



**Australian Government**

**Department of Immigration and Border Protection**



**Bringing service to life**

**Immigration Detention  
Facilities and Detainee Services Contract**

**VOLUME 1**

**Commonwealth of Australia, acting through and represented by the  
Department of Immigration and Border Protection**

**Serco Australia Pty Ltd (ABN 44 003 677 352)**

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Freedom of Information Act 1982





**Australian Government**

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Contract**

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Execution Version

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## CONTRACT

**DATE:** 10 December 2014

### PARTIES

**Commonwealth of Australia** acting through and represented by the Department of Immigration and Border Protection of 6 Chan Street Belconnen, ACT, ABN 33 380 054 835 (**Department**)

**Serco Australia Pty Ltd** of Level 9, 90 Arthur Street, North Sydney NSW 2060, ABN 44 003 677 352 (**Service Provider**)

(each a **Party** and together the **Parties**).

### RECITALS

- A. Non-citizens who are unlawfully in Australia may be detained under the *Migration Act 1958* (Cth).
- B. Since November 1997, the provision of detention services has been outsourced by the Department to private organisations.
- C. Having fully informed itself of all aspects of the work to be performed for the provision of the Services, the Service Provider submitted, in response to Request for Tender [04/14] issued by the Department on 3 April 2014, a proposal to provide the Services.
- D. The Department wishes to engage the Service Provider to provide the Services, and the Parties have agreed to enter into this Contract to set out their respective rights and obligations in relation to the Services.

### OPERATIVE PROVISIONS

#### PART 1 – ENGAGEMENT AND TERM

##### 1. ENGAGEMENT

###### 1.1 Engagement

The Department appoints the Service Provider, and the Service Provider accepts that appointment, to provide the Services during the Term, subject to the terms and conditions of this Contract.

##### 2. TERM

###### 2.1 Commencement

This Contract will commence on the Commencement Date and, subject to this Contract, continue in force for the period of five (5) years after the Commencement Date (**Initial**

**Term**) unless terminated earlier in accordance with the provisions of this Contract or in accordance with any relevant Laws.

## 2.2 Extensions to Term

- (a) The Department may, subject to **clause 2.2(c)**, extend this Contract by up to two (2) additional periods of up to two (2) years each from the applicable End Date (in each case the **Extended Term**) by providing no less than 90 days written notice (or any other notice period agreed by the Parties in writing) to the Service Provider before the then End Date.
- (b) The Department agrees, in the event the Initial Term is extended pursuant to **clause 2.2(a)**, that the Efficiency Dividend and Efficiency Dividend Premium will not apply to any Extended Term.
- (c) The Service Provider must notify the Department no later than eighteen (18) months prior to the expiry of the Initial Term that it does not wish to extend the Contract pursuant to **clause 2.2(a)**.
- (d) The Department is not obliged to extend this Contract or to enter any further agreement with the Service Provider on different provisions.

## PART 2 – PROVISION OF THE SERVICES

### 3. PROVISION OF THE SERVICES

#### 3.1 Overview

The Service Provider must provide the Services in accordance with the provisions of this Contract and, without limiting any other provisions of this Contract, the Service Provider must:

- (a) take full responsibility for the management and control of the Facilities;
- (b) cooperate with the Department and other service providers to ensure the operation and management of the Facilities and delivery of the Services is in accordance with the Objectives;
- (c) provide the Services in a timely manner and in a manner which could reasonably be expected to protect the Department's interests;
- (d) ensure that the Services are:
  - (i) adequate to meet the requirements of the Department as expressed in this Contract; and
  - (ii) fit for their intended purpose;
- (e) exercise the standard of skill, care and diligence in the provision of the Services that would be expected of an expert provider of services similar to the Services;



- (f) meet or exceed the Key Performance Measures and Key Performance Indicators and any other standards expressed in this Contract or notified by the Department;
- (g) comply with the requirements of any models, plans, procedures, manuals and codes specified or referenced in this Contract (including any updated, modified or subsequent versions thereof); and
- (h) exercise good faith in the provision of the Services under this Contract.

