnel:

The Supplier must ensure that the Specified Personnel set out in Item C.A.5 [*Specified Personnel*] (if any) perform the part of the Services specified in that item. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.

At the Customer's reasonable request, the Supplier, at no additional cost to the Customer, must as soon as reasonably practicable replace any Specified Personnel that the Customer reasonably considers:

- (a) is not performing the Supplier's obligations under the Contract to the standard or within the timeframe reasonably required by the Customer;
- (b) is not a fit and proper person; or
- (c) is not suitably qualified to perform the Services.

Any Specified Personnel must be replaced with personnel that are acceptable to the Customer.

C.C.14 Liability of the Supplier:

The Supplier will indemnify the Customer and its officials against any claim, loss or damage arising in connection with any negligent or wilful breach of the Supplier's obligations or representations under the Contract.

The Supplier's obligation to indemnify the Customer and its officials will reduce proportionally to the extent that any act or omission, on the part of the Customer or its officials contributed to the claim, loss or damage.

The Supplier's liability under this clause shall not exceed the maximum applicable amount that applies to the claim loss or damage under a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002* (ACT), or any corresponding State, Territory or Commonwealth legislation, that limits the civil liability of members of particular professions arising from the performance of their professional services, where the Supplier is a member of that scheme, and where that scheme applies to the Goods and/or Services delivered under the Contract.

The Supplier will maintain adequate insurances for the Contract and provide the Customer with proof when reasonably requested.

C.C.15 Termination or Reduction for Convenience:

In addition to any other rights either party has under the Contract,

- (a) the Customer acting in good faith, may at any time; or
- (b) the Supplier, acting in good faith, may notify that it wishes to, terminate the Contract or reduce the scope or quantity of the Goods and/or Services by providing a Notice to the other Party.

If the Supplier issues a Notice under this clause, the Supplier must comply with any reasonable directions given by the Customer. The Contract will terminate, or the scope will be reduced in accordance with the Notice, when the Supplier has complied with all of those directions.

If the Customer issues a Notice under this clause, the Supplier must stop or reduce work in accordance with the Notice and comply with any reasonable directions given by the Customer.

In either case, the Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions). The Customer will pay the Supplier for Goods and/or Services accepted in accordance with clause C.C.11 [*Delivery and Acceptance*] and item C.A.2(d) [*Delivery and Acceptance*] before the effective date of termination or reduction.

If the Customer issues a Notice under this clause, the Customer will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the Customer.

Under no circumstances will the total of all payments to the Supplier exceed the Contract Price. The Supplier will not be entitled to loss of anticipated profit for any part of the Contract not performed.

C.C.16 Termination for Cause:

The Customer may issue a Notice to immediately terminate or reduce the scope of the Contract if:

- (a) the Supplier does not deliver the Goods and/or Services as specified in the Contract, or notifies the Customer that the Supplier will be unable to deliver the Goods and/or Services as specified in the Contract;
- (b) the Customer rejects the Goods and/or Services in accordance with clause C.C.11 [*Delivery and Acceptance*] and the Goods and/or Services are not remedied as required by the Notice of rejection;
- (c) the Supplier breaches a material term of the Contract and the breach is not capable of remedy;
- (d) the Supplier does not remediate a material breach of the Contract which is capable of remediation within the period specified by the Customer in a Notice of default issued to the Supplier; or
- (e) subject to the Customer complying with any requirements in the *Corporations Act 2001* (Cth), the Supplier:
 - (i) is unable to pay all its debts when they become due;
 - (ii) if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001* (Cth); or
 - (iii) if an individual – becomes bankrupt or enters into an arrangement under *Part IX* or *Part X* of the *Bankruptcy Act 1966* (Cth).

Termination of the Contract under this clause does not change the Customer's obligation to pay any Correctly Rendered Invoice.

C.C.17 Supplier Payments:

If the Supplier is required to submit an invoice to trigger payment, the invoice must be a Correctly Rendered Invoice.

The Supplier must promptly provide to the Customer such supporting documentation and other evidence reasonably required by the Customer to substantiate performance of the Contract by the Supplier.

Payment of any invoice is payment on account only, and does not substantiate performance of the Contract.

If the Supplier owes any amount to the Customer in connection with the Contract, the Customer may offset that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.

C.C.18 Dispute Resolution:

For any dispute arising under the Contract both the Supplier and the Customer agree to comply with (a) to (d) of this clause sequentially:

- (a) both Contract Managers will try to settle the dispute by direct negotiation;
- (b) if unresolved, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution;
- (c) if the proposed solution is not accepted by the other Contract Manager within five (5) business days, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by direct negotiation;
- (d) failing settlement within a further ten (10) business days, the Customer will, without delay, refer the dispute to an appropriately qualified mediator selected by the Customer or, at the Customer's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within fifteen (15) business days of the request.

Representatives for the Supplier and the Customer must attend the mediation. The nominated representatives must have the authority to bind the relevant party and act in good faith to genuinely attempt to resolve the dispute.

The Customer and the Supplier will each bear their own costs for dispute resolution. The Customer will bear the costs of a mediator.

If the dispute is not resolved within thirty (30) business days after mediation commences, either the Supplier or the Customer may commence legal proceedings.

Despite the existence of a dispute, the Supplier will (unless requested in writing by the Customer not to do so) continue their performance under the Contract.

This procedure for dispute resolution does not apply to action relating to clause C.C.16 [*Termination for Cause*] or to legal proceedings for urgent interlocutory relief.

C.C.19 Transition In:

The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Goods and/or Services from any outgoing supplier to the Supplier.

C.C.20 Transition Out:

If the Contract expires or is terminated under clause C.C.16 [*Termination for Cause*] the Supplier must comply with any reasonable directions given by the Customer in order to facilitate the smooth transition of the provision of the Goods and/or Services to the Customer or to another supplier nominated by the Customer.

C.C.21 Compliance with Laws:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with the laws from time to time in force in any jurisdiction in which any part of the Contract is performed.

C.C.22 Compliance with Commonwealth Laws and Policies:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with all Commonwealth laws and policies relevant to the Goods and/or Services and must provide such reports and other information regarding compliance as reasonably requested by the Customer or as otherwise required by a relevant law or policy.

If the Supplier becomes aware of any actual or suspected breach of the requirements set out in clauses A to G below, it must:

- (a) immediately report it to the Customer and provide a written report on the matter within five (5) business days; and
- (b) comply with any reasonable directions by the Customer in relation to any investigation or further reporting of the actual or suspected breach.

A. Access to Supplier's Premises and Records: The Supplier must maintain proper business and accounting records relating to the supply of the Goods and/or Services and performance of the Contract.

The Supplier agrees to provide to the Customer, or its nominee, access to the Supplier's, or its Subcontractor's premises, personnel, documents and other records, and all assistance reasonably requested, for any purpose associated with the Contract or any review of the Supplier's or the Customer's performance under the Contract, including (but not limited to) in connection with a request made under the *Freedom of Information Act 1982* (Cth) or audit or review by the Australian National Audit Office. Unless the access is required for the purpose of a criminal investigation into the Supplier, its employees or subcontractors, the Customer will reimburse the Supplier's substantiated reasonable cost for complying with the Customer's request.

The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Commonwealth record (as defined in the *Archives Act 1983* (Cth)) without the prior written consent of the Customer. All Commonwealth records, including any held by Subcontractors, must be returned to the Customer at the conclusion of the Contract.

B. Privacy Act 1988 (Cth) Requirements: In providing the Goods and/or Services, the Supplier agrees to comply, and to ensure that its officers, employees, agents and subcontractors comply with the *Privacy Act 1988* (Cth) and not to do anything, which if done by the Customer would breach an Australian Privacy Principle as defined in that Act.

C. Confidential Information: Other than information available in the public domain, the Supplier agrees not to disclose to any person, other than the Customer, any confidential information relating to the Contract or the Goods and/or Services, without prior written approval from the Customer. This obligation will not be breached where the Supplier is required by law or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

The Customer may at any time require the Supplier to arrange for its employees, agents or subcontractors to give a written undertaking relating to nondisclosure of the Customer's confidential information in a form acceptable to the Customer.

The Customer will keep any information in connection with the Contract confidential to the extent it has agreed in writing to keep such specified information confidential. The Customer will not be in breach of any confidentiality agreement if the Customer is required to disclose the information by law, a Minister or a House or Committee of Parliament.

D. Security and Safety: When accessing any Commonwealth place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the Customer or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and subcontractors are aware of, and comply with, such security and safety requirements.

The Supplier must ensure that all information, material and property provided by the Customer for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the Customer.

The Supplier acknowledges that unauthorised disclosure of security-classified information is an offence. Legislation (including, but not limited to, the *Criminal Code Act 1995* (Cth)) contains provisions relating to the protection of certain information and sets out the penalties for the unauthorised disclosure of that information.

E. Criminal Code: The Supplier acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth). The Supplier must ensure that any subcontractor engaged in connection with the Contract is aware of the information contained in this clause.

F. Fraud: For the purposes of this clause, Fraud means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means.

The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of this Contract.

If an investigation finds that the Supplier or its employees have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud by an employee or subcontractor, the Supplier must reimburse or compensate the Customer in full.

G. Taxation: The Supplier agrees to comply, and to require its subcontractors to comply, with all applicable laws relating to taxation.



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QUOTE

National Recovery and Resilience Agency

Date
20 Sep 2021

Quote Number
QU-0007

ABN
20 630 624 556

Ethical Intelligence Pty Ltd
s22
AUSTRALIA

Description	Quantity	Unit Price	GST	Amount AUD
Key Deliverables: 1. Preparation of a workshop discussion paper with input from the NRRA, including initial review and assessment of criteria provided by Victoria (see attached). 2. Attendance at a workshop pre-brief of approximately 30 minutes prior to commencement of workshop. 3. Facilitation of a virtual 2 hour workshop with Commonwealth and state and territory government representatives to: a. consider the criteria for assessing the Royal Commission recommendations in order to inform their prioritisation b. testing the prioritisation of a number (up to five) recommendations based on agreed criteria c. identification of a number of recommendations or recommendation themes for prioritised implementation to submit to NEMMM. 4. Documentation of workshop outcomes. 5. Post workshop de-brief for NRRA Executive team (up to 1 hour).	s47G		10%	s47G
			Subtotal	s47G
			TOTAL GST 10%	
			TOTAL AUD	



QUOTE

National Recovery and Resilience Agency
 GPO BOX 133
 CANBERRA ACT 2601
 AUSTRALIA

Date
 7 Oct 2021

Expiry
 8 Nov 2021

Quote Number
 QU-0008

ABN
 20 630 624 556

Ethical Intelligence Pty Ltd
 s22
 AUSTRALIA

Description	Quantity	Unit Price	GST	Amount AUD
Prepare, conduct, debrief, and report outcomes of an additional workshop for ANZEMC	s47G		10%	s47G
			Subtotal	
			TOTAL GST 10%	
			TOTAL AUD	



Australian Government

Commonwealth Contract – Consultancy Services

Reference ID: DCD100341

Customer

Customer Name: National Recovery and Resilience Agency
Customer ABN: 71 758 085 025
Address: PO Box 133
Canberra City ACT 2601

Supplier

Full Name of the Legal Entity: Ethical Intelligence Pty Ltd
Supplier ABN: 20 630 624 556
Address: s22



Statement of Work

C.A.1 Key Events and Dates

This Contract commences on the Contract Start Date or the date this Contract is executed, whichever is the latter, and continues for the Contract Term unless:

- a) it is terminated earlier; or
- b) the Customer exercises the Contract Extension Option, in which case this Contract will continue until the end of the extended time (unless it is terminated earlier).

Event	Details
Contract Start Date:	Friday, 28 January 2022
Contract Term:	This Contract will terminate on Thursday, 30 June 2022.
Contract Extension Option:	This Contract includes the following extension option(s): 1 X 6 Month Extension Option.

Commonwealth Contract – Consultancy Services

C.A.2 The Requirement

The supplier is engaged to:

- Review available documentation and design a workshop with State and Territory Officials to progress the development of nationally consistent Disaster Recovery Funding Arrangements (DRFA) Category A and B measures,
- Facilitate workshop with State and Territory Officials in February, and
- Finalise workshop outcomes with the Recovery Operations Branch.

C.A.2(a) Standards

The Supplier must ensure that any goods and services provided under this Contract comply with all applicable Australian standards (or in its absence an international standard) including any requirements or standards specified in this Statement of Work. If requested by the Customer, the Supplier must enable the Customer, or an independent assessor, to conduct periodic audits to confirm compliance with all applicable Australian or international standards, including, but not limited to, those specified in this Statement of Work.

Web Content Accessibility

As applicable, the Supplier must ensure that any website, associated material and/or online publications (where applicable) complies with the Web Content Accessibility Guidelines available at: <https://www.w3.org/WAI/intro/wcag>.

C.A.2(b) Security Requirements

None Specified

C.A.2(c) Work Health and Safety

Prior to commencement of this Contract, the Customer’s Contract Manager and the Supplier’s Contract Manager will identify any potential Work Health and Safety issues anticipated to arise during the term of this contract and assign management of each issue identified to the party best able to manage it. The Supplier will provide the Customer with a plan for approval.

Throughout the Contract Term, the Customer and the Supplier will proactively identify and cooperate to manage any Work Health and Safety issues that arise.

C.A.2(d) Delivery and Acceptance

Where the Customer rejects any deliverables under Clause C.C.11 [*Delivery and Acceptance*] the Customer will specify a timeframe in which the Supplier is required to rectify deficiencies, at the Supplier’s cost, so that the deliverables meet the requirements of this Contract. The Supplier must comply with any such requirement. Rectified deliverables are subject to acceptance under Clause C.C.11 [*Delivery and Acceptance*].

The Supplier will refund all payments related to the rejected deliverables unless the relevant deliverables are rectified and accepted by the Customer.

If the Supplier is unable to meet the Customer’s timeframe, the Customer may terminate this Contract in accordance with Clause C.C.16 [*Termination for Cause*].

Milestone Description	Contact for Delivery	Delivery Location/Email	Due Date
Workshop Design	Alison Sommerville	s22 [Redacted]	No later than 19 February 2022
Workshop Delivery	Alison Sommerville	s22 [Redacted]	No later than 28 February 2022

Commonwealth Contract – Consultancy Services

Final Workshop Outcomes	Alison Sommerville	s22	No later than 31 March
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C.A.2(e) Meetings

The Supplier is not required to attend meetings.

C.A.2(f) Facilities and Assistance Offered by the Customer

NRRA will provide facilities (MS Teams) to host the Workshop with jurisdictions.

NRRA will also provide assistance with note-taking for the Workshop with jurisdictions.

C.A.2(g) Customer Material

National Comparison of Disaster Recovery Funding Arrangements (DRFA) Assistance, August 2020

Minister Littleproud letter to South Australia Emergency Management Minister, Hon Corey Wingard, regarding DRFA amendments prior to the 2020-21 Season, 24 August 2020

Minister Littleproud letter to ACT Minister, Hon Mick Gentleman, advising the establishment of financial assistance benchmarks for the 2020-21 Season, 1 December 2020.

Responses received from Emergency Management Minister in Victoria, Western Australia and the Northern Territory to Minister Littleproud's 1 December 2020 letter.

NEMM Communique, 19 February 2021

DRFA Review Stakeholders Meeting Outcomes, 28 October 2021

C.A.2(h) Conflicts of Interest

The Supplier has declared that it has no actual, perceived or potential conflicts of interest relevant to the performance of its obligations under this Contract.

C.A.2(i) Public Interest Disclosure

Public officials (including service providers under a Commonwealth contract) who suspect wrongdoing within the Commonwealth public sector can raise their concerns under the *Public Interest Disclosure Act 2013* (PID Act). Prior to making a disclosure, refer to information available at: <http://www.ombudsman.gov.au/about/making-a-disclosure/information-for-disclosers>.

All Public Interest Disclosure matters (relating to this procurement) should be referred to:

Name/Position:	Public Interest Disclosure Officer
Email Address:	publicinterestdisclosure@pmc.gov.au

C.A.2(j) Complaints Handling

Any complaints relating to this procurement should be referred to:

Name/Position:	Complaints Officer
Email Address:	Complaints@pmc.gov.au

Commonwealth Contract – Consultancy Services

C.A.3 Contract Price

The maximum Contract Price inclusive of GST and all taxes and charges will not exceed **\$16,500.00** as set out below.

Fixed Price (expenses reimbursed)

Due Date	Milestone Description	Total Price GST Exclusive	GST Component	Total Price GST Inclusive
30/06/2022	Review available documentation and design a workshop with State and Territory Officials to progress the development of nationally consistent Disaster Recovery Funding Arrangements (DRFA) Category A and B measures, Facilitate workshop with State and Territory Officials in February, and Finalise workshop outcomes with the Recovery Operations Branch	\$15,000.00	\$1,500.00	\$16,500.00

Total Fixed Price for Services \$16,500.00 GST Inclusive

Adjustment to Fixed Pricing for Contract Variation/Extension

If the Contract extension option is utilised, the rates specified in this contract will be the same for the extension period.

Expenses

As the workshop with jurisdictions will be held virtually, no travel and accommodation expenses will be included in this contract.

