



Australian
National
University

DEED OF STANDING OFFER (GOODS AND SERVICES)

between

The Australian National University

and

[Insert Contractor company name]

**for the supply of Facilities Maintenance and Minor
Works**

Contract Number ANU21-145

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PARTIES

THE AUSTRALIAN NATIONAL UNIVERSITY (ABN 52 234 063 906) an educational and research institute and body corporate pursuant to the *Australian National University Act 1991* (Cth) and represented by [insert College/Department], of Acton in the Australian Capital Territory, 2601 (University)

AND

[INSERT COMPANY NAME] PTY LTD ABN ([insert ABN]) of [insert address] (Contractor)

BACKGROUND

- A. From time to time, the University may require the supply of trade services.
- B. The Contractor has agreed that on the issue of an Order by the University, it will supply trade services to the University on the terms and conditions of this Deed.
- C. The Contractor acknowledges that there is no guarantee or assurance:
 - (i) of any particular volume of business under this Deed; or
 - (ii) that any Order will be placed with the Contractor.

PART 1 AGREED TERMS

1 Definitions and Interpretations

1.1 In this Deed:

Acceptance means acceptance by the University in accordance with the procedures set out in clause 18.

Acceptance Testing means performance of tests in accordance with the Service Levels and in accordance with clause 18 of the Agreement for the purpose of considering the Supplies or Deliverables for Acceptance.

Agreed Terms means clauses 1 to 44 (inclusive) of this Deed.

Agreement means an agreement formed under clause 4.8.

Approvals includes any consent, authorisation, certificate, permission or licence from any government or regulatory entity having a responsibility or jurisdiction in relation to the Supplies.

Background Intellectual Property means Intellectual Property of a party existing prior to the Start Date or acquired or created by a party after the Start Date independently of the Agreement.

Business Day means any day that is not a Saturday, Sunday or Public Holiday in the Australian Capital Territory.

Categories of Supplies means each of the Categories of Supplies listed in Schedule 2.

CBRM means the University's Campus Building Requirements Manual published at <https://services.anu.edu.au/campus-environment/building-management/contractors-consultants>

Claim means any claim, demand, debt, allegation, liability or proceeding of any nature whatsoever however arising and whether present or future, fixed or unascertained, actual or contingent.

Commencement Date means the date on which the Deed commences, as specified in Schedule 1.

Confidential Information means information disclosed by a party (the **discloser**) to the other party (the **recipient**) that:

- (a) is by its nature confidential;
- (b) is designated by the discloser as confidential;
- (c) the recipient knows or ought to know is confidential;
- (d) is comprised in or relates to University Material or Contract Material;
- (e) is included in the terms of this Deed,

but does not include information which:

- (f) is or becomes public knowledge other than by breach of this Deed or any other confidentiality obligations; or
- (g) has been independently developed or acquired by the Contractor, as established by written evidence.

Contractor means the party named above and its Personnel.

Contract Manager means the person or position nominated in the Order by each party, who has responsibility for supervision of the Supplies delivered pursuant to this Deed.

Contract Material means all Material created or required to be developed or created as part of, or for the purpose of delivering, the Supplies.

Control of a person, partnership, trust, joint venture, corporation or other entity (**Entity**) means:

- (a) control of the composition of the board of directors or the management of the Entity;
- (b) the ability to cast or control the casting of more than 50% of the maximum number of votes that might be cast at any general meeting (or equivalent) of the Entity; or
- (c) the holding of more than 50% of the issued ordinary share capital, the equity, or other ownership interest, in the Entity.

Corporations Act means the *Corporations Act 2001* (Cth) as amended.

Data Breach means:

- (a) unauthorised access to, or unauthorised disclosure of, Personal Information; or
- (b) information lost in circumstances where unauthorised access to, or unauthorised disclosure of, Personal Information is likely to occur.

Deed means this Deed and includes all Schedules and annexures.

Deed Period means the Initial Deed Period plus any extension in accordance with clause 3.2.

Defects means any defect, shrinkage, deficiency, fault or omission in the Supplies, including any aspect of the Supplies, which is not in accordance with the requirements of this Deed.

Defects Liability Period means the period specified in Item 20 of the Order.

Deliverable means any Contract Material or other item or element of the Supplies specified in the Order or otherwise to be provided by the Contractor under this Deed.

Delivery means the delivery of Supplies to the University in accordance with clause 17.

Design Materials means the Contract Material/s that relate to the provision of design services in accordance with clause 13.

Evaluation Criteria means the evaluation criteria specified in the Order.

Fees mean the fees payable to the Contractor in accordance with clause 22 and Schedule 4.

Force Majeure Event means any event which is not within the reasonable control of the party affected, for example an epidemic, act of God, fire, lightning, earthquake, explosion, flood, subsidence, insurrection or civil disorder or military operations or act of terrorism, expropriation, strikes, lock-outs or other industrial disputes of any kind, but does not include any act or omission of the party affected (including any of their sub-contractors).

GST has the meaning given to it by *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Initial Deed Period means the period of time for which this Deed is intended to continue, as specified in Schedule 1.

Insolvency Event means the happening of any of these events:

- (a) an application is made to a court for an order or an order is made that a body corporate be wound up;
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate, or one of them is appointed, whether or not under an order;
- (c) except to reconstruct or amalgamate while solvent, a body corporate enters into, or resolves to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them;
- (d) a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent or is otherwise wound up or dissolved;
- (e) a body corporate is or states that it is insolvent; or
- (f) anything analogous or having a substantially similar effect to any of the events specified above happens under the Law of any applicable jurisdiction,

but does not include any events which under the Corporations Act are unenforceable indefinitely after the expiration of a stay period.

Intellectual Property means all rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields (whether or not registered or registrable or having to undergo any other process for grant, registration or the like) including:

- (a) copyright (including future copyright);
- (b) inventions (including granted patents and patent applications);

- (c) trademarks (including registered trademarks and trademark applications);
- (d) designs (including registered designs and design applications);
- (e) circuit layouts and the like;
- (f) trade secrets;
- (g) know-how; and
- (h) plant breeder's rights.

Law means any applicable statute, regulation, by-law, code (including the National Construction Code), ordinance or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth, or a local government, and includes all applicable University statutes and rules, the common law and rules of equity as applicable from time to time.

Liquidated Damages means the amount specified in Item 21 of the Order (if any).

Loss means any loss, cost or expense (including legal costs and expenses on a solicitor and own client basis) or liability, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Material includes property, information, data, documentation or other material in whatever form, including any reports, specifications, business rules or requirements, user manuals, user guides, operations manuals, training materials and instructions, and the subject matter of any category of Intellectual Property.

Milestone Date means any fixed date to be met by the Contractor in performing any of its obligations under this Deed as specified in the Order.

Modern Slavery has the same meaning as it has in the *Modern Slavery Act 2018* (Cth).

Moral Right has the same meaning as in the *Copyright Act 1968* (Cth).

National Construction Code means all volumes comprising the national construction code formerly known as the Building Code of Australia (an initiative of the Council of Australian Governments) as amended from time to time, as applied in the Australian Capital Territory.

Notifiable Incident has the meaning in the *Work Health and Safety Act 2011* (Cth) or a corresponding work health and safety law (within the meaning of the *Work Health and Safety Act 2011* (Cth)).

Order means an order for Supplies placed by the University in accordance with clause 4 (Standing Offer) and Schedule 6.

Panel means the collective of service providers engaged by the University in accordance with this Deed, and to which the Contractor has been appointed, as updated by the University from time to time.

Part 2 of the Agreed Terms means clauses 9 to 44 inclusive.

Personal Information has the same meaning as in the Privacy Act.

Personnel means in relation to a party, any employee, officer, agent, or professional adviser of that party, and in the case of the Contractor, any subcontractor.

Privacy Act means the *Privacy Act 1988* (Cth).

Quotation means the Contractor's response to an RFQ, provided substantially in the form of Schedule 7.

Rates means the rates for Categories of Supplies set out in or determined in accordance with Schedule 4.

Response Form means the form under Schedule 7.

RFQ means a request for quotation issued by the University under clause 4.4 (Request for Quotation).

Schedule means a schedule to this Deed.

Security means the security payment specified in Item 19 of the Order.

Service Levels means the requirements set out in the Order for the Supplies and/or each Deliverable.

Specifications means in order of priority:

- (a) the University's functional and technical requirements for the Supplies as set out in the Order, as amended from time to time; and
- (b) all applicable manufacturers' specifications and applicable standards.

Specified Personnel means the personnel specified in the Order.

Start Date means the date specified in the Order.

Statement of Requirement means the document in Schedule 6 setting out additional details of the Supplies.

Supplies means any goods, services, Intellectual Property and Technical Information required to be supplied to the University as described in the Order and the Statement of Requirement (if any).

Technical Information means all scientific or technical know-how and information (whether in recorded or unrecorded form) produced or acquired by the Contractor to be supplied under the Agreement and includes (without limitation) all data, manuals, handbooks, designs, standards, specifications, reports, writings, models, sketches, plans, drawings, calculations, computer programs, software, source code, software design data and other items describing or providing information relating to the Supplies or their operations.

Term means the period of time for which the Agreement is intended to continue as specified in the Order.

University means the Australian National University and includes its Personnel.

University Material means any Material, including confidential information, provided by or on behalf of the University to the Contractor in connection with this Deed including, without limitation, the Material listed in the Order.

University Representative means the person specified as such in the Order.

1.2 In this Deed, except where the contrary intention is expressed:

- 1.2.1 words importing a gender include any other gender;
- 1.2.2 words in the singular number include the plural and words in the plural number include the singular;
- 1.2.3 a reference to a clause, paragraph or schedule is to a clause or paragraph of, or schedule to, this Deed;
- 1.2.4 a reference to a party is to a party to this Deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assignees and substitutes;

- 1.2.5 a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- 1.2.6 if a day on or by which an obligation (other than Supplies) must be delivered or an event (other than Supplies) must occur is not a Business Day, the obligation must be delivered or the event must occur on or by the next Business Day.
- 1.3 To the extent that the parties have not completed items in a Schedule, unless otherwise stated in the Schedule, those items will be taken to be 'not applicable' for the purpose of this Deed
- 1.4 This clause 1 will survive the expiration or termination of this Deed.

2 Priority of documents

- 2.1 In interpreting this Deed, if there is inconsistency between any of the documents forming part of this Deed, those documents will be interpreted in the following (descending) order of priority to the extent of any inconsistency:
 - 2.1.1 Agreed Terms;
 - 2.1.2 Schedules;
 - 2.1.3 any annexures or attachments to the Schedules; and
 - 2.1.4 documents incorporated by reference in this Deed.
- 2.2 In interpreting an Agreement, if there is inconsistency between any of the documents which form part of an Agreement, those documents or terms will be interpreted in the following (descending) order of priority to the extent of any inconsistency:
 - 2.2.1 the Order;
 - 2.2.2 the Agreed Terms forming part of the Agreement in accordance with clause 4.10;
 - 2.2.3 the Attachments to the Order; and
 - 2.2.4 any other document referred to in the Order.

3 Duration of Deed

- 3.1 Initial Deed Period

This Deed begins on the Commencement Date and continues for the duration of the Deed Period unless terminated earlier pursuant to clause 6.
- 3.2 Option to extend Deed Period
 - 3.2.1 The Deed Period may be extended by the University for further period(s), specified in Schedule 1 (each an **Option Period**), on the terms and conditions then in effect, by giving notice to the Contractor. Such notice must be given at least:
 - (a) 30 days; or
 - (b) such other period specified in Schedule 1 (**Option Notice Period**), before the end of the current Deed Period.
 - 3.2.2 Any extension in accordance with this clause 3.2 takes effect from the end of the then current Deed Period.

4 Standing Offer

4.1 Standing Offer

- 4.1.1 By this Deed the Contractor makes an irrevocable standing offer to supply the Categories of Supplies specified in Item 5 of Schedule 1 to the University at the Rates and on the terms and conditions set out in this Deed.

4.2 Fees

- 4.2.1 The Fees payable to the Contractor for delivering the Supplies will be specified in an Order and must be based on the Rates, unless otherwise agreed.

4.3 Placing an Order

- 4.3.1 The Contractor acknowledges that when the University requires Supplies, the University will issue the Contractor with an Order substantially in the form of Schedule 6.
- 4.3.2 Before placing an Order with the Contractor, the University will consult with the Contractor about the details to be specified in the Order, whether or not the University has issued an RFQ.
- 4.3.3 For the avoidance of doubt, the University may issue the Contractor with an Order pursuant to clause 4.3.2, without having issued an RFQ.

4.4 Request for Quotation

- 4.4.1 The University may, from time to time, issue an RFQ substantially in the form of Schedule 5.

4.5 Information in RFQ

- 4.5.1 An RFQ will include:
 - (a) the Supplies required;
 - (b) whether the University requires the Supplies (or any part of the Supplies) to be delivered by particular Personnel of the Contractor;
 - (c) the timeframe for delivery of the Supplies;
 - (d) subject to clause 4.2, the proposed fee structure for the Agreement; and
 - (e) any other specific requirements of the University in relation to the Agreement.