### 3.2 The Department Relies on Service Provider's Expertise

Notwithstanding any other provision of this Contract, the Service Provider acknowledges that the Department is relying on the skill and expertise of the Service Provider.

### 3.3 Scope of Services

- (a) The scope of the Services is the Services as set out in the schedules to this Contract, including **Schedule 2** (Statement of Work), and may be increased or reduced in accordance with this Contract.
- (b) If incidental services or functions are required for the proper provision of the Services, they will be taken to be included in the scope of the Services and in the fees specified in **Schedule 5** (Detention Services Fees).
- (c) Except as specifically provided to the contrary in this Contract, the Service Provider must provide or have appropriate access to all resources, equipment, materials, spare parts, Consumables, inventory and every item necessary or desirable for it to perform and discharge its obligations under this Contract.
- (d) The Service Provider must ensure that each item in its inventory of resources, equipment, materials, spare parts, Consumables, inventory and other relevant items are at all times in a serviceable condition and fit for use.

### 3.4 Service Obligations

The Service Provider must:

- (a) have and maintain at all times during the Term all necessary registrations, licenses, permits or other approvals required to perform the Services in accordance with this Contract;
- (b) engage or employ sufficient Service Provider Personnel to perform the Services in accordance with this Contract;
- (c) ensure that Services are performed at all times during the Term to the standard, and times and manner, set out in this Contract;
- (d) manage, supervise and regularly review the performance of Service Provider Personnel to ensure the delivery of the Services in accordance with this Contract.

- (e) adopt, implement and comply with all Plans;
- (f) collaborate and participate with the Department and other service providers in the development and review of any Department policies, including by undertaking research, preparing and analysing reports and attending and contributing to committees, workshops and other meetings as reasonably requested by the Department from time to time; and
- (g) promptly advise the Department in writing of any circumstance that materially adversely affects the ability of the Service Provider to perform the Services on the terms set out in this Contract.

### 3.5 Non-Exclusivity of Service Provision

- (a) The Service Provider acknowledges and agrees that:
  - (i) it is not the exclusive provider of services to the Department and the Department may engage other service providers to provide services the same or similar to the Services; and
  - (ii) the Department may independently and directly engage or arrange for a provider to directly provide services relating to the operation and management of a Facility.

### 3.6 Compliance with Laws and Australian Government Policies

The Service Provider must comply with, and ensure that all Service Provider Personnel comply with

- (a) all Laws including, but not limited, to those Laws listed in **Schedule 14** (Legislation and Commonwealth Policies); and
- (b) Australian Government Policies listed in **Schedule 14** (Legislation and Commonwealth Policies) or as notified to it by the Department from time to time.

### 3.7 Compliance with Department Specific Policies

The Service Provider must comply with, and ensure that all Service Provider Personnel comply with, all Department-specific policies listed in **Schedule 14** (Legislation and Commonwealth Policies) or as notified to it by the Department from time to time.

### 3.8 Changes to Department-specific Policies

- (a) The Department may give notice to the Service Provider of any change in a Department-specific Policy and the Service Provider must comply with that change (and ensure all Service Provider Personnel do the same) on and from the date of the Department's notice.
- (b) Prior to notifying the Service Provider of any change in a Department-specific Policy under **clause 3.8(a)**, the Department will endeavour to consult with the

Service Provider and seek the Service Provider's views on the potential operational impact of the proposed change on the Service Provider's performance of this Contract. Where consultation has occurred, the Department will consider the Service Provider's view when finalising the terms of the change to the Department-specific Policy.