C.A.3(a) Payment Schedule

The Total Fixed Fees and Charges will be made as a single payment on completion of contracted deliverables.

If the Supplier incurs any reimbursable expenses, the Customer will reimburse the Supplier at cost (exclusive of GST) on submission of a claim for reimbursement supported by a copy of the paid Tax Invoice.

Commonwealth Contract – Consultancy Services

C.A.4 Contract Managers and Addresses for Notices

Contract Managers are responsible for issuing or accepting any written Notices under this Contract and are the contact points for general liaison.

C.A.4(a) Customer’s Contract Manager:

The person occupying the position of: A/Assistant Director
 Currently: s22
 Telephone:
 Mobile: s22
 Email Address: s22
 Postal Address:

C.A.4(b) Customer’s Address for Invoices:

Addressee Name/Position Title: Accounts Payable
 Telephone:
 Email Address: apoperations@pmc.gov.au
 Postal Address: National Recovery and Resilience Agency
 PO Box 133
 Canberra City ACT 2601

The Customer’s preferred method of invoicing is by email.

C.A.4(c) Supplier’s Contract Manager:

Name: Mark Crossweller
 Position Title: Director
 Telephone:
 Mobile: s22
 Email Address: s22
 Postal Address: s22
 s22

C.A.4(d) Supplier’s Address for Notices

Name: Mark Crossweller
 Position Title: Founder & Director
 Email Address: s22
 Postal Address: s22
 s22

Commonwealth Contract – Consultancy Services

C.A.5 Specified Personnel

Not Applicable

C.A.6 Subcontractors

None Specified

Commonwealth Contract – Consultancy Services

Additional Contract Terms

An executed contract will incorporate the Commonwealth Contract Terms and also the following Additional Contract Terms:

C.B.1 Intellectual Property

For the purposes of this clause, “Intellectual Property Rights” means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are current or future or registered or capable of being registered, including without limitation in relation to, copyright, designs, trade marks (including unregistered marks), business and company names, domain names, database, circuit layouts, patents, inventions, discoveries, know-how, trade secrets and confidential information, but excluding Moral Rights.

The Customer owns the Intellectual Property Rights in the Material created under this Contract.

To the extent the Supplier or a third party holds any Intellectual Property Rights in any existing Material, the Supplier hereby agrees to licence the Customer to enable the Customer to exercise full rights and interests in the Intellectual Property Rights in any Material provided under this Contract. The Supplier agrees to create, execute or sign any documents and perform all acts which may be necessary to allow the use of those rights by the Customer for any purpose.

The Customer grants to the Supplier a non-exclusive, non-transferable, irrevocable, royalty-free licence for this Contract Term to exercise the Intellectual Property Rights in the Material for the sole purpose of fulfilling its obligations under this Contract. The licence in this clause is subject to any conditions or limitations of third parties that the Customer notifies to the Supplier.

Intellectual Property Rights in Goods provided under this Contract or pre-existing Intellectual Property of the Supplier, set out below (if any), will not change as a result of this Contract.

Pre-Existing Intellectual Property of the Supplier

Not Applicable

C.B.2 Confidential Information of the Supplier

Not Applicable

C.B.3 Interest on Late Payments

Where the Customer and the Supplier both have the capability to deliver and receive e-Invoices through the Pan-European Public Procurement On-Line (PEPPOL) framework and have agreed to use electronic invoicing (e-Invoicing), the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within five (5) calendar days after receiving it, or if this day is not a business day, on the next business day.

In all other circumstances, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within twenty (20) calendar days after receiving it, or if this day is not a business day, on the next business day.

If the total initial value of the Contract (excluding any options, extensions, renewals or other mechanisms that may be executed over the life of the contract) is less than A\$1 million (GST inclusive) and the Customer fails to make a payment to the Supplier by the business day it is due, the Customer will pay the unpaid amount plus interest on the unpaid amount, provided the amount of interest payable under this clause exceeds A\$100.

Interest payable under this clause will be simple interest calculated in respect of each calendar day from the day after the amount was due and payable, up to and including the day that the Customer effects payment, calculated using the General Interest Charge Rate available on the Australian Taxation Office website as it applies on the day the amount was due and payable expressed as a daily rate.

Commonwealth Contract – Consultancy Services

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Commonwealth Contract Terms

C.C.1 Background:

The Customer requires the provision of certain Goods and/or Services. The Supplier has fully informed itself on all aspects of the Customer's requirements and has responded representing that it is able to meet the Statement of Requirement.

Some terms used in these *Commonwealth Contract Terms* have been given a special meaning. Their meanings are set out either in the *Commonwealth Contracting Suite Glossary* or in the relevant *Commonwealth Contract*.

C.C.2 Relationship of the Parties:

Neither party is the employee, agent, officer or partner of the other party nor, by virtue of this Contract, authorised to bind or represent the other party.

The Supplier must ensure that its officers, employees, agents or Subcontractors do not represent themselves as being an officer, employee, partner or agent of the Customer.

In all dealings related to the Contract, the parties agree to:

- (a) communicate openly with each other and cooperate in achieving the contractual objectives; and
- (b) act honestly and ethically; and
- (c) comply with reasonable commercial standards of fair conduct; and
- (d) consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces; and
- (e) comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances.

C.C.3 Conflict of Interest:

The Supplier has either declared any real or perceived conflicts of interest that might arise; or states that no conflicts of interest exist, or are anticipated, relevant to the performance of its obligations under the Contract.

If any conflict or potential conflict arises during the Contract Term, the Supplier will immediately notify the Customer and comply with any reasonable Notice given to the Supplier by the Customer in relation to the conflict. As soon as practicable, any verbal advice must be followed by written confirmation.

C.C.4 Precedence of Documents:

The Contract is comprised of:

- (a) *Additional Contract Terms* (if any);
- (b) *Statement of Work*;
- (c) *Commonwealth Contract Terms*;
- (d) *Commonwealth Contracting Suite Glossary*; and
- (e) *Contract Annex 1 – Supplementary information* (if any),

unless otherwise agreed in writing between the parties.

If there is ambiguity or inconsistency between documents comprising the Contract, the document appearing higher in the list will have precedence.

The Contract may be signed and dated by the parties on separate, but identical, copies. All signed copies constitute one (1) Contract.

C.C.5 Governing Law:

The laws of the Australian Capital Territory apply to the Contract.

C.C.6 Entire Agreement:

The Contract represents the Parties' entire agreement in relation to the subject matter, at the time this Contract was entered.

Anything that occurred before the making of this Contract shall be disregarded (unless incorporated into the Contract in writing). However, the Supplier represents that the claims made in its Response to the ATM were correct when made and remain correct.

The Parties agree that no agreement or understanding varying or extending the Contract will be legally binding upon either Party unless in writing and agreed by both Parties.

If either Party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.

C.C.7 Survival:

All Additional Contract Terms (if any), plus Clauses C.C.14 [*Liability of the Supplier*], C.C.17 [*Supplier Payments*], C.C.20 [*Transition Out*], C.C.22 [*Compliance with Commonwealth Laws and Policies*], C.C.22(A) [*Access to Supplier's Premises and Records*], C.C.22(F) [*Fraud*] survive termination or expiry of the Contract.

C.C.8 Notices:

A Notice is deemed to be effected:

- (a) if delivered by hand - upon delivery to the relevant address;
- (b) if sent by registered post - upon delivery to the relevant address; or
- (c) if transmitted electronically - upon actual delivery as evidenced by an acknowledgement of receipt from the recipient's system by any means (including by means of delivery receipt).

A Notice received after 5.00 pm, or on a day that is not a working day in the place of receipt, is deemed to be effected on the next working day in that place.

C.C.9 Assignment:

The Supplier may not assign any rights under the Contract without the Customer's written consent. To seek consent, the Supplier must provide the Customer with a Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.

To decline consent, the Customer must provide a Notice to the Supplier, setting out its reasons, within twenty-eight (28) calendar days of receiving the Notice seeking consent. Otherwise, the Customer is taken to have consented.

C.C.10 Subcontracting:

Subcontracting any part of, or the entire Supplier's obligations under the Contract, will not relieve the Supplier from any of its obligations under the Contract.

The Supplier must ensure that Subcontractors specified in Item C.A.6 [*Subcontractors*] (if any) perform that part of the Services Specified in that item. Unless otherwise agreed by the Customer (in writing) the Supplier must not subcontract any part of its obligations under the Contract other than to Subcontractors named in Item C.A.6. The Supplier must ensure that specified Subcontractors (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.

At the Customer's request, the Supplier, at no additional cost to the Customer, must promptly remove from involvement in the Contract any Subcontractor that the Customer reasonably considers should be removed.

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Commonwealth Contract Terms

The Supplier must make available to the Customer the details of all Subcontractors engaged to provide the Goods and/or Services under the Contract. The Supplier acknowledges that the Customer may be required to publicly disclose such information.

The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under the Contract, imposes on the Subcontractor the same obligations that the Supplier has under the Contract (including this requirement in relation to subcontracts).

C.C.11 Delivery and Acceptance:

The Supplier must provide the Goods and/or Services as specified in the *Statement of Work* and meet any requirements and standard specified in the *Statement of Work*.

The Supplier must promptly notify the Customer if the Supplier becomes aware that it will be unable to provide all or part of the Goods and/or Services specified in the *Statement of Work* and advise the Customer when it will be able to so.

Any Goods must be delivered free from any security interest. Unless otherwise stated in the Contract, Goods must be new and unused. Any Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar services and any standard specified in the *Statement of Work*.

The Customer may reject the Goods and/or Services within fourteen (14) calendar days after delivery or such longer period specified in the Contract at Item C.A.2(d) [*Delivery and Acceptance*], if the Goods and/or Services do not comply with the requirements of the Contract ("Acceptance Period").

If during the Acceptance Period circumstances outside the Customer's reasonable control cause a delay in the Customer's evaluation of the compliance of the Goods and/or Services with the Contract, the Customer may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).

If the Customer does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable), the Customer will be taken to have accepted the Goods and/or Services, though the Customer may accept the Goods and/or Services sooner. Title to Goods transfers to the Customer only on acceptance.

If the Customer rejects the Goods and/or Services, the Customer must issue a Notice clearly stating the reason for rejection and the remedy the Customer requires. No payment will be due for rejected Goods and/or Services until their acceptance.

C.C.12 Licences Approvals and Warranties:

At no cost to the Customer, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for any Goods.

The Supplier must provide the Customer with all relevant third Party warranties in respect of Goods. If the Supplier is a manufacturer, the Supplier must provide the Customer with all standard manufacturer's warranties in respect of the Goods it has manufactured and supplied.

To the extent permitted by laws and for the benefit of the Customer, the Supplier consents, and must use its best endeavours to ensure that each author of Material consents in writing, to the use by the Customer of the Material, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or Moral Rights.

C.C.13 Specified Personnel:

The Supplier must ensure that the Specified Personnel set out in Item C.A.5 [*Specified Personnel*] (if any) perform the part of the Services specified in that item. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.

At the Customer's reasonable request, the Supplier, at no additional cost to the Customer, must as soon as reasonably practicable replace any Specified Personnel that the Customer reasonably considers:

- (a) is not performing the Supplier's obligations under the Contract to the standard or within the timeframe reasonably required by the Customer;
- (b) is not a fit and proper person; or
- (c) is not suitably qualified to perform the Services.

Any Specified Personnel must be replaced with personnel that are acceptable to the Customer.

C.C.14 Liability of the Supplier:

The Supplier will indemnify the Customer and its officials against any claim, loss or damage arising in connection with any negligent or wilful breach of the Supplier's obligations or representations under the Contract.

The Supplier's obligation to indemnify the Customer and its officials will reduce proportionally to the extent that any act or omission, on the part of the Customer or its officials contributed to the claim, loss or damage.

The Supplier's liability under this clause shall not exceed the maximum applicable amount that applies to the claim loss or damage under a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002* (ACT), or any corresponding State, Territory or Commonwealth legislation, that limits the civil liability of members of particular professions arising from the performance of their professional services, where the Supplier is a member of that scheme, and where that scheme applies to the Goods and/or Services delivered under the Contract.

The Supplier will maintain adequate insurances for the Contract and provide the Customer with proof when reasonably requested.

C.C.15 Termination or Reduction for Convenience:

In addition to any other rights either party has under the Contract,

- (a) the Customer acting in good faith, may at any time; or
- (b) the Supplier, acting in good faith, may notify that it wishes to, terminate the Contract or reduce the scope or quantity of the Goods and/or Services by providing a Notice to the other Party.

If the Supplier issues a Notice under this clause, the Supplier must comply with any reasonable directions given by the Customer. The Contract will terminate, or the scope will be reduced in accordance with the Notice, when the Supplier has complied with all of those directions.

If the Customer issues a Notice under this clause, the Supplier must stop or reduce work in accordance with the Notice and comply with any reasonable directions given by the Customer.

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In either case, the Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions). The Customer will pay the Supplier for Goods and/or Services accepted in accordance with clause C.C.11 [Delivery and Acceptance] and item C.A.2(d) [Delivery and Acceptance] before the effective date of termination or reduction.

If the Customer issues a Notice under this clause, the Customer will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the Customer.

Under no circumstances will the total of all payments to the Supplier exceed the Contract Price. The Supplier will not be entitled to loss of anticipated profit for any part of the Contract not performed.

C.C.16 Termination for Cause:

The Customer may issue a Notice to immediately terminate or reduce the scope of the Contract if:

- (a) the Supplier does not deliver the Goods and/or Services as specified in the Contract, or notifies the Customer that the Supplier will be unable to deliver the Goods and/or Services as specified in the Contract;
- (b) the Customer rejects the Goods and/or Services in accordance with clause C.C.11 [Delivery and Acceptance] and the Goods and/or Services are not remedied as required by the Notice of rejection;
- (c) the Supplier breaches a material term of the Contract and the breach is not capable of remedy;
- (d) the Supplier does not remediate a material breach of the Contract which is capable of remediation within the period specified by the Customer in a Notice of default issued to the Supplier; or
- (e) subject to the Customer complying with any requirements in the *Corporations Act 2001* (Cth), the Supplier:
 - (i) is unable to pay all its debts when they become due;
 - (ii) if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001* (Cth); or
 - (iii) if an individual – becomes bankrupt or enters into an arrangement under *Part IX* or *Part X* of the *Bankruptcy Act 1966* (Cth).

Termination of the Contract under this clause does not change the Customer's obligation to pay any Correctly Rendered Invoice.

C.C.17 Supplier Payments:

If the Supplier is required to submit an invoice to trigger payment, the invoice must be a Correctly Rendered Invoice.

The Supplier must promptly provide to the Customer such supporting documentation and other evidence reasonably required by the Customer to substantiate performance of the Contract by the Supplier.

Payment of any invoice is payment on account only, and does not substantiate performance of the Contract.

If the Supplier owes any amount to the Customer in connection with the Contract, the Customer may offset that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.

C.C.18 Dispute Resolution:

For any dispute arising under the Contract both the Supplier and the Customer agree to comply with (a) to (d) of this clause sequentially:

- (a) both Contract Managers will try to settle the dispute by direct negotiation;
- (b) if unresolved, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution;
- (c) if the proposed solution is not accepted by the other Contract Manager within five (5) business days, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by direct negotiation;
- (d) failing settlement within a further ten (10) business days, the Customer will, without delay, refer the dispute to an appropriately qualified mediator selected by the Customer or, at the Customer's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within fifteen (15) business days of the request.

Representatives for the Supplier and the Customer must attend the mediation. The nominated representatives must have the authority to bind the relevant party and act in good faith to genuinely attempt to resolve the dispute.

The Customer and the Supplier will each bear their own costs for dispute resolution. The Customer will bear the costs of a mediator.

If the dispute is not resolved within thirty (30) business days after mediation commences, either the Supplier or the Customer may commence legal proceedings.

Despite the existence of a dispute, the Supplier will (unless requested in writing by the Customer not to do so) continue their performance under the Contract.

This procedure for dispute resolution does not apply to action relating to clause C.C.16 [Termination for Cause] or to legal proceedings for urgent interlocutory relief.

C.C.19 Transition In:

The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Goods and/or Services from any outgoing supplier to the Supplier.

C.C.20 Transition Out:

If the Contract expires or is terminated under clause C.C.16 [Termination for Cause] the Supplier must comply with any reasonable directions given by the Customer in order to facilitate the smooth transition of the provision of the Goods and/or Services to the Customer or to another supplier nominated by the Customer.

C.C.21 Compliance with Laws:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with the laws from time to time in force in any jurisdiction in which any part of the Contract is performed.

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C.C.22 Compliance with Commonwealth Laws and Policies:

The Supplier must comply with, and ensure its officers, employees, agents and subcontractors comply with all Commonwealth laws and policies relevant to the Goods and/or Services and must provide such reports and other information regarding compliance as reasonably requested by the Customer or as otherwise required by a relevant law or policy.

If the Supplier becomes aware of any actual or suspected breach of the requirements set out in clauses A to G below, it must:

- (a) immediately report it to the Customer and provide a written report on the matter within five (5) business days; and
- (b) comply with any reasonable directions by the Customer in relation to any investigation or further reporting of the actual or suspected breach.