4.6 Quotations

- 4.6.1 On receipt of an RFQ, the Contractor must, within the timeframe specified in the RFQ, provide a Quotation to the University by:
 - (a) completing the applicable items under Schedule 7(Response Form) and returning the Response Form to the University;
 - (b) providing a brief statement that addresses the Evaluation Criteria (if applicable);
 - (c) if requested by the University, providing a curriculum vitae for each of the Personnel proposed to deliver the Supplies; and
 - (d) if requested by the University, providing contact details for at least two referees.
- 4.6.2 The fees proposed in the Quotation must be based on the Rates.

- 4.6.3 If the University wishes to proceed to obtain the Supplies referred to in the Quotation, the University will issue an Order with the Contractor substantially in the form of Schedule 6.
- 4.7 Variations to Deed in an Order
- 4.7.1 The following clauses cannot be varied in an Order without the written approval from the University Representative (or such other position as the University may nominate from time to time):
- (a) Clause 32 (Indemnity);
 - (b) Clause 25 (Confidentiality and Disclosure of Information); and
 - (c) Clause 26 (Privacy, Notifiable Data Breaches and Freedom of Information).
- 4.8 Agreement
- 4.8.1 An Agreement is formed between the University and the Contractor when the University issues an Order to the Contractor.
- 4.9 Completion of items
- 4.9.1 To the extent that the parties have not completed items in an Order, unless otherwise stated in the Order or this Deed, those items will be taken to be 'not applicable' for the purposes of this Deed and the Agreement.
- 4.10 Terms and Conditions
- 4.10.1 The terms and conditions of an Agreement are:
- (a) The terms and conditions specified in the signed Order (including attachments and documents referred to in the Order); and
 - (b) Part 2 of the Agreed Terms in this Deed.
- 4.11 No guarantee
- 4.11.1 Notwithstanding any other provision of this Deed, the University does not guarantee or make any assurance that any supplies or any particular volume of supplies will be ordered from the Contractor under this Deed.
- 4.11.2 Notwithstanding any other provision of this Deed, the University may obtain the Categories of Supplies from any source it chooses.
- 5 Monitoring progress**
- 5.1 Progress meetings
- 5.1.1 The parties will meet at the times and in the manner set out in Schedule 3 (or otherwise as agreed in writing between the parties) to discuss any issues in relation to this Deed or the provision of the Supplies under any Agreement. The Contractor must ensure that the Contractor's Contract Manager and the University must ensure the University Representative is reasonably available to attend such meetings and answer any queries relating to the provision of the Supplies raised by either party.
- 5.2 Reporting
- 5.2.1 The Contractor must provide the University with reports in accordance with Schedule 3.

- 5.2.2 All Intellectual Property Rights in reports provided under clause 5.2.1 vest in the University.
- 5.2.3 If the University needs to use any Material provided by the Contractor that is owned by the Contractor or a third party to receive the full benefit of the reports, the Contractor grants to, or must obtain for, the University a perpetual, world-wide, royalty free, non-exclusive licence (including the right to sub-licence) to use, reproduce, adapt, modify and communicate the Material.

6 Termination of Deed

6.1 Termination for convenience

- 6.1.1 The University may, at any time, by notice, terminate this Deed.
- 6.1.2 Without limiting the terms of any Agreement, the Contractor is not entitled to compensation including, without limitation, for loss of prospective profits resulting directly or indirectly from termination of this Deed by the University in accordance with clause 6.1.1.

6.2 Termination for default

- 6.2.1 Without limiting any other rights or remedies the University may have against the Contractor arising out of or in connection with this Deed or any Agreement, the University may terminate this Deed effective immediately (or at the expiration of a stay period that applies to an Insolvency Event under the Corporations Act) by giving notice to the Contractor if:

- (a) the Contractor breaches a material provision of this Deed where that breach is not capable of remedy;
- (b) the Contractor breaches any provision of this Deed and fails to remedy the breach within 14 days after receiving notice requiring it to do so;
- (c) in the opinion of the University, a conflict of interest exists which would prevent the Contractor from performing its obligations under this Deed; or
- (d) an event specified in clause 6.2.3 happens to the Contractor.

- 6.2.2 Without limitation, for the purposes of clause 6.2.1(a), each of the following constitutes a breach of a material provision:

- (a) a failure to comply with clause 25 (Confidentiality and Disclosure of Information);
- (b) a failure to comply with clause 26 (Privacy, Notifiable Data Breaches and Freedom of Information); or
- (c) a failure to notify the University of a conflict of interest under clause 27 (Conflict of Interest).

- 6.2.3 The Contractor must notify the University immediately if:

- (a) the Contractor being a corporation, there is any change in Control of the Contractor;
- (b) the Contractor disposes of the whole or any part of its assets, operations or business other than in the ordinary course of business;
- (c) the Contractor ceases to carry on business;
- (d) the Contractor suffers an Insolvency Event.

6.3 Consequences of termination

- 6.3.1 On termination of this Deed the Contractor must deal with the University Material and the University's Confidential Information as reasonably directed by the University.
- 6.3.2 Termination of this Deed does not affect any accrued rights or remedies of a party.
- 6.3.3 Termination of this Deed does not affect the continuance of any Agreement formed under this Deed.

7 Panel review and refresh

- 7.1 The University reserves the right to, at any time during the Deed Period, review the operation of the Panel and do one or both of the following:

- (a) add to or remove Categories of Supplies over the term of this Deed;
- (b) approach the market to:
 - i. add suppliers to the Panel in one or more of the Categories of Supplies; or
 - ii. add additional Categories of Supplies to the Panel (for which the Contractor and other suppliers may tender to provide).

8 Miscellaneous

8.1 Capacity

The Contractor represents and warrants that it has the right to enter into this Deed.

8.2 Counterparts

This Deed may be executed in counterparts. All executed counterparts constitute one document.

8.3 Agreement clauses applicable to Deed

The following clauses of Part 2 of the Agreed Terms are deemed to apply to the Deed (as if the word Agreement was amended to Deed):

- 8.3.1 Clause 25 (Confidentiality and Disclosure of Information);
- 8.3.2 Clause 26 (Privacy, Notifiable Data Breaches and Freedom of Information);
- 8.3.3 Clause 27 (Conflict of Interest);
- 8.3.4 Clause 29.9 (Negation of Employment and Agency);
- 8.3.5 Clause 31 (Audit);
- 8.3.6 Clause 38 (Dispute Resolution);
- 8.3.7 Clause 40 (Variation of Agreement);
- 8.3.8 Clause 41 (Applicable Law);
- 8.3.9 Clause 42 (Notices); and
- 8.3.10 Clause 44 (No Waiver).

PART 2 AGREEMENT TERMS

9 Definitions and Interpretation deemed included

- 9.1 Clause 1 and clause 2.2 of the Deed are deemed to form part of this Part 2 of the Agreed Terms.

10 Term

- 10.1 This Agreement begins on the Start Date and will continue for the Term unless terminated earlier in accordance with clauses 35 or 36.
- 10.2 Option to extend Term
- 10.2.1 The Term may be extended by the University for further period(s), specified in Item 3 of Schedule 1 (each an **Option Period**), on the terms and conditions then in effect, by giving 30 days written notice to the Contractor before the end of the current Term of the University's wish to extend the Term.
- 10.2.2 If the Contractor agrees to the extension of the Term in writing, the extension takes effect from the end of the then current Term.

11 Provision of Supplies

- 11.1 The Contractor must apply for and obtain all Approvals necessary for the provision of the Supplies at its cost and in accordance with any requirements specified in Item 10 of the Order.
- 11.2 The Contractor must provide the Supplies as described in this Agreement:
- 11.2.1 with due skill and care and to the best of the Contractor's knowledge and expertise;
- 11.2.2 to a high standard and in accordance with the professional standards of conduct applying to the relevant industry;
- 11.2.3 to the locations and in the manner specified in the Order;
- 11.2.4 in a manner that meets or exceeds all Service Levels;
- 11.2.5 to the satisfaction of the University, acting reasonably based on the requirements of this Agreement;
- 11.2.6 using the Specified Personnel (if any);
- 11.2.7 to the extent relevant, in a manner that complies with Australian Standards and the National Construction Code;
- 11.2.8 in accordance with all applicable Laws and Approvals;
- 11.2.9 in accordance with the CBRM and any other applicable University's policies and procedures notified to the Contractor;
- 11.2.10 in accordance with any reasonable directions in relation to the Supplies given by the University from time to time;
- 11.2.11 to meet the Milestone Dates, and where no Milestone Dates are specified, promptly and without delay;
- 11.2.12 by keeping accurate and auditable records relating to the delivery of the Supplies; and
- 11.2.13 otherwise in accordance with the provisions of this Agreement.

- 11.3 The Contractor must service, repair or replace all Defects in the goods forming part of the Supplies in accordance with the terms of any warranty specified in the Order.
- 11.4 The Contractor must procure from the manufacturer(s) a manufacturer(s) guarantee for the period and on the terms specified in the Order (if any).
- 11.5 Without limiting any other rights available to the University under this Agreement, where the Contractor is unable to supply the Supplies within the University's specified timeframe or otherwise in accordance with the terms of this Agreement as a result of an act or omission of the Contractor the University may:
- 11.5.1 withhold any payment otherwise due under this Agreement until such time as the delay or breach is rectified to the satisfaction of the University; and
- 11.5.2 in the event that such failure lasts more than 30 days (or longer period notified by the University in writing), terminate the Agreement with immediate effect under clause 36 and pursue any remedies available under this Agreement or at Law.

12 General obligations

12.1 University's obligations

Without limiting any of its other obligations and responsibilities under this Agreement, the University is responsible for:

- 12.1.1 providing timely instructions and decisions to enable the Contractor to provide the Supplies; and
- 12.1.2 providing the University Materials and other inputs specified in the Order.

12.2 Contractor's obligations and responsibilities

12.2.1 Without limiting any of its other obligations and responsibilities under this Agreement, the Contractor must, at all times:

- (a) co-operate with the University in the pursuit of its objectives relevant to this Agreement;
- (b) familiarise itself with the relevant requirements of the CBRM, and University contractor induction requirements (see <https://services.anu.edu.au/campus-environment/building-management/contractors-consultants> and <https://services.anu.edu.au/training/contractor-induction>);
- (c) pursue best practice in the delivery of Supplies pursuant to this Agreement;
- (d) consult with the University on any matter which may materially affect the performance by the Contractor of its obligations under this Agreement; and
- (e) notify the University of all instructions, decisions, Material and other inputs to enable the University to meet its obligations under clause 12.1.

12.2.2 Without limiting the Contractor's other obligations under this Agreement, to the extent that the Supplies do not meet the University's requirements as a result of the Contractor's failure to comply with clause 12.2.1(e), the Contractor is responsible for that deficiency.

12.2.3 Where the University provides University Material to the Contractor, the Contractor must ensure that the University Material is used strictly in accordance with any direction by the University.

12.2.4 On the expiry or termination of this Agreement or on such earlier date as may be specified by the University, the Contractor must immediately deliver to the University's Contract Manager all University Material.

13 Design and Documentation

13.1 If Item 9 of the Order specifies that the Contractor will provide design services as part of the Supplies, the following clauses 13.2 to 13.8 (inclusive) apply.

13.2 Without limiting the other provisions in this Agreement that relate to University Material, when University Material is provided in connection with design elements of the Supplies, the University is not to be held in any way responsible for any errors, inconsistencies, or omissions contained in any University Material and the Contractor agrees that it places no reliance on the accuracy, completeness or suitability of the University Material and will satisfy itself in this respect.

13.3 Contractor's design

Without limiting any other requirement of this Agreement relating to Contract Material, the Contractor must:

13.3.1 prepare all relevant Design Material so that it is:

- (a) (without limiting any other obligation of the Contractor) consistent with the University Material; and
- (b) otherwise in accordance with the requirements of this Agreement;

13.3.2 submit the Design Material to the University in accordance with the applicable Milestone Dates;

13.3.3 at the same time as submitting the Design Material in accordance with clause 13.3.2:

- (a) certify in writing by deed poll in a form reasonably required by the University that the Design Material is in accordance with all the requirements of this Agreement; and
- (b) notify the University of any inconsistency, ambiguity or discrepancy between the Design Material and the University Material or the requirements of this Agreement.

13.4 University may review Design Material

The University may:

13.4.1 review (including if at any time required by the University, at any intermediate stage of development) any Design Material, or any resubmitted Design Material, whether prepared by the Contractor or any subcontractor; and

13.4.2 within 10 days of the submission by the Contractor of any Design Material or resubmitted Design Material, reject any Design Material that does not comply with the requirements of this Agreement or the University Material,

provided that if any Design Material is rejected, the Contractor must:

13.4.3 promptly submit amended Design Material to the University, and in any event so far as timing is concerned so that the requirements of the Milestone Dates can be complied with; and

13.4.4 if the Design Material is rejected because it fails to comply with the requirements of this Agreement or the University Material, meet the costs of any re-design work undertaken to rectify the non-compliance (including penalties due to a delay to any Milestone Date).

13.5 No obligation to review

The University does not assume or owe any duty of care to the Contractor to review, or in reviewing, the Design Material submitted by the Contractor for errors, omissions or compliance with this Agreement.

13.6 Review does not give rise to any obligation or waiver

No exercise of rights, failure to exercise rights, or any other act or omission by, or on behalf of, the University in relation to the Design Material will:

13.6.1 relieve the Contractor from, or alter or affect, the Contractor's liabilities or responsibilities; or

13.6.2 prejudice the University's rights against the Contractor, whether under this Agreement or otherwise according to Law.