- (c) Subject to **clause 3.8(e)**, the Service Provider must incorporate into the Services, or the manner in which the Services are performed, the requirements of the amended Department-specific Policy without an increase in the Detention Services Fees.
- (d) If, on receiving notice of a change under **clause 3.8(a)**, the Service Provider considers that the change materially increases or decreases the cost to the Service Provider of providing the Services, the Service Provider must within 10 Business Days of receiving notice of the change provide to the Department a Contract Change Proposal in accordance with **clause 35.3** as though the notice given under **clause 3.8(a)** was a Contract Change Notice.
- (e) If the Department is satisfied that the Contract Change Proposal demonstrates that the requirements of the Department-specific Policy materially impacts the Services (or the manner in which the Services are performed) and/or has a material impact on the Detention Services Fee, the Department will:
  - (i) incorporate the Service Provider's suggested amendments or such other amendments as the Parties agree, to the Department-specific Policy; or
  - (ii) agree to amend the Detention Services Fee to account for the increase or decrease in costs associated with the change.
- (f) For the purposes of **clause 3.8** a "change" to Department-Specific Policy includes the addition of a new detention policy, the removal of an existing policy, or any variation to the content of an existing policy referred to in **Schedule 14** (Legislation and Commonwealth Policies).

### 3.9 Compliance with Code of Conduct

- (a) The Service Provider must comply with, and ensure that all Service Provider Personnel providing Services under this Contract comply with the Code of Conduct contained in **Schedule 2** (Statement of Work).
- (b) Subject to **clause 3.9(c)**, the Department may amend the Code of Conduct by notice in writing.
- (c) In the event that an amendment to the Code of Conduct, as per **clause 3.9(b)**, results in a material change to the way in which the Service Provider will be required to provide the Services, or a material increase to the cost of providing the Services:
  - (i) the Service Provider may submit a Contract Change Proposal to the Department; and

- (ii) the Department will consider the Contract Change Proposal in good faith.

## 4. HEALTH, SAFETY AND THE ENVIRONMENT

### 4.1 Work Health and Safety

In providing the Services, the Service Provider must:

- (a) ensure that it and Service Provider Personnel at all times comply with all applicable Laws, codes of practice, policies, procedures and Australian and industry standards relating to or impacting on work health and safety, including in relation to consideration, representation and participation, and in the event of any inconsistency between them, comply with that which produces the highest level of health and safety;
- (b) develop and implement the Work Health and Safety Plan in accordance with **Schedule 2** (Statement of Work) and participate in any work health and safety committees or management structures as required by the Department
- (c) manage all work health and safety issues at the Facilities;
- (d) take all reasonable safety precautions to prevent injury, illness or loss arising out of, or in relation to, the provision of the Services or the condition of the Facilities and must:
  - (i) comply with any safety directions given by the Department; and
  - (ii) provide a monthly report detailing any injury, illness, death or property damage and action taken to prevent recurrence or minimise impact;
- (e) actively and continually assess its current and planned activities and areas of responsibility, including the Facilities, for potential safety and work health risks and implement plans, practices and procedures to prevent actual or potential breaches of safety or damage, injury or illness of any kind;
- (f) ensure that it and, to the extent relevant, its Service Provider Personnel and Subcontractors involved in the provision of the Services, at all times hold and maintain any applicable work health and safety accreditation (including accreditation under the Australian Government Building and Construction OHS Accreditation Scheme), licence, permit, authorisation, scheme membership, professional or industry body membership or commitment to any code of conduct that is required or might reasonably be expected for a person performing any activity or service within the scope of this Contract;
- (g) perform its obligations in such a way as to ensure that the Department is not in breach, and is able to make full use of the Services for the purposes for which they are intended without being in breach, of any work health and safety requirement; and

- (h) promptly advise the Department of any actual, potential or suspected breach of any Departmental work health or safety policy described in **Schedule 14** (Legislation and Commonwealth Policies) or specified in **Schedule 2** (Statement of Work), and generally advise the Department of any matter, fact or circumstance that the Service Provider believes is or may not be adequately dealt with by the Department's work health and safety policies or procedures or their related training, awareness and compliance programmes.