A. Access to Supplier's Premises and Records: The Supplier must maintain proper business and accounting records relating to the supply of the Goods and/or Services and performance of the Contract.

The Supplier agrees to provide to the Customer, or its nominee, access to the Supplier's, or its Subcontractor's premises, personnel, documents and other records, and all assistance reasonably requested, for any purpose associated with the Contract or any review of the Supplier's or the Customer's performance under the Contract, including (but not limited to) in connection with a request made under the *Freedom of Information Act 1982* (Cth) or audit or review by the Australian National Audit Office. Unless the access is required for the purpose of a criminal investigation into the Supplier, its employees or subcontractors, the Customer will reimburse the Supplier's substantiated reasonable cost for complying with the Customer's request.

The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Commonwealth record (as defined in the *Archives Act 1983* (Cth)) without the prior written consent of the Customer. All Commonwealth records, including any held by Subcontractors, must be returned to the Customer at the conclusion of the Contract.

B. Privacy Act 1988 (Cth) Requirements: In providing the Goods and/or Services, the Supplier agrees to comply, and to ensure that its officers, employees, agents and subcontractors comply with the *Privacy Act 1988* (Cth) and not to do anything, which if done by the Customer would breach an Australian Privacy Principle as defined in that Act.

C. Confidential Information: Other than information available in the public domain, the Supplier agrees not to disclose to any person, other than the Customer, any confidential information relating to the Contract or the Goods and/or Services, without prior written approval from the Customer. This obligation will not be breached where the Supplier is required by law or a stock exchange to disclose the relevant information or where the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation).

The Customer may at any time require the Supplier to arrange for its employees, agents or subcontractors to give a written undertaking relating to nondisclosure of the Customer's confidential information in a form acceptable to the Customer.

The Customer will keep any information in connection with the Contract confidential to the extent it has agreed in writing to keep such specified information confidential. The Customer will not be in breach of any confidentiality agreement if the Customer is required to disclose the information by law, a Minister or a House or Committee of Parliament.

D. Security and Safety: When accessing any Commonwealth place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the Customer or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and subcontractors are aware of, and comply with, such security and safety requirements.

The Supplier must ensure that all information, material and property provided by the Customer for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the Customer.

The Supplier acknowledges that unauthorised disclosure of security-classified information is an offence. Legislation (including, but not limited to, the *Criminal Code Act 1995* (Cth)) contains provisions relating to the protection of certain information and sets out the penalties for the unauthorised disclosure of that information.

E. Criminal Code: The Supplier acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth). The Supplier must ensure that any subcontractor engaged in connection with the Contract is aware of the information contained in this clause.

F. Fraud: For the purposes of this clause, Fraud means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means.

The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of this Contract.

If an investigation finds that the Supplier or its employees have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud by an employee or subcontractor, the Supplier must reimburse or compensate the Customer in full.

G. Taxation: The Supplier agrees to comply, and to require its subcontractors to comply, with all applicable laws relating to taxation.



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Commonwealth Contract – Consultancy Services

Commonwealth Contracting Suite (CCS) Glossary

In the Commonwealth Contracting Suite:

A reference to:

- a) a clause in the form A.A.[x] – is a reference to a clause of the **Approach to Market**;
- b) a clause in the form A.B.[x] – is a reference to a clause of the **Commonwealth ATM Terms**;
- c) an item in the form C.A.[x] – is a reference to an item in the **Statement of Work**;
- d) a clause in the form C.B.[x] – is a reference to a clause in the **Additional Contract Terms**;
- e) a clause in the form C.C.[x] – is a reference to a clause of the **Commonwealth Contract Terms** or the **Commonwealth Purchase Order Terms**, as the case may be.

“**Additional Contract Terms**” means the terms and conditions set out in the section of the Contract with the heading ‘Additional Contract Terms’.

“**Approach to Market or ATM**” means the notice inviting potential suppliers to participate in the procurement.

“**Closing Time**” means the closing time specified in clause A.A.1 [*Key Events and Dates*].

“**Contract**” means the documentation specified in clause C.C.4 [*Precedence of Documents*].

“**Contract Extension Option**” means an option of a Customer to extend the term of a Contract for one or more additional time periods.

“**Contract Manager**” means the contract manager for the Customer and/or Supplier (as relevant) specified in the Contract.

“**Contract Price**” means the total contract price specified in the Contract, including any GST component payable, but does not include any simple interest payable on late payments.

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

- a) is correctly addressed and calculated in accordance with the Contract;
- b) relates only to Goods and/or Services that have been accepted by the Customer in accordance with the Contract;
- c) includes any purchase order number, and the name and phone number of the Customer’s Contract Manager;
- d) is for an amount which, together with all previously Correctly Rendered Invoices, does not exceed the Contract Price; and
- e) is a valid tax invoice in accordance with the GST Act.

“**Customer**” means a party specified in a Contract as a Customer.

“**Delivery and Acceptance**” means the process by which Goods and/or Services are delivered to a Customer and accepted by the Customer as meeting the terms specified in the Contract.

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

“**Goods and/or Services**” means:

- a) the Goods, Services, or Goods and Services and any Material specified in the Contract; and
- b) all such incidental Goods and Services that are reasonably required to achieve the purposes of the Customer as specified in the Contract.

“**GST Act**” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“**GST**” means a Commonwealth goods and services tax imposed by the GST Act.

“**Intellectual Property Rights**” means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are registered or capable of being registered.

Commonwealth Contract – Consultancy Services

Commonwealth Contracting Suite (CCS) Glossary

“Material” means any material brought into existence as a part of, or for the purpose of producing the Goods and/or Services, and includes but is not limited to documents, equipment, information or data stored by any means.

“Moral Rights” means the rights in *Part IX of the Copyright Act 1968 (Cth)*, including the right of attribution, the right against false attribution and the right of integrity.

“Notice” means an official notice or communication under the Contract in writing, from one Contract Manager and delivered to the other Contract Manager, at the postal address, or email address, or facsimile number set out in the Contract or as notified from time to time.

“Requirement” means the description of the Goods and Services described in:

- a) for the purposes of the Commonwealth ATM Terms the section of the Approach to Market with the heading ‘Requirement’;
- b) for the purposes of the Commonwealth Contract Terms the section of the Statement of Work with the heading ‘Requirement’;
- c) for the purposes of the Commonwealth Purchase Order Terms the document setting out the Goods and/or Services.

“Specified Personnel” means the personnel specified in the Contract or such other personnel who are accepted by the Customer in accordance with clause C.C.13 [*Specified Personnel*].

“Statement of Requirement” means the section of the Approach to Market with the heading ‘Statement of Requirement’.

“Statement of Work” means the section of the Contract, as the case may be, with the heading ‘Statement of Work’.

“Supplier” means a party specified in a Contract as a Supplier.

Contract Signing Page

The Parties agree that by signing this Commonwealth Contract – Consultancy Services, they enter into a Contract comprising:

- a) Additional Contract Terms (if any);
- b) Statement of Work;
- c) Commonwealth Contract Terms;
- d) Commonwealth Contracting Suite Glossary; and
- e) Contract Annex 1 – Supplementary Information (if any).

EXECUTED as an Agreement

Signed for and on behalf of the **Commonwealth of Australia** as represented by National Recovery and Resilience Agency **ABN** 71 758 085 025 by its duly authorised delegate in the presence of

Signature of witness

s22

[Redacted signature]

Name of witness (*print*)

s22

[Redacted name]

Signature of delegate

s22

[Redacted signature]

Name of delegate (*print*)

Alison Sommerville

Position of delegate (*print*)

Executive Director Recovery Operations

Date:

15 February 2022

Executed by Ethical Intelligence Pty Ltd **ABN** 20 630 624 556 in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

s22

[Redacted signature]

Name of director (*print*)

MARK CROSBY

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

Name of director/company secretary (*print*)

Date:

14TH February 2022

CONTRACT VARIATION FORM

CONTRACT AMENDMENT #1

TO CONTRACT: DRFA Review - National Consistency Workshops
CONTRACT REFERENCE ID: DCD100341
AUSTENDER CONTRACT ID: CN3854416

For the provision of:
Development and facilitation of workshops on National Consistency of DRFA Cat A and B Measures

Customer

Customer Name: National Recovery and Resilience Agency
Customer ABN: 71 758 085 025
Address: PO Box 133
Canberra City ACT 2601
Contact Officer: s22
Position: A/Assistant Director
Branch/Division: Recovery Operations
Telephone: s22
Email Address: s22

Supplier

Supplier Name: Ethical Intelligence Pty Ltd
Supplier ABN: 20 630 624 556
Address: s22
Telephone: s22
Email Address: s22
Supplier Reference ID: 30231

Contract Details

There will be no change to the Contract value as a result of other Contract changes.
 The Contract changes as verbally agreed by the Customer and the Supplier are as follows:

Contract Term

Current Contract End Date:	30/06/2022
New End Date:	31/12/2022

Contract Value

	Contract Value (GST exclusive)	GST	Total Contract Value (GST Inclusive)
Previous Contract Value (AUD)	\$15,000.00	\$1,500.00	\$16,500.00

Description of Contract Changes

Extension of Contract term.

Signed for and on behalf of the Commonwealth of Australia as represented by National Recovery and Resilience Agency

Customer's Contract Manager

Name:

MARK CROSWELL

Signature:

s22

Date:

23 JUNE 2022

Signed for and on behalf of Ethical Intelligence Pty Ltd

Supplier's Contract Manager

Name:

Alison Sommerville

Position:

Executive Director

Signature:

s22

Date:

23/6/22



Australian Government

Commonwealth Contract – Consultancy Services

Reference ID: R23-1303

Customer

Customer Name: National Emergency Management Agency
Customer ABN: 40 816 261 802
Address: Level 3
121 Marcus Clarke St
Canberra ACT 2601

Supplier

Full Name of the Legal Entity: Ethical Intelligence Pty Ltd
Supplier ABN: 20 630 624 556
Address: s22 [REDACTED]
[REDACTED]

Statement of Work

C.A.1 Key Events and Dates

This Contract commences on the Contract Start Date or the date this Contract is executed, whichever is the latter, and continues for the Contract Term unless:

- a) it is terminated earlier or
- b) the Customer exercises the Contract Extension Option, in which case this Contract will continue until the end of the extended time (unless it is terminated earlier).

Event	Details
Contract Start Date:	Wednesday, 8 March 2023
Contract Term:	This Contract will terminate on Sunday, 30 April 2023.
Contract Extension Option:	This Contract includes the following extension option(s): 1x1 month extension.

C.A.2 The Requirement

The Disaster Ready Fund (DRF) is the Australian Government's flagship disaster risk reduction initiative, which will deliver up to \$1 billion over five-years to fund projects that will help curb the devastating impacts of natural hazards. Successful projects will be agreed by the Minister for Emergency Management, Senator the Hon Murray Watt, based on the recommendations of the DRF Round One Assessment Panel. The Panel will be chaired by the National Emergency Management Agency (NEMA), supported by representatives who will use their leadership, experience and expertise to conduct a competitive, merit-based assessment of all eligible DRF applications. NEMA is seeking to procure Dr Mark Crossweller, Ethical Intelligence's services to support this assessment process.

Dr Crossweller has significant experience, standing and background in disaster risk reduction and his skills will support a proper assessment of proposals.

Dr Crossweller will be expected to review the project proposals submitted as part of Round One in preparation for a three-day in-person assessment panel process. As part of the panel, Dr Crossweller will provide recommendations on project suitability based on provision of scores against the set criteria, as well as providing supporting commentary where relevant. Dr Crossweller may be required to provide additional support to the process after the three-day panel to confirm project rankings and prioritisation prior to seeking formal endorsement of successful projects by the Minister for Emergency Management. Dr Crossweller was recommended to participate by SES within the National Emergency Management Agency, based on previous interactions and engagements on similar activities.

C.A.2(a) Standards

The Supplier must ensure that any goods and services provided under this Contract comply with all applicable Australian standards and any Australian and international standards specified in this Statement of Work. The Supplier must ensure that it obtains copies of all relevant certifications and maintains records evidencing its compliance with those standards. If requested by the Customer, the Supplier must enable the Customer, or an independent assessor, to conduct periodic audits to confirm compliance with those standards.

Web Content Accessibility

As applicable, the Supplier must ensure that any website, associated material and/or online publications (where applicable) complies with the Web Content Accessibility Guidelines available at: <https://www.w3.org/WAI/intro/wcag>.

C.A.2(b) Security Requirements

None Specified

C.A.2(c) Work Health and Safety

Prior to commencement of this Contract, the Customer's Contract Manager and the Supplier's Contract Manager will identify any potential work health and safety (WHS) issues anticipated to arise during the term of this contract and assign management of each issue identified to the party best able to manage it. For all issues assigned to the Supplier, the Supplier will provide the Customer with a WHS plan for approval and no work will commence until the plan is approved unless agreed in writing by the Customer.

Throughout the Contract Term, the Customer and the Supplier will proactively identify and cooperate to manage any WHS issues that arise.

C.A.2(d) Delivery and Acceptance

Where the Customer rejects any deliverables under Clause C.C.11 [*Delivery and Acceptance*] the Customer will specify a timeframe in which the Supplier is required to rectify deficiencies, at the Supplier's cost, so that the deliverables meet the requirements of this Contract. The Supplier must comply with any such requirement. Rectified deliverables are subject to acceptance under Clause C.C.11 [*Delivery and Acceptance*].

The Supplier will refund all payments related to the rejected deliverables unless the relevant deliverables are rectified and accepted by the Customer.

If the Supplier is unable to meet the Customer’s timeframe, the Customer may terminate this Contract in accordance with Clause C.C.16 [*Termination for Cause*].

Milestone Description	Contact for Delivery	Delivery Location/Email	Due Date
Endorsement of the DRF Round One Assessment Report following the Assessment Panel meeting	s22	disaster.ready@nema.gov.au	30/04/2023

C.A.2(e) Meetings

The Supplier is required to attend meetings as follows:

Meeting Type	Position Required	Frequency	Mode	Location
Assessment Panel		One-off	On-site	Lvl 3, 121 Marcus Clarke St, Canberra ACT 2601

C.A.2(f) Facilities and Assistance Offered by the Customer

The Customer will not make any facilities or assistance available to the Supplier.

C.A.2(g) Customer Material

NEMA will provide Dr Croweller with access to the project proposals submitted for consideration as part of the Disaster Ready Fund Round One. This will include any relevant attachments related to the proposals, as well as information on the preliminary scorings produced by the Pre-Assessment Team. Dr Croweller will also have access to the suite of Program documents developed to support the delivery of the Disaster Ready Fund, including Round One Guidelines and Assessment Framework.

C.A.2(h) Conflicts of Interest

The Supplier has declared that it has no Conflicts of Interest relevant to the performance of its obligations under this Contract.

C.A.2(i) Public Interest Disclosure

For information about how to make a Public Interest Disclosure, please refer to the information provided on the Customer’s website: <https://nema.gov.au/about-us/governance-and-reporting/privacy-and-disclosures>.

All Public Interest Disclosure matters (relating to this procurement) should be referred to:

Name/Position:	s22 / Assistant Director
Email Address:	disaster.ready@nema.gov.au
Telephone:	

C.A.2(j) Complaints Handling

Any complaints relating to this procurement should be referred to:

Name/Position:	s22 / Assistant Director
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NEMA FOI 2324-18

Document 4

Email Address:	disaster.ready@nema.gov.au
Telephone:	

C.A.3 Contract Price

The maximum Contract Price inclusive of GST and all taxes and charges will not exceed **\$16,830.00** as set out below.

Fixed Price (including all expenses)

Due Date	Milestone Description	Total Price GST Exclusive	GST Component	Total Price GST Inclusive
30/04/2023	Endorsement of the DRF Round One Assessment Report following the Assessment Panel meeting	\$15,300.00	\$1,530.00	\$16,830.00

Total Fixed Price for Services \$16,830.00 GST Inclusive

Adjustment to Fixed Pricing for Contract Variation/Extension

N/A

C.A.3(a) Payment Schedule

The Total Fixed Fees and Charges will be made as a single payment on completion of contracted deliverables.

C.A.4 Contract Managers and Addresses for Notices

Contract Managers are responsible for issuing or accepting any written Notices under this Contract and are the contact points for general liaison.

C.A.4(a) Customer's Contract Manager:

The person occupying the position of: EL2 Director
 Currently: s22
 Telephone: s22
 Mobile:
 Email Address: s22
 Postal Address: 10 Felix St

 Brisbane QLD 4001

C.A.4(b) Customer's Address for Invoices:

Addressee Name/Position Title: s22 /EL2 Director
 Telephone: s22
 Peppol ID:
 Email Address: s22
 Postal Address: Level 3
 121 Marcus Clarke St
 Canberra ACT 2601

The Customer's preferred method of invoicing is by email.

C.A.4(c) Supplier's Contract Manager:

Name: Dr Mark Crossweller
 Position Title: Director
 Telephone:
 Mobile:
 Email Address: s22
 Postal Address: s22

 s22

C.A.4(d) Supplier's Address for Notices

Name: Dr Mark Crossweller
 Position Title: Director
 Email Address: s22
 Postal Address: s22

 s22

C.A.5 Specified Personnel

Position/Role	Name	Current Security Clearance Level	Percentage of Total Project Time
Director	Dr Mark Crosweller		100%

C.A.6 Subcontractors

None Specified

Additional Contract Terms

An executed contract will incorporate the Commonwealth Contract Terms and also the following Additional Contract Terms:

C.B.1 Intellectual Property

The Customer owns the Intellectual Property Rights in the Material created under this Contract.