13.7 Design Material

The Contractor represents and agrees that:

13.7.1 the Design Material has been and will be prepared with the care and skill properly to be expected from experienced competent professionals with the requisite qualifications;

13.7.2 the design disclosed in the Design Material must comply with the National Construction Code (if applicable);

13.7.3 the design disclosed in the Design Material must be sufficient to allow the works the subject of the design to be constructed and completed in accordance with the University's requirements, and expeditiously and cost-effectively;

13.7.4 the design disclosed in the Design Material must include adequate information to allow the works the subject of the design to be performed and occupied safely and without risks to health, be fit for purpose and obtain any required approval for occupation;

13.7.5 the Contractor has examined and considered the University Material for, and satisfied itself (without reliance on the University) about, the adequacy and suitability of the University Material for the purposes of providing the Supplies; and

13.7.6 the Supplies and the Deliverables are and will be:

(a) free from any defects in design; and

(b) fit for their intended purpose (including as disclosed by the University Materials).

13.8 Document transmittal and review system

Within 10 Business Days of the Commencement Date, the Contractor must make available to the University a document transmittal and review system which will permit the University to efficiently and effectively review and approve:

13.8.1 all Design Material (and all drafts of the Design Material); and

13.8.2 any other documentation required to be reviewed and approved by the University in connection with the Supplies,

by electronic means in the University's offices using the University's current information technology systems and infrastructure.

14 Contractor Personnel

14.1 Where Specified Personnel are identified in the Order, the Contractor must ensure that the Supplies are only delivered by the Specified Personnel, and must notify the University immediately if the Contractor becomes aware that the Specified Personnel will cease to be engaged or employed by the Contractor during the Term.

14.2 The Contractor must keep the University informed of steps taken to replace Specified Personnel and must act promptly and without delay to replace the Specified Personnel. The replacement Specified Personnel must have commensurate skills, qualifications and experience.

14.3 The Contract Manager must approve any replacement Specified Personnel. If the Contractor does not appoint replacement Specified Personnel within seven (7) days (or such longer time frame agreed by the University) and to the satisfaction of the University, the University may terminate this Agreement under clause 36.

15 Contractor Warranties

15.1 The Contractor represents and warrants that:

15.1.1 it has the right and authority to enter into this Agreement;

15.1.2 it has all rights, titles, licences, interests and property necessary to lawfully deliver the Supplies;

15.1.3 it and its Personnel, including its Specified Personnel, have the necessary experience, skill, knowledge, expertise and competence to deliver the Supplies;

15.1.4 the Supplies are free of encumbrances and will not be subject to restrictions on the University being able to use the Supplies as a consequence of Intellectual Property Rights of the Contractor or any other person;

15.1.5 goods that form part of the Supplies will be:

(a) fit for the purpose for which they are intended to be used;

(b) conform to their description (or representative sample if applicable) and any relevant Specifications;

(c) will be free from any Defect; and

(d) will be of good merchantable quality;

15.1.6 the Supplies will be complete and accurate;

15.1.7 the Supplies will include all things, tangible and intangible, to ensure that the University is able to take to full advantage of the Supplies, including but not limited to passwords, keys and codes;

15.1.8 it conducts its business in a manner that is consistent with all applicable laws, statutes, regulations and codes from time to time in force;

15.1.9 all work performed under this Agreement will be carried out and completed in a proper and workmanlike manner and in the most cost-effective manner and using materials suitable for the purpose; and

15.1.10 the person who signs this Agreement for and on behalf of the Contractor has the requisite authority to do so, and if that person is acting under a power of attorney that the power of attorney is in force and in existence and has not been revoked.

15.2 This clause 15 will survive the expiration or termination of this Agreement.

16 Security

16.1 If Item 21 of the Order states that Security must be provided, the following clauses 16.2 to 16.4 (inclusive) apply.

16.2 The Contractor must on the execution of this Agreement provide the Security as security for the performance of the Contractor of its duties and obligations under this Agreement.

16.3 The University must release the Security on the date/s set out in the Order.

16.4 The University may have recourse to the Security where the University has become entitled to exercise a right under this Agreement in respect of the Security or has a claim for money or damages against the Contractor arising from the Contractor's failure to comply with any term of this Agreement.

17 Delivery and Delay

17.1 The Contractor must deliver the Supplies in accordance with the Order.

17.2 The Contractor will take all reasonable steps to prevent and to minimise delay in delivery of the Supplies.

17.3 As soon as practicable, but not later than twenty-four (24) hours after it becomes evident to the Contractor that it will be unable to deliver the Supplies in accordance with the Milestone Dates and/or timetable provided in the Order the Contractor will notify the University's Contract Manager of the cause and nature of the delay and describe the steps it will take to contain the delay.

17.4 The Contractor will notify the University of the length of the delay as soon as it can reasonably be calculated.

17.5 The Contractor may, by notice in writing to the University's Contract Manager and within seven (7) days of a delay becoming evident, request approval of a postponement of the time for the delivery of the Supplies.

17.6 The University, in its absolute discretion, may determine whether to grant the Contractor a postponement of the time for delivery of the Supplies. If the University grants a postponement, it will promptly notify the Contractor in writing.

17.7 If the University determines that it will not grant a postponement of the time for delivery of the Supplies it will promptly notify the Contractor in writing in which case the time for delivery of the Supplies will remain unchanged.

17.8 Whether or not the Contractor has requested a postponement of the time for delivery of the Supplies, the University may by notice in writing to the Contractor, postpone the time for delivery.

17.9 The Contractor will not be entitled to postponement costs except where the postponement is requested by the University pursuant to clause 14.8, in which case the University will pay any reasonable costs (excluding consequential losses) in respect of unavoidable Loss

sustained or incurred by the Contractor and directly attributable to the postponement, provided that the costs are fully substantiated to the University.

17.10 Liquidated Damages

17.10.1 If Item 9 of the Order states that liquidated damages are to apply, the following subclause 17.10.2 will apply.

17.10.2 If the Supplies are not Delivered in accordance with the requirements of this Agreement and the University has not agreed to a postponement of the time for Delivery of the Supplies, the Contractor must pay liquidated damages at the rates specified in Item 21 of the Order for every calendar day:

- (a) from the day after the date for Delivery;
- (b) to and including the day being the earlier of:
 - (i) Delivery; or
 - (ii) the earlier termination of this Agreement,

provided that liquidated damages assessed as due to the University pursuant to this clause may be deducted from any amounts owing to the Contractor by the University for work done pursuant to this Agreement or from the Security (if any).

18 Acceptance of the Supplies

18.1 All Supplies must be to the satisfaction of the University.

18.2 Subject to clause 18.3, the Contractor must, in accordance with Item 9 of Schedule 6 and/or other directions provided to it by the University, offer the Supplies to the University for Acceptance.

18.3 If the Order sets out a procedure for Acceptance Testing to be carried out by the Contractor, then the Acceptance Testing must be carried out in accordance with the Order before the Contractor offers the Supplies to the University for Acceptance.

18.4 On:

18.4.1 receipt of the Supplies pursuant to clause 18.2; or

18.4.2 completion of Acceptance Testing pursuant to clause 18.3;

the University will either Accept or not Accept the Supplies.

18.5 If in the reasonable opinion of the University, the Supplies do not meet the requirements of this Agreement, the University may not Accept the Supplies:

18.5.1 outright, in which case the University will give the Contractor a notice of non-Acceptance of the rejected Supplies including the reasons for the rejection; or

18.5.2 conditionally, in which case the University will advise the Contractor in writing of the non-Acceptance and the extent to which the Supplies do not conform to the requirements of this Agreement and will invite the Contractor to correct or replace the rejected Supplies.

18.6 Where the Contractor is invited to correct, repair or replace rejected Supplies, the Contractor, within two (2) Business Days after receipt of the invitation, will inform the University by written notice what action it proposes to correct, repair or replace the Supplies, furnishing full details.

18.7 The University will either:

- 18.7.1 instruct the Contractor in writing to complete any course of action proposed by the Contractor within a specified time; or
- 18.7.2 issue a notice of non-Acceptance of the rejected Supplies.
- 18.8 In issuing a notice of non-Acceptance, the University may instruct the Contractor to retake possession of the rejected Supplies. The Contractor will comply with this instruction within three (3) Business Days.
- 18.9 If, within the time specified in the instruction, or within such further time as the University may in its discretion allow, the Contractor resubmits the Supplies as conforming to the requirements of this Agreement, then clause 18.4 to clause 18.8 (inclusive) apply as if the Contractor submitted the Supplies for the first time.
- 18.10 If any part of the Supplies do not meet the requirements of this Agreement on two or more occasions, the University may terminate this Agreement immediately under clause 36 by giving the Contractor written notice.
- 18.11 Any action of the Contractor in correction or replacement of the Supplies or in complying with the directions of the University under this clause will be at the Contractor's expense and will not entitle the Contractor to claim postponement of the time for delivery of the Supplies.
- 18.12 The Supplies will not be taken to have been Delivered, in satisfaction of the Contractor's obligations under this Agreement, until Accepted by the University in accordance with this clause 18.
- 18.13 The cost of rectifying or resupplying rejected Supplies, including all freight and handling costs associated with the return and replacement of faulty or incorrectly manufactured/despached/installed goods, will be borne by the Contractor.
- 18.14 Nothing in this clause 18 limits in any way any other right, remedy or recourse by the University.

19 Defects

- 19.1 The Defects Liability Period will commence on the date of Acceptance of the Supplies by the University and will continue for the period specified in Item 22 of the Order.
- 19.2 The Contractor must rectify all Defects which become apparent during the Defects Liability Period. The Contractor must carry out rectification at times specified by the University and in a manner causing as little inconvenience to the occupants or users of the Supplies as is reasonably possible.
- 19.3 During the Defects Liability Period, the University may (acting reasonably) give the Contractor a direction to rectify a Defect specifying the time in which the Defect is to be rectified.
- 19.4 If the rectification is not commenced or completed by the stated date(s), the University may rectify the Defect itself or have the rectification carried out by others at the cost of the Contractor without prejudice to any other rights and remedies the University may have.
- 19.5 If at any time within 12 months after the Contractor makes good a Defect in accordance with this clause, and the making good of that Defect is defective, the University may notify the Contractor of the Defect and the Contractor must make good the Defect promptly.

20 Reporting

- 20.1 The parties will meet at the times and in the manner set out in the Order (or otherwise as agreed in writing between the parties) to discuss any issues in relation to the provision of the Supplies. The parties must ensure that their Contract Managers are reasonably available to attend such meetings and answer any queries relating to the provision of the Supplies raised by either party.
- 20.2 The Contractor must otherwise provide the University with reports in accordance with the Order.

21 Service Levels

- 21.1 Without limiting any other obligation of the Contractor, each element of the Supplies is subject to assessment by the University against the relevant Service Levels.
- 21.2 The Contractor must:
 - 21.2.1 implement and maintain during the Term, measuring and monitoring tools capable of measuring its performance against the Service Levels;
 - 21.2.2 provide the University with access to the data and information gathered by those tools;
 - 21.2.3 if requested by the University demonstrate the operation and accuracy of those tools.
- 21.3 If the University considers that all or part of the Supplies do not meet the Service Levels, the University may provide the Contractor with notice of that fact and include reasons for the Supplies not meeting the Service Levels.
- 21.4 If the University notifies the Contractor that all or part of the Supplies do not meet the Service Levels, the Contractor must:
 - 21.4.1 take all necessary steps to ensure that the Supplies are promptly corrected;
 - 21.4.2 give notice to the University when the Supplies have been corrected; and
 - 21.4.3 allow the University to repeat the assessment of all or part of the Supplies against the Service Levels,

within five (5) Business Days after the date of the notice or such other time as agreed between the parties in writing.
- 21.5 If any part of the Supplies does not meet the Service Levels on two or more occasions, the University may terminate this Agreement immediately under clause 36 by giving the Contractor written notice.
- 21.6 Clauses 21.2, 21.4 and 21.5 do not limit in any way any other right, remedy or recourse of the University.

22 Fees

- 22.1 Subject to the terms of this clause and the Supplies meeting the requirements of this Agreement including the Milestone Dates and Service Levels, the University must pay to the Contractor the Fees in accordance with set out in the Order.
- 22.2 The Fees are payable by the University within 30 days of receipt by the University's Contract Manager of a correctly rendered tax invoice.