## 4.2 Environmental Protection

In providing the Services, the Service Provider must:

- (a) comply with the environmental requirements in **Schedule 2** (Statement of Work) and the Environmental Management System for each Facility;
- (b) actively and continually assess its current and planned activities and areas of responsibility for potential environmental risks and implement plans, practices and procedures to prevent actual or potential damage to the environment and persons;
- (c) ensure that it and, to the extent relevant, its Service Provider Personnel involved in the provision of the Services, at all times hold and maintain any applicable environmental accreditation, licence, permit, authorisation, scheme membership, professional or industry body membership or commitment to any code of conduct that is required or might reasonably be expected for a person performing any activity or service within the scope of this Contract;
- (d) perform its obligations in such a way as to ensure that the Department is able to make full use of the Services without being in breach of any environmental requirement described in **Schedule 14** (Legislation and Commonwealth Policies) and/or specified in **Schedule 2** (Statement of Work); and
- (e) promptly advise the Department of any actual, potential or suspected breach of the Department's Environmental Management System or procedures and generally advise the Department of any matter, fact or circumstance that the Service Provider believes is or may not be adequately dealt with by the Department's environmental policies or procedures or their related training, awareness and compliance programmes.

## 4.3 Responsibility for Environmental Issues

The Service Provider is not liable for any contamination or pollution at a Facility, except where that contamination or pollution is:

- (a) brought to a Facility or caused by the Service Provider or Service Provider Personnel;
- (b) brought to a Facility after the Commencement Date by sources other than the Service Provider or Service Provider Personnel and the Service Provider has not

complied with its obligations under this Contract or has been negligent or failed to comply with the Environmental Management System for the Facility; or

- (c) at a Facility prior to the Commencement Date, but from the Handover of the relevant Facility, the Service Provider does not comply with the Environmental Management System upon becoming aware of the contamination or pollution.

## **PART 3 - TRANSITION IN ARRANGEMENTS**

### **5. TRANSITION IN**

#### **5.1 Transition In Plan**

The Service Provider must comply with its obligations in **Schedule 6** (Transition Requirements) and must cooperate with the Department and the Incumbent Service Provider for the purpose of facilitating the smooth transition of the provision of the Services to the Service Provider in accordance with **Schedule 6** (Transition Requirements).

#### **5.2 Transition In Obligations**

The Service Provider must:

- (a) from the Commencement Date, commence performance of the Services described in the Transition In Plan in **Schedule 6** (Transition Requirements);
- (b) meet all Milestones relevant to a particular Facility prior to the relevant Handover Date as required by **Schedule 6** (Transition Requirements);
- (c) from the relevant Handover Date or the date of receipt of the final relevant Certificate of Attainment in respect of a Facility (whichever is the later), assume full responsibility for the provision of the Services at the relevant Facility; and
- (d) within three (3) months of the Handover Date for each Facility, complete the Acceptance Tests for the Facility; and
- (e) complete all Services described in **Schedule 6** (Transition Requirements) no later than six (6) months after the Commencement Date.

#### **5.3 Transition Steering Committees**

- (a) In order to facilitate the smooth transition of the provision of the Services to the Service Provider, the Parties have established the Transition Steering Committee;
- (b) The Service Provider will ensure that appropriate Service Provider Personnel (as specified in **Schedule 6** (Transition Requirements)) participate in meetings of the Transition Steering Committee (along with representatives of the Incumbent Service Provider and the Department) at the times and in the manner outlined in **Schedule 6** (Transition Requirements).



## 6. ACHIEVEMENT OF MILESTONES AND ACCEPTANCE TESTING

### 6.1 Milestones

The Department will review the Service Provider's achievement of the Milestones specified in **Schedule 6** (Transition Requirements) to establish whether the Service Provider is able to assume full responsibility for the provision of the Services (or a Service Line) in accordance with this Contract.

### 6.2 Successful Completion of Milestones and Payment During Transition In Period

- (a) Upon successful completion of each Milestone, as determined by the Department acting reasonably, the Department will issue a Certificate of Attainment in respect of that Milestone.
- (b) Once a Certificate of Attainment in respect to a Milestone has been issued by the Department and subject to **clause 6.2(c)**, the Service Provider will be paid as per **Schedule 5** (Detention Services Fee), which will be comprised of payments linked to Milestones as specified in the Transition In Plan.
- (c) With the exception of the first Milestone payment (as referred to in **clause 11.1** of **Schedule 5** (Detention Services Fee)), the Department is not liable to pay any part of the Detention Services Fee (including any Milestone payment, or fees in respect of a Service Line at a Facility) unless and until a Certificate of Attainment in respect of the relevant Milestones has been issued in accordance with **Schedule 6** (Transition Requirements).
- (d) Payment for a Milestone may be forfeited, at the Department's absolute and complete discretion, if the Milestone due date is not achieved.