To the extent the Supplier or a third party holds any Intellectual Property Rights in any existing Material, the Supplier hereby agrees to licence the Customer to enable the Customer to exercise full rights and interests in the Intellectual Property Rights in any Material provided under this Contract. The Supplier agrees to create, execute or sign any documents and perform all acts which may be necessary to allow the use of those rights by the Customer for any purpose.

The Customer grants to the Supplier a non-exclusive, non-transferable, irrevocable, royalty-free licence for this Contract Term to exercise the Intellectual Property Rights in the Material for the sole purpose of fulfilling its obligations under this Contract. The licence in this clause is subject to any conditions or limitations of third parties that the Customer notifies to the Supplier.

Intellectual Property Rights in Goods provided under this Contract or pre-existing Intellectual Property of the Supplier, set out below (if any), will not change as a result of this Contract.

Pre-Existing Intellectual Property of the Supplier

Not Applicable

C.B.2 Confidential Information of the Supplier

Not Applicable

C.B.3 Payment Terms

Where the Customer and the Supplier both have the capability to deliver and receive eInvoices through the Peppol framework and have agreed to use eInvoicing, following receipt of a Correctly Rendered Invoice, including acceptance of the Goods and/or Services by the Customer, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within five (5) calendar days after receiving it, or if this day is not a Business Day, on the next Business Day.

In all other circumstances following receipt of a Correctly Rendered Invoice, including acceptance of the Goods and/or Services by the Customer, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within twenty (20) calendar days after receiving it, or if this day is not a Business Day, on the next Business Day.

Where the Customer fails to make a payment to the Supplier by the Business Day it is due, the Customer will pay the unpaid amount plus interest on the unpaid amount, provided the amount of interest payable under this clause exceeds A\$100.

Interest payable under this clause will be simple interest calculated in respect of each calendar day from the day after the amount was due and payable, up to and including the day that the Customer effects payment, calculated using the General Interest Charge Rate as published on the Australian Taxation Office website [https://www.ato.gov.au/Rates/General-interest-charge-\(GIC\)-rates/](https://www.ato.gov.au/Rates/General-interest-charge-(GIC)-rates/).

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C.C.1 Background

- 1.1 The Customer requires the provision of certain Goods and/or Services. The Supplier has fully informed itself on all aspects of the Customer's requirements and has responded representing that it is able to meet the Requirement.
- 1.2 Some terms used in these Commonwealth Contract Terms have been given a special meaning. Their meanings are set out in the Commonwealth Contracting Suite (CCS) Glossary and Interpretation or in the Contract.

C.C.2 Relationship of the Parties

- 2.1 By virtue of this Contract, neither Party is the employee, agent, officer or partner of the other Party nor authorised to bind or represent the other Party.
- 2.2 Each Party must ensure that its officers, employees, agents or Subcontractors do not represent themselves as being an officer, employee, partner or agent of the other Party.
- 2.3 In all dealings related to the Contract, the Parties agree to:
 - a) communicate openly with each other and cooperate in achieving the contractual objectives
 - b) act honestly and ethically
 - c) comply with reasonable commercial standards of fair conduct
 - d) consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces, and
 - e) comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances.

C.C.3 Conflicts of Interest

- 3.1 The Supplier warrants that, other than as previously declared in writing to the Customer at the commencement of the Contract, no Conflicts of Interest exist, relevant to the performance by the Supplier of its obligations under the Contract.
- 3.2 At any time during the term of the Contract, the Customer may require the Supplier to execute a Conflicts of Interest declaration in the form specified by the Customer.
- 3.3 As soon as the Supplier becomes aware that a Conflict of Interest has arisen, or is likely to arise during the term of the Contract, the Supplier will:
 - a) immediately report it to the Customer
 - b) provide the Customer with a written report setting out all relevant information within three (3) Business Days, and
 - c) comply with any reasonable requirements notified by the Customer relating to the Conflict of Interest.

- 3.4 If the Supplier fails to notify the Customer as set out in this clause or does not comply with the Customer's reasonable requirements to resolve or manage Conflicts of Interest, the Customer may terminate or reduce the scope of the Contract in accordance with C.C.16 [Termination for Cause].

C.C.4 Precedence of Documents

- 4.1 The Contract is comprised of:
 - a) Additional Contract Terms (if any)
 - b) if the Contract is issued under a DoSO, the Contract Details Schedule
 - c) Statement of Work
 - d) Commonwealth Contract Terms
 - e) CCS Glossary and Interpretation, and
 - f) additional Contract annexes (if any), unless otherwise agreed in writing between the Parties.
- 4.2 If there is ambiguity or inconsistency between documents comprising the Contract, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.
- 4.3 The Contract may be signed and dated by the Parties on separate, but identical, copies. All signed copies constitute one (1) Contract.

C.C.5 Governing Law

- 5.1 The laws of the Australian Capital Territory apply to the Contract.

C.C.6 Entire Agreement

- 6.1 The Contract represents the Parties' entire agreement in relation to the subject matter, at the time this Contract was executed.
- 6.2 Anything that occurred before the making of this Contract shall be disregarded (unless incorporated into the Contract in writing). However, the Supplier represents that the claims made in its Response to the ATM or the RFQ as relevant remain correct.
- 6.3 Any agreement or understanding to vary or extend the Contract will not be legally binding upon either Party unless in writing and agreed by both Parties.
- 6.4 If either Party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.

C.C.7 Survival

- 7.1 All Additional Contract Terms (if any), plus clauses: C.C.14 [Liability of the Supplier] C.C.17 [Supplier Payments] C.C.20 [Transition Out], and C.C.21 [Compliance with Law and Policy], survive termination or expiry of the Contract.

C.C.8 Notices

- 8.1 A Notice is deemed to be delivered:
 - a) if delivered by hand - on delivery to the relevant address
 - b) if sent by registered post - on delivery to the relevant address, or

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- c) if transmitted by email or other electronic means when it becomes capable of being retrieved by the addressee at the relevant email or other electronic address.
- 8.2 A Notice received after 5:00 pm, or on a day that is not a working day in the place of receipt, is deemed to be delivered on the next working day in that place.
- C.C.9 Assignment**
- 9.1 The Supplier may not assign any rights under the Contract without the Customer's written consent. To seek consent, the Supplier must provide the Customer with a Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.
- 9.2 To decline consent, the Customer must provide a Notice to the Supplier, setting out its reasons, within twenty (20) Business Days, or such other time as agreed between the Parties, of receiving the Notice seeking consent. Otherwise, the Customer is taken to have consented.
- C.C.10 Subcontracting**
- 10.1 Subcontracting any part of, or the entire Supplier's obligations under the Contract, will not relieve the Supplier from any of its obligations under the Contract.
- 10.2 The Supplier must ensure that Subcontractors specified in the Contract (if any) perform that part of the Services specified in the Contract. The Supplier must not subcontract any part of its obligations under the Contract, or replace approved Subcontractors, without prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- 10.3 At the Customer's request, the Supplier, at no additional cost to the Customer, must promptly remove from involvement in the Contract any Subcontractor that the Customer reasonably considers should be removed.
- 10.4 The Supplier must make available to the Customer the details of all Subcontractors engaged to provide the Goods and/or Services under the Contract. The Supplier acknowledges that the Customer may be required to publicly disclose such information.
- 10.5 The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under the Contract, imposes on the Subcontractor the same obligations that the Supplier has under the Contract (including this requirement in relation to subcontracts).
- C.C.11 Delivery and Acceptance**
- 11.1 The Supplier must provide the Goods and/or Services as specified in the Contract and meet any requirements and standard specified in the Contract.
- 11.2 The Supplier must promptly notify the Customer if the Supplier becomes aware that it will be unable to provide all or part of the Goods and/or Services specified in the Contract and advise the Customer when it will be able to do so.
- 11.3 Any Goods must be delivered free from any security interest. Unless otherwise stated in the Contract, Goods must be new and unused. Any Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar services and any standard specified in the Contract.
- 11.4 The Customer may reject the Goods and/or Services within ten (10) Business Days after delivery or such longer period specified in the Contract ("Acceptance Period"), if the Goods and/or Services do not comply with the requirements of the Contract.
- 11.5 If during the Acceptance Period circumstances outside the Customer's reasonable control cause a delay in the Customer's evaluation of the compliance of the Goods and/or Services with the Contract, the Customer may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).
- 11.6 If the Customer does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable), the Customer will be taken to have accepted the Goods and/or Services, though the Customer may accept the Goods and/or Services sooner. Title to Goods transfers to the Customer only on acceptance.
- 11.7 If the Customer rejects the Goods and/or Services, the Customer must issue a Notice clearly stating the reason for rejection and the remedy the Customer requires. No payment will be due for rejected Goods and/or Services until their acceptance.
- C.C.12 Licences Approvals and Warranties**
- 12.1 At no cost to the Customer, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for any Goods.
- 12.2 The Supplier must provide the Customer with all relevant third party warranties in respect of Goods. If the Supplier is a manufacturer, the Supplier must provide the Customer with all standard manufacturer's warranties in respect of the Goods it has manufactured and supplied.
- 12.3 To the extent permitted by laws and for the benefit of the Customer, the Supplier consents, and must use its best endeavours to ensure that each author of Material consents in writing, to the use by the Customer of the Material, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or Moral Rights.
- C.C.13 Specified Personnel**
- 13.1 The Supplier must ensure that the Specified Personnel set out in the Contract (if any) perform

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the part of the Services specified in that item. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.

- 13.2 At the Customer's reasonable request, the Supplier, at no additional cost to the Customer, must as soon as reasonably practicable replace any Specified Personnel that the Customer reasonably considers:
- a) is not performing the Supplier's obligations under the Contract to the standard or within the timeframe reasonably required by the Customer
 - b) is not a fit and proper person, or
 - c) is not suitably qualified to perform the Services.
- 13.3 Any Specified Personnel must be replaced with personnel that are acceptable to the Customer.

C.C.14 Liability of the Supplier

- 14.1 The Supplier will indemnify the Customer for any damage claim, cost or loss resulting from any negligent or wilful breach of its obligations or representations under the Contract by the Supplier or its officers, employees, agents or Subcontractors.
- 14.2 The Supplier's obligation to indemnify the Customer will reduce proportionally to the extent that the Customer has contributed to the claim, cost or loss.
- 14.3 Where the Supplier is a member of a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002* (ACT), or any corresponding Commonwealth, State, Territory or legislation that limits civil liability arising from the performance of their professional services, and where that scheme applies to the Goods and/or Services delivered under the Contract, the Supplier's liability under this clause shall not exceed the maximum amount specified by that scheme or legislation.
- 14.4 The Supplier will maintain adequate insurances for the Contract and provide the Customer with proof when reasonably requested.

C.C.15 Termination or Reduction for Convenience

- 15.1 In addition to any other rights either Party has under the Contract,
- a) the Customer acting in good faith, may at any time, or
 - b) the Supplier, acting in good faith, may notify that it wishes to,
- terminate the Contract or reduce the scope or quantity of the Goods and/or Services by providing a Notice to the other Party.
- 15.2 If the Supplier issues a Notice under this clause, the Supplier must comply with any reasonable directions given by the Customer. The Contract will terminate, or the scope will be reduced in accordance with the Notice, when the Supplier has complied with all of those directions.
- 15.3 If the Customer issues a Notice under this clause, the Supplier must stop or reduce work in

accordance with the Notice and comply with any reasonable directions given by the Customer.

- 15.4 In either case, the Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions). The Customer will pay the Supplier for Goods and/or Services accepted in accordance with C.C.11 [Delivery and Acceptance] and the Contract before the effective date of termination or reduction.
- 15.5 If the Customer issues a Notice under this clause, the Customer will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the Customer.
- 15.6 Under no circumstances will the total of all payments to the Supplier exceed the Contract Price. The Supplier will not be entitled to loss of anticipated profit for any part of the Contract not performed.

C.C.16 Termination for Cause

- 16.1 The Customer may issue a Notice to immediately terminate or reduce the scope of the Contract if:
- a) the Supplier does not deliver the Goods and/or Services as specified in the Contract, or notifies the Customer that the Supplier will be unable to deliver the Goods and/or Services as specified in the Contract
 - b) the Customer rejects the Goods and/or Services in accordance with C.C.11 [Delivery and Acceptance] and the Goods and/or Services are not remedied as required by the Notice of rejection
 - c) the Supplier breaches a material term of the Contract and the breach is not capable of remedy
 - d) the Supplier does not remediate a material breach of the Contract which is capable of remediation within the period specified by the Customer in a Notice of default issued to the Supplier, or
 - e) subject to the Customer complying with any requirements in the *Corporations Act 2001* (Cth), the Supplier:
 - i. is unable to pay all its debts when they become due
 - ii. if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001* (Cth), or
 - iii. if an individual – becomes bankrupt or enters into an arrangement under *Part IX* or *Part X* of the *Bankruptcy Act 1966* (Cth).
- 16.2 Termination of the Contract under this clause does not change the Customer's obligation to pay any Correctly Rendered Invoice.

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C.C.17 Supplier Payments

- 17.1 If the Supplier is required to submit an invoice to trigger payment, the invoice must be a Correctly Rendered Invoice.
- 17.2 The Supplier must promptly provide to the Customer such supporting documentation and other evidence reasonably required by the Customer to substantiate performance of the Contract by the Supplier.
- 17.3 Payment of any invoice is payment on account only, and does not substantiate performance of the Contract.
- 17.4 If the Supplier owes any amount to the Customer in connection with the Contract, the Customer may offset that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.

C.C.18 Dispute Resolution

- 18.1 For any dispute arising under the Contract both the Supplier and the Customer agree to comply with (a) to (e) of this clause sequentially:
- a) both Contract Managers will try to settle the dispute by direct negotiation
 - b) if unresolved within five (5) Business Days, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution. The date the dispute Notice is issued will be the date of the Notice ("Notice Date")
 - c) if the proposed solution is not accepted by the other Contract Manager within five (5) Business Days of the Notice Date, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by direct negotiation
 - d) failing settlement within twenty (20) Business Days of the Notice Date, the Customer will, without delay, refer the dispute to an appropriately qualified mediator selected by the Customer or, at the Customer's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within thirty (30) Business Days of the Notice Date or such other period as agreed by the Parties, and
 - e) If the dispute is not resolved within sixty (60) Business Days of the Notice Date, either the Supplier or the Customer may commence legal proceedings or, by agreement, continue the mediation process for a period agreed by the Parties.
- 18.2 Representatives for the Supplier and the Customer must attend the mediation. The nominated representatives must have the authority to bind the relevant Party and act in good faith to genuinely attempt to resolve the dispute.
- 18.3 The Supplier and the Customer will each bear their own costs for dispute resolution. The Customer will bear the costs of a mediator.

18.4 Despite the existence of a dispute, the Supplier will continue their performance under the Contract unless requested in writing by the Customer not to do so.

18.5 This procedure for dispute resolution does not apply to action relating to C.C.16 [Termination for Cause] or to legal proceedings for urgent interlocutory relief.

C.C.19 Transition In

- 19.1 The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Goods and/or Services from any outgoing supplier to the Supplier.

C.C.20 Transition Out

- 20.1 If the Contract expires or is terminated under C.C.16 [Termination for Cause] the Supplier must comply with any reasonable directions given by the Customer in order to facilitate the smooth transition of the provision of the Goods and/or Services to the Customer or to another supplier nominated by the Customer.

C.C.21 Compliance with Law and Policy

- 21.1 The Supplier must comply with, and ensure its officers, employees, agents and Subcontractors comply with all laws applicable to the performance of this Contract and warrants that it will not cause the Customer to breach any laws.
- 21.2 The Supplier must comply with, and ensure its officers, employees, agents and Subcontractors comply with any Commonwealth policies relevant to the Goods and/or Services.
- 21.3 The Supplier agrees to provide such reports and other information regarding compliance with applicable law and Commonwealth policy as reasonably requested by the Customer or as otherwise required by applicable law or policy.
- 21.4 If the Supplier becomes aware of any actual or suspected breach of the requirements set out in 21.A to 21.J below, or any other applicable law or Commonwealth policy, it must:
- a) immediately report it to the Customer and provide a written report on the matter within three (3) Business Days unless otherwise set out in these Terms, and
 - b) comply with any reasonable directions by the Customer in relation to any investigation or further reporting of the actual or suspected breach.