- 22.3 If an invoice is found to have been rendered incorrectly after payment, any underpayment or overpayment will be recoverable by or from the Contractor, as the case may be, and, without limiting recourse to other available means, may be offset against any amount subsequently due by the University to the Contractor under this Agreement.
- 22.4 The Contractor must pay:
- 22.4.1 all stamp duty (including penalties and interest) assessed or payable in respect of this Agreement and the Delivery of the Supplies;
 - 22.4.2 subject to clause 23, all taxes, duties and government charges imposed or levied in Australia or overseas in connection with the performance of this Agreement.
- 22.5 Invoicing requirements
- Invoices must be in a form approved by the University and must:
- 22.5.1 contain the Contractor's name, address and ABN;
 - 22.5.2 contain pre-GST amounts, the amount of GST applied and the total price payable by the University;
 - 22.5.3 contain the contract number, purchase order number or UID provided by the University (if any);
 - 22.5.4 contain the name of the University's Contract Manager;
 - 22.5.5 contain an itemised list of the Fees payable together with any substantiating material required and a record detailing how the relevant Milestone Dates have been met;
 - 22.5.6 contain an itemised list of the amount of any allowances and costs to be paid by the University together with any substantiating material required;
 - 22.5.7 comply with the requirements of the GST law;
 - 22.5.8 specify the period covered by the invoice; and
 - 22.5.9 any other information reasonably requested by the University from time to time.
- 22.6 Expenses
- 22.6.1 Unless specified otherwise in the Order, the Contractor must not charge the University for any charges or expenses (including travel and accommodation, document reproduction, transportation and courier charges, and telecommunications charges) in addition to the Fees. The University is under no obligation to pay any amount in excess of the Fees.
 - 22.6.2 The Contractor will be reimbursed the expenses set out in the Order.
 - 22.6.3 The Contractor must submit an invoice for those expenses and the University will reimburse the Contractor in accordance with the invoicing procedure set out in this clause.

23 GST

- 23.1 Unless stated otherwise in the Agreement, the amount payable for the supply of any goods, services or other things under or in connection with this Agreement is stated as exclusive of GST.

- 23.2 The party liable to pay for a taxable supply to which this clause applies must also pay the amount of any GST payable in respect of the taxable supply on the date that the payment for the taxable supply is due.
- 23.3 A party need not make a payment for a taxable supply made under or in connection with this Agreement until it receives a tax invoice for the supply to which the payment relates.

24 Intellectual Property

- 24.1 The title to and ownership of Intellectual Property in all Contract Material will vest immediately upon its creation in the University.
- 24.2 This Agreement does not affect the ownership of Intellectual Property rights in any Background Intellectual Property.
- 24.3 To the extent that the University needs to use any of the Contractor's Background Intellectual Property to receive the full benefit of the Supplies, the Contractor grants to the University a permanent, irrevocable, royalty-free, non-exclusive licence (with a right to sub licence) to use, reproduce, publish, adapt and exploit the Contractor's Background Intellectual Property anywhere in the world.
- 24.4 The Contractor must ensure that all Contract Material is neatly and legibly compiled in a standard software format and contains adequate information to demonstrate the nature and extent of the Supplies, and to support all conclusions, findings and opinions.
- 24.5 The Contractor warrants that the Contract Material and the University's use of the Contract Material in accordance with this Agreement, will not infringe the Intellectual Property rights of any person.
- 24.6 If someone Claims, or the University reasonably believes that someone is likely to Claim, that all or part of the Contract Material infringes their Intellectual Property rights, the Contractor must, in addition to the indemnity under clause 32 and to any other rights that the University may have against it, promptly, at the Contractor's expense:
- 24.6.1 use its best efforts to secure the rights for the University to continue to use the affected Contract Material free of any Claim or liability for infringement; or
 - 24.6.2 replace or modify the affected Contract Material so that the Contract Material or the use of it does not infringe the Intellectual Property rights of any other person without any degradation of the performance or quality of the affected Contract Material.
- 24.7 To the extent permitted by Law, the Contractor unconditionally and irrevocably consents, and will use its best endeavours to ensure that its employees and sub-contractors consent, to any act or omission that would otherwise infringe its or their Moral Rights in the Contract Material, including any act or omission that may have taken place before this consent and in particular:
- 24.7.1 consents to the following acts:
 - (a) any alteration to or deletion from this Contract Material;
 - (b) any use of this Contract Material that does not identify the author;
 - (c) any use of this Contract Material under an organisational banner; and
 - (d) use of the Contract Material in a different context to that originally envisaged,

where it is reasonable in the circumstances, but does not include derogatory treatment or false attribution of authorship.

24.8 On the earlier of the expiration or termination of this Agreement, or on any date specified in this Agreement for delivery of Contract Material, the Contractor must deliver to the University all Contract Material.

24.9 This clause 24 will survive the expiration or termination of this Agreement.

25 Confidentiality and Disclosure of Information

25.1 A party, its employees, agents or sub-contractors must not disclose or make public any Confidential Information provided by the other party without the prior approval in writing of the other party.

25.2 On the earlier of the expiration or termination of this Agreement, the Contractor must deliver to the University (and not retain any copies of) all material forms of Confidential Information provided to the Contractor by the University and allow the University to audit its compliance with this clause.

25.3 A party is permitted to disclose any Confidential Information:

25.3.1 to the extent required by Law or by a lawful requirement of any government or governmental body, authority or agency having authority over the party;

25.3.2 if required in connection with legal proceedings;

25.3.3 for public accountability reasons, including a request for information by parliament or a parliamentary committee;

25.3.4 for any other reporting requirements of the party; or

25.3.5 to the party's staff and contractors to the extent required to enable performance of the obligations created by this Agreement.

25.4 This clause 25 will survive the expiration or termination of this Agreement.

26 Privacy, Data Breaches and Freedom of Information

26.1 The Contractor acknowledges that the University is subject to the provisions of the Privacy Act. The Contractor must ensure that its collection, retention, access to, correction, use and security of any Personal Information will be made, as the case may be:

26.1.1 only for the purposes of fulfilling its obligations under this Agreement; and

26.1.2 in accordance with the procedures from time to time requested by the University, but otherwise at least in accordance with the Australian Privacy Principles as set out in the Privacy Act, to the extent that the content of those Principles apply to the types of activities the Contractor is undertaking under this Agreement.

26.2 The Contractor must:

26.2.1 not do any act, or engage in any practice, that would be a breach of the Australian Privacy Principles or the Privacy Act;

26.2.2 not disclose any Personal Information obtained in connection with this Agreement without the written authority of the University and must immediately notify the University where it becomes aware or ought reasonably to have become aware that a disclosure of Personal Information may be required by Law; and

- 26.2.3 co-operate and comply with any reasonable requests or directions of the University arising directly from or in connection with the exercise or the functions of the Privacy Commissioner under the Privacy Act or otherwise.
- 26.3 The Contractor must ensure that any record as defined in the Privacy Act containing Personal Information provided to or obtained by the Contractor pursuant to this Agreement is, at the expiration or termination of this Agreement, either returned to the University or deleted or destroyed, and if required, in the presence of a person duly authorised by the University to oversee such deletion or destruction.
- 26.4 If the Contractor becomes aware that there are reasonable grounds to suspect a Data Breach has occurred in relation to any Personal Information held by the Contractor as a result of this Agreement or its provision of the Supplies, the Contractor agrees to:
- 26.4.1 notify the University in writing as soon as possible, which must be no later than within 3 days; and
- 26.4.2 provide the University with all information requested by the University about the Data Breach;
- 26.4.3 co-operate and comply with any reasonable requests or directions of the University so that the University can carry out an assessment of the Data Breach in accordance with its obligations under the Privacy Act.
- 26.5 Where the Contractor notifies the University of a Data Breach in accordance with clause 26.4, or where the University notifies the Contractor that there has been a Data Breach in relation to any Personal Information held by the Contractor as a result of this Agreement or its provision of the Supplies, the Contractor will:
- 26.5.1 take all reasonable action to mitigate the risk of the Data Breach causing serious harm to any of the individuals to whom the compromised information relates;
- 26.5.2 unless otherwise directed by the University, take all other action necessary to comply with the requirements of the Privacy Act; and
- 26.5.3 take any other action as reasonably directed by the University.
- 26.6 In the event that the University receives a request under Freedom of Information legislation for access to information created by, or in the possession of, the University that relates to the performance of this Agreement, the Contractor must, if required by the University, immediately assist the University in relation to the request (including by providing any information that it holds to the University).
- 26.7 The Contractor must ensure that each subcontract imposes obligations on the subcontractor equivalent to the obligations under this clause 26.
- 26.8 The Contractor must notify the University as soon as reasonably practicable if it becomes aware of a breach or possible breach of the obligations contained in this clause 26.
- 26.9 This clause 26 will survive the expiration or termination of this Agreement.

27 Modern Slavery

- 27.1 In performing its obligations under this Agreement, the Contractor must:
- 27.1.1 take reasonable steps to identify, assess and address the risks of Modern Slavery practices in the operations and supply chains used in delivery of the Supplies;

- 27.1.2 if it becomes aware of any Modern Slavery practices in the operations and supply chains used in its performance of this Agreement, as soon as reasonably practicable:
- (a) take all reasonable action to address or remove these practices; and
 - (b) promptly notify the University of the Modern Slavery practices and provide any relevant information requested by the University; and
 - (c) provide updates to the University of its progress to address or remove the Modern Slavery practices.
- 27.1.3 Ensure that each of its suppliers and subcontractors complies with the terms of this clause 27;
- 27.1.4 If requested by the University, provide the University with an annual report in the form specified by the University, setting out the steps it has taken to comply with the requirements of this clause.

28 Conflict of Interest

- 28.1 The Contractor warrants that, at the date of entering into this Agreement, no conflict of interest exists or is likely to arise in the performance of its obligations under this Agreement which has not already been advised to the University in writing and consented to by the University.
- 28.2 If, during the term of this Agreement, a conflict, or risk of conflict, of interest arises, the Contractor undertakes to notify the University immediately in writing of that conflict or risk and to take such steps as the University may reasonably require to resolve or deal with the conflict as required. If the Contractor is unable or unwilling to resolve or deal with the conflict as required, the University may terminate this Agreement in accordance with clause 36.

29 Conduct on University Premises and Work Health and Safety

- 29.1 The University must cooperate with the Contractor by providing access to its premises and facilities as reasonably necessary to enable the Contractor to provide the Supplies.
- 29.2 The Contractor and its employees, subcontractors and agents must, when using the University's premises or facilities,
- 29.2.1 complete any induction program required by the University;
 - 29.2.2 comply with all statutes, Acts and Regulations and other requirements which relate in any way to the performance of the Supplies (**WH&S Laws**);
 - 29.2.3 comply with all of the University's reasonable directions, WHS policies and procedures including the actions and responsibilities specified in the relevant section of the Work Health and Safety Management System (WHSMS) Handbook Chapter 3.6 noted in the Contractor Classification item of the Details (made available and accessible on the [ANU Website](#)) and Contractor Work Health and Safety Procedure (made available and accessible on the [ANU Policy Library](#)) in operation at those premises or facilities;
 - 29.2.4 do all things necessary to assist the University in discharging its obligations under the WH&S Laws, and must not do or omit to do anything which would cause the University to breach its obligations under the WH&S Laws;

- 29.2.5 upon request by the University, promptly provide evidence of all relevant insurance, licences, qualifications and registrations required to provide the Supplies; and
- 29.2.6 promptly notify the University of any accident or injury that occurs during the performance of the Supplies.
- 29.3 The Contractor acknowledges their obligation to notify the University of all incidents as specified in Chapter 3.6 of the WHSMS Handbook. In particular, if a Notifiable Incident occurs in the Contractor's performance of the Agreement or when using the University's premises or facilities, the Contractor must:
 - 29.3.1 immediately notify the University including all relevant details known to the Contractor;
 - 29.3.2 co-operate in the investigation of the Notifiable Incident by the University in accordance with the process set out in Chapter 3.6 WHSMS Handbook; and
 - 29.3.3 investigate the Notifiable Incident as soon as possible to determine its causes and any adverse effects on the Agreement (including risks to health and safety), and take all reasonable steps to remedy any effects on health and safety and to ensure the event or circumstances that led to the Notifiable Incident do not happen again.
- 29.4 The University will determine the classification of the Contractor under the WHSMS Handbook and provide the Contractor with a copy of the section relevant to their classification prior to the Contractor providing the Supplies.
- 29.5 The Contractor must ensure that light, power and water consumption arising from delivery of the Supplies are kept to minimum levels without compromising the effectiveness of the Supplies provided.
- 29.6 The Contractor must ensure that its employees, subcontractors and agents comply with any reasonable security requirements as directed by the University.
- 29.7 The Contractor must ensure that its employees, subcontractors and agents maintain appropriate training, competency, qualification and licences and only assign qualified and competent persons to perform the Supplies on University premises.
- 29.8 The Contractor acknowledges that the University is a smoke-free campus and that it will comply with University policy in this regard.
- 29.9 The Contractor must ensure that each subcontract imposes obligations on the subcontractor equivalent to the obligations under this clause 29.

30 Negation of Employment and Agency

- 30.1 The Contractor must not represent itself, and must ensure that its employees or agents do not represent themselves, as being employees, partners or agents of the University.
- 30.2 The Contractor will not, by virtue of this Agreement, or for any purpose be deemed to be an employee, partner or agent of the University.

31 Audit

- 31.1 The University, its nominee, the Commonwealth Auditor-General, the Commonwealth Information Commissioner, or a delegate of the Auditor-General or the Information Commissioner, for the purpose of ensuring the proper performance of this Agreement and/or performing the Auditor-General's or the Information Commissioner's statutory functions, may at reasonable times and on giving reasonable notice to the Contractor:

- 31.1.1 require the provision by the Contractor, its employees, agents or sub-contractors of records and information which are related to this Agreement;
- 31.1.2 have access to the premises of the Contractor for the purposes of inspecting and copying documentation and records, however stored, in the custody or under the control of the Contractor, its employees, agents or subcontractors which are related to this Agreement; and
- 31.1.3 where relevant, inspect the University assets held on the premises of the Contractor.
- 31.2 The Contractor must comply with the University's requests under clause 31 at no additional cost to the University.
- 31.3 The Contractor must promptly take, at no additional cost to the University, corrective action to rectify any error, non-compliance or inaccuracy identified in any audit in the way the Contractor has under this Agreement:
 - 31.3.1 delivered the Supplies; or
 - 31.3.2 calculated any Fees or any other amounts invoiced to the University.
- 31.4 Clause 31 applies for the term of this Agreement and for a period of seven (7) years from the date of expiration or termination of this Agreement.

