# SCHEDULE 1: MAINTENANCE AND SUPPORT SERVICES

1. MANAGED SERVICES
	1. The Supplier will provide the Managed Services to the Purchaser as specified in the Contract (including in the Purchaser's Requirements) from the date specified in the Contract or the Transition In Plan (as applicable).
2. SERVICE STANDARDS AND WARRANTIEs
	1. The Supplier must perform, supply or make available the Managed Services in accordance with:
		1. relevant industry standards;
		2. the Purchaser's policies and procedures as specified in the Purchase Order or otherwise notified to the Supplier in writing from time to time; and
		3. any reasonable directions in relation to the Managed Services given by the Purchaser from time to time.
	2. The Supplier warrants that:
		1. the Managed Services will be performed with due care and skill in a proper workmanlike and professional manner, by the dates specified in the Contract, or within a reasonable time if no date is specified, and will not cause any disruption to the operation of the Purchaser;
		2. its employees, agents and contractors who provide the Managed Services have the appropriate experience, skill, knowledge, competence and resources to provide the Managed Services; and
		3. any Deliverables, goods, equipment or materials provided by it in connection with the Managed Services will be of acceptable quality and fit for the purpose or purposes specified in the Purchase Order (either expressly or by implication).
3. BUSINESS CONTINUITY
	1. Where specified in the Purchase Order, the Supplier must provide to the Purchaser for approval a draft Business Continuity Plan to minimise the impact of a failure, disruption or unavailability of the Goods or Services.
	2. The Supplier must comply with its Business Continuity Plan once approved by the Purchaser.
4. DISASTER RECOVERY PLAN
	1. Without prejudice to clause 36 of the terms and conditions, if required by the Purchase Order, the Supplier must provide to the Purchaser for approval a draft Disaster Recovery Plan that is specifically tailored for the Purchaser, complies with the Purchaser's Disaster recovery policy and specifies:
		1. when the Disaster Recovery Plan is to be activated;
		2. the steps to be taken to recover the Goods and Services;
		3. the Supplier personnel, the Purchaser personnel and any other persons to be involved;
		4. the communications to be implemented during a Disaster;
		5. the training and testing required for the Disaster Recovery Plan; and
		6. procedures to reduce the impact of a Disaster on the Services, and addresses all other matters that may be requested the Purchaser.
	2. The Supplier must comply with its Disaster Recovery Plan once approved by the Purchaser.
	3. The Supplier must also:
		1. provide such other information in relation to the Business Continuity Plan and/or the Disaster Recovery Plan as the Purchaser may reasonably request from time to time;
		2. review and update the Business Continuity Plan and the Disaster Recovery Plan:
			1. on an annual basis; or
			2. as otherwise reasonably requested by the Purchaser,

to ensure that the Business Continuity Plan and the Disaster Recovery Plan meet the requirements set out in this Schedule and submit the reviewed and updated Business Continuity Plan and Disaster Recovery Plan to the Purchaser for review and approval; and

4.3.3 implement the activities set out in the Business Continuity Plan and/or the Disaster Recovery Plan at the times and in accordance with the procedures set out in the Business Continuity Plan or the Disaster Recovery Plan (as applicable).

## Testing

* 1. The Supplier must conduct tests of the Business Continuity Plan and the Disaster Recovery Plan at the frequency set out in the Business Continuity Plan or the Disaster Recovery Plan (as applicable) to ensure that it will enable the complete recovery of the provision and supply of the Services and Deliverables after a Disaster or other business continuity event.
	2. If, as a result of testing conducted in accordance with clause 4.4, the Supplier identifies problems with the Business Continuity Plan and/or the Disaster Recovery Plan, the Supplier must:
		1. notify the Purchaser of the problems identified by the testing; and
		2. make any changes to the Business Continuity Plan and/or the Disaster Recovery Plan necessary to rectify the issues identified during the testing or that are otherwise recommended by the Purchaser, at no cost to the Purchaser.
	3. The Purchaser may, at any time during the Term, and in addition to the testing conducted by the Supplier in accordance with clause 4.4, conduct tests in accordance with the Business Continuity Plan and/or the Disaster Recovery Plan to ensure that the relevant plan will enable the complete recovery of the provision and supply of the Goods and Services after a Disaster or other business continuity event. The Supplier must do all things reasonably requested by the Purchaser to assist with such tests, at no cost to the Purchaser.
	4. If, as a result of testing conducted in accordance with clause 4.6, the Purchaser identifies problems with the Business Continuity Plan and/or the Disaster Recovery Plan, the Supplier must make any changes to the Business Continuity Plan and/or the Disaster Recovery Plan recommended by the Purchaser, at no cost to the Purchaser.

## Service Levels and Service Credits

* 1. During a Disaster:
		1. the Service Levels apply; and
		2. the Supplier must pay Service Credits for failures to meet the Service Levels.
1. SUPPORT SERVICES

## Commencement of Maintenance and Support Services

* 1. The Maintenance and Support Services will commence on the date specified in the Transition In Plan or, if no date is specified, the Commencement Date.

## Service Management Plan

* 1. The Supplier will, by the date specified in the Contract or the Transition In Plan (as applicable), develop and implement a plan for the delivery of the Maintenance and Support Services (the “Service Management Plan”). The Service Management Plan will specify the Goods which are the subject of the Maintenance and Support Services and also include the following service management processes at a minimum:
		1. managing achievement of the Service Levels, including monitoring, recording and reporting of Service Levels and Service Level impacts;
		2. managing service requests;
		3. notifying and managing incidents;
		4. managing problems;
		5. managing configuration;
		6. managing achievement of customer satisfaction;
		7. managing the security of the services;
		8. ensuring business continuity;
		9. managing archiving and record management;
		10. managing system administration access;
		11. managing the solution’s infrastructure;
		12. integration with the Purchaser's service management processes; and
		13. the creation and maintenance of an issues register and risks register by the Supplier.

##

## Support Services

* 1. The Supplier agrees to provide such services to the Purchaser as are necessary to ensure the Goods and Services conform to their Specifications (“Support Services”).

## Time to Answer

* 1. All contact by the Purchaser directed to the Supplier's help desk will be by the methods set out in the Service Management Plan, using the details set out in the Contract.
	2. The Supplier must respond to all Defects reported by the Purchaser within the response times detailed in the Contract. The Defect must be logged immediately and transferred to a support consultant.
	3. A severity level will be assigned to the logged Defect by the Purchaser and actioned according to the severity level by the Supplier in accordance with the severity level table detailed in the Contract.