21.A Access to Supplier's Premises and Records

- A.1 The Supplier must maintain and ensure its Subcontractors maintain proper business and accounting records relating to the supply of the Goods and/or Services and performance of the Contract.
- A.2 The Supplier agrees to provide to the Customer, or its nominee, access to the Supplier's or its Subcontractor's premises, personnel, computer systems, documents and other records, and all assistance reasonably requested, for any purpose associated with the Contract or any review of the Supplier's or the Customer's performance under

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- the Contract, including in connection with a request made under the *Freedom of Information Act 1982* (Cth) or an audit or review by the Australian National Audit Office.
- A.3 Unless the access is required for an urgent purpose, the Customer will provide reasonable prior notice to the Supplier.
- A.4 If requested by the Supplier, the Customer will reimburse the Supplier's substantiated reasonable cost for complying with the Customer's request, unless the access is required for the purpose of a criminal investigation into the Supplier, its officers, employees, agents or Subcontractors.
- A.5 The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Commonwealth record (as defined in the *Archives Act 1983* (Cth)) without the prior written consent of the Customer. All Commonwealth records, including any held by Subcontractors, must be returned to the Customer at the conclusion of the Contract.
- 21.B Privacy Act 1988 (Cth) Requirements**
- B.1 In providing the Goods and/or Services, the Supplier agrees to comply, and to ensure that its officers, employees, agents and Subcontractors comply with the *Privacy Act 1988* (Cth) and not to do anything, which if done by the Customer would breach an Australian Privacy Principle as defined in that Act.
- 21.C Notifiable Data Breaches**
- C.1 If the Supplier suspects that there may have been an Eligible Data Breach in relation to any Personal Information held by the Supplier as a result of the Contract, the Supplier must:
- immediately report it to the Customer and provide a written report within three (3) Business Days, and
 - carry out an assessment in accordance with the requirements of the *Privacy Act 1988* (Cth).
- C.2 Where the Supplier is aware that there has been an Eligible Data Breach in relation to the Contract, the Supplier must:
- take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any individual to whom the Personal Information relates
 - take all other action necessary to comply with the requirements of the *Privacy Act 1988* (Cth), and
 - take any other action as reasonably directed by the Customer.
- 21.D Personal Information**
- D.1 The Supplier agrees to provide the Customer, or its nominee, relevant information (including personal information) relating to the Supplier, its officers, employees, agents or Subcontractors, for the purposes of preventing, detecting, investigating or dealing with a fraud or security incident relating to a Contract.
- D.2 When providing personal information of a natural person under this clause, the Supplier warrants it will have obtained the consent of or provided reasonable notification to the person in accordance with the *Privacy Act 1988* (Cth).
- D.3 Nothing in these clauses limits or derogates from the Supplier's obligations under the *Privacy Act 1988* (Cth).
- 21.E Confidential Information**
- E.1 The Supplier agrees not to disclose to any person, other than the Customer, any Confidential Information relating to the Contract or the Goods and/or Services, without prior written approval from the Customer.
- E.2 This obligation will not be breached where:
- the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation), or
 - the Supplier is required by law, an order of the court or a stock exchange to disclose the relevant information, but any such request must be reported by Notice to the Customer without delay and the text of the disclosure provided in writing to the Customer as soon as practicable.
- E.3 The Customer may at any time require the Supplier to arrange for its officers, employees, agents or Subcontractors to give a written undertaking relating to nondisclosure of the Customer's Confidential Information in a form acceptable to the Customer.
- E.4 The Customer will keep any information in connection with the Contract confidential to the extent it has agreed in writing to keep such specified information confidential.
- E.5 The Customer will not be in breach of any confidentiality agreement if the Customer discloses the information for the purposes of managing the Contract or if it is required to disclose the information by law, a Minister or a House or Committee of Parliament, or for accountability or reporting purposes.
- 21.F Security and Safety**
- F.1 When accessing any Commonwealth place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the Customer or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and Subcontractors are aware of, and comply with, such security and safety requirements.
- F.2 If directed by the Customer, the Supplier and its officers, employees, agents and Subcontractors are required to undertake a security briefing prior to being able to work inside a Commonwealth office, area or facility.
- F.3 The Supplier must ensure that all information, material and property provided by the Customer for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the Customer.

Commonwealth Contract Terms

F.4 The Supplier acknowledges that unauthorised disclosure of security-classified information is an offence. Legislation (including the *Criminal Code Act 1995 (Cth)*) contains provisions relating to the protection of certain information and sets out the penalties for the unauthorised disclosure of that information.

21.G Criminal Code

G.1 The Supplier acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995 (Cth)*.

G.2 The Supplier must ensure that its officers, employees, agents and Subcontractors engaged in connection with the Contract are aware of the information contained in this clause.

21.H Fraud

H.1 The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of this Contract.

H.2 If an investigation finds that the Supplier or its officers, employees, agents or Subcontractors have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud, the Supplier must reimburse or compensate the Customer in full.

21.I Taxation

I.1 The Supplier agrees to comply, and to require its subcontractors to comply, with all applicable laws relating to taxation.

21.J Public Interest Disclosure

J.1 The Supplier must familiarise itself with the *Public Interest Disclosure Act 2013 (Cth)* and acknowledges that public officials, including service providers and their Subcontractors under a Commonwealth contract, who suspect wrongdoing within the Commonwealth public sector may raise their concerns under the *Public Interest Disclosure Act 2013 (Cth)*.

J.2 Information for disclosers is available at <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure>.



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Commonwealth Contracting Suite Glossary and Interpretation

Glossary

In the Commonwealth Contracting Suite (CCS):

“**Additional Contract Terms**” means the terms and conditions set out in the section of the Approach to Market, RFQ or the Contract as relevant with the heading ‘Additional Contract Terms’.

“**Additional DoSO Terms**” means the terms and conditions set out in the section of the DoSO with the heading ‘Additional DoSO Terms’.

“**Approach to Market**” or “**ATM**” means the notice inviting Potential Suppliers to participate in the relevant procurement.

“**Black Economy Policy**” means the *Black economy – increasing the integrity of government procurement: Procurement connected policy guidelines March 2019* available at <https://treasury.gov.au/publication/p2019-t369466>.

“**Business Days**” means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place concerned, as defined by the *Corporations Act 2001* (Cth), and also excludes the period between Christmas Day and New Year’s Day.

“**Closing Time**” means the closing time and date as specified in the Approach to Market.

“**Commonwealth Contracting Suite**” or “**CCS**” means the suite of proprietary documents developed for Commonwealth procurements.

“**Commonwealth Procurement Rules**” means the legislative instrument issued by the Finance Minister under section 105B of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which establishes the framework under which entities govern and undertake their own procurement.

“**Confidential Information**” means any information that any Party does not wish to be shared outside those involved in the Contract or Standing Offer Arrangement. It can include anything that has been acquired, developed or made available to any of the Parties in the course of the relationship between the Parties. It includes, but is not limited to, information:

- a) specifically identified as confidential in the Contract or DoSO
- b) where disclosure would cause unreasonable detriment to the owner of the information or another party, or
- c) where the information was provided under an understanding that it would remain confidential.

“**Conflicts of Interest**” means any real or apparent situation where the personal interests of the Supplier, its officers, employees, agents or Subcontractors could improperly influence the Supplier’s performance of the Contract or DoSO as relevant.

“**Contract**” means the documents (specified in the Commonwealth Contract Terms or the Commonwealth Purchase Order Terms as relevant) as executed or amended from time to time by agreement in writing between the Supplier and the Customer.

“**Contract Details Schedule**” means the section in a Contract issued under the DoSO with the heading ‘Contract Details Schedule’.

“**Contract Manager**” means the ‘Contract Manager’ for the Customer or Supplier representative (as relevant) specified in the Contract.

“**Contract Price**” means the maximum contract price specified in the Contract, including any GST component payable, but does not include any simple interest payable on late payments.

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

- a) is correctly addressed and includes any purchase order number or other Customer reference advised by the Customer’s Contract Manager and the name and specified contact details of the Customer’s Contract Manager
- b) relates only to the Goods and/or Services that have been accepted by the Customer in accordance with the Contract or a payment or milestone schedule identified in the Contract
- c) is correctly calculated and charged in accordance with the Contract
- d) is for an amount which, together with previously Correctly Rendered Invoices, does not exceed the Contract Price, and
- e) is a valid tax invoice in accordance with the GST Act.

“**Customer**” means the party specified in the Contract as the Customer.

“**Deed of Standing Offer**” or “**DoSO**” means the documents (specified in the Commonwealth DoSO Terms) as executed or amended by agreement in writing between the Lead Customer and the Supplier.

“**Delivery and Acceptance**” means the process by which Goods and/or Services are delivered to the Customer and accepted by the Customer as meeting the terms specified in the Contract.

Commonwealth Contracting Suite Glossary and Interpretation

“**DoSO Manager**” means the ‘DoSO Manager’ for the Lead Customer or Supplier representative (as relevant) specified in the DoSO.

“**Electronic invoicing**” or “**eInvoicing**” means the automated exchange of invoices directly between the Customer and Supplier’s software or financial systems via the Peppol network, as long as both Parties are Peppol eInvoicing enabled.

“**Eligible Data Breach**” means an ‘Eligible Data Breach’ as defined in the *Privacy Act 1988* (Cth).

“**End Date**” means the date specified in the Contract or DoSO (as relevant) on which the agreement ceases.

“**Fraud**” means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means and includes alleged, attempted, suspected or detected fraud.

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

“**Goods and/or Services**” means:

- a) the Goods and/or Services and any Material, and
- b) all such incidental Goods and/or Services that are reasonably required to achieve the Requirement of the Customer,

as specified in the Contract and, where relevant, offered under a Standing Offer Arrangement.

“**GST**” means a Commonwealth goods and services tax imposed by the GST Act.

“**GST Act**” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“**Indigenous Procurement Policy**” means the procurement connected policy as described at the National Indigenous Australians Agency website <https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy>.

“**Intellectual Property Rights**” means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are current or future or registered or capable of being registered, including without limitation in relation to, copyright, designs, trade marks (including unregistered marks), business and company names, domain names, databases, circuit layouts, patents, inventions, discoveries, know-how, trade secrets and confidential information, but excluding Moral Rights.

“**Lead Customer**” means the party specified in the DoSO as the Lead Customer.

“**Material**” means any material used or brought into existence as a part of, or for the purpose of producing the Goods and/or Services, and includes but is not limited to documents, equipment, information or data stored by any means.

“**Moral Rights**” means the rights in Part IX of the *Copyright Act 1968* (Cth), including the right of attribution, the right against false attribution and the right of integrity.

“**Notice**” means an official notice or communication under the Contract or DoSO (as relevant) in writing, from one Contract or DoSO Manager to the other Contract or DoSO Manager (as the case may be), at the postal address, or email address, or facsimile number set out in the Contract or DoSO or as notified by the relevant Party.

“**Peppol**” means the Pan-European Public Procurement On-Line framework as described at the Australian Taxation Office website <https://softwaredevelopers.ato.gov.au/eInvoicing>.

“**Party**” or “**Parties**” means (as relevant) the Customer and Supplier specified in the Contract or the Lead Customer and Supplier specified in the DoSO.

“**Personal Information**” means information relating to a natural person as defined in the *Privacy Act 1988* (Cth).

“**Potential Customer**” means an Australian Government entity that is identified within the DoSO as being able to use the Standing Offer Arrangement.

“**Potential Supplier**” means any entity who is eligible to respond to an ATM.

“**Pricing Schedule**” means a schedule of maximum pricing rates that a Supplier can offer in an RFQ for Goods and/or Services as set out in the DoSO.

“**Public Interest Certificate**” means a certificate issued under section 22 of the *Government Procurement (Judicial Review) Act 2018* (Cth).

“**Referenced Material**” means any materials referenced in the ATM, including but not limited to, reports, plans, drawings or samples.

“**Request for Quote**” or “**RFQ**” means any notice inviting quotations to provide specific Goods and/or Services under the DoSO.

Commonwealth Contracting Suite Glossary and Interpretation

“Required Capabilities” means:

- a) in the DoSO ATM, the description of the Lead Customer’s required Goods and/or Services. These may be categorised into several descriptions of Required Capabilities.
- b) in the DoSO, the description of the Goods and/or Services that a Supplier is approved to offer.

“Requirement” means the description of the Goods and/or Services in:

- a) for the purposes of the Commonwealth ATM Terms, the section of the Approach to Market with the heading ‘The Requirement’
- b) for the purposes of the Commonwealth Contract Terms, the section of the Contract with the heading ‘The Requirement’, or
- c) for the purposes of the Commonwealth Purchase Order Terms, the Customer’s purchase order or similar ordering document setting out the Goods and/or Services.

“Response” means information provided by a Potential Supplier or Supplier demonstrating their capacity and capability to:

- a) provide the Requirement under the ATM or Request for Quote, or
- b) meet a Required Capability under the DoSO ATM.

“Satisfactory” in relation to the Black Economy Policy only, means the Statement of Tax Record meets the conditions set out in Part 6.b of the Black Economy Policy or, if the circumstances in Part 6.c of the Black Economy Policy apply, the conditions set out in Part 8 of the Black Economy Policy.

“Specified Personnel” means personnel specified in the Contract, or who are accepted by the Customer in accordance with clause C.C.13 [Specified Personnel].

“Standing Offer Arrangement” means the DoSO arrangement, any Contract that is executed under the DoSO and any other document that applies to it.

“Standing Offer Details” means the section of the DoSO with the heading ‘Standing Offer Details’.

“Statement of Requirement” means the section of the Approach to Market with the heading ‘Statement of Requirement’.

“Statement of Tax Record” means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR.

“Statement of Work” means the section or schedule of the Contract (as the case may be) with the heading ‘Statement of Work’.

“Subcontractor” means an entity contracted by the Supplier to supply some or all of the Goods and/or Services required under the Contract.

“Supplier” means a party specified in the Contract or the DoSO as the Supplier.

“Valid” in relation to the Black Economy Policy only, means the Statement of Tax Record is valid in accordance with Part 7.e of the Black Economy Policy.

Commonwealth Contracting Suite Glossary and Interpretation

Interpretation

In the Commonwealth Contracting Suite, unless stated otherwise:

- a) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning
- b) words in the singular include the plural and words in the plural include the singular
- c) the words ‘including’, ‘such as’, ‘particularly’ and similar expressions are not used as and are not intended to be interpreted as words of limitation
- d) a reference to dollars is a reference to Australian dollars
- e) a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision
- f) clause headings are for reference only and have no effect in limiting or extending the language of the terms to which they refer, and
- g) the following clause references used in Commonwealth Contracting Suite documents refer to that section or part of the relevant CCS document listed in the table below:

Clause Reference	Section / Part	CCS Document
A.A.[x]	Statement of Requirement	CCS Approach to Market (ATM)
A.B.[x]	Commonwealth Approach to Market (ATM) Terms	
A.C.[x]	Additional Contract Terms	Commonwealth Contract
C.A.[x]	Statement of Work	
C.B.[x]	Additional Contract Terms	
C.C.[x]	Commonwealth Contract Terms	<i>NOTE: Where relevant, this also forms part of a Contract formed under a DoSO.</i>
P.C.[x]	Commonwealth Purchase Order Terms	Commonwealth Purchase Order Terms
D.A.[x]	CCS DoSO ATM	CCS Deed of Standing Offer (DoSO)
D.B.[x]	Commonwealth DoSO ATM Terms	
D.C.[x]	DoSO ATM Response Form	
D.D.[x]	CCS DoSO	
D.D.3(x)	Additional DoSO Terms	
D.E.[x]	Commonwealth DoSO Terms	
R.A.[x]	Schedule 1 - Statement of Work	CCS DoSO RFQ and Contract
R.B.[x]	Schedule 2 - Additional Contract Terms	
R.C.[x]	Schedule 3 - Supplier's Response Form	
R.D.[x]	Contract Details Schedule	

Contract Signing Page

The Parties agree that by signing this Commonwealth Contract – Consultancy Services, they enter into a Contract comprising:

- a) Additional Contract Terms (if any)
- b) Statement of Work
- c) Commonwealth Contract Terms
- d) Commonwealth Contracting Suite Glossary and Interpretation
- e) Contract Annex 1 – Supplementary Information (if any).

EXECUTED as an Agreement

Signed for and on behalf of the **Commonwealth of Australia** as represented by National Emergency Management Agency

ABN 40 816 261 802 by its duly authorised delegate in the presence of

Signature of witness

s22
[Redacted signature]

Name of witness (*print*)

s22
[Redacted name]

Signature of delegate

s22
[Redacted signature]

Name of delegate (*print*)

SOPHIE CARVALHO

Position of delegate (*print*)

ASSISTANT COORDINATOR
GENERAL

Date:

07-03-2023

Executed by Ethical Intelligence Pty Ltd **ABN 20 630 624 556** in accordance with Section 127 of the *Corporations Act 2001*:

Signature of director

s22
[Redacted signature]

Name of director (*print*)

MARK CROSBY

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

Name of director/company secretary (*print*)

Date:

6TH MARCH 2023



Australian Government

Commonwealth Contract – Services

Reference ID: D2024/29281

Customer

Customer Name: National Emergency Management Agency
Customer ABN: 40 816 261 802
Address: Level 3 21 Marcus Clarke Street, Canberra City
Canberra City ACT 2600

Supplier

Full Name of the Legal Entity: Ethical Intelligence Pty Ltd
Supplier ABN: 20 630 624 556
Address: s22 [REDACTED]
[REDACTED]

Statement of Work

C.A.1 Key Events and Dates

This Contract commences on the Contract Start Date or the date this Contract is executed, whichever is the latter, and continues for the Contract Term unless it is terminated earlier.