32 Indemnity

- 32.1 Subject to clause 32.2, the Contractor must at all times indemnify the University, from and against any and all liabilities, Losses, costs and expenses reasonably incurred or suffered by the University arising from any claim, suit, demand, action or proceeding by any person against the University or any of its officers, employees, contractors, agents, subcontractors or invitees where such Loss or liability was caused or contributed to in any way:
 - 32.1.1 by any wrongful, unlawful or negligent act or omission of the Contractor, or its officers, employees, agents, subcontractors or invitees in connection with the Contractor's performance of its obligations under this Agreement;
 - 32.1.2 by arising out of an allegation that any Supplies or Contract Material (including the use of any Contract Material by the University or its employees, agents or subcontractors) infringes the Intellectual Property rights or Moral Rights of the third party; or
 - 32.1.3 by any act or omission by the Contractor causing death, personal injury or property damage.
- 32.2 The Contractor's liability to indemnify the University under clause 32.1 will be reduced proportionally to the extent that the University or its officers, employees, contractors, agents, subcontractors or invitees caused the Loss or liability.
- 32.3 The University may enforce the indemnity in clause 32.1 in favour of the persons specified in clause 32.1 for the benefit of each of such persons in the name of the University or of such persons.
- 32.4 If payment under an indemnity to the University gives rise to a liability for the University to pay GST, the Contractor must pay and indemnify the University against the amount of such GST.
- 32.5 This clause 32 will survive the expiration or termination of this Agreement.

33 Insurance

- 33.1 The Contractor must, at its own expense, effect and maintain with a reputable insurance company from the date of commencement of this Agreement in the amount specified in Item 7 of Schedule 1:
- 33.1.1 public & products liability insurance;
 - 33.1.2 professional indemnity insurance (but only where clause 12 applies); and
 - 33.1.3 workers compensation insurance.
- 33.2 Any insurance policies held by the Contractor that provide cover on a 'claims made' basis must be maintained for no less than seven (7) years after the completion of the Agreement. Any insurance policies that provide cover on an 'occurrence' basis must be maintained during the term of this Agreement.
- 33.3 The Contractor must provide evidence without delay of its insurance under clause 33.1 on request by the University.

34 Subcontracting

- 34.1 Except for Subcontractors listed in Schedule 1, the Contractor must not subcontract any aspect of the provision of the Supplies without the prior written approval of the University.
- 34.2 The Contractor must ensure that the terms of engagement of any subcontractor are consistent with the Contractor's obligations under this Agreement.
- 34.3 The Contractor is fully responsible for the delivery of the Supplies even if the Contractor subcontracts any aspect of the provision of the Supplies.
- 34.4 The Contractor must on request by the University provide the University with the names of any of the Contractor's subcontractors and agrees that the University may, where required, disclose publicly the names of any of the Contractor's subcontractors.

35 Termination for Convenience

- 35.1 The University may, at any time, by written notice, terminate this Agreement in whole or in part.
- 35.2 Upon such notice being given the Contractor must:
- 35.2.1 cease or reduce work according to the tenor of the notice;
 - 35.2.2 immediately do everything possible to mitigate or minimise any losses resulting from that termination and to protect the Contract Material; and
 - 35.2.3 continue work on any part of the Supplies not affected by the notice.
- 35.3 If this Agreement is terminated under clause 35.1, the University is liable only for:
- 35.3.1 payment of Fees for Supplies delivered before the effective date of termination, provided those Supplies delivered have been delivered in accordance with this Agreement and the Contractor is not otherwise in breach of this Agreement; and
 - 35.3.2 subject to this clause 35, any reasonable costs (excluding consequential losses including without limitation damage to reputation, loss of profits, loss of revenue, loss of business, loss of data or failure to realise anticipated benefits) in respect of unavoidable Loss sustained or incurred by the Contractor and directly attributable to the termination or partial termination of this Agreement, provided that the costs

are fully substantiated to the University. These costs must not exceed total Fees paid under this Agreement up to and including the effective date of termination.

35.4 In the event of partial termination, the University's liability to pay the Fees, in the absence of agreement to the contrary, will abate proportionately to the reduction in the Supplies and the meeting of the Milestone Dates.

35.5 The Contractor is not entitled to compensation for loss of prospective profits.

36 Termination for Default

36.1 Without limiting any other rights or remedies the University may have against the Contractor arising out of or in connection with this Agreement, the University may, by notice in writing to the Contractor, terminate this Agreement immediately (or at the expiration of a stay period that applies to an Insolvency Event under the Corporations Act) in whole or in part and recover from the Contractor any Loss or damage suffered by the University pursuant to clauses 11.5.2, 14.3, 18.10, 21.5, 28.2 or if:

36.1.1 the Contractor suffers an Insolvency Event;

36.1.2 the Contractor ceases, or threatens to cease, to carry on its business;

36.1.3 the Contractor commits a breach of this Agreement which is not, in the opinion of the University, capable of rectification;

36.1.4 the Contractor breaches this Agreement where such breach is, in the opinion of the University, capable of rectification and the Contractor does not rectify the breach within 14 days after receiving a notice from the University requiring rectification;

36.1.5 the Contractor suffers a change in Control where the University (acting reasonably) has not consented to the change in Control; or

36.1.6 a delay or failure of the Contractor to perform its obligations which exceeds 45 days, due to a Force Majeure Event.

36.2 Where, before termination of this Agreement under clause 36.1, the University has made any payment in advance to the Contractor for which it has not received Supplies, the amount of that payment must be repaid by the Contractor to the University immediately on termination and, if not repaid, is recoverable by the University from the Contractor as a debt.

36.3 If this Agreement is terminated under this clause 36:

36.3.1 subject to this Agreement, the parties will be relieved from future performance, without prejudice to any right of action that has accrued at the date of termination;

36.3.2 the University's rights to recover damages are not affected;

36.3.3 the Contractor must comply with all obligations in this Agreement relating to Contract Material;

36.3.4 in addition to any remedies available, under clause 32, to the University, the Contractor must indemnify the University in respect of any Loss it may incur in procuring similar functions to the Supplies from another supplier.

36.4 On termination of this Agreement, the Contractor must:

36.4.1 stop work on the Supplies;

36.4.2 deal with Contract Material as reasonably directed by the University;

36.4.3 subject to clause 24.8, return all the Contract Material to the University; and

36.4.4 subject to clause 25.2, return all the University's Confidential Information to the University.

37 Transition out

37.1 Transition out obligations

37.1.1 The Contractor must provide the following assistance to the University on expiry or termination of this Agreement:

- (a) cooperating with and providing all reasonable assistance and making available all required information to the University in support of the transition out of the Contractor and the transition of the University or any new contractor of the delivery of the Supplies;
- (b) doing all acts and things and executing all documents as are reasonably necessary or desirable in support of the transition out of the Contractor;
- (c) replying to all and any requests for assistance as expediently as possible to ensure that the Contractor does not hinder any procurement process or engagement or commencement of any new contractor;
- (d) ensuring, to the maximum extent possible, seamless continuity of Supplies during the transition out period; and
- (e) making Personnel available for discussions with the University as may be required. The time, length and subject of these discussions is not considered to reveal any 'Commercial-in-Confidence' information of the Contractor.

37.2 Survival

37.2.1 This clause 37 survives the expiry or termination of this Deed.

38 Dispute Resolution

38.1 A Party must not start court proceedings (except proceedings seeking interlocutory relief) about a dispute arising out of this Agreement unless it has complied with this clause 38.

38.2 A Party claiming that a dispute has arisen must notify the other Party giving details of the dispute (**Notification**).

38.3 On receipt of a Notification, each Party must negotiate in good faith to resolve the dispute and, if necessary to resolve the dispute, involve the relevant senior officers of the Parties directly in those negotiations.

38.4 If a dispute is not resolved within 30 days (or longer period agreed between the Parties), the Parties will refer the dispute for mediation by the Australian Disputes Centre Limited (**ADC**) for resolution in accordance with the ADC guidelines for commercial mediation.

38.5 If a dispute is not resolved under clause 38.4 within 90 days after referral (or longer period agreed between the Parties), a Party may initiate court proceedings.

39 Right to Set Off

39.1 The University may deduct from or set off against any other money owing to the Contractor, any money owing by the Contractor to the University under this Agreement.

40 Variation of Agreement

- 40.1 No agreement or understanding that varies or extends this Agreement (including in particular the scope or delivery of the Supplies, or the Fees) will be legally binding upon either party unless in writing and signed by both parties.
- 40.2 This Agreement and the Deed constitute the entire agreement between the parties in relation to the Supplies and supersedes all previous correspondence, contracts and arrangements between the parties relating to the Supplies.

41 Applicable Law

- 41.1 This Agreement will be governed by and construed in accordance with the Law for the time being in force in the Australian Capital Territory and the parties agree to submit to the exclusive jurisdiction of the courts of the Australian Capital Territory.

42 Notices

- 42.1 Notices under this Agreement may be delivered by prepaid postage, by hand, by facsimile or by email transmission to each of the parties at the address listed in Item 8 of Schedule 1.

43 Force Majeure Event

- 43.1 A party (the **non-performing party**) will not be liable to the other party in respect of the consequences of any non-compliance with its obligations under this Agreement (other than an obligation to pay money) if and to the extent such non-compliance is caused by a Force Majeure Event, provided the non-performing party:
 - 43.1.1 is without fault in causing the Force Majeure Event or resulting non-compliance;
 - 43.1.2 could not have prevented or reasonably circumvented the Force Majeure Event or resulting non-compliance by taking reasonable precautions, or through the use of alternative sources, work-around plans or other means;
 - 43.1.3 as soon as practicable, notifies the other party of the Force Majeure Event and details of any non-compliance;
 - 43.1.4 continues to use its best endeavours to recommence performance whenever and to whatever extent possible without delay; and
 - 43.1.5 keeps the other party informed of steps taken to address the non-compliance.
- 43.2 Without limiting the University's right to terminate pursuant to clause 36.1.6, during any period in which the Contractor is not performing obligations because of a Force Majeure Event, the University:
 - 43.2.1 is relieved from the obligation to pay the Contractor to the extent that the Contractor has not performed its obligations in accordance with this Agreement; and
 - 43.2.2 may (but need not) make alternative arrangements for the performance, whether by another person or otherwise, of any obligation that the Contractor is not performing without incurring any liability to the Contractor.

44 No Waiver

- 44.1 Failure by either party to enforce a provision of this Agreement will not be construed as in any way affecting the enforceability of that provision, or the Agreement as a whole.

45 Assignment and Novation

- 45.1 The Contractor must not assign in whole or in part or novate the Agreement without obtaining the prior written consent of the University, which may withhold consent at its discretion.

46 Counterparts

- 46.1 This Agreement may be signed in any number of counterparts (including electronically signed counterparts) and all such signed counterparts, taken together, shall be deemed to constitute one and the same instrument even though both parties may not have signed each separate counterpart.

EXECUTED AS A DEED

SIGNED, SEALED AND DELIVERED

for and on behalf of the **Australian National University ABN 52 234 063 906** by an authorised officer in the presence of:

(Signature of authorised officer)

(Signature of witness)

(Printed name of authorised officer)

(Printed name of witness)

Date

SIGNED, SEALED AND DELIVERED

for and on behalf of **[Insert name]** ABN **[Insert ABN]** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by an authorised officer in the presence of:

(Signature of Director/Secretary)

(Signature of witness)

(Printed name of Director/Secretary)

(Printed name of witness)

Date

Schedule 1 Deed Details

Item	Description	Details	
1.	Commencement Date	[insert]	
2.	Initial Deed Period	[insert]	
3.	Option Period	[insert]	
4.	Option Notice Period	[insert]	
5.	Categories of Supplies	[insert applicable categories from Schedule 2, as described in Schedule 2]	
6.	Approved Subcontractors	[insert name and tasks or insert 'Not Applicable']	
7.	Insurances	Public & products liability insurance in the amount of \$20,000,000 per occurrence and in the aggregate. Professional indemnity insurance in the amount of \$20,000,000 per occurrence and in the aggregate. Workers compensation insurance as required by Law.	
8.	Address for Notices	<u>For the University:</u> [insert] <u>For the Contractor:</u> [insert]	
9.	Contractor Classification and relevant WHSMS Handbook section (see clause 29)	Contractor Classification	Section of WHSMS Handbook to be provided to Contractor
		C1	3.6.3.1
		C2	3.6.3.2
		NC1	3.6.3.3
		NC2	3.6.3.4
		[ANU Project Manager to identify Contractor Classification and provide the Contractors with a copy of relevant sections of the WHSMS Handbook depending on their classification or mark as Not Applicable if Contractor not working on ANU premises]	

Schedule 2 Categories of Supplies

1. Categories of Supplies

The Contractor must throughout the Deed Period be capable of providing the Categories of Supplies identified at Item 5 of Schedule 1, being one or more of the categories described below:

[insert]

Schedule 3 Management of the Deed

1. Meetings and Reports

- 1.1. The Contractor must keep the University fully informed on all aspects of the delivery of goods and services.
- 1.2. Contract Meetings are to be scheduled at the discretion of the University, which will see the frequency scheduled for bi-monthly meetings.
- 1.3. The Contractor must prepare and circulate minutes of those meetings.
- 1.4. The Contractor must provide to the University all reports required under the Order, and any other reports requested by the University from time to time, regarding the status, and any particular details, of the delivery of the goods and services, requested by the University.
- 1.5. The Contractor must prepare a report on a bi monthly basis which summarises all activities undertaken for the month and any instances of non-performance of the Order requirements during the month as well as the cumulative total of points accumulated for the month just completed and submit the report to the University. The report will contain:
 - a) employee training (WHS, Position Specific, Other), to ensure that all staff working on any University premises hold current and relevant credentials;
 - b) Confirmation that all personnel delivering the goods and services to the University must complete the University site inductions. These inductions must be undertaken on an annual basis and records provided to the University annually or as required to demonstrate compliance;
 - c) records detailing the number of quotes provided in the last period, those accepted, rejected, time taken to complete works, delays and the cost associated with each item.
 - d) a report on works that have been completed against their allocated priority.
- 1.6. For each instance of non-performance cited in the report, the Contractor must provide details of corrective action proposed to ensure the non-performance is not repeated.