## Restoration and Resolution

* 1. For each Defect logged by the Purchaser, the Supplier must use its best endeavours to:
		1. provide a work-around to or otherwise remedy the Defect (temporarily or permanently) so that the relevant Goods or Services continue to operate normally (“Restore”);
		2. provide a permanent work-around or code re-write to ensure the Defect will not re‑occur (“Resolve”); or
		3. propose a suitable workaround to the Purchaser's representative, at the time the Defect is logged. The Supplier must ensure that the Service or Deliverables are Restored and all Defects are Resolved, or suitable workarounds agreed to by the Purchaser's representative are implemented, within the time frames set out in the Contract.
	2. The Supplier must comply with the Purchaser's change management policy when implementing any Resolution of or workaround for a Defect.
	3. By the times specified by the Purchaser, acting reasonably, the Supplier must provide the Purchaser with details of all Defects that are Resolved, including a summary of the cause of the Defect and how it was Resolved.

## Failure to Resolve Defects

* 1. If the Supplier fails to Resolve a Defect notified in accordance with this clause 5 within the time referred to in the Contract, Service Credits will apply.
	2. In addition to clause 5.10, if the Supplier fails to resolve a Defect in accordance with this clause 5.11 and such Defect has a material adverse impact on the Purchaser's ability to access and use the Goods and/or Services, the Purchaser may terminate the Contract immediately by notice in writing to the Supplier. This clause 5.11 does not affect the operation of any of the Purchaser's other rights or remedies under the Contract or at law.
1. MAINTENANCE SERVICES

## Maintenance

6.1 The Supplier must perform scheduled maintenance of the Goods at times which have been agreed with the Purchaser. If scheduled maintenance requires the Goods or Services to be offline for more than the time specified in the Contract, the Supplier must give the Purchaser reasonable prior written notice.

# SCHEDULE 2: PROFESSIONAL SERVICES

1. SUPPLIER TO PROVIDE THE SERVICES
	1. The Supplier must commence providing Professional Services on the date(s) specified in the Contract.
2. SERVICE STANDARDS AND WARRANTIES General Service obligations
	1. The Supplier must perform, supply or make available the Professional Services in accordance with:
		1. relevant industry standards;
		2. the Purchaser's policies and procedures as specified in the Purchase Order or otherwise notified to the Supplier in writing from time to time;
		3. any reasonable directions in relation to the Professional Services given by the Purchaser from time to time; and
		4. in a professional manner with due skill and care.

## Service warranties

* 1. The Supplier warrants that:
		1. the Professional Services will be performed with due care and skill in a proper, workmanlike and professional manner, by the dates specified in the Contract, or within a reasonable time if no date is specified, and will not cause any disruption to the operation of the Purchaser;
		2. its employees, agents and contractors who provide the Professional

Services have the appropriate experience, skill, knowledge, competence and resources to provide the Professional Services;

* + 1. any Deliverables, goods, equipment or materials provided by it in connection with the Professional Services will be of acceptable quality and fit for the purpose or purposes specified in the Request (either expressly or by implication); and
		2. all Deliverables provided by it will be free from Defects in design, materials and workmanship.

# SCHEDULE 3: INFRASTRUCTURE SERVICES

1. INSTALLATION AND TRAINING
	1. If and to the extent specified in the Contract, the Supplier will provide the Purchaser with Infrastructure Services, which may include the installation, implementation and integration of the Infrastructure and training.
	2. The Supplier must commence providing Infrastructure Services on the date(s) specified in the Contract or the Transition In Plan (as applicable) for the period specified in the Contract.

## Preventative Maintenance

* 1. If specified in the Contract, the Supplier will provide preventative maintenance and will ensure that such preventative maintenance is carried out:
		1. in accordance with the requirements of the Contract; and
		2. at the times specified in the Contract or otherwise at times when the Infrastructure is either not operational or else at times likely to cause the least possible disruption to the Purchaser's business and in all cases only by prior arrangement with the Purchaser.

## Remedial Maintenance

* 1. If specified in the Contract, the Supplier will provide remedial maintenance. Where the Supplier is required to provide remedial maintenance, it will, after being notified of a fault condition or possible fault condition in the Infrastructure, promptly restore the Infrastructure to good working order and will, as necessary:
		1. replace or repair parts in accordance with the Contract;
		2. comply with the response times and any other time frames specified in

the Contract relating to the replacement or repair of the Infrastructure and any other requirements specified in the Contract; and

* + 1. to the extent practical, implement measures to minimise disruption to the Purchaser's operations during maintenance work as specified in the Contract.
	1. If the Supplier fails to meet a response time or any other time frame specified in the Contract relating to the replacement or repair of the Infrastructure, Service Credits will apply.
	2. Unless provided to the contrary in the Contract, the Supplier may store manuals, tools and test equipment on site as required for the purposes of providing the Infrastructure Services. The Purchaser agrees not to use any such manuals, tools or test equipment without the Supplier's consent.

# SCHEDULE 4: TRANSITION IN

1. PREPARATION OF TRANSITION IN PLAN
	1. The Supplier must prepare a Transition In Plan (including relevant Milestone Dates) and submit it to the Purchaser for approval by the date specified in the Purchase Order.
	2. The Purchaser:
		1. must approve the Transition In Plan when the Purchaser is satisfied that it is consistent with the requirements of the Contract; and
		2. is not required to approve the Transition In Plan if the Purchaser, acting reasonably, considers that it is inconsistent with the requirements of the Contract.
2. TRANSITION IN SERVICES
	1. The Supplier shall:
		1. provide the Transition In Services and any required Goods and

Deliverables in accordance with the Transition In Plan and, in any event, so as to achieve the milestones by the Milestone Dates;

* + 1. perform such other tasks and provide such other outputs as are required to achieve the milestones by the Milestone Dates; and
		2. perform the activities described in clauses 2.1.1 and 2.1.2 causing only minimal and non-adverse impact to the Purchaser and its end users.

# SCHEDULE 5: SOCIAL PROCUREMENT

1. Definitions
	1. In this Schedule:

**“Construction”** includes “Works” and “Construction Services” as defined in the Ministerial Directions for Public Construction Procurement in Victoria.

**“Contract Manager”** means the person (however described) appointed by the Purchaser as its representative for all communication and liaison with the Supplier for the purposes of this Contract.

**“Kinaway”** means Kinaway Chamber of Commerce Victoria Limited (ABN 43 600 066 199).

**“Map for Impact”** means the online map produced by the Victorian Social Enterprise Mapping Project (accessible at https://mapforimpact.com.au/), as amended from time to time.

**“Social Benefit Supplier”** means a business that operates and has business premises in Victoria and meets one or more of the following criteria:

(a) it is a Social Enterprise;

(b) it provides "supported employment services" as defined in section 7 of the *Disability Services Act 1986* (Cth);

* + - * 1. it is verified by Supply Nation, Kinaway and/or Small Business Victoria (in consultation with Kinaway) to meet the definition of “Victorian Aboriginal business” under the Social Procurement Framework.