Event	Details
Contract Start Date:	Monday, 20 May 2024
Contract Term:	This Contract will terminate on Friday, 30 August 2024.
Contract Extension Option:	The Contract Term will not be extended.

C.A.2 The Requirement

The National Emergency Management Agency (NEMA) will establish an expert Panel to assess the Disaster Ready Fund (DRF) Round Two. NEMA will draw on Panel members from across government and advisory bodies, with expertise in disaster risk reduction and resilience.

The DRF Round Two Assessment Team estimates involvement in a DRF Assessment Panel will involve about 10 days of effort (May – August 2024).

DRF Round Two Panellists will take part in pre-briefs (13 May 2024), independent assessments (20 May to 14 June 2024), will receive reading packs, attend four days of panel meetings (25-28 June 2024), review and endorse a report recommending DRF Round One outcomes to the Minister for Emergency Management (by 5 July 2024), and attended a debrief enabling continuous improvement of the DRF (by 23 August 2024). The deliverables of the panel are set out in a Request for Quotation (D2024/23825).

Dr Mark Croweller panellist from Ethical Intelligence will be remunerated for contributing their expertise in disaster risk reduction and resilience to the DRF Assessment Process as a panellist. The expertise and diversity of the Panel helps to ensure the DRF achieves its objectives of increasing the understanding of natural hazard disaster impacts; increasing resilience; and reducing Australian communities' exposure to risk.

C.A.2(a) Standards

The Supplier must ensure that any goods and services provided under this Contract comply with all applicable Australian standards and any Australian and international standards specified in this Statement of Work. The Supplier must ensure that it obtains copies of all relevant certifications and maintains records evidencing its compliance with those standards. If requested by the Customer, the Supplier must enable the Customer, or an independent assessor, to conduct periodic audits to confirm compliance with those standards.

Web Content Accessibility

As applicable, the Supplier must ensure that any website, associated material and/or online publications (where applicable) complies with the Web Content Accessibility Guidelines available at: <https://www.w3.org/WAI/intro/wcag>.

Performance Measures

To demonstrate progress towards achievement of the Requirement, the Supplier is required to comply with the following performance measures:

The Assessment Panel delivers professional services and expertise in disaster risk reduction and resilience. Across the DRF Round Two Assessment they will:

- assess eligible applications against the DRF selection criteria in accordance with the DRF Guidelines and the DRF Assessment Framework
- provide advice on co-contribution waiver requests
- recommend projects for funding taking into account assessment outcomes and other relevant considerations set out in the DRF Guidelines
- Contribute to and agree a Panel Assessment Report making recommendations to the Minister for Emergency Management about suitable applications for funding in accordance with the DRF Guidelines and the DRF Assessment Framework.

Prior to the Panel meeting, Panel Members will:

- attend briefings either virtually or in person

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Commonwealth Contract – Services

- familiarise themselves with the DRF Round Two Guidelines and DRF Assessment Framework and other relevant resources (including the DRF Probity Plan)
- declare any actual, potential or perceived conflicts of interest and complete a Confidentiality Acknowledgement (if an APS employee) or a Confidentiality Deed (if a non-APS employee in accordance with the DRF Probity Plan)
- individually review and provide a preliminary assessment (scores, comments and views on co-contribution waiver requests, where applicable) for application assigned to them **(20 May to 14 June 2024)**.
- liaise with the DRF Secretariat in relation to administrative matters as required (e.g. to gain access to NEMA assessment tools; make travel arrangements to attend the Panel meeting).

During the Panel meeting, Panel Members will:

- Participate in four days of in-person panel meeting **(25-28 June 2024)**, with the potential for a two hour follow-up virtual meeting to finalise DRF reports **(2 July 2024)**
- Provide expert advice on assessment-related matters having regard to relevant requirements in the DRF Guidelines and DRF Assessment Framework.

Following the Panel meeting, Panel Members will:

- Review and endorse a Panel Assessment Report about which applications are suitable for funding in accordance with the DRF Guidelines and this Framework **(prior to 5 Jul 2024)**.
- Participate in a debriefing meeting to enable the continuous improvement of the DRF process across DRF Rounds **(prior to 23 Aug 2024)**.

C.A.2(b) Security Requirements

None Specified

C.A.2(c) Work Health and Safety

Prior to commencement of this Contract, the Customer’s Contract Manager and the Supplier’s Contract Manager will identify any potential work health and safety (WHS) issues anticipated to arise during the term of this contract and assign management of each issue identified to the party best able to manage it. For all issues assigned to the Supplier, the Supplier will provide the Customer with a WHS plan for approval and no work will commence until the plan is approved unless agreed in writing by the Customer.

Throughout the Contract Term, the Customer and the Supplier will proactively identify and cooperate to manage any WHS issues that arise.

C.A.2(d) Delivery and Acceptance

Where the Customer rejects any deliverables under Clause C.C.11 [*Delivery and Acceptance*] the Customer will specify a timeframe in which the Supplier is required to rectify deficiencies, at the Supplier’s cost, so that the deliverables meet the requirements of this Contract. The Supplier must comply with any such requirement. Rectified deliverables are subject to acceptance under Clause C.C.11 [*Delivery and Acceptance*].

The Supplier will refund all payments related to the rejected deliverables unless the relevant deliverables are rectified and accepted by the Customer.

If the Supplier is unable to meet the Customer’s timeframe, the Customer may terminate this Contract in accordance with Clause C.C.16 [*Termination for Cause*].

Milestone Description	Due Date
individually review and provide a preliminary assessment	14/06/2024

Commonwealth Contract – Services

Participate in four days of in-person panel meeting	28/06/2024
Review and endorse a Panel Assessment Report	5/07/2024
Participate in a debriefing meeting to enable the continuous improvement of the DRF	23/08/2024

C.A.2(e) Meetings

The Supplier is required to attend meetings as follows:

Meeting Type	Frequency	Mode	Location
Panel Meeting	once	On-site	121 Marcus Clarke Canberra
Debriefing	once	Video conference	

C.A.2(f) Facilities and Assistance Offered by the Customer

The Panel Meeting will occur at 121 Marcus Clarke Street Canberra City, ACT, 2600

C.A.2(g) Customer Material

Access to Smarty Grants, DRF Round Two Guidelines, DRF Assessment Framework, DRF Round Two proposals

C.A.2(h) Conflicts of Interest

The Supplier has declared that it has no Conflicts of Interest relevant to the performance of its obligations under this Contract.

C.A.2(i) Public Interest Disclosure

For information about how to make a Public Interest Disclosure, please refer to the information provided on the Customer's website: www.nema.gov.au.

All Public Interest Disclosure matters (relating to this procurement) should be referred to:

Name/Position:	s22 [REDACTED]
Email Address:	s22 [REDACTED]
Telephone:	s22 [REDACTED]

C.A.2(j) Complaints Handling

For information about how to make a complaint, please refer to the information provided on the Customer's website: .

Any complaints relating to this procurement should be referred to:

Name/Position:	
Email Address:	disaster.ready@nema.gov.au

If your issue is not resolved refer <https://www.finance.gov.au/business/procurement/complaints-handling-charter-complaints> for more information relating to complaints.

Commonwealth Contract – Services

C.A.3 Contract Price

The maximum Contract Price inclusive of GST and all taxes and charges will not exceed **\$22,137.50** as set out below.

Fixed Price (including all expenses)

Due Date	Milestone Description	Total Price GST Exclusive	GST Component	Total Price GST Inclusive
5/07/2024	Panel Meeting	\$20,125.00	\$2,012.50	\$22,137.50

Total Fixed Price for Services \$22,137.50 GST Inclusive

C.A.3(a) Payment Schedule

The Total Fixed Fees and Charges will be made as a single payment on completion of contracted deliverables.

C.A.4 Contract Managers and Addresses for Notices

Contract Managers are responsible for issuing or accepting any written Notices under this Contract and are the contact points for general liaison.

C.A.4(a) Customer’s Contract Manager:

The person occupying the position of: Assistant Director DRF Assessments
 Currently: s22
 Telephone:
 Mobile: s22
 Email Address: s22
 Postal Address: Level 3, 121 Marcus Clarke Street

 Canberra City ACT 2600

C.A.4(b) Customer’s Address for Invoices:

Addressee Name/Position Title: Disaster Ready Assessment
 Telephone:
 Peppol ID:
 Email Address: accounts.payable@nema.gov.au
 Postal Address:

The Customer’s preferred method of invoicing is by email.

C.A.4(c) Supplier’s Contract Manager:

Commonwealth Contract – Services

Name: MARK CROSWELLER

Position Title: DIRECTOR

Telephone: s22

Mobile: s22

Email Address:

Postal Address:

s22

s22

C.A.4(d) Supplier's Address for Notices (as above)

Name:

Position Title:

Email Address:

Postal Address:

s22

s22

Commonwealth Contract – Services**C.A.5 Specified Personnel**

Position/Role	Name	Current Security Clearance Level	Percentage of Total Project Time
Director	Mark Croweller		%100

C.A.6 Subcontractors

None Specified

Additional Contract Terms

An executed contract will incorporate the Commonwealth Contract Terms and also the following Additional Contract Terms:

C.B.1 Intellectual Property

The Supplier owns the Intellectual Property Rights in the Material created under this Contract.

The Supplier grants to the Customer:

- a) a non-exclusive, irrevocable, royalty-free, perpetual, world-wide licence to exercise the Intellectual Property Rights in the Material provided under this Contract for any purpose and
- b) a right to sub-licence the rights in (a) above to third parties, including to the public under an open access or Creative Commons 'BY' licence.

The licence excludes the right of commercial exploitation by the Customer.

The Supplier warrants that it is entitled to grant this licence to the Customer; and that the provision of the Goods and/or Services and any Material by the Supplier under this Contract, and its use by the Customer, in accordance with this Contract, will not infringe any third party's Intellectual Property Rights and Moral Rights.

Intellectual Property Rights in Goods provided under this Contract or pre-existing Intellectual Property of the Supplier, set out below (if any), will not change as a result of this Contract.

Pre-Existing Intellectual Property of the Supplier

Not Applicable

C.B.2 Confidential Information of the Supplier

Not Applicable

C.B.3 Payment Terms

Where the Customer and the Supplier both have the capability to deliver and receive invoices through the Peppol framework and have agreed to use invoicing, following receipt of a Correctly Rendered Invoice, including acceptance of the Goods and/or Services by the Customer, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within five (5) calendar days after receiving it, or if this day is not a Business Day, on the next Business Day.

In all other circumstances following receipt of a Correctly Rendered Invoice, including acceptance of the Goods and/or Services by the Customer, the Customer will pay the amount of a Correctly Rendered Invoice to the Supplier within twenty (20) calendar days after receiving it, or if this day is not a Business Day, on the next Business Day.

Where the Customer fails to make a payment to the Supplier by the Business Day it is due, the Customer will pay the unpaid amount plus interest on the unpaid amount, provided the amount of interest payable under this clause exceeds A\$100.

Interest payable under this clause will be simple interest calculated in respect of each calendar day from the day after the amount was due and payable, up to and including the day that the Customer effects payment, calculated using the General Interest Charge Rate as published on the Australian Taxation Office website [https://www.ato.gov.au/Rates/General-interest-charge-\(GIC\)-rates/](https://www.ato.gov.au/Rates/General-interest-charge-(GIC)-rates/).

Commonwealth Contract – Services

Commonwealth Contract Terms

C.C.1 Background

- 1.1 The Customer requires the provision of certain Goods and/or Services. The Supplier has fully informed itself on all aspects of the Customer's requirements and has responded representing that it is able to meet the Requirement.
- 1.2 Some terms used in these Commonwealth Contract Terms have been given a special meaning. Their meanings are set out in the Commonwealth Contracting Suite (CCS) Glossary and Interpretation or in the Contract.

C.C.2 Relationship of the Parties

- 2.1 By virtue of this Contract, neither Party is the employee, agent, officer or partner of the other Party nor authorised to bind or represent the other Party.
- 2.2 Each Party must ensure that its officers, employees, agents or Subcontractors do not represent themselves as being an officer, employee, partner or agent of the other Party.
- 2.3 In all dealings related to the Contract, the Parties agree to:
- communicate openly with each other and cooperate in achieving the contractual objectives
 - act honestly and ethically
 - comply with reasonable commercial standards of fair conduct
 - consult, cooperate and coordinate activities to identify and address any overlapping work health and safety responsibilities aimed at ensuring the health and safety of workers and workplaces, and
 - comply with all reasonable directions and procedures relating to work health and safety, record keeping and security in operation at each other's premises or facilities whether specifically informed or as might reasonably be inferred from the circumstances.

C.C.3 Conflicts of Interest

- 3.1 The Supplier warrants that, other than as previously declared in writing to the Customer at the commencement of the Contract, no Conflicts of Interest exist, relevant to the performance by the Supplier of its obligations under the Contract.
- 3.2 At any time during the term of the Contract, the Customer may require the Supplier to execute a Conflicts of Interest declaration in the form specified by the Customer.
- 3.3 As soon as the Supplier becomes aware that a Conflict of Interest has arisen, or is likely to arise during the term of the Contract, the Supplier will:
- immediately report it to the Customer
 - provide the Customer with a written report setting out all relevant information within three (3) Business Days, and
 - comply with any reasonable requirements notified by the Customer relating to the Conflict of Interest.
- 3.4 If the Supplier fails to notify the Customer as set out in this clause or does not comply with the

Customer's reasonable requirements to resolve or manage Conflicts of Interest, the Customer may terminate or reduce the scope of the Contract in accordance with C.C.16 [Termination for Cause].

C.C.4 Precedence of Documents

- 4.1 The Contract is comprised of:
- Additional Contract Terms (if any)
 - if the Contract is issued under a DoSO, the Contract Details Schedule
 - Statement of Work
 - Commonwealth Contract Terms
 - CCS Glossary and Interpretation, and
 - additional Contract annexes (if any), unless otherwise agreed in writing between the Parties.
- 4.2 If there is ambiguity or inconsistency between documents comprising the Contract, the document appearing higher in the list will have precedence to the extent of the ambiguity or inconsistency.
- 4.3 The Contract may be signed and dated by the Parties on separate, but identical, copies. All signed copies constitute one (1) Contract.

C.C.5 Governing Law

- 5.1 The laws of the Australian Capital Territory apply to the Contract.

C.C.6 Entire Agreement

- 6.1 The Contract represents the Parties' entire agreement in relation to the subject matter, at the time this Contract was executed.
- 6.2 Anything that occurred before the making of this Contract shall be disregarded (unless incorporated into the Contract in writing). However, the Supplier represents that the claims made in its Response to the ATM or the RFQ as relevant remain correct.
- 6.3 Any agreement or understanding to vary or extend the Contract will not be legally binding upon either Party unless in writing and agreed by both Parties.
- 6.4 If either Party does not exercise (or delays in exercising) any of its contractual rights, that failure or delay will not prejudice those rights.

C.C.7 Survival

- 7.1 All Additional Contract Terms (if any), plus clauses: C.C.14 [Liability of the Supplier] C.C.17 [Supplier Payments] C.C.20 [Transition Out], and C.C.21 [Compliance with Law and Policy], survive termination or expiry of the Contract.

C.C.8 Notices

- 8.1 A Notice is deemed to be delivered:
- if delivered by hand - on delivery to the relevant address
 - if sent by registered post - on delivery to the relevant address, or
 - if transmitted by email or other electronic means when it becomes capable of being retrieved by the addressee at the relevant email or other electronic address.
- 8.2 A Notice received after 5:00 pm, or on a day that is not a working day in the place of receipt, is

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deemed to be delivered on the next working day in that place.

C.C.9 Assignment

- 9.1 The Supplier may not assign any rights under the Contract without the Customer's written consent. To seek consent, the Supplier must provide the Customer with a Notice, which includes full details of the proposed assignee and the rights the Supplier proposes to assign.
- 9.2 To decline consent, the Customer must provide a Notice to the Supplier, setting out its reasons, within twenty (20) Business Days, or such other time as agreed between the Parties, of receiving the Notice seeking consent. Otherwise, the Customer is taken to have consented.

C.C.10 Subcontracting

- 10.1 Subcontracting any part of, or the entire Supplier's obligations under the Contract, will not relieve the Supplier from any of its obligations under the Contract.
- 10.2 The Supplier must ensure that Subcontractors specified in the Contract (if any) perform that part of the Services specified in the Contract. The Supplier must not subcontract any part of its obligations under the Contract, or replace approved Subcontractors, without prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- 10.3 At the Customer's request, the Supplier, at no additional cost to the Customer, must promptly remove from involvement in the Contract any Subcontractor that the Customer reasonably considers should be removed.
- 10.4 The Supplier must make available to the Customer the details of all Subcontractors engaged to provide the Goods and/or Services under the Contract. The Supplier acknowledges that the Customer may be required to publicly disclose such information.
- 10.5 The Supplier must ensure that any subcontract entered into by the Supplier, for the purpose of fulfilling the Supplier's obligations under the Contract, imposes on the Subcontractor the same obligations that the Supplier has under the Contract (including this requirement in relation to subcontracts).