### 6.3 Failure to Achieve Milestones

- (a) If the Milestones are not satisfactorily completed, the Service Provider must do all things necessary (at no cost to the Department) to rectify any problems and ensure satisfactory provision of the Services in accordance with this Contract.
- (b) If required by the Department, the Service Provider must re-submit any deliverables specified in **Schedule 6** (Transition Requirements) or participate in any further tests required by the Department to ensure the Service Provider is able to assume full responsibility for the provision of the Services (or a Service Line) in accordance with this Contract.

### 6.4 Acceptance Tests

- (a) Within three months after the Handover Date for each Facility, the Department will conduct the Acceptance Tests specified in **Schedule 6** (Transition Requirements) for each Facility in order to determine whether the Service Provider will be able to meet the minimum performance requirement for each Key Performance Measure following the expiry of the Base Period.

- (b) Upon successful completion of an Acceptance Test, the Department will issue an Acceptance Certificate.
- (c) If any of the Acceptance Tests are not successfully completed, the Department may require that the Service Provider take corrective action and, if necessary, repeat those Acceptance Tests.
- (d) Without limiting the Service Provider's obligations in this Contract, the Department may, in its absolute discretion, give a Contract Change Notice in accordance with **clause 35** in order to address any deficiencies in service delivery identified by the Acceptance Tests.
- (e) The conduct of Acceptance Tests will not affect the measurement of the Key Performance Measures and adjustment of the Detention Services Fee in accordance with **clause 8** of **Schedule 4** (Performance Management Framework) and **Schedule 5** (Detention Services Fee) following expiry of the Base Period.

## 7. VERIFICATION

- (a) The Service Provider must, during the Transition In Period, verify the existence, condition, and determine the value of the Loose Assets including by conducting reasonable audits and inspections of the Loose Assets and reviewing any Material related to the Loose Assets. The Department will provide a list of Loose Assets to the Service Provider during the Transition In Period.
- (b) The Service Provider must, prior to the end of the Transition In Period, deliver to the Department a detailed Verification Report setting out the details and results of the Loose Assets Register verification.
- (c) The Department may seek clarification and verification of any information, valuations or results in the Verification Report.
- (d) Where the Parties agree that verification reveals an error in the Loose Assets Register, the Parties will correct the Loose Assets Register.
- (e) Nothing in this **clause 7** prevents the Service Provider from being required to fulfil its other obligations under this Contract.
- (f) Each Party will bear its own costs for activities under this **clause 7** and the Service Provider will not be entitled to any adjustment in the Detention Services Fee.

## 8. AUTHORISATIONS AND PERSONNEL

### 8.1 Authorisations

The Service Provider must obtain all Authorisations as may be necessary to assist the Service Provider to complete its obligations in the Transition In Period and perform the Services. Unless the Department agrees otherwise in writing, the Service Provider must, at its expense, pay any fees (eg transfer or upgrade fees that may be required to obtain an



Authorisation) and any other costs and charges associated with the performance of its obligations under this **clause 8**.

## **8.2 Problems in Obtaining Authorisations**

The Service Provider must notify the Department immediately of any problems it has in complying with this **clause 8** and provide evidence to the Department of the satisfaction of the Service Provider's obligations under this **clause 8** at least seven days before a relevant Handover Date, or, if an Authorisation is not required prior to the Handover Date, within twenty four (24) hours of the problem coming to the attention of the Service Provider.

## **8.3 No Transfer of Department Personnel**

No Department Personnel are transferred to the Service Provider under or in relation to this Contract.