**“Social Enterprise”** means an organisation that is certified by Social Traders or listed on the Map for Impact.

**“Social or Sustainable Outcome”** means an outcome listed in Tables 1 and 2 of the Social Procurement Framework.

**“Social Procurement Commitment”** means a commitment to deliver a Social or Sustainable Outcome through an individual procurement activity, as identified in the Social Procurement Compliance Plan or in the Response.

**“Social Procurement Compliance Plan”** means the plan attached to the Purchase Order.

**“Social Procurement Framework”** means *Victoria’s Social Procurement Framework* published 26 April 2018 by the Victorian Government, as amended from time to time.

**“Social Procurement Performance Report”** means a report submitted by the Supplier to the Contract Manager of the Purchaser, which details the Supplier’s performance against the Social Procurement Commitments made within the Supplier’s Social Procurement Compliance Plan.

**“Social Traders”** means Social Traders Limited (ABN 132 665 804).

1. Social Procurement Compliance Plan
	1. The Supplier must, in performing its obligations under this Contract, comply with the Social Procurement Compliance Plan (including the Social Procurement Commitments).
	2. The Supplier acknowledges and agrees that the Social Procurement Compliance Plan (including the Social Procurement Commitments) applies during the Term of the Contract, any extensions to the Term and until all of its reporting obligations as set out in clause 3 of this Schedule are fulfilled.
	3. The Supplier agrees that the Social Procurement Commitments will bind the Supplier in relation to:
		1. the Contract as a whole (or to all of the works specified in the Contract), including any change of scope during the Term of the Contract; and
		2. all Construction conducted off site provided that the work has been specified as part of the Contract.
	4. The Supplier's failure to undertake all reasonable measures to achieve compliance with clauses 2 to 4 of this Schedule may be determined by the Purchaser to constitute a breach of a material term of this Contract.
	5. The Supplier must ensure that any sub-contracts entered into by the Supplier, or by sub-contractors of any tier, in relation to work under the Contract, contain clauses requiring sub-contractors of any tier to:
		1. comply with the Social Procurement Commitments to the extent that it applies to work performed under the sub-contract;
		2. provide all necessary information to the Supplier so that the Supplier can fulfil its reporting obligations under clause 3 of this Schedule; and
		3. permit the Purchaser to exercise its verification and inspection rights under clause 4 of this Schedule.
2. Reports
	1. The Supplier must submit written Social Procurement Performance Reports to the Contract Manager of the Supplier outlining its performance against the Social Procurement Compliance Plan on a bi-annual basis, or as otherwise specified in the Purchase Order.
	2. The Social Procurement Performance Report submitted in accordance with clause 3.1 of this Schedule must:
		1. be in a form satisfactory to the Victorian Government (acting reasonably); and
		2. include all supporting information reasonably required by the Victorian Government to verify the contents of the Social Procurement Performance Report.
	3. Social Procurement Performance Reports must include details specifying the Supplier's performance in complying with the Social Procurement Compliance Plan. Any reasons for deviations from the Social Procurement Compliance Plan must also be detailed in Social Procurement Performance Reports.
	4. In addition to the Social Procurement Performance Reports, the Supplier must submit:
		1. a final Social Procurement Performance Report within 2 months of the Completion Date, or the expiration or termination date of this Contract, whichever is earlier; and
		2. a statutory declaration made by the Supplier declaring that the contents of the final Social Procurement Performance Report are true and correct, which must be submitted together with the final Social Procurement Performance Report.
3. Verification of Supplier's compliance with Social Procurement Compliance Plan
	1. The Supplier agrees that the Purchaser will have the right to inspect the Supplier's records in order to verify compliance with the Social Procurement Compliance Plan.
	2. The Supplier must:
		1. permit the Purchaser, or its duly authorised representative, from time to time during ordinary business hours and upon reasonable notice, to inspect, verify and make copies at the Purchaser's expense of all records maintained by the Supplier for the purposes of this Contract at the Supplier's premises, or provide copies of those records to the Contract Manager of the Purchaser at the Purchaser’s request;
		2. permit the Purchaser, or its duly authorised representative, from time to time to undertake a review of the Supplier’s performance in accordance with the Social Procurement Compliance Plan; and
		3. ensure that its employees, agents and sub-contractors give all reasonable assistance to any person authorised by the Purchaser to undertake such audit or inspection as described in clauses 4.2.1 and 4.2.2 above.
	3. The Supplier acknowledges and agrees that the Purchaser and the Purchaser 's duly authorised representative are authorised to obtain information from any relevant persons, firms or corporations, including third parties, regarding the Supplier's compliance with the Social Procurement Compliance Plan.
	4. The obligations set out in this clause 4 are in addition to and do not derogate from any other obligation under this Contract.
4. Use of Information
	1. The Supplier acknowledges and agrees that the statistical information contained in the Social Procurement Compliance Plan and the measures of the Supplier's compliance with the Social Procurement Compliance Plan as reported will be:
		1. reported by the Purchaser to the Department of Treasury and Finance; and
		2. considered in the assessment or review of the Supplier's eligibility to tender for future Victorian Government Contracts.

# SCHEDULE 6: LOCAL JOBS FIRST

1. Definitions
	1. In this Schedule:

**“Apprentice”** means a person whom an employer has undertaken to train under a Training Contract.

**“Cadets”** means those persons enrolled in a recognised tertiary level organisation and who receive structured learning opportunities as part of their engagement to a Local Jobs First project (e.g. cadets in architecture, quantity surveying, or engineering) but which is not under a Training Contract.

**“Contract Manager”** means the person (however described) appointed by the Purchaser as its representative for all communication and liaison with the Supplier for the purposes of this Contract.

**“Department”** has the meaning given in section 3(1) the *Local Jobs First Act 2003* (Vic).

**“Guidelines”** means Local Jobs First Supplier Guidelines, available at www.localjobsfirst.vic.gov.au.

**“ICN Analytics”** is a cloud based secure online platform that enables the collection, analysis and reporting of local content and jobs data, including supply chain monitoring and reporting.

**“Industry Capability Network (Victoria)”** means Industry Capability Network (Victoria) Limited of Level 11, 10 Queens Road, Melbourne VIC 3004 ACN 007 058 120.

**“LIDP”** means the Local Industry Development Plan provided by the Supplier to the Purchaser as part of its response to any tender for a Contract or as otherwise required under a Purchase Order.

**“LIDP Monitoring Table”** means the table included at Attachment 1 to this Schedule.

**“Local Content”** has the meaning given in section 3(1) of the *Local Jobs First Act 2003* (Vic)*.*

**“Local Jobs First Commissioner”** means the person appointed under section 12 of the *Local Jobs First Act 2003* (Vic).

**“Local Jobs First Policy”** means the policy of the Victorian Government made under section 4 of the *Local Jobs First Act 2003* (Vic).