C.C.11 Delivery and Acceptance

- 11.1 The Supplier must provide the Goods and/or Services as specified in the Contract and meet any requirements and standard specified in the Contract.
- 11.2 The Supplier must promptly notify the Customer if the Supplier becomes aware that it will be unable to provide all or part of the Goods and/or Services specified in the Contract and advise the Customer when it will be able to do so.
- 11.3 Any Goods must be delivered free from any security interest. Unless otherwise stated in the Contract, Goods must be new and unused. Any Services must be provided to the higher of the standard that would be expected of an experienced, professional supplier of similar

services and any standard specified in the Contract.

- 11.4 The Customer may reject the Goods and/or Services within ten (10) Business Days after delivery or such longer period specified in the Contract ("Acceptance Period"), if the Goods and/or Services do not comply with the requirements of the Contract.
- 11.5 If during the Acceptance Period circumstances outside the Customer's reasonable control cause a delay in the Customer's evaluation of the compliance of the Goods and/or Services with the Contract, the Customer may give the Supplier a Notice before the end of the original Acceptance Period, setting out the reason for the delay and the revised Acceptance Period date (which must be reasonable having regard to the circumstances causing the delay).
- 11.6 If the Customer does not notify the Supplier of rejection within the Acceptance Period (as extended if applicable), the Customer will be taken to have accepted the Goods and/or Services, though the Customer may accept the Goods and/or Services sooner. Title to Goods transfers to the Customer only on acceptance.
- 11.7 If the Customer rejects the Goods and/or Services, the Customer must issue a Notice clearly stating the reason for rejection and the remedy the Customer requires. No payment will be due for rejected Goods and/or Services until their acceptance.

C.C.12 Licences Approvals and Warranties

- 12.1 At no cost to the Customer, the Supplier must obtain and maintain all Intellectual Property Rights, licences or other approvals required for the lawful provision of the Goods and/or Services and arrange any necessary customs entry for any Goods.
- 12.2 The Supplier must provide the Customer with all relevant third party warranties in respect of Goods. If the Supplier is a manufacturer, the Supplier must provide the Customer with all standard manufacturer's warranties in respect of the Goods it has manufactured and supplied.
- 12.3 To the extent permitted by laws and for the benefit of the Customer, the Supplier consents, and must use its best endeavours to ensure that each author of Material consents in writing, to the use by the Customer of the Material, even if the use may otherwise be an infringement of their Intellectual Property Rights and/or Moral Rights.

C.C.13 Specified Personnel

- 13.1 The Supplier must ensure that the Specified Personnel set out in the Contract (if any) perform the part of the Services specified in that item. The Supplier must ensure that Specified Personnel (if any) are not replaced without the prior written consent of the Customer. The Customer's written consent will not be unreasonably withheld.
- 13.2 At the Customer's reasonable request, the Supplier, at no additional cost to the Customer, must as soon as reasonably practicable replace

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- any Specified Personnel that the Customer reasonably considers:
- a) is not performing the Supplier's obligations under the Contract to the standard or within the timeframe reasonably required by the Customer
 - b) is not a fit and proper person, or
 - c) is not suitably qualified to perform the Services.
- 13.3 Any Specified Personnel must be replaced with personnel that are acceptable to the Customer.
- C.C.14 Liability of the Supplier**
- 14.1 The Supplier will indemnify the Customer for any damage claim, cost or loss resulting from any negligent or wilful breach of its obligations or representations under the Contract by the Supplier or its officers, employees, agents or Subcontractors.
- 14.2 The Supplier's obligation to indemnify the Customer will reduce proportionally to the extent that the Customer has contributed to the claim, cost or loss.
- 14.3 Where the Supplier is a member of a scheme operating under Schedule 4 of the *Civil Law (Wrongs) Act 2002 (ACT)*, or any corresponding Commonwealth, State, Territory or legislation that limits civil liability arising from the performance of their professional services, and where that scheme applies to the Goods and/or Services delivered under the Contract, the Supplier's liability under this clause shall not exceed the maximum amount specified by that scheme or legislation.
- 14.4 The Supplier will maintain adequate insurances for the Contract and provide the Customer with proof when reasonably requested.
- C.C.15 Termination or Reduction for Convenience**
- 15.1 In addition to any other rights either Party has under the Contract,
- a) the Customer acting in good faith, may at any time, or
 - b) the Supplier, acting in good faith, may notify that it wishes to,
- terminate the Contract or reduce the scope or quantity of the Goods and/or Services by providing a Notice to the other Party.
- 15.2 If the Supplier issues a Notice under this clause, the Supplier must comply with any reasonable directions given by the Customer. The Contract will terminate, or the scope will be reduced in accordance with the Notice, when the Supplier has complied with all of those directions.
- 15.3 If the Customer issues a Notice under this clause, the Supplier must stop or reduce work in accordance with the Notice and comply with any reasonable directions given by the Customer.
- 15.4 In either case, the Supplier must mitigate all loss and expenses in connection with the termination or reduction in scope (including the costs of its compliance with any directions). The Customer will pay the Supplier for Goods and/or Services accepted in accordance with C.C.11 [Delivery and
- Acceptance] and the Contract before the effective date of termination or reduction.
- 15.5 If the Customer issues a Notice under this clause, the Customer will also pay the Supplier for any reasonable costs the Supplier incurs that are directly attributable to the termination or reduction, provided the Supplier substantiates these costs to the satisfaction of the Customer.
- 15.6 Under no circumstances will the total of all payments to the Supplier exceed the Contract Price. The Supplier will not be entitled to loss of anticipated profit for any part of the Contract not performed.
- C.C.16 Termination for Cause**
- 16.1 The Customer may issue a Notice to immediately terminate or reduce the scope of the Contract if:
- a) the Supplier does not deliver the Goods and/or Services as specified in the Contract, or notifies the Customer that the Supplier will be unable to deliver the Goods and/or Services as specified in the Contract
 - b) the Customer rejects the Goods and/or Services in accordance with C.C.11 [Delivery and Acceptance] and the Goods and/or Services are not remedied as required by the Notice of rejection
 - c) the Supplier breaches a material term of the Contract and the breach is not capable of remedy
 - d) the Supplier does not remediate a material breach of the Contract which is capable of remediation within the period specified by the Customer in a Notice of default issued to the Supplier, or
 - e) subject to the Customer complying with any requirements in the *Corporations Act 2001 (Cth)*, the Supplier:
 - i. is unable to pay all its debts when they become due
 - ii. if incorporated – has a liquidator, receiver, administrator or other controller appointed or an equivalent appointment is made under legislation other than the *Corporations Act 2001 (Cth)*, or
 - iii. if an individual – becomes bankrupt or enters into an arrangement under *Part IX or Part X of the Bankruptcy Act 1966 (Cth)*.
- 16.2 Termination of the Contract under this clause does not change the Customer's obligation to pay any Correctly Rendered Invoice.
- C.C.17 Supplier Payments**
- 17.1 If the Supplier is required to submit an invoice to trigger payment, the invoice must be a Correctly Rendered Invoice.
- 17.2 The Supplier must promptly provide to the Customer such supporting documentation and other evidence reasonably required by the Customer to substantiate performance of the Contract by the Supplier.

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- 17.3 Payment of any invoice is payment on account only, and does not substantiate performance of the Contract.
- 17.4 If the Supplier owes any amount to the Customer in connection with the Contract, the Customer may offset that amount, or part of it, against its obligation to pay any Correctly Rendered Invoice.
- C.C.18 Dispute Resolution**
- 18.1 For any dispute arising under the Contract both the Supplier and the Customer agree to comply with (a) to (e) of this clause sequentially:
- both Contract Managers will try to settle the dispute by direct negotiation
 - if unresolved within five (5) Business Days, the Contract Manager claiming that there is a dispute will give the other Contract Manager a Notice setting out details of the dispute and proposing a solution. The date the dispute Notice is issued will be the date of the Notice ("Notice Date")
 - if the proposed solution is not accepted by the other Contract Manager within five (5) Business Days of the Notice Date, each Contract Manager will nominate a more senior representative, who has not had prior direct involvement in the dispute. These representatives will try to settle the dispute by direct negotiation
 - failing settlement within twenty (20) Business Days of the Notice Date, the Customer will, without delay, refer the dispute to an appropriately qualified mediator selected by the Customer or, at the Customer's discretion, to the chairperson of an accredited mediation organisation to appoint a mediator, for mediation to commence within thirty (30) Business Days of the Notice Date or such other period as agreed by the Parties, and
 - If the dispute is not resolved within sixty (60) Business Days of the Notice Date, either the Supplier or the Customer may commence legal proceedings or, by agreement, continue the mediation process for a period agreed by the Parties.
- 18.2 Representatives for the Supplier and the Customer must attend the mediation. The nominated representatives must have the authority to bind the relevant Party and act in good faith to genuinely attempt to resolve the dispute.
- 18.3 The Supplier and the Customer will each bear their own costs for dispute resolution. The Customer will bear the costs of a mediator.
- 18.4 Despite the existence of a dispute, the Supplier will continue their performance under the Contract unless requested in writing by the Customer not to do so.
- 18.5 This procedure for dispute resolution does not apply to action relating to C.C.16 [Termination for Cause] or to legal proceedings for urgent interlocutory relief.
- C.C.19 Transition In**
- 19.1 The Supplier must perform all tasks reasonably required to facilitate the smooth transition of the provision of the Goods and/or Services from any outgoing supplier to the Supplier.
- C.C.20 Transition Out**
- 20.1 If the Contract expires or is terminated under C.C.16 [Termination for Cause] the Supplier must comply with any reasonable directions given by the Customer in order to facilitate the smooth transition of the provision of the Goods and/or Services to the Customer or to another supplier nominated by the Customer.
- C.C.21 Compliance with Law and Policy**
- 21.1 The Supplier must comply with, and ensure its officers, employees, agents and Subcontractors comply with all laws applicable to the performance of this Contract and warrants that it will not cause the Customer to breach any laws.
- 21.2 The Supplier must comply with, and ensure its officers, employees, agents and Subcontractors comply with any Commonwealth policies relevant to the Goods and/or Services.
- 21.3 The Supplier agrees to provide such reports and other information regarding compliance with applicable law and Commonwealth policy as reasonably requested by the Customer or as otherwise required by applicable law or policy.
- 21.4 If the Supplier becomes aware of any actual or suspected breach of the requirements set out in 21.A to 21.J below, or any other applicable law or Commonwealth policy, it must:
- immediately report it to the Customer and provide a written report on the matter within three (3) Business Days unless otherwise set out in these Terms, and
 - comply with any reasonable directions by the Customer in relation to any investigation or further reporting of the actual or suspected breach.
- 21.A Access to Supplier's Premises and Records**
- A.1 The Supplier must maintain and ensure its Subcontractors maintain proper business and accounting records relating to the supply of the Goods and/or Services and performance of the Contract.
- A.2 The Supplier agrees to provide to the Customer, or its nominee, access to the Supplier's or its Subcontractor's premises, personnel, computer systems, documents and other records, and all assistance reasonably requested, for any purpose associated with the Contract or any review of the Supplier's or the Customer's performance under the Contract, including in connection with a request made under the *Freedom of Information Act 1982* (Cth) or an audit or review by the Australian National Audit Office.
- A.3 Unless the access is required for an urgent purpose, the Customer will provide reasonable prior notice to the Supplier.
- A.4 If requested by the Supplier, the Customer will reimburse the Supplier's substantiated reasonable

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- cost for complying with the Customer's request, unless the access is required for the purpose of a criminal investigation into the Supplier, its officers, employees, agents or Subcontractors.
- A.5** The Supplier must not transfer, or permit the transfer of, custody or ownership, or allow the destruction, of any Commonwealth record (as defined in the *Archives Act 1983* (Cth)) without the prior written consent of the Customer. All Commonwealth records, including any held by Subcontractors, must be returned to the Customer at the conclusion of the Contract.
- 21.B Privacy Act 1988 (Cth) Requirements**
- B.1** In providing the Goods and/or Services, the Supplier agrees to comply, and to ensure that its officers, employees, agents and Subcontractors comply with the *Privacy Act 1988* (Cth) and not to do anything, which if done by the Customer would breach an Australian Privacy Principle as defined in that Act.
- 21.C Notifiable Data Breaches**
- C.1** If the Supplier suspects that there may have been an Eligible Data Breach in relation to any Personal Information held by the Supplier as a result of the Contract, the Supplier must:
- immediately report it to the Customer and provide a written report within three (3) Business Days, and
 - carry out an assessment in accordance with the requirements of the *Privacy Act 1988* (Cth).
- C.2** Where the Supplier is aware that there has been an Eligible Data Breach in relation to the Contract, the Supplier must:
- take all reasonable action to mitigate the risk of the Eligible Data Breach causing serious harm to any individual to whom the Personal Information relates
 - take all other action necessary to comply with the requirements of the *Privacy Act 1988* (Cth), and
 - take any other action as reasonably directed by the Customer.
- 21.D Personal Information**
- D.1** The Supplier agrees to provide the Customer, or its nominee, relevant information (including personal information) relating to the Supplier, its officers, employees, agents or Subcontractors, for the purposes of preventing, detecting, investigating or dealing with a fraud or security incident relating to a Contract.
- D.2** When providing personal information of a natural person under this clause, the Supplier warrants it will have obtained the consent of or provided reasonable notification to the person in accordance with the *Privacy Act 1988* (Cth).
- D.3** Nothing in these clauses limits or derogates from the Supplier's obligations under the *Privacy Act 1988* (Cth).
- 21.E Confidential Information**
- E.1** The Supplier agrees not to disclose to any person, other than the Customer, any Confidential Information relating to the Contract or the Goods and/or Services, without prior written approval from the Customer.
- E.2** This obligation will not be breached where:
- the relevant information is publicly available (other than through breach of a confidentiality or non-disclosure obligation), or
 - the Supplier is required by law, an order of the court or a stock exchange to disclose the relevant information, but any such request must be reported by Notice to the Customer without delay and the text of the disclosure provided in writing to the Customer as soon as practicable.
- E.3** The Customer may at any time require the Supplier to arrange for its officers, employees, agents or Subcontractors to give a written undertaking relating to nondisclosure of the Customer's Confidential Information in a form acceptable to the Customer.
- E.4** The Customer will keep any information in connection with the Contract confidential to the extent it has agreed in writing to keep such specified information confidential.
- E.5** The Customer will not be in breach of any confidentiality agreement if the Customer discloses the information for the purposes of managing the Contract or if it is required to disclose the information by law, a Minister or a House or Committee of Parliament, or for accountability or reporting purposes.
- 21.F Security and Safety**
- F.1** When accessing any Commonwealth place, area or facility, the Supplier must comply with any security and safety requirements notified to the Supplier by the Customer or of which the Supplier is, or should reasonably be aware. The Supplier must ensure that its officers, employees, agents and Subcontractors are aware of, and comply with, such security and safety requirements.
- F.2** If directed by the Customer, the Supplier and its officers, employees, agents and Subcontractors are required to undertake a security briefing prior to being able to work inside a Commonwealth office, area or facility.
- F.3** The Supplier must ensure that all information, material and property provided by the Customer for the purposes of the Contract is protected at all times from unauthorised access, use by a third party, misuse, damage and destruction and is returned as directed by the Customer.
- F.4** The Supplier acknowledges that unauthorised disclosure of security-classified information is an offence. Legislation (including the *Criminal Code Act 1995* (Cth)) contains provisions relating to the protection of certain information and sets out the penalties for the unauthorised disclosure of that information.

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21.G Criminal Code

- G.1 The Supplier acknowledges that the giving of false or misleading information to the Commonwealth is a serious offence under section 137.1 of the schedule to the *Criminal Code Act 1995* (Cth).
- G.2 The Supplier must ensure that its officers, employees, agents and Subcontractors engaged in connection with the Contract are aware of the information contained in this clause.

21.H Fraud

- H.1 The Supplier must take all reasonable steps to prevent and detect Fraud in relation to the performance of this Contract. The Supplier acknowledges the occurrence of Fraud will constitute a breach of this Contract.
- H.2 If an investigation finds that the Supplier or its officers, employees, agents or Subcontractors have committed Fraud, or the Supplier has failed to take reasonable steps to prevent Fraud, the Supplier must reimburse or compensate the Customer in full.

21.I Taxation

- I.1 The Supplier agrees to comply, and to require its subcontractors to comply, with all applicable laws relating to taxation.

21.J Public Interest Disclosure

- J.1 The Supplier must familiarise itself with the *Public Interest Disclosure Act 2013* (Cth) and acknowledges that public officials, including service providers and their Subcontractors under a Commonwealth contract, who suspect wrongdoing within the Commonwealth public sector may raise their concerns under the *Public Interest Disclosure Act 2013* (Cth).
- J.2 Information for disclosers is available at <https://www.ombudsman.gov.au/Our-responsibilities/making-a-disclosure>.

21.K National Anti-Corruption Commission Act 2022 (Cth) Requirements

- K.1 The Supplier acknowledges that in providing the Goods and/or Services to the Customer under the Contract, it is a contracted service provider for the purposes of the *National Anti-Corruption Commission Act 2022* (Cth) (NACC Act).
- K.2 The Supplier must comply with any reasonable request, policy or direction issued by the Customer and otherwise cooperate with the Customer in relation to any action taken by the Customer required or authorised by the NACC Act.