2. Service Reports

- 2.1. Reporting on the completion of all works shall be provided to the University's Representative within ten (10) days of the completion of the works. All reports shall be submitted using the approved maintenance service report template, unless otherwise approved by the University Contract Manager.
- 2.2. Service reports are to include:

- a) A detailed breakup of hours worked including arrival time on site
- b) Details as to which area (by location) the goods and services were performed in.
- c) All invoices must clearly state purchase/Maximo order, dates worked, corresponding service report/quote numbers and the University's asset number
- d) the nature of the fault; problems found; corrective action taken;
- e) further goods and services are required and recommendations;
- f) the name of the service technician clearly printed and signed.

Schedule 4 Rates for Categories of Supplies

Fixed Overhead Mark-up Charges

The Contractor's Fees are fixed as follows:

	Supplies and/or Deliverable	Fixed % Mark-up
1.	Sub-contractor charges	
2.	Materials/parts charges	
3.	Plant made available on site charges	
4.	Other	

Business hourly rates

The Contractor's Fees will be calculated in accordance with the following and will not exceed the Maximum Charges in row 4:

Personnel	Hourly Rate (exclusive of GST)	Maximum Charges (exclusive of GST)

All other hourly rates

The Contractor's Fees will be calculated in accordance with the following and will not exceed the Maximum Charges in row 4:

Personnel	Hourly Rate (exclusive of GST)	Maximum Charges (exclusive of GST)

Daily rates

The Contractor's Fees will be calculated in accordance with the following and will not exceed the Maximum Charges in row 4:

Personnel	Daily Rate (exclusive of GST)	Maximum Charges (exclusive of GST)

Variation

- a. The Contractor may apply in writing to vary the Rates effective on each anniversary of the Commencement Date (each a **Review Date**) in accordance with Weighted Average of Eight Capital Cities: All Groups Consumer Price Index (CPI) as published by the Australian Bureau of Statistics. The Contractor must apply in writing at least one month before each Review Date. If the Contractor does not make a request within this timeframe, the Contractor's Fees will remain fixed for a further 12 month period.
- b. The University may, acting reasonably, approve or deny any variation to the Rates applied for under paragraph (a).
- c. If a CPI increase is applied to the Rates, the Rates payable from and including the Review Date will be calculated as follows:

$$A = \frac{B \times C}{D}$$
 where:
 A is the Rates payable on and from the Review Date;
 B is the Rates payable immediately before the Review Date;
 C is the CPI current at the Review Date; and
 D is the CPI current at the last Review Date (which for the first Review Date is the Commencement Date).

Alternative pricing structure

There may be occasions when the University requires the application of different pricing structures. Each Order will specify the applicable pricing principles, including payment against achievement of specific Milestones Dates. Regardless of whether an Order is to be based on milestone payments or monthly payments, the Contractor must not issue a Quotation based on rates higher than Rates (as varied pursuant to this Schedule 4).

Schedule 5 Request for Quotation (RFQ)

Item	Description	Details
1.	Deed No. and description	[The University to insert deed number, date and description]
2.	Names of Parties to the Deed	[The University to insert parties]
3.	Start Date	[The University to insert date e.g. dd/mm/yy]
4.	Term	[The University to insert the period of time for which the Agreement will continue e.g. 2 years]
5.	Option Term	[insert option period]
6.	Category / Categories of Supplies	[The University to insert category/categories of Supplies required]
7.	Design	[If design services are required, insert these here. Otherwise, write 'not applicable']
8.	Approvals	[University to insert here any Approvals it requests Contractor to obtain. These are requirements additional to Approvals the Contractor must apply for and obtain in order to provide the Supplies. If none, insert 'additional Approvals not applicable'].
9.	Supplies	Refer to Statement of Requirement (Schedule 6), which outlines details of the Supplies under the following subheadings: • Deliverables • Acceptance Testing • Milestone Dates • Service Levels
10.	Evaluation Criteria	[The University to insert criteria for Contractor to address. Otherwise insert 'not applicable'.]
11.	Referees	[The University to specify if Contractor is required to provide contact details for at least two referees]
12.	Progress meetings and reports	[The University to insert details of progress meetings and reports. Otherwise insert 'not applicable'.]

13.	Contract Manager	[Details of University Contract Manager. Otherwise insert 'not applicable'.]
14.	University Material	[The University to insert specific Material to be provided to the Contractor by the University (if any) and any restrictions on the use of the Material. Otherwise insert 'not applicable'.]
15.	Background Intellectual Property	[Insert the University's Background Intellectual Property or write 'not applicable']
16.	Intellectual Property Rights	[The University to specify if intellectual property position is to be different from clause 24. Otherwise, insert 'no change'.]
17.	Payment – Fees	[The University to insert proposed fee structure]
18.	Security	[Insert 'None' if no Security required] Form of Security: [Insert e.g. Bank Guarantee] Security Amount: [Insert] Release of Security: [Insert]
19.	Defects Liability Period	[insert period of time]
20.	Liquidated Damages	[Insert daily rate and any cap on the total amount of LDs or insert 'Not applicable provided that the University reserves its right to claim general damages']
21.	Contractor Warranty and Manufacturer(s) Guarantee	Contractor Warranty During the period commencing [insert date] and ending [insert date] the Contractor must service, repair or replace all defects in the Goods in accordance with the following terms (the Contractor Warranty): [Period and terms of Contractor Warranty to be added following selection of preferred supplier.] Manufacturer(s) Guarantee The Contractor must procure a Manufacturer(s) Guarantee for the period commencing [insert date] and ending [insert date] in accordance with the following terms (the Manufacturer(s) Guarantee): [Period and terms of Manufacturer(s) Guarantee to be added following selection of preferred supplier.]

22.	Other	[Assessment to be made by parties on case-by-case basis as to what is to be included, here. University to insert any proposed changes to the Agreed Terms.]
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Schedule 6 Statement of Requirement

1. Summary

- 1.1. The University has a constant requirement for reactive and corrective maintenance services that require suitably experienced Contractors to carry out numerous different tasks within a timely manner.
- 1.2. Other types of maintenance programmes include statutory and preventative maintenance.
- 1.3. From time to time asset replacement and other specific projects that fall outside of maintenance services may also be required to be undertaken.
- 1.4. The University anticipates that this panel may be used for goods and services agreed under the Deed, for up to \$5 million.
- 1.5. The scope of work specific to this Maintenance and Minor Works RFQ includes the following:
 - (a) Insert Scope of Work (duties the Contractor is to be engaged to undertake):
 - i. (insert tables, context, other as needed).
 - (b) Insert Out of Scope (retain/delete as required).

2. Personnel

- 2.1. All of the Contractor's employees shall have, use and display at all times, the following attributes:
 - a) Interpersonal Skills and Characteristics;
 - b) proficient in English;
 - c) diligence, reliability, integrity and pride; and
 - d) attention to detail.
- 2.2. The University in its absolute discretion may by Notice in writing from the University Contract Manager to the Contractor require that any employee, agent or subcontractor be removed, who misconduct themselves or are incompetent or negligent in performing their duties or who the University considers are undesirable to perform the delivery of the goods and services.
- 2.3. Upon receipt of such notice the specified employee, agent or subcontractor is to be removed within the time specified in the Notice.
- 2.4. The Contractor shall not, without the previous written approval of the University, reinstate in the performance of this Order any employee, agent or subcontractor removed as described in the previous paragraph.

- 2.5. Contractor personnel are not to use University staff or student kitchens, student living or sleeping facilities, telephones, computers or other facilities, without permission of the University Contract Manager.

3. Supervisory Activities

- 3.1. The Contractor must provide sufficient supervision of their employees to ensure a continuing high level of performance. As a minimum the following shall be undertaken:
- a) supervise and manage all staff on an on-going basis across the nominated work Zone;
 - b) ensure that all relevant building practices and procedures are being carried out properly;
 - c) ensure that no bad or undesirable practices have commenced;
 - d) ensure that his/her staff do not disclose details of, remove or provide to a third party, any materials in relation to any University business; and
 - e) Communicate with the University Contract Managers on an on-going basis, monitor the performance of the delivery of goods and services and ensure that the required level of performance is maintained.

4. Contract Management

- 4.1. The Contractor must nominate a dedicated contract manager who will act as the main point of contact for the duration of the Order. This person shall have the authority to deal with all matters in relation to the Order and be responsible for the satisfactory delivery of the goods and services required.
- 4.2. The duties of the contract manager will include the following:
- a) Overall responsibility for a good working relationship with the University;
 - b) Provide regular reports on performance as agreed with the University;
 - c) Meet, as and when required to review and examine performance;
 - d) Deal with disputes, complaints or concerns that cannot be adequately resolved;
 - e) Proactively discuss with the University ways of improving efficiency regarding service delivery in general and providing suggestions for improvement and cost savings.

NOTE: Contract management activities will be non-billable.

5. Working with Venerable People

- 5.1. All specified employees, agents and subcontractors will be required to undertake a working with Venerable People Check as part of the delivering goods and services under this Order.
- 5.2. All costs associated with these reference checks are to be borne by the Contractor and should not be passed onto individuals.

6. Presentation

- 6.1. The Contractor must ensure that all personnel wear identifiable uniforms and be presented in a tidy manner while providing the goods and services.
- 6.2. The Contractor will be responsible for:
 - a) ensuring that university Identification is worn and displayed at all times;
 - b) the cost of providing and maintaining the uniforms; and
 - c) ensuring that uniforms worn by its personnel are well presented and clean.
- 6.3. The uniform must display the logo of the Contractor.
- 6.4. The Contractor must ensure that personnel conduct themselves in a courteous manner at all times when dealing with members of the public and University staff.
- 6.5. All Contractors are to carry the University identification card with them while working on University premises. This card is issued once the identified personnel has been registered and has completed the inductions assigned to them.
- 6.6. The Contractor shall not place or permit to be placed any advertisement on the site without the approval of the University Contract Manager.
- 6.7. The Contractor shall not issue any information, publication, document or article for publication in any media which includes details of the work under the contract without the written approval of the University.

7. Noise / Nuisance / Damage

- 7.1. The Contractor shall undertake works in a manner and with such equipment so that no nuisance or damage is caused to buildings, grounds, fences, persons or services by whatever cause due to the works and shall make good this damage and bear any compensation.
- 7.2. This includes but is not limited to nuisance or damage caused by dust, smoke, debris, noise, vibration and electrical interference.
- 7.3. In all instances work methods shall be modified at the Contractor's cost to prevent nuisance or damage.
- 7.4. All relevant equipment brought on-site must have its noise emission level identified. All equipment with noise emissions that exceed the statutory action level of 85 dBA (Leq) 8-hour must be adequately identified as a noise hazard and all personnel

operating or working in proximity to that equipment must use approved hearing protection if the noise level cannot be reduced by engineering controls.

7.5. It is the responsibility of the Contractor to advise the University Contract Manager of any equipment to be used that exceeds the noise level set out above. The University Contract Manager has the authority to prohibit or restrict the use of such equipment.

7.6. The use of portable radios are not permitted for use on-site.

7.7. This requirement excludes noise hazards where the appropriate section of PPE has been determined as one of the control measures.

8. Workers Pets

8.1. The Contractor shall not permit employees' pets on Site. For the avoidance of doubt, this includes pets that would otherwise remain in or on vehicles.

9. Consumable Materials

9.1. As part of the delivery of goods and services, the Contractor will include the supply of the following items to properly fulfil the specified services:

- a) All lubricants, cleaning materials and compounds;
- b) All servicing aids, including tools, ladders, support stands, cleaning aids, meters and measuring devices etc; and
- c) Miscellaneous consumables, i.e. brushes, screws, nuts, bolts, files, drill bits, saw blades, electrical tape, emery paper, jointing materials, washers, grommets, etc.