**“Notice”** means a notice given, delivered or served in accordance with this Contract.

**“Practical Completion”** means:

(a) when the Purchaser provides the Supplier the Acceptance Certificate; or

(b) when the Supplier has completed the delivery of the Deliverables and/or Services to be provided under this Contract (excluding administrative or regulatory obligations remaining to be fulfilled); or

(c) in any case, such other reporting dates for the purposes of clause 4.4 of this Schedule as notified by the Purchaser.

**“Responsible Minister”** means the Minister with responsibility for administering the *Local Jobs First Act 2003* (Vic).

**“Trainee”** means a person (other than an Apprentice) employed under a Training Contract.

**“Training** **Contract”** has the meaning given in the *Education and Training Reform Act 2006* (Vic).

1. Local industry Development plan
	1. The Supplier must, in performing its obligations under this Contract:
		1. comply with the LIDP;
		2. perform all obligations required to be performed under the LIDP by the due date for performance; and
		3. comply with the Local Jobs First Policy.
	2. The Supplier acknowledges and agrees that its obligations as set out in the LIDP apply during the Term of this Contract, any extensions to the Term and until all of its reporting obligations as set out in clause 4 of this Schedule are fulfilled.
	3. The Supplier's failure to comply with this clause 2 will constitute a breach of a material term of this Contract.
2. revised lidp
	1. If at any time a variation to this Contract is proposed which involves or effects a change in the nature of any LIDP commitments, the Supplier must prepare a revised LIDP in collaboration with and certified by Industry Capability Network (Victoria) (**Revised LIDP**).
	2. When requested by the Contract Manager, the Supplier must provide the Revised LIDP to the Purchaser.
	3. The Revised LIDP must be agreed by the parties before any variation to the Contract can take effect unless the parties agree that a Revised LIDP is unnecessary.
	4. Once the Revised LIDP is agreed by the parties, the Revised LIDP replaces the LIDP and forms part of this Contract.
3. Reporting
	1. The Supplier must prepare and maintain records demonstrating its compliance with the LIDP.
	2. The Supplier must provide a six-monthly report demonstrating its progress towards implementing the LIDP in the form of the LIDP Monitoring Table.
	3. If the Contract is for a project valued at $20 million or more, the Supplier must use the ICN Analytics for LJF monitoring and reporting.
	4. Prior to or at Practical Completion pursuant to clause 1 of this Schedule, the Supplier must provide to the Contract Manager:
		1. the LIDP Monitoring Table identifying LIDP commitments and actual achievements. The LIDP Monitoring Table must identify and explain any departures from the LIDP Commitments and the aggregated outcomes as reported in the LIDP Monitoring Table; and
		2. a Statutory Declaration in the form set out in Attachment 2 to this Schedule to confirm that the information contained in the LIDP Monitoring Table is true and accurate. The Statutory Declaration must be made by a director of the Supplier or the Supplier's Chief Executive Officer or Chief Financial Officer.
	5. At the request of the Contract Manager, the Supplier must provide further information or explanation of any differences between expected and achieved LIDP outcomes.
	6. The reporting obligations in this Schedule are in addition to and do not derogate from any other reporting obligations as set out in this Contract.
4. Verification of supplier’s compliance with lidp plan
	1. The Supplier agrees that each of the Purchaser and the Department will have the right to inspect its records in order to verify compliance with the LIDP.
	2. The Supplier must:
		1. permit the Contract Manager, an accountant or auditor on behalf of the Purchaser or the Department, or any other person authorised by the Purchaser or the Department, from time to time during ordinary business hours and upon Notice, to inspect and verify all records maintained by the Supplier for the purposes of this Contract;
		2. permit the Purchaser or the Department from time to time to undertake a review of the Supplier's performance in accordance with the LIDP; and
		3. ensure that its employees, agents and subcontractors give all reasonable assistance to any person authorised by the Purchaser or the Department to undertake such audit or inspection.
	3. The Supplier acknowledges and agrees that the Purchaser, the Department, the Purchaser's and Department's duly authorised representatives and Industry Capability Network (Victoria) are authorised to obtain information from any relevant persons, firms or corporations, including third parties, regarding the Supplier's compliance with the LIDP.
	4. The obligations set out in this clause 5 are in addition to and do not derogate from any other obligation under this Contract.
5. use of information
	1. The Supplier acknowledges and agrees that:
		1. Industry Capability Network (Victoria) will assess the Supplier's performance against the LIDP;
		2. the statistical information contained in the LIDP and the measures of the Supplier's compliance with the LIDP as reported in the LIDP Monitoring Table will be:

#### included in the Purchaser's report of operations under Part 7 of the Financial Management Act 1994 (Vic) in respect of the Purchaser's compliance with the Local Jobs First Policy in the financial year to which the report of operations relates;

#### provided to the Responsible Minister for inclusion in the Responsible Minister's report to the Parliament for each financial year on the compliance and performance of the LIDP during that year; and

#### may be disclosed in the circumstances authorised or permitted under the terms of this Contract or as otherwise required by Law.

1. Subcontracting
	1. The Supplier must ensure that any subcontracts entered into by the Supplier in relation to work under this Contract contain clauses requiring subcontractors:
		1. to comply with the Local Jobs First Policy and the LIDP to the extent that it applies to work performed under the subcontract,
		2. to provide necessary information that allows the Supplier to comply with its reporting obligations under clause 4 of this Schedule, and
		3. to permit the Purchaser and the Department to exercise their inspection and verification rights under clause 5 of this Schedule.
	2. The subcontracting obligations set out in this clause 7 are in addition to and do not derogate from any other obligations under this Contract.
	3. The Supplier's failure to comply with this clause 7 will constitute a breach of a material term of this Contract.
2. Local Jobs First Commissioner
	1. The Supplier acknowledges that:
		1. it is required to comply with any information notice issued to it by the Local Jobs First Commissioner in accordance with section 24 of the *Local Jobs First Act 2003* (Vic);
		2. it is required to comply with any compliance notice issued to it by the Local Jobs First Commissioner in accordance with section 26 of the *Local Jobs First Act 2003* (Vic);
		3. its failure to comply with the compliance notice referred to in this clause 5.8(a) may result in the issue of an adverse publicity notice by the Responsible Minister under section 29 of the *Local Jobs First Act 2003* (Vic); and
		4. the Local Jobs First Commissioner may:

#### monitor and report on compliance with the Local Jobs First Policy and LIDP; and

#### request the Purchaser to conduct an audit in relation to the Supplier's compliance with the Local Jobs First Policy and the LIDP.

* 1. The Supplier acknowledges that the Commissioner may recommend that the Purchaser take enforcement proceedings against the Supplier if the Supplier has failed to comply with the Local Jobs First Policy or the LIDP by:
		1. applying to a court to obtain an injunction; or
		2. taking action available under this Contract.