C.C.22 Notification of Significant Events

- 22.1 The Supplier must immediately issue the Customer a Notice on becoming aware of a Significant Event.
- 22.2 The Notice issued under clause 22.1 must provide a summary of the Significant Event, including the date that it occurred and whether any Specified Personnel or other personnel engaged in connection with the Goods and/or Services were involved.
- 22.3 The Customer may notify the Supplier in writing that an event is to be considered a Significant Event for the purposes of this clause, and where

- this occurs the Supplier must issue a Notice under clause 22.1 in relation to the event within three (3) Business Days of being notified by the Customer.
- 22.4 Where reasonably requested by the Customer, the Supplier must provide the Customer with any additional information regarding the Significant Event within three (3) Business Days of the request.
- 22.5 If requested by the Customer, the Supplier must prepare a draft remediation plan and submit that draft plan to the Customer's Contract Manager for approval within ten (10) Business Days of the request.
- 22.6 A draft remediation plan prepared by the Supplier under clause 22.5 must include the following information:
 - a) how the Supplier will address the Significant Event in the context of the Goods and/or Services, including confirmation that the implementation of the remediation plan will not in any way impact on the delivery of the Goods and/or Services or compliance by the Supplier with its other obligations under the Contract, and
 - b) how the Supplier will ensure events similar to the Significant Event do not occur again, and
 - c) any other matter reasonably requested by the Customer.
- 22.7 The Customer will review the draft remediation plan and either approve the draft remediation plan or provide the Supplier with the details of any changes that are required. The Supplier must make any changes to the draft remediation plan reasonably requested by the Customer and resubmit the draft remediation plan to the Customer for approval within three (3) Business Days of the request unless a different timeframe is agreed in writing by the Customer. This clause 22.7 will apply to any resubmitted draft remediation plan.
- 22.8 Without limiting its other obligations under the Contract, the Supplier must comply with the remediation plan as approved by the Customer. The Supplier agrees to provide reports and other information about the Supplier's progress in implementing the remediation plan as reasonably requested by the Customer.
- 22.9 A failure by the Supplier to comply with its obligations under this clause C.C.22 will be a material breach of the Contract. The Customer's rights under this clause C.C.22 are in addition to and do not otherwise limit any other rights the Customer may have under the Contract. The performance by the Supplier of its obligations under this clause C.C.22 will be at no additional cost to the Customer.



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Commonwealth Contracting Suite Glossary and Interpretation

Glossary

In the Commonwealth Contracting Suite (CCS):

“Additional Contract Terms” means the terms and conditions set out in the section of the Approach to Market, RFQ or the Contract as relevant with the heading ‘Additional Contract Terms’.

“Additional DoSO Terms” means the terms and conditions set out in the section of the DoSO with the heading ‘Additional DoSO Terms’.

“Approach to Market” or **“ATM”** means the notice inviting Potential Suppliers to participate in the relevant procurement.

“Business Days” means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the place concerned, as defined by the *Corporations Act 2001* (Cth), and also excludes the period between Christmas Day and New Year’s Day.

“Closing Time” means the closing time and date as specified in the Approach to Market.

“Commonwealth Contracting Suite” or **“CCS”** means the suite of proprietary documents developed for Commonwealth procurements.

“Commonwealth Procurement Rules” means the legislative instrument issued by the Finance Minister under section 105B of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act), which establishes the framework under which entities govern and undertake their own procurement.

“Confidential Information” means any information that any Party does not wish to be shared outside those involved in the Contract or Standing Offer Arrangement. It can include anything that has been acquired, developed or made available to any of the Parties in the course of the relationship between the Parties. It includes, but is not limited to, information:

- a) specifically identified as confidential in the Contract or DoSO
- b) where disclosure would cause unreasonable detriment to the owner of the information or another party, or
- c) where the information was provided under an understanding that it would remain confidential.

“Conflicts of Interest” means any real or apparent situation where the personal interests of the Supplier, its officers, employees, agents or Subcontractors could improperly influence the Supplier’s performance of the Contract or DoSO as relevant.

“Contract” means the documents (specified in the Commonwealth Contract Terms or the Commonwealth Purchase Order Terms as relevant) as executed or amended from time to time by agreement in writing between the Supplier and the Customer.

“Contract Details Schedule” means the section in a Contract issued under the DoSO with the heading ‘Contract Details Schedule’.

“Contract Manager” means the ‘Contract Manager’ for the Customer or Supplier representative (as relevant) specified in the Contract.

“Contract Price” means the maximum contract price specified in the Contract, including any GST component payable, but does not include any simple interest payable on late payments.

“Correctly Rendered Invoice” means an invoice that:

- a) is correctly addressed and includes any purchase order number or other Customer reference advised by the Customer’s Contract Manager and the name and specified contact details of the Customer’s Contract Manager
- b) relates only to the Goods and/or Services that have been accepted by the Customer in accordance with the Contract or a payment or milestone schedule identified in the Contract
- c) is correctly calculated and charged in accordance with the Contract
- d) is for an amount which, together with previously Correctly Rendered Invoices, does not exceed the Contract Price, and
- e) is a valid tax invoice in accordance with the GST Act.

“Customer” means the party specified in the Contract as the Customer.

“Deed of Standing Offer” or **“DoSO”** means the documents (specified in the Commonwealth DoSO Terms) as executed or amended by agreement in writing between the Lead Customer and the Supplier.

“Delivery and Acceptance” means the process by which Goods and/or Services are delivered to the Customer and accepted by the Customer as meeting the terms specified in the Contract.

Commonwealth Contracting Suite Glossary and Interpretation

“DoSO Manager” means the ‘DoSO Manager’ for the Lead Customer or Supplier representative (as relevant) specified in the DoSO.

“Electronic invoicing” or **“eInvoicing”** means the automated exchange of invoices directly between the Customer and Supplier’s software or financial systems via the Peppol network, as long as both Parties are Peppol eInvoicing enabled.

“Eligible Data Breach” means an ‘Eligible Data Breach’ as defined in the *Privacy Act 1988* (Cth).

“End Date” means the date specified in the Contract or DoSO (as relevant) on which the agreement ceases.

“Fraud” means dishonestly obtaining a benefit from the Commonwealth or causing a loss to the Commonwealth by deception or other means and includes alleged, attempted, suspected or detected fraud.

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

“Goods and/or Services” means:

- a) the Goods and/or Services and any Material, and
- b) all such incidental Goods and/or Services that are reasonably required to achieve the Requirement of the Customer,

as specified in the Contract and, where relevant, offered under a Standing Offer Arrangement.

“GST” means a Commonwealth goods and services tax imposed by the GST Act.

“GST Act” means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Indigenous Procurement Policy” means the procurement connected policy as described at the National Indigenous Australians Agency website <https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy>.

“Intellectual Property Rights” means all intellectual property rights which may subsist in Australia or elsewhere, whether or not they are current or future or registered or capable of being registered, including without limitation in relation to, copyright, designs, trade marks (including unregistered marks), business and company names, domain names, databases, circuit layouts, patents, inventions, discoveries, know-how, trade secrets and confidential information, but excluding Moral Rights.

“Lead Customer” means the party specified in the DoSO as the Lead Customer.

“Material” means any material used or brought into existence as a part of, or for the purpose of producing the Goods and/or Services, and includes but is not limited to documents, equipment, information or data stored by any means.

“Moral Rights” means the rights in Part IX of the *Copyright Act 1968* (Cth), including the right of attribution, the right against false attribution and the right of integrity.

“Notice” means an official notice or communication under the Contract or DoSO (as relevant) in writing, from one Contract or DoSO Manager to the other Contract or DoSO Manager (as the case may be), at the postal address, or email address, or facsimile number set out in the Contract or DoSO or as notified by the relevant Party.

“Peppol” means the Pan-European Public Procurement On-Line framework as described at the Australian Taxation Office website <https://www.ato.gov.au/Business/eInvoicing/Peppol/>.

“Party” or **“Parties”** means (as relevant) the Customer and Supplier specified in the Contract or the Lead Customer and Supplier specified in the DoSO.

“Personal Information” means information relating to a natural person as defined in the *Privacy Act 1988* (Cth).

“Potential Customer” means an Australian Government entity that is identified within the DoSO as being able to use the Standing Offer Arrangement.

“Potential Supplier” means any entity who is eligible to respond to an ATM.

“Pricing Schedule” means a schedule of maximum pricing rates that a Supplier can offer in an RFQ for Goods and/or Services as set out in the DoSO.

“Public Interest Certificate” means a certificate issued under section 22 of the *Government Procurement (Judicial Review) Act 2018* (Cth).

“Referenced Material” means any materials referenced in the ATM, including but not limited to, reports, plans, drawings or samples.

“Request for Quote” or **“RFQ”** means any notice inviting quotations to provide specific Goods and/or Services under the DoSO.

Commonwealth Contract – Services

Commonwealth Contracting Suite Glossary and Interpretation

“Required Capabilities” means:

- a) in the DoSO ATM, the description of the Lead Customer’s required Goods and/or Services. These may be categorised into several descriptions of Required Capabilities.
- b) in the DoSO, the description of the Goods and/or Services that a Supplier is approved to offer.

“Requirement” means the description of the Goods and/or Services in:

- a) for the purposes of the Commonwealth ATM Terms, the section of the Approach to Market with the heading ‘The Requirement’
- b) for the purposes of the Commonwealth Contract Terms, the section of the Contract with the heading ‘The Requirement’, or
- c) for the purposes of the Commonwealth Purchase Order Terms, the Customer’s purchase order or similar ordering document setting out the Goods and/or Services.

“Response” means information provided by a Potential Supplier or Supplier demonstrating their capacity and capability to:

- a) provide the Requirement under the ATM or Request for Quote, or
- b) meet a Required Capability under the DoSO ATM.

“Satisfactory” in relation to the Shadow Economy Policy only, means the Statement of Tax Record meets the conditions set out in Part 6.b of the Shadow Economy Policy or, if the circumstances in Part 6.c of the Shadow Economy Policy apply, the conditions set out in Part 8 of the Shadow Economy Policy.

“Shadow Economy Policy” means the *Shadow economy – increasing the integrity of government procurement: Procurement connected policy guidelines March 2019* available at <https://treasury.gov.au/publication/p2019-t369466>.

“Significant Event” means:

- a) any adverse comments or findings made by a court, commission, tribunal or other statutory or professional body regarding the conduct or performance of the Supplier or its officers, employees, agents or Subcontractors that impacts or could be reasonably perceived to impact on their professional capacity, capability, fitness or reputation, or
- b) any other significant matters, including the commencement of legal, regulatory or disciplinary action involving the Supplier or its officers, employees, agents or Subcontractors, that may adversely impact on compliance with Commonwealth policy and legislation or the Commonwealth’s reputation.

“Specified Personnel” means personnel specified in the Contract, or who are accepted by the Customer in accordance with clause C.C.13 [Specified Personnel].

“Standing Offer Arrangement” means the DoSO arrangement, any Contract that is executed under the DoSO and any other document that applies to it.

“Standing Offer Details” means the section of the DoSO with the heading ‘Standing Offer Details’.

“Statement of Requirement” means the section of the Approach to Market with the heading ‘Statement of Requirement’.

“Statement of Tax Record” means a statement of tax record issued by the Australian Taxation Office following an application made in accordance with the process set out at https://www.ato.gov.au/Business/Bus/Statement-of-tax-record/?page=1#Requesting_an_STR.

“Statement of Work” means the section or schedule of the Contract (as the case may be) with the heading ‘Statement of Work’.

“Subcontractor” means an entity contracted by the Supplier to supply some or all of the Goods and/or Services required under the Contract.

“Supplier” means a party specified in the Contract or the DoSO as the Supplier.

“Valid” in relation to the Shadow Economy Policy only, means the Statement of Tax Record is valid in accordance with Part 7.e of the Shadow Economy Policy.

Commonwealth Contracting Suite Glossary and Interpretation

Interpretation

In the Commonwealth Contracting Suite, unless stated otherwise:

- a) if any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase has a corresponding meaning
- b) words in the singular include the plural and words in the plural include the singular
- c) the words 'including', 'such as', 'particularly' and similar expressions are not used as and are not intended to be interpreted as words of limitation
- d) a reference to dollars is a reference to Australian dollars
- e) a reference to any legislation or legislative provision includes any statutory modification, substitution or re-enactment of that legislation or legislative provision
- f) clause headings are for reference only and have no effect in limiting or extending the language of the terms to which they refer, and
- g) the following clause references used in Commonwealth Contracting Suite documents refer to that section or part of the relevant CCS document listed in the table below:

Clause Reference	Section / Part	CCS Document
A.A.[x]	Statement of Requirement	CCS Approach to Market (ATM)
A.B.[x]	Commonwealth Approach to Market (ATM) Terms	
A.C.[x]	Additional Contract Terms	
C.A.[x]	Statement of Work	Commonwealth Contract
C.B.[x]	Additional Contract Terms	
C.C.[x]	Commonwealth Contract Terms	<i>NOTE: Where relevant, this also forms part of a Contract formed under a DoSO.</i>
P.C.[x]	Commonwealth Purchase Order Terms	Commonwealth Purchase Order Terms
D.A.[x]	CCS DoSO ATM	CCS Deed of Standing Offer (DoSO)
D.B.[x]	Commonwealth DoSO ATM Terms	
D.C.[x]	DoSO ATM Response Form	
D.D.[x]	CCS DoSO	
D.D.3(x)	Additional DoSO Terms	
D.E.[x]	Commonwealth DoSO Terms	
R.A.[x]	Schedule 1 - Statement of Work	CCS DoSO RFQ and Contract
R.B.[x]	Schedule 2 - Additional Contract Terms	
R.C.[x]	Schedule 3 - Supplier's Response Form	
R.D.[x]	Contract Details Schedule	

Commonwealth Contract – Services

Contract Signing Page

The Parties agree that by signing this Commonwealth Contract – Services, they enter into a Contract comprising:

- a) Additional Contract Terms (if any)
- b) Statement of Work
- c) Commonwealth Contract Terms
- d) Commonwealth Contracting Suite Glossary and Interpretation
- e) Contract Annex 1 – Supplementary Information (if any).

EXECUTED as an Agreement

Signed for and on behalf of the **Commonwealth of Australia** as represented by National Emergency Management Agency

ABN 40 816 261 802 by its duly authorised delegate in the presence of

Signature of witness

s22

[Redacted signature]

Signature of delegate

s22

[Redacted signature]

Name of witness (*print*)

s22

[Redacted name]

Name of delegate (*print*)

SOPHIE CHARNOCK/ATT

Position of delegate (*print*)

ASSISTANT COORDINATOR

GENERAL

Date:

23-5-2024

Executed by Ethical Intelligence Pty Ltd **ABN** 20 630 624 556 in accordance with Section 127 of the *Corporations Act 2001*:

Signature of director

MARA CRASWELLER

Signature of director/company secretary

s22

[Redacted signature]

Name of director (*print*)

Name of director/company secretary (*print*)

Date:

23/5/2024

Commonwealth Contract – Services

NRRA
Finance User Sec Cat

Invoiced to Date - Detail Report
Ledger APDEPT AP Dept

As At 11/06/2024

Account	Requisitions	Orders	Receipts	Doc Files	ETD	Total		
30231	Ethical Intelligence Pty Ltd	0.00	0.00	0.00	21,450.00	21,450.00		
<i>Narration</i>			<i>Date</i>	<i>Prd</i>	<i>Source</i>	<i>Type</i>	<i>Reference</i>	<i>Amount</i>
INV0101 - DCD100303			04/11/2021	0	CM	APINVD	INV0101	11,550.00
NRRA - Royal Commission Prioritisation W								
NRRA - Royal Commission Prioritisation W								
INV0143 - DCD100341			20/06/2022	0	CM	APINVD	INV0143	9,900.00
Workshop on National Consistency of DRFA								
Workshop on National Consistency of DRFA								
Total ETD						21,450.00		
Number of Accounts						1		
Total ETD Commitments						21,450.00		

Vendor Line Item Display

Navigation icons: Home, Back, Forward, Print, Refresh, Save, Copy, Paste, Undo, Redo, Search, Filter, Sort, Help, Dispute Case

segment	DocumentNo	Type	Doc. Date	DD	Amount in local cur.	Clearing	Text	PM	LCurr	Net due dt	Clrng doc.	Account
	1015000032	KZ	23.12.2022		1,980.00	23.12.2022		F	AUD	23.12.2022	1015000032	162533
<input type="checkbox"/>	V-0164	52750333	RN	04.12.2022	1,980.00-	23.12.2022	*INV-0164	F	AUD	21.12.2022	1015000032	162533
<input type="checkbox"/>		1015000875	KZ	12.05.2023	16,830.00	12.05.2023		F	AUD	12.05.2023	1015000875	162533
<input type="checkbox"/>	V-0178	52759600	RN	10.04.2023	16,830.00-	12.05.2023	INV-0178 - Independent Advice Services	F	AUD	10.04.2023	1015000875	162533
*					0.00				AUD			162533
**					0.00				AUD			162533

segment	DocumentNo	Type	Doc. Date	DD	Amount in local cur.	Clearing	Text	PM	LCurr	Net due dt	Clrng doc.	Account
***					0.00				AUD			