10. Record Keeping

10.1. The Contractor must maintain written records of the delivery of goods and services performed in a format acceptable to the University, and acknowledges that these records remain the property of the University and must be made available immediately upon request by the University.

10.2. The Contractor must maintain the integrity and accuracy of site documentation including Equipment Asset Registers, Asset Condition Ratings, Maintenance Plans, Service Guides, Site Operations Manuals, and any documentation relevant to the respective service discipline.

11. Service Calls

11.1. The University requests to undertake reactive maintenance work shall be completed within the priority rating timeline as per below table. The request for delivery of goods and services will then be carried out on a day agreed with the

University's Building Maintenance and Operations team, or the Site Representative within normal working hours of the site, unless agreed otherwise:

Response Priority	Site Attendance	Reinstatement time
Priority 1 - Life Safety - Immediate risk to WHS - Immediate risk to ANU business operations	Emergency Immediate attendance/action required Within 40 minutes	2 hours
Priority 2 - Almost certain risk to WHS - Almost certain risk to ANU business operations	Urgent-Response within 2 hrs	1 Business Day
Priority 3 - Likely risk to WHS - Likely risk to ANU business operations	High-Response within 1 day	2 Days
Priority 4 - Possible risk to WHS - Possible risk to ANU business operations	Medium-Response within 2 days	5 Business Days
Priority 5 - Unlikely risk to WHS - Unlikely risk to ANU business operations	Low-Response within a week	10 Business Days

11.2. The University's Building Maintenance and Operations team will be the primary point of contact for all enquiries and requests for goods and services.

11.3. The Contractor will implement a system that will allow the registering and categorising of complaints and enquiries, tracking of complaint rectification progress and completion, and will prioritise Complaints based on their urgency.

11.4. Contractors may be requested to provide an after-hours service to address emergency breakdowns.

11.5. Response times to call-outs will align with the priority rating timeline as above, which are based on criticality.

11.6. The Contractor will be required to provide positive communication confirming receipt of the emergency call out and the anticipated timeline of arrival to the site.

11.7. The Contractor will take every practical steps to carry out urgent repair in as short a period of time as possible. In the event of an after-hour call, and where it is not possible to fully complete the repair due to a requirement for spare parts or materials etc, the Contractor will return on the next working day to complete the repair.

12. Contractor Performance

12.1. The performance of the Contractor in completing the requirements of the Order must be reported by the Contractor on an ongoing basis during the Order Term. Failure of the Contractor to maintain an acceptable standard of performance as detailed herein shall constitute grounds for a reduction of goods and services, or the termination of the Order.

12.2. The performance of the Contractor shall be reported using a point system. Each instance of non-performance will incur a number of points as further detailed in the table below:

Serial	Key Performance Indicators (KPI's)	Service Level
1	Capacity to meet priority 1 & 2 timeframes	100% Rating all requests answered within specified.
2	Capacity to meet priority 3 work load	100% Rating. All requests answered within specified.
3	Capacity to manage priority 3&4 work load	100% Rating. . All requests have been completed within timeframes or programmed to be completed as requested
4	Attendance at Contract Management Meetings	Attend each Contract Management Meeting with the University as stipulated.
5	Produce invoices with itemised costs and discounts by location	Tax Invoices are accurate and provided within 10 working days of work completion.
6	Insurance compliance and currency	Contractors to provide updated certificates of currency for: • Public and Product Liability insurance; • Professional Indemnity Insurance; and • Worker Compensation Insurance.
7	Safety Induction compliance and currency	Contractors to ensure evidence of any necessary licencing or registration is provided to the University Contract Manager on or before the expiry date.
8	Contractor licencing and registration currency	Contractors to ensure all employees/sub-contractors have completed all required Contractor/Supplier Safety Inductions.
9	Standard of workmanship	Works have been completed to a high level of workmanship with no need of rework
10	Appearance	Incidence of incorrect, incomplete or untidy uniform or appearance.
11	WH&S	Incidence where WH&S policy is not adhered to by the Contractor when works are carried out.
12	Communication	Timely and accurate response to requests for Maintenance or technical related information e.g. schedule questions, quotes technical questions, consumable questions or product knowledge (<3 working days)
13	Reporting	Failure to submit the monthly report

13. Assessment of Performance

- 13.1. The University expects the Contractor to meet all requirements as set out in the specifications. A monthly assessment of performance will be determined by the University.
- 13.2. The Contractor shall monitor its own performance to ensure adherence to the Performance Standards specified, time frames for the performance of the delivery of goods and services, performance objectives and Key Performance Indicators (KPI's) are always applied and maintained.
- 13.3. The University reserves the right to inspect any goods and services with or without the Contractor on a regular, periodic or random basis when making its assessment.
- 13.4. The Contractor shall be advised of all incidents where the University considers that the requirements as set out in the Order have not been achieved.
- 13.5. The University may at its discretion reverse its performance determination if it can be proven that the Contractor was or was not responsible for the relevant issue
- 13.6. Apart from undertaking immediate corrective action to rectify particular problems, all instances of non-compliance with the performance criteria as detailed this Specification, must be investigated to determine the causes for the non-compliance and to bring about full and ongoing compliance with the requirements of the Order.
- 13.7. At bi-monthly intervals, the performance of the Contractor and the number of points accumulated over the previous period will be assessed as follows:

Accumulated Points over One (1) Month Period	Rating
0 Points	Excellent
1-5 Points	Good
6-10 Points	Satisfactory
11 or more Points	Unsatisfactory

14. Deficient Performance:

- 14.1. The University reserves the right to withhold payments that are due, or become due to the Contractor, for delivery that is not assessed above the Satisfactory rating (see clause 11.5.1 of Agreed Terms). This will be scaled to the Order(s) that the Contractor is engaged to deliver, by the University for the period under review.
- 14.2. Failure of the Contractor to maintain an acceptable standard of performance as detailed herein shall constitute grounds for a reduction of goods and services, or the termination of the Order.

15. Site Induction Training

- 15.1. The Contractor, their nominated employees and sub-contractors will be required to undertake a site induction to ensure they are familiar with University's WHS requirements and emergency procedures prior to undertaking any works onsite.
- 15.2. Some facilities will require additional localised inductions prior to access being provided. The University Contract Manager will arrange for these inductions as required.
- 15.3. The training must be completed prior to the commencement of work on an University site. Induction requirements are to be arranged with the University Contract Manager prior to visiting the site.
- 15.4. Prior to commencement of work, the Contractor must sign in at a designated location, or any other area required by the University.
- 15.5. Before arrival on-site for the first time, the Contractors should arrange to meet the University Contract Manager or designate at reception who will escort the Contractor to the correct location of work. The University Contract Manager is responsible for ensuring that Contractors are aware of University WHS and environment policies and procedures, security and site requirements. Contractors who have WHS issues or queries should initially discuss them with the University Contract Manager.

16. Policies and Procedures

- 16.1. The University has a number of policies that are applicable to all employees of the University and any person who performs work for the University including Contractors and their employees.
- 16.2. The Contractor must comply with all University policies, procedures and site-specific requirements, including but not limited to:
 - a) the University Contractor Management System, including online inductions, safety permits, authority to work, Outage notifications, Safe Work Method Statement (SWMS) and permits for high-risk activities
 - b) Drug and Alcohol Procedure
 - c) COVID Control Procedure
 - d) Relevant University policies and procedures
 - e) Site specific personal protective equipment (PPE)
 - f) Traffic management (e.g. direction of traffic through site).
 - g) Hazardous Materials Management Manual

h) confined spaces

- 16.3. The Contractor is to ensure personnel and subcontractors wear and use appropriate Personal Protection Equipment (PPE) to undertake the delivery of the goods and services in a safe manner.
- 16.4. The Contractor is to ensure that Personnel are provided with necessary tools, safety devices, clothing protective coverings and are trained in the use of such items so as to minimise the risk of work related injury or illness. Training must also include how Personnel are to report WH&S issues identified while providing the goods and services.
- 16.5. Contractors must have their own First Aid kits
- 16.6. It is illegal to drive while under the influence of alcohol or drugs, including some over-the-counter and prescription medicines. The Contractor will ensure that all legislative requirements associated with driving and alcohol consumption, and the consumption of drugs or alcohol in the workplace are adhered to.
- 16.7. The Contractor will ensure that employees and subcontractors are not to be under the influence or consume any drugs or alcohol whilst working at the University. For the avoidance of doubt, a limit of 0.00 BAC applies to all Contractors and their employees while providing the goods and services to the University.

17. Construction Industry Safety Induction Card

- 17.1. All Contractors are required to have a current Construction Industry General Safety Induction Card (white card).

18. Hazardous Substances

- 18.1. Contractors must be able to demonstrate that they have considered and can effectively control the risks from storage and use of dangerous goods / hazardous substances. This must include the risk of fires, explosion, burns, contact with skin/eyes and spillage.
- 18.2. Safety Data Sheets (SDS) are to be provided to the University and must also be made available to employees at the point of use. As a minimum, any PPE specified with the SDS must be provided by the Contractor and used correctly.
- 18.3. Appropriate spill kits must be available if required by legislation and/or the University Contract Manager. Disposal of substances safely and in compliance with health, safety and environmental legislation is the responsibility of the Contractor.

19. No Smoking on Campus

- 19.1. For the avoidance of doubt, the University has a strict no smoking policy on campus (both indoors and outdoors) which must be adhered to.

20. Public Safety

- 20.1. The University aims to maintain the safety and wellbeing of the public. Contractor is responsible to ensure that members of the public are not injured or otherwise affected by the activities of the Contractor, their employees and sub-contractors, and agents whilst on-site.
- 20.2. Contractor with direct access to or contact with the public, by the nature of goods and services that the Contractor provides, will exercise all due care for the health and safety of members of the public. This requirement includes full compliance with all relevant legislation codes of practice and/or Australian Standards.
- 20.3. Contractor will take suitable precautions to protect the safety and welfare of the public.
- 20.4. Contractor will provide appropriate barriers/screens etc. to protect staff/public from any hazards generated and prevent any exposure to risk.
- 20.5. Contractor will keep the relevant parts of the Site clean and secure at all times.

21. Reporting Breakages and Defects

- 21.1. The Contractor's staff are to continually check areas where they work for any breakage and defect, and report these to the University on a University agreed format as they occur or are found. Such defect reporting includes, but is not limited to, faulty lights; damaged/faulty door lock mechanisms; damaged floor and pavements, leaking taps; blocked toilets; running cisterns; broken window mechanisms; graffiti or vandalism.
- 21.2. Emergency Exit Lighting, exits and Fire Detectors are a health and safety risk and the Contractor must identify broken items, taking note of their location, and report these to the University on a University agreed format as they occur or are found.
- 21.3. The Contractor's staff are required to report any Safety Concerns Immediately. Such Serious Safety Concerns may include broken glass, exposed electrical equipment, a chemical spill, a person acting suspiciously or behaving dangerously.

22. Reporting of Incidents

- 22.1. The Contractor must maintain effective communication with University in relation to any WHS or environmental issues that may affect University employees, contractors or visitors.
- 22.2. The Contractor will notify of any incident, including notifiable incident to the University Contract Manager and the Contractor's employer immediately.

23. Housekeeping

- 23.1. The Contractor shall during the work on site and at the end of each stage in the work and on request, remove from the site all rubbish and redundant equipment. At all times, the Contractor shall keep and leave the site in a clean and safe condition.
- 23.2. The Contractor will ensure working areas, stairways, passages, emergency exits, firefighting and safety equipment are kept clear at all times.
- 23.3. If required, working areas must be barricaded off and appropriate warning notices erected. All materials and debris must be lowered and not dropped from elevated locations and platforms.

24. Fire Prevention

- 24.1. Fire protection equipment is located throughout the site. Use of firefighting equipment must be reported to the University Contract Manager.
- 24.2. Contractor is responsible for fire protection within their work environment. Fire prevention will be taken into consideration when determining Safe Work Method Statements (SWMS).
- 24.3. Contractor is responsible for ensuring that flammable liquids are stored in an appropriate manner and labelled as per regulations to identify contents.
- 24.4. Fire protection alarms, fixed installations and ancillary equipment such as pumps and water supplies will not be shut down or altered without the authorisation of the University Contract Manager

25. Environment

- 25.1. The Contractor will liaise with the University Contract Manager regarding preparation of the work site to minimise environmental impact. This will be specified in the Safety Plan (and/or Safe Work Method Statements) or Risk Assessment.
- 25.2. Contractor will be cognisant of the University's Sustainability Objectives, including selection of materials used in the maintenance and construction of facilities and infrastructure.

26. Parking and Deliveries

- 26.1. Contractor parking is available in some 'PAYG' ANU car parks, details are on the University's Transport and Parking webpage.
- 26.2. The Contractor must notify the University Contract Manager of any expected deliveries that may impact on University operational activities. Traffic management for large or lengthy transport related activities are to be arranged and notified to the relevant University Contract Manager so that affected University Colleges, Schools, and Service Divisions can be notified in a timely manner.
- 26.3. Contractors are not permitted to park on or drive over gardens, paths or lawns unless approved to do so by the University Contract Manager.

27. Storage of Contractors Equipment

- 27.1. If a Contractor wishes to store any equipment, work tools or work materials, permission must first be obtained from the University Contract Manager. The Contractor is then required to sign and comply with the terms of the "Licence to Store Work Tools". Please contact the University Legal Office who can prepare the licence.