Attachment 1 to schedule 6: lidp monitoring table

The monitoring table must be completed by or on termination or expiry of the Contract and/or following the provision of the Deliverables and/or Services to demonstrate that Local Jobs First outcomes have been achieved through the project. Additional comments may need to be provided to reasonably explain any discrepancies between the expected outcomes from the agreed LIDP to the outcomes reported in the monitoring table. The Purchaser will request this table and provide it to Industry Capability Network (Victoria) and the DJPR Office of Industry Participation and Jobs for verification.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **WBS/Item Number** | **Item Description** | **Brand/ Manufacturer/ Supplier** | **% ANZ Value Activity** | **% Local (A)** | **% of Contract Content (B)** | **% ANZ Value Activity (C)** | **No. of SMEs in the supply chain (D)** | **% of SMEs in supply chain (E)** | **ICN Assist** | **Progress/Comments** |
| *[insert number e.g. 1]* | *[insert description e.g. Item 1]* | *[insert brand/ manufacturer]* | *[insert percentage e.g. 1.5%]* | *[insert percentage e.g. 85%]* | *[insert percentage]* | *[insert percentage here using the formula C = A% x B%]* | *[insert number of SMEs engaged in the supply chain of this item]* | *[insert percentage using the formula E = D / total number of service providers on the project]* | *[Y/N]* |  |
|  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |
| *[insert number here e.g. 30]* |  |  |  |  |  |  |  |  |  |  |
| **Total Committed** |  | **Total Secured** | **100%** |  |  |  |  |

**Employment**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **New Jobs** | **Existing Jobs** | **Total Jobs Committed** | **Total Jobs Secured** | **Progress/Comments** |
| **Committed** | **Secured** | **Committed** | **Secured** |
|  |  |  |  |  |  |  |

**Trainees**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **New Trainees** | **Existing Trainees** | **Total Trainees Committed** | **Total Trainees Secured** | **Progress/Comments** |
| **Committed** | **Secured** | **Committed** | **Secured** |
|  |  |  |  |  |  |  |

**Apprentices**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **New Apprentices** | **Existing Apprentices** | **Total Apprentices Committed** | **Total Apprentices Secured** | **Progress/Comments** |
| **Committed** | **Secured** | **Committed** | **Secured** |
|  |  |  |  |  |  |  |

**Cadets**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **New Cadets** | **Existing Cadets** | **Total Cadets Committed** | **Total Cadets Secured** | **Progress/Comments** |
| **Committed** | **Secured** | **Committed** | **Secured** |
|  |  |  |  |  |  |  |

Attachment 2 to schedule 6: form of statutory declaration

State of Victoria

**Statutory Declaration**

I,
 [full name]

of
 [address]

 , do solemnly and sincerely declare that:
 [occupation]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ achieved the Local Jobs First objectives and outcomes relating to local content; employment; skills and technology transfer; and apprentices/ trainees /cadets reflected in the Local Jobs First Monitoring Table

for as submitted to

[name and tender number of procurement activity]

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ on \_\_\_\_\_\_/\_\_\_\_/\_\_\_\_\_\_
[agency] [date]

**I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury.**

Declared at

this day of 20

Signature of person making this declaration

[to be signed in front of an authorised witness]

Before me,

…………………………………………………………………..

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address and title under section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic)(as of 1 January 2010) (previously *Evidence Act 1958* (Vic)), (e.g. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist).

# SCHEDULE 7: PERFORMANCE GUARANTEE

Deed of Agreement dated [ ] 20[ ]

Between

Name [insert name and address of Purchaser]

ABN [insert]

Short Form Name Purchaser

Notice details [insert]

 [insert]

 Fax: [insert]

 Attention: [insert]

And

Name

ABN [insert name and address of Guarantor]

[insert]

Short form name Guarantor

Notice details [insert]

[insert]

Fax: [insert]

Attention: [insert]

Purpose

Name [insert name and address of Supplier]

ABN [insert]

Short form name Supplier

Notice details [insert]

[insert]

Fax: [insert]

Email: [insert]

The Supplier has agreed to supply certain services and deliverables to the Purchaser pursuant to a contract dated [insert] (Contract).

The Guarantor agrees to provide the guarantees and indemnities stated below in respect of the Contract.

What is agreed:

The Guarantor unconditionally and irrevocably guarantees to the Purchaser the due performance and observance of the obligations undertaken by the Supplier under the Contract (the Obligations) and the due and punctual payment by the Supplier of all moneys which the Supplier is or at any time becomes actually or contingently liable to pay to or for the account of the Purchaser under the Contract (the Guaranteed Money) on the following terms and conditions:

1. If the Supplier (unless relieved from the performance of the Contract by the Purchaser or by statute or by a decision of a tribunal of competent jurisdiction) fails to execute and perform its Obligations, the Guarantor will, if required to do so by the Purchaser, cause to be completed the Obligations in the same manner as the Supplier is required to complete or perform the Obligations.

2. If the Supplier (unless relieved from the performance of the Contract by the Purchaser or by statute or by a decision of a tribunal of competent jurisdiction) fails to make a payment of any of the Guaranteed Money, the Guarantor will, if required to do so by the Purchaser, pay an amount equal to the Guaranteed Money then due and payable within seven business days of receipt of such demand in the same manner and currency as the Supplier is required to pay the Guaranteed Money under the Contract.

3. If the Supplier commits any breach of its obligations, and the breach is not remedied by the Guarantor as required by this clause, and the Contract is then terminated for default, the Guarantor unconditionally and irrevocably indemnifies the Purchaser against costs and expenses directly incurred by the Purchaser by reason of such default.

4. The Guarantor will not be discharged, released or excused from this Deed of Guarantee by an arrangement made between the Supplier and the Purchaser with or without the consent of the Guarantor, or by any other inference arising out of the conduct between the parties, in the absence of a formal release in accordance with the procedures stipulated in the Contract.

5. This Deed of Guarantee shall not be considered as wholly or partially discharged by the performance of any of the Obligations or the payment at any time of any of the Guaranteed Money or by any settlement of account or by any matter or thing whatsoever and shall apply to all the Obligations and the present and any future balance of the Guaranteed Money.

6. Unless required under the Contract, the Purchaser will not be required to make any claim or demand upon the Supplier or to enforce any right, power or remedy against the Supplier in respect of its Obligations or liability to pay the Guaranteed Money before making any claim or demand on the Guarantor under this Deed of Guarantee.

7. The Guarantor shall, in respect of any rights of any kind that may accrue to it against the Supplier, rank and be entitled to enforce the same only after satisfaction in full, either by the Supplier or the Guarantor or partly by the Supplier and partly by the Guarantor, of all claims, present or contingent, that the Purchaser may then have against the Supplier by reason of or arising out of the Contract.

8. In the event of the liquidation of the Supplier:

1. the Guarantor shall not prove in competition with the Purchaser in any way that may diminish any dividend or other payment which, but for such proof, the Purchaser may be entitled to receive; and
2. the Purchaser may prove for all money outstanding to the Purchaser and not paid until the Purchaser has received one hundred (100) cents in the dollar in respect of all such money.

9. The obligations of the Guarantor under this Deed of Guarantee are principal obligations and will not be discharged, released, excused or otherwise affected by reason of anything which but for this provision might have that effect, including but not limited to:

1. the Purchaser granting any time, waiver or indulgence to the Supplier or another person under the Contract or this Deed of Guarantee;
2. the Purchaser compounding or compromising with or wholly or partially releasing the Supplier or another person;
3. laches, acquiescence, delay, acts, omissions or mistakes by the Supplier;
4. the Purchaser taking, varying, wholly or partially discharging or otherwise dealing with or losing or impairing any security for the Supplier's obligations under the Contract or the Guarantor's obligations under this Deed of Guarantee or a security of that kind being or becoming void, voidable or unenforceable;
5. a person who is intended to assume liability as a Guarantor under this Deed of Guarantee not doing so effectively or being discharged;
6. a novation, assignment, termination or variation of this Deed of Guarantee or the Contract;
7. the death, mental illness or bankruptcy of the Supplier or the Guarantor if an individual, or the insolvency or deregistration of the Supplier or the Guarantor if a corporation;
8. anything else which might have a similar effect at law or in equity to any of the above actions or events; and
9. any other act, omission or thing whatsoever in relation to the Supplier which might directly or indirectly prejudice or affect the rights or interest of the Guarantor.

10. The obligations of the Supplier or its permitted assign will continue in force and effect until completion of the undertakings of this Deed of Guarantee by the Guarantor.

11. The obligations and liabilities of the Guarantor under this Deed of Guarantee will not exceed the obligations and liabilities of the Supplier under the Contract.

12. This Deed of Guarantee will be subject to and construed in accordance with the laws in force in the State of Victoria.

13. Where the Supplier has failed to perform under the Contract the obligations of the Guarantor will continue even though the Supplier has been dissolved or has been made subject to external administration procedures under Chapter 5 of the *Corporations Act 2001* (Cth) or any other law.

14. The rights and obligations under this Guarantee remain in full force and effect until all Obligations of the Supplier under the Contract have been performed and the Guaranteed Money has been paid in full.

15. A notice or other communication is properly given or served if the party delivers it by hand, posts it or transmits a copy by facsimile to the address last advised by one of them to the other. Where the notice is given or served by facsimile, the sending party can confirm receipt by any other means. The address for services of notices is set out above. Each party may notify the other party of a new address in writing at any time.

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

1. delivered by hand, when the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service;
2. sent by post from and to an address within Australia, after three (3) business days;
3. sent by post from or to an address outside Australia, after ten (10) business days;
4. sent by facsimile, at the time which the facsimile machine to which it has been sent records that the communication has been transmitted satisfactorily (or, if such time is outside normal business hours, at the time of resumption of normal business hours); or
5. sent by any other electronic means, only in the event that the other party acknowledges receipt by any means.

17. The Guarantor may merge with another entity, enter into a scheme of arrangement, amalgamation, consolidation or other combination, or directly or indirectly through its subsidiaries sell or transfer all or substantially all of its assets or those of its subsidiaries to another entity or entities and, in connection with such transaction or transactions, assign all of its rights and obligations under this Deed of Guarantee to the successor entity to the Guarantor. Such transactions and assignment shall not require the prior consent of the Purchaser, provided the Guarantor takes necessary steps to confirm that, upon completion of such a transaction or transactions, the successor entity to the Guarantor shall own and control total consolidated assets greater than or equal to those owned and controlled by the Guarantor immediately prior to such transaction or transactions. In consideration of its right to undertake such a transaction or transactions, the Guarantor shall be further obligated to provide the Purchaser with an instrument executed by the successor entity to the Guarantor unconditionally assuming and agreeing to perform all of the Guarantor's obligations under this Deed of Guarantee; and provided further that, should the Guarantor continue in legal existence after the transaction or transactions, the Purchaser shall also be required, upon delivery of such deed of guarantee from the successor guarantor to deliver to the Guarantor an instrument releasing the original Guarantor from any further obligation or liability under this Deed of Guarantee.

In witness whereof the parties to this Deed of Guarantee have executed the Deed as at the date first written.

**EXECUTED** as a deed

**Signed for and on behalf of the Purchaser**

by . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of representative of the Purchaser] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of Purchaser representative]

in the presence of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**Signed for and on behalf of the Guarantor**

by . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of representative of the Guarantor] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of Guarantor representative] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

in the presence of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Note: Evidence of Authority must be provided

# SCHEDULE 8: FINANCIAL UNDERTAKING

Deed of Agreement dated [ ] 20[ ]

Between

Name [insert name and address of Purchaser]

ABN [insert]

Short Form Name Purchaser

Notice details [insert]

 [insert]

 Fax: [insert]

 Attention: [insert]

And

Name

ABN [insert name and address of Guarantor]

[insert]

Short form name Guarantor

Notice details [insert]

 [insert]

 Fax: [insert]

 Attention: [insert]

Purpose

Name [insert name and address of Supplier]

ABN [insert]

Short form name Supplier

Notice details [insert]

[insert]

Fax: [insert]

Email: [insert]

The Supplier has agreed to supply certain services and deliverables to the Purchaser pursuant to a contract dated [insert] (Contract). The following undertakings are given in respect of the Contract:

1. In consideration of the Purchaser accepting this undertaking, the Guarantor undertakes unconditionally to pay the Purchaser on written demand from time to time any sum or sums to an aggregate amount not exceeding $[insert].

2. The Guarantor will pay this amount or any parts of it to the Purchaser on demand without reference to the Supplier and even if the Supplier has given the Guarantor notice not to pay the money, and without regard to the performance or non-performance of the Supplier or Purchaser under the terms of the Contract.

3. Any alterations to the terms of the Contract or any extensions of time or any other forbearance by the Purchaser or Supplier will not impair or discharge the Guarantor's liability under this undertaking.

4. This undertaking remains in force until one of the following events occurs:

a. the Purchaser notifies the Guarantor in writing that the undertaking is no longer required; and

b. the Guarantor has paid the said aggregate amount or the balance outstanding to the Purchaser.

5. This undertaking shall be governed by and construed in accordance with the laws in force in Victoria.

6. A notice or other communication is properly given or served if the party delivers it by hand, posts it or transmits it by facsimile to the address last advised by one of them to the other. Where the notice is given or served by facsimile, the sending party can confirm receipt by any other means. The address for services of notices is set out above. Each party may notify the other party of a new address in writing at any time.