28. Working Hours

- 28.1. Core business hours for working at the University are 7:30am-5:00pm, unless otherwise approved by the University Contract Manager.
- 28.2. The delivery of goods and services under this Order shall be carried out only at such times as agreed by the University Contract Manager.

29. High Risk Work Requirements (Asbestos, Lead Paint and Other Hazardous Materials)

- 29.1. University sites containing asbestos, lead paint or other hazardous materials have been suitably identified, assessed and controlled. Contractor must refer to the site Hazardous Materials Register and Hazardous Materials Management Manual for detailed information.
- 29.2. If material is suspected of being Hazardous Material, the Contractor is to advise the University Contract Manager, who will advise the actions to be taken.
 - a) Asbestos Material

Prior to working on or adjacent to asbestos material, authorisation must be sought from the University Contract Manager or designate.
 - b) Silica Dust

Clay, concrete and quarry products may contain crystalline silica. Exposure to respirable silica dust (over a number of years) may lead to lung diseases including bronchitis and silicosis.

- 29.3. Working with these products or when handling aggregates or road base materials may require the wearing of appropriate Personal Protective Equipment (PPE) to prevent exposure to silica dust. Precautions aimed at minimising potential exposures during clean up (i.e. grinding, drilling activities) and maintenance must be taken.

30. Operator Licences and Competencies

- 30.1. The Contractor must hold a Licence or Certificate of Competency for any equipment where it is legally required, which includes but is not limited to:
- a) **Classified Plant Operators** - All operators of classified plant and equipment must hold and produce a valid certificate of competency issued under the relevant legislation (e.g. mobile cranes)
 - b) **High Risk Licences** - High Risk Licences are required by the operator prior to operating the following equipment on-site:
 - i. Forklift
 - ii. Boom Type EWP
 - iii. Dogging/Rigging
 - iv. Scaffolding
 - v. Mobile Crane
 - c) **Certificate of Competency** - A Certificate of Competency is required by the operator prior to operating on-site with the following equipment:
 - i. Front End Loader/Backhoes
 - ii. Dump Truck
 - iii. Excavator
 - iv. Dozer
 - v. Skid Steer Loader
 - vi. Grader
- 30.2. The Contractor must conduct and record the inspection of Plant, Vehicles and Equipment.
- 30.3. The Contractor must provide upon request, proof of inspection and safe condition of their equipment to ensure it complies with legal requirements before it will be approved for use on- site. Approval will be established by presentation of a certificate and/or the inspection by the University Contract Manager. All Contractor tools and equipment must be in a sound and safe condition for use on-site.

31. Scaffolding Equipment

- 31.1. All scaffolding equipment used on-site must conform to the requirements outlined in the respective legislation and AS 1576: Scaffolding.

32. Vehicles and Mobile Plant

- 32.1. A person who drives or controls a motor vehicle or mobile equipment must hold a current licence or must have been competency assessed for that equipment. Motor vehicles used in surface operations must be registered, insured, roadworthy, maintained and be driven in compliance with displayed speed limits. Specific requirements for light vehicles in restricted areas such as landscaped grounds or underground pits is explained during the University site induction.
- 32.2. Documented pre-start inspections are required to be undertaken for any Contractor's mobile equipment on-site. Mobile Equipment brought to a University site will be reviewed against the associated minimum safety hardware checklist or may be subjected to a risk assessment specific to the task that the equipment is to be used for.

33. Electrical Safety

- 33.1. To ensure the complete safety of equipment, the following procedures will apply, at the Contractor's expense:
- a) Contractor will ensure that their electrical equipment is compatible with the local/site electrical supply before it is brought on-site.
 - b) All electrical equipment is to be electrically tested and tagged by a licensed electrician to Australian Standard AS3760: In service safety inspection and testing of electrical equipment, before arrival on-site. Non-tagged equipment must not be used on-site.
 - c) All leads and equipment to be kept in a good, safe condition.
 - d) All flexible leads will be double insulated multi-stranded with flexible conductors.
 - e) Electrical extension leads used on University sites will be of the following voltage capacities:
 - A. 32V for portable lighting, etc.
 - B. 240V for general-purpose power tools etc.
 - C. 415V 3 phase power supply for welders, portable extraction/blower fans, etc.
 - f) Electrical extension leads used on University sites will comply with the following guidelines:
 - A. Leads should not be used over distance in excess of 30 metres.
 - B. Leads should not be located across walkways or roadways where they are subject to pedestrian/vehicular traffic, unless they are protected by properly constructed approved cable bridges, with appropriate warning signs displayed.
 - C. Leads will be supported with rope or wire ties using a catenary system and support posts (if required) if suspended over long distances up to 30 metres.
 - D. Leads must be mechanically protected when employed in areas subject to possible inadvertent damage.

- E. Flexible leads and appliances will only be plugged into switched socket outlets provided with 30mA earth leakage protection. If the presence of a 30mA earth protection device is not obvious, the Contractor must utilise a portable 30mA earth leakage protection device that has been tested and tagged by a qualified electrician.
- F. Always ensure that the earth return welding lead is connected as close as possible to the work area, e.g. on the same piece of steel that is being worked upon.
- G. It is essential to ensure on all welding jobs, that the earth lead, as well as the positive lead, is in good condition and free of defects.
- H. All repairs are to be undertaken by a qualified electrician, at the expense of the Contractor.
- I. All portable electrical generation sets, welding plant etc. must be fitted with 30mA earth leakage/residual current protection devices on 240v supplies.

34. Lockout and Tag out of Service

- 34.1. No person is to attempt or to carry out inspection, maintenance or cleaning work that exposes that person or others to contact with moving machinery/equipment product or parts thereof that has not had all energy sources isolated and locked out.
- 34.2. All University sites are covered by the ANU Isolation and Danger Tagging Procedure for the isolation and lockout of fixed plant and mobile equipment. The Contractor is to ensure that any person acting on their behalf is trained in those procedures prior to carrying out the work and that those procedures are complied with at all times.
- 34.3. Failure to comply with this requirement will result in the personnel involved being dismissed from the site and a review of the Order.

35. Explosives

- 35.1. For the avoidance of doubt, no explosives will be transported, stored, or used on University sites.

36. Mechanical Lifting Devices

- 36.1. The following requirements will apply to the use of all lifting devices including but not limited to lifting beams, bars, lifting frames.:
 - a) All fabricated lifting devices will be properly designed and certified by a qualified engineer, to the requirements of the relevant Australian Standards and approval secured before fabrication. All items of lifting equipment referred to in this standard must bear a stamp or tag stating the Working Load Limit (WLL) or Safe Working Limit (SWL) of the device.

- b) All lifting equipment brought onto a University site must be in good condition. All chain-falls, chain-pulls, cumalongs, winches, slings must have their Working Load Limit (WLL) clearly displayed.
 - c) Fibre webbing slings must be certified and may only be used with by qualified personnel.
 - d) All hooks on anchor points and load bearing lines must be fitted with a safety latch.
 - e) All lifting devices must comply with AS4991.
- 36.2. No equipment, front end loader, backhoe, etc. will be used as a crane on a University site, unless authorised by the University Contract Manager and complying with Australian Standard AS1418.8: Cranes, hoist and winches special purpose appliances.

37. Hoisting

- 37.1. All hoisting operations for personnel will require an approved “man cage” conforming to Australian Standards AS1418.17: Design & Construction of Workboxes, AS2550: Cranes, hoists and winches and AS2359: Powered Industrial Trucks. Man cage attachments are prohibited from being used on a Front End Loader (FEL) on all University sites.
- 37.2. Any hoist equipment used on a University site must conform to the relevant legislation & Australian Standards.

38. Portable Ladders

- 38.1. All portable ladders used on-site must comply with Australian Standard AS1892: Portable Ladders.

Schedule 7 Response Form

Item	Description	Details
1.	Deed No. and description	[The Contractor to insert deed number, date and description.]
2.	Names of Parties to the Deed	[The Contractor to insert parties.]
3.	Category/Categories of Supplies	[The Contractor to insert category/categories of Supplies required.]
4.	Contractor response to Schedule 5, Item 9 (including Design and Approvals requirements, if any) specified above	[Contractor to insert either 'agree' or provide a separate document outlining offer.]
5.	Contractor response to Evaluation Criteria	[Contractor to provide statement addressing the Evaluation Criteria (if applicable).]
6.	Referees	[Contractor to insert names and contact details for any referees. Otherwise insert 'not applicable'.]
7.	Subcontractors	[Contractor to insert names and ABNs of any subcontractors. Otherwise insert 'not applicable'.]
8.	Contract Manager	[Contractor to insert details of Contractor Contract Manager. Otherwise insert 'not applicable'.]
9.	Specified Personnel	[Contractor to insert names and positions of Specified Personnel. Otherwise insert 'not applicable'. Contractor to attach a curriculum vitae for each of the Personnel proposed to deliver the Supplies.]
10.	Background Intellectual Property	[Contractor to insert the Contractor's Background Intellectual Property, or write 'not applicable'.]
11.	Payment – Fees	[Contractor to insert fixed fee or Fees based on the Rates in Schedule 4 of the Deed]

12.	Other	Assessment to be made by parties on case-by-case basis as to what is to be included, here. University to insert any proposed changes to the Agreed Terms.
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Schedule 8 Order

If RFQ issued, University to complete below table using information in RFQ and Response Form.

Item	Description	Details
1.	Deed No. and description	[insert deed number, date and description]
2.	Names of Parties to the Deed	[insert parties including address and ABN]
3.	University Representative	[insert]
4.	Address for Notices	[insert]
5.	Start Date	[insert date e.g. dd/mm/yy]
6.	Term	[insert the period of time for which the Agreement will continue e.g. 2 years]
7.	Option Term	[insert option period]
8.	Category/Categories of Supplies	[insert category/categories of Supplies required]
9.	Design	[If design services are required, insert these here. Otherwise, write 'not applicable'.]

10.	Approvals	[University to insert here any Approvals it requests Contractor to obtain. These are requirements additional to Approvals the Contractor must apply for and obtain in order to provide the Supplies. If none, insert 'additional Approvals not applicable'].
11.	Supplies	Refer to Details of Supplies (Schedule 9), which outlines the work to be performed by the Contractor.
12.	Subcontractors	[Insert names and ABNs of any subcontractors. Otherwise insert 'not applicable'.]
13.	Progress meetings and reports	[Insert details of progress meetings and reports. Otherwise insert 'not applicable'.]
14.	Contract Managers	University [Insert details of University Contract Manager. Otherwise insert 'not applicable'.] Contractor [Insert details of Contractor Contract Manager. Otherwise insert 'not applicable'.]
15.	Specified Personnel	[Insert names and positions of Specified Personnel. Otherwise insert 'not applicable'.]

16.	University Material	[Insert specific Material to be provided to the Contractor by the University (if any) and any restrictions on the use of the Material. Otherwise insert 'not applicable'.]
17.	Background Intellectual Property	University [Insert the University's Background Intellectual Property. Otherwise insert 'not applicable'] Contractor [Insert the Contractor's Background Intellectual Property. Otherwise insert 'not applicable']
18.	Intellectual Property Rights	[Specify if intellectual property position is to be different from clause 24. Otherwise, insert 'no change']
19.	Payment – Fees	[Insert Fees based on the Rates in Schedule 4]
20.	Address for Invoices	[Insert]
21.	Security	[Insert 'Not applicable' if no Security required] Form of Security: [Insert e.g. Bank Guarantee] Security Amount: [Insert] Release of Security: [Insert]
22.	Defects Liability Period	[Insert period of time]
23.	Liquidated Damages	[Insert daily rate and any cap on the total amount of LDs or insert 'Not Applicable provided that the University reserves its right to claim general damages']

24.	Contractor Warranty and Manufacturer(s) Guarantee	Contractor Warranty During the period commencing [insert date] and ending [insert date] the Contractor must service, repair or replace all defects in the Goods in accordance with the following terms (the Contractor Warranty): [Period and terms of Contractor Warranty to be added following selection of preferred supplier.] Manufacturer(s) Guarantee The Contractor must procure a Manufacturer(s) Guarantee for the period commencing [insert date] and ending [insert date] in accordance with the following terms (the Manufacturer(s) Guarantee): [Period and terms of Manufacturer(s) Guarantee to be added following selection of preferred supplier.]
25.	Other	Assessment to be made by parties on case-by-case basis as to what is to be included, here. University to insert any proposed changes to the Agreed Terms.

Schedule 9 Details of Supplies

[UNIVERSITY TO INSERT DELIVERABLES OF THE SUPPLIES TO BE PROVIDED BY THE CONTRACTOR, AS AGREED BETWEEN THE PARTIES]

EXECUTED AS AN AGREEMENT

SIGNED

for and on behalf of the **Australian National University ABN 52 234 063 906** by an authorised officer in the presence of:

(Signature of authorised officer)

(Signature of witness)

(Printed name of authorised officer)

(Printed name of witness)

Date

SIGNED

for and on behalf of **[Insert name of other party]** ABN **[Insert ABN]** in accordance with section 127(1) of the *Corporations Act 2001* (Cth) by:

(Signature of Director)

(Signature of Director/Company Secretary)

[delete as applicable]

(Printed name of Director)

(Printed name of Director/Company Secretary) **[delete as applicable]**

Date

Date