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

a. delivered by hand, when the party who sent the notice holds a receipt for the notice signed by a person employed at the physical address for service;

b. sent by post from and to an address within Australia, after three (3) business days;

c. sent by post from or to an address outside Australia, after ten (10) business days;

d. sent by facsimile, at the time which the facsimile machine to which it has been sent records that the communication has been transmitted satisfactorily (or, if such time is outside normal business hours, at the time of resumption of normal business hours); or

e. sent by any other electronic means, only in the event that the other party acknowledges receipt by any means.

In witness whereof the parties to this Deed of Agreement have executed the Deed as at the date first written.

**EXECUTED as a deed**

**Signed for and on behalf of the Purchaser**

by . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of representative of the Purchaser] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of Purchaser representative]

in the presence of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

**Signed for and on behalf of the Guarantor**

by . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of representative of the Guarantor] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of Guarantor representative]

in the presence of . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[insert name of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

[signature of witness] . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Note: Evidence of Authority must be provided

# SCHEDULE 9: TRANSITION OUT

### **Part 1: Disengagement**

1. DISENGAGEMENT

1.1 For a reasonable period after the expiry or termination of the Contract, and for no less than the period specified in the Purchase Order (if any), the Supplier will assist the Purchaser in the orderly transfer of the Goods and Services to the Purchaser and/or the New Provider(s) (as applicable).

2. DISENGAGEMENT PLAN

2.1 Within 30 days of the Commencement Date, or such other period as is agreed between the parties (acting reasonably), the Supplier must provide to the Purchaser for approval a draft Disengagement Plan which addresses the issues set out in this Part 1 of Schedule 9. The Purchaser will review the draft Disengagement Plan once it is submitted by the Purchaser and notify the Supplier of any amendments it requires be made, in which case the Supplier will update the draft Disengagement Plan and resubmit it for the Purchaser's approval in accordance with clause 13 until such time as the Disengagement Plan is approved by the Purchaser.

2.2 The Supplier must provide an updated draft of the Disengagement Plan, incorporating such additional details as are appropriate given the Supplier's knowledge of the Services, to the Purchaser for approval as soon as practicable following the service of a notice to terminate the Contract by the Purchaser or no less than six months prior to the expiry of the Term. The Purchaser will review the updated Disengagement Plan once it is submitted by the Purchaser and notify the Supplier of any amendments it requires be made, in which case the Supplier will update the draft Disengagement Plan and resubmit it for the Purchaser's approval in accordance with clause 13 until such time as the Disengagement Plan is approved by the Purchaser.

2.3 The Purchaser may, at any time, review the Disengagement Plan and request amendments to it as may be reasonably required to address any changes to the Purchaser's requirements from time to time. The Supplier must promptly amend the Disengagement Plan to incorporate all such amendments requested by the Purchaser and provide the amended Disengagement Plan to the Purchaser for approval.

2.4 In addition, the Supplier must:

2.4.1 maintain and update the Disengagement Plan regularly (meaning no less than annually) throughout the Term; and

2.4.2 provide all information and assistance reasonably necessary to effect disengagement in accordance with the Disengagement Plan.

2.5 No separate payment will be made for the Disengagement Plan.

3. DOCUMENTATION

3.1 The Supplier must provide to the Purchaser and/or the New Provider(s), a copy of all documentation required to be created or maintained by the Supplier under the Contract, including procedures manuals, schedules, usage reports, service issue logs, change information reports, product and service specifications, architecture and system mapping documents and other reference materials and related information. Such documentation must be provided promptly upon request by the Purchaser, and in any event, unless otherwise agreed, within 10 business days of a request from the Purchaser.

3.2 The Supplier acknowledges that the Disengagement Plan must list all documentation referred to in clause 3.1 of this Part 1 of Schedule 9 and must provide the following details for such documentation:

3.2.1 the form and format of each item of documentation;

3.2.2 the location of such documentation (physical or electronic); and

3.2.3 the date on which the documentation was last revised.

4. PROVISION OF ADVICE AND INFORMATION

4.1 The Supplier must provide to the Purchaser advice and information regarding the Goods and Services, and related topics as are required to facilitate the provision of the New Goods and Services. This will include:

4.1.1 responding to all requests for information and advice by the Purchaser and providing the information and advice to the Purchaser within five business days (or such other period as is agreed) of receiving a request from the Purchaser;

4.1.2 providing the Purchaser and/or the New Provider(s) with all information regarding the Goods and Services that is reasonably necessary to implement the Disengagement Plan (including, where necessary, the provision of access to system or systems used by the Supplier to provide the Services (“Existing System”), subject to the Supplier's reasonable security and confidentiality requirements);

4.1.3 providing such information regarding the Services as is reasonably necessary for the Purchaser and/or the New Provider to assume responsibility for continued performance of the Services in an orderly manner so as to minimise disruption to the Services, including:

4.1.3.1 information regarding the manner in which the Existing System provides business functionality to end users including networks, interfaces, data structures, processes, outcomes and service functionality of the Existing System; and

4.1.3.2 access to and transfer of any archived data files;

4.1.4 permitting the Purchaser to assign its employees, agents or contractors or personnel of the New Provider(s) to work with the Supplier's employees, agents and contractors to facilitate knowledge transfer from the Supplier to the Purchaser and/or the New Provider(s);

4.1.5 explaining the documented procedures and other standards and procedures specific to the Purchaser and the Goods and Services to personnel of the Purchaser and/or the New Provider(s);

4.1.6 providing full details of any interfaces between the Existing System and any other system or environment;

4.1.7 providing details of the status of all Goods and Services as at the commencement of the disengagement period;

4.1.8 if known, providing a contact list of current potential alternate sources of resources, including skilled labour and spare equipment parts;

4.1.9 surrendering to the Purchaser, the Purchaser-owned reports and documentation still in the Supplier's possession, custody or control;

4.1.10 answering questions and providing such other information and advice as may be reasonably sought by the Purchaser and/or the New Provider with regard to any aspect of the disengagement;

4.1.11 such other similar or related information and advice as the Purchaser may reasonably request;

4.1.12 providing information to the Purchaser to use in the tendering process;

4.1.13 co-operating with the Purchaser during the tendering process;

4.1.14 co-operating with the incoming New Provider(s) as required by their engagement plan (subject to the Supplier's approval of any applicable requirements under that plan, acting reasonably);

4.1.15 finalising the Supplier's obligations under the Contract;

4.1.16 assistance in the transfer of the Purchaser Data; and

4.1.17 deletion or handover of the Purchaser Data after the Services are transferred.

4.2 Except as otherwise specified in the Purchase Order, the Disengagement Services are within the scope of the Services and no separate payment will be made.

4.3 The Parties may from time to time agree any additional services that the Supplier will be required to undertake under this Part 1 of Schedule 9.

5. TRANSFER OF ASSETS

5.1 In accordance with the agreed Disengagement Plan, or otherwise on the effective date of termination or expiration of the Contract, the Supplier will, if requested by the Purchaser, offer to transfer the assets and infrastructure associated with the Services to the Purchaser or to the New Provider(s), in accordance with any timescales and other arrangements in the Disengagement Plan.

5.2 This obligation applies solely to assets and infrastructure owned by the Supplier and dedicated to the delivery of the Services.

5.3 The Supplier will facilitate the transfer of assets in accordance with the conditions of sale agreed with the Purchaser.

6. SOFTWARE

6.1 In accordance with the agreed Disengagement Plan, or otherwise on the effective date of termination or expiry, the Supplier will licence and/or procure access to any software (or assignment of an existing licence of software), which are not Deliverables to the Purchaser or the New Provider(s), on terms specified in the agreed Disengagement Plan.

### **Part 2: Transition Out**

7. TRANSITION OUT PLAN

7.1 Where the Contract is due to expire within 6 months or has been terminated, to the extent that the Purchaser requires any Services that are not Disengagement Services, the Purchaser may issue a request for Transition Out Services to the Supplier. The Supplier must prepare a response to that request which includes a proposal (“Proposed Plan”) to transfer each Service when requested by the Purchaser. The Supplier must submit each Proposed Plan to the Purchaser for approval within 15 business days of the date of a request with the Purchaser's approved requirements under this clause 7.1 or such other period as is agreed.

7.2 Each Proposed Plan must address each of the matters referred to in clause 7.5 below, including the Supplier's and the Purchaser's responsibilities and resource commitments with regard to each phase of the transition of the Services.

7.3 The Purchaser will review each Proposed Plan once it is submitted by the Supplier.

7.4 Upon written approval by the Purchaser, the Proposed Plans will, as from the date of such approval, constitute a Transition Out Plan. The Supplier must provide the Transition Out Services in accordance with the Transition Out Plan.

7.5 Subject to clause 7.1 of this Part 2, each Proposed Plan will provide for Transition Out Services including, without limitation, making reasonable arrangements for:

7.5.1 designing, building, implementing and running changes to the Existing System to allow it to interface with any systems which the Purchaser or a New Provider uses to provide the New Goods and Services **(“New System”);**

7.5.2 increasing the Existing System's processing capacity to cope with increases in the workload placed on the Existing System during the transition;

7.5.3 the provision of data, including for:

7.5.3.1 development and testing, including sanitised data in accordance with any privacy requirements; and

7.5.3.2 synchronisation across environments, including where identical data is required in the Existing System and the New Systems;

7.5.4 changes to any reporting provided by the Supplier under the Contract;

7.5.5 changes to documentation required under the Contract;

7.5.6 providing development and test environments as may be required by the Purchaser on its infrastructure to enable the Purchaser and/or a New Provider to build and maintain new interfaces on the Supplier's infrastructure;

7.5.7 changes to the governance arrangements in the Contract, including attendance at project meetings and contributing to project planning and provision of a single point of contact to coordinate delivery of the Transition Out Services;

7.5.8 provision of technology changes where necessary, including to allow network connections;

7.5.9 change and release management;

7.5.10 training of personnel as changes take place, including the provision of new operating instructions and new applications maintenance instructions;

7.5.11 the provision of all necessary information, documentation and instructions, including specifications, requirements, standards, protocols, policies, constraints and parameters for the Existing System and Services to enable migration of the Purchaser Data;

7.5.12 liaison with users of the Existing System;

7.5.13 the granting by the Supplier to the New Provider(s) and/or the Purchaser, access to all material (including any licence to use such material for the purpose of providing the New Goods and Services) held by the Supplier and produced in connection with and for the purposes of delivering the Services;

7.5.14 discontinuance of obsolete functionality of the Existing System;

7.5.15 the licensing or novation of Software;

7.5.16 the impact (if any) on configuration management; and

.5.17 ensuring co-operation with the Purchaser at all times,

and do all such other things necessary to ensure that the Transition Out Services are successfully completed.

7.6 Nothing that is contained within the Disengagement Plan needs to be reiterated in the Transition Out Plan.

7.7 Where the Purchaser terminates the Contract under clause 27.1 of the terms and conditions, or the Supplier terminates the Contract under clause 27.8 of the terms and conditions, the parties will use best endeavours to agree the fees payable to the Supplier for the performance of the Services specified in this Part 2 as part of each Proposed Plan, such fees to be no greater than the Fees specified in the Contract.

7.8 Where the Contract comes to an end for any reason other than as specified in clause 7.7 above, the Services specified in this Part 2 of Schedule 9 must be provided to the Purchaser at no additional cost to the Purchaser.

8. TRANSITION OUT PERIOD

8.1 The Supplier will provide the Transition Out Services in accordance with the Transition Out Plan.

8.2 The Supplier acknowledges and agrees that except as approved or required by the Purchaser, the Supplier:

8.2.1 will complete each phase of the Transition Out Services set out in the Transition Out Plan within the period specified for that phase in the Transition Out Plan; and

8.2.2 must implement the entire Transition Out Plan within a period not exceeding the period set out in the Transition Out Plan.

# SCHEDULE 10: SAMPLE CHANGE ORDER

[Insert name and ABN of Supplier] (the “Supplier”) entered into an agreement with [enter name of Purchaser] (“Purchaser”), for the supply of Goods and Services, effective [insert date of contract] (“the Contract”).

The Contract is changed in accordance with the terms of this Change Order and its attachments.

Any terms not defined in this Change Order shall have the meaning given to them in the Contract.

|  |  |
| --- | --- |
| 1. Change order number |  |
| 2. Date proposed |  |
| 3. Name of party instigating the change |   |
| 4.Implementation date of change |  |
| 5. Details of change  | [to include, in draft version only, summary of benefits of change for Purchaser and risks of not implementing change] |
| 6. Clauses affected by the change are as follows |  |
| 7. New charges payable to the Supplier or Purchaser affected by this change  |  |
| 8. Plan for implementing the change |  |
| 9. The responsibilities of the parties for implementing the change |  |
| 10. The new date for acceptance testing  |  |
| 11. Effect of change on performance | [to include impact on functionality, interoperability or performance of software, hardware, operations and processes used by or on behalf of Purchaser.] |
| 12. Effect on timescales | [include any required changes to milestone dates] |
| 13. Effect on resources |  |
| 14. Effect on specifications and documentation |  |
| 15. Effect on training |  |
| 16. Effect on users  |  |
| 17. Any other matters on which the parties agree |  |

**Execution**

Signed for and on behalf of the **Purchaser \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Name (print) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Position . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Signature and date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_/ \_\_\_\_\_\_\_\_/ \_\_\_\_\_\_\_\_

Signed for and on behalf of the **Supplier \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

Name (print) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Position . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

Signature and date \*By executing this Change Order, the above signatory personally represents that he or she has the authority to bind the Supplier to this Change Order

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_/ \_\_\_\_\_\_\_\_/ \_\_\_\_\_\_\_\_