## **8.4 Indemnity**

The Service Provider indemnifies the Department against any liability the Department may incur as a result of the failure to obtain any Authorisations or agreements envisaged in this **clause 8**.

## **8.5 No Reduction in Standard of Service**

The Service Provider must ensure that its access to any third party agreements which also benefit the Department does not in any way reduce or affect the standard of services provided under those agreements to the Department.

## **9. LIQUIDATED DAMAGES**

[NOT USED]

## **PART 4 – LEGAL POLICY AND FRAMEWORK**

## **10. OBJECTIVES**

### **10.1 Objectives of the Contract**

(a) The objectives of this Contract are to:

- (i) maintain the welfare of Detainees;
- (ii) continuously improve the quality, effectiveness and efficiency of the Services and promote cultural alignment between the Department and the Service Provider;
- (iii) enhance the management and operation of Facilities through cooperation between the Department, the Service Provider and other Stakeholders; and

- (iv) enable the Department to receive best value for money for the provision of the Services

(collectively **Objectives**).

- (b) This **clause 10** is intended to describe the intention of the Parties in entering into this Contract. It is not intended to alter the plain meaning of the provisions of this Contract. However, to the extent that the provisions of this Contract do not address a particular circumstance or are otherwise unclear or ambiguous, those provisions are to be interpreted and construed as far as is consistent with the Law, by reference to the Objectives described in **clause 10.1(a)**.

## 11. PARTNERING CHARTER

- (a) The Department and the Service Provider both agree to carry out their obligations set out in this Contract in accordance with the principles set out in the Partnering Charter.
- (b) The Parties acknowledge and agree that the Partnering Charter:
  - (i) is a free-standing document couched in policy terms;
  - (ii) does not change the legal relationship of the Service Provider and the Department;
  - (iii) is not intended to alter the plain meaning of the provisions of this Contract; and
  - (iv) does not of itself establish any rights, obligations or liabilities between the Department and the Service Provider.

## 12. COOPERATION

### 12.1 Consultation and Cooperation with the Department

- (a) The Service Provider must cooperate with the Department to ensure that Detainees are managed in a holistic way in accordance with the Department's directions.
- (b) The Service Provider will develop, implement and manage corporate governance arrangements that give effect to and support the delivery of Services in accordance with the requirements of the Department and **Schedule 2** (Statement of Work).
- (c) The Service Provider will ensure that all relevant information is shared with the Department and at the Department's request, or in accordance with this Contract, the Department's service providers in order to facilitate the early identification of the individual needs of Detainees and the provision of individual proactive Services to Detainees.

## 12.2 Cooperation with Other Service Providers

The Service Provider must cooperate with any other service provider appointed by the Department to ensure the integrated and efficient carrying on of the operations of each Facility and must provide such reasonable assistance to other service providers as the Department may reasonably request, within the Detention Services Fee.

## 13. DUTY OF CARE

- (a) The Service Provider acknowledges and agrees that it has a duty of care to Detainees.
- (b) The Service Provider must meet its duty of care to Detainees and any duty of care it has to Visitors or other persons arising from the performance of its obligations under this Contract.
- (c) While children will not be placed in an Immigration Detention Centre, the Service Provider may be required to manage children in places of Alternative Detention and the Service Provider must ensure, when providing any Services to children, that the best interests of the child are the Service Provider's primary consideration, taking into account any special needs arising from the child's particular age and gender.
- (d) For the avoidance of doubt, the Service Provider acknowledges and agrees that any duty of care that may be inferred by operation of Law on the Department does not in any way:
  - (i) detract from the Service Provider's obligations either under this Contract or arising by operation of any Law; or
  - (ii) alter the allocation of rights, obligations and liabilities under this Contract.

## 14. CASE MANAGEMENT FRAMEWORK

### 14.1 Service Provider Must Cooperate with the Department Case Managers

- (a) The Service Provider must cooperate with Department Case Managers to ensure that Detainees are managed in a holistic way in accordance with the Department's requirements (as notified to the Service Provider from time to time), which endeavours to:
  - (i) ensure Detainees are managed in a fair, lawful, reasonable and timely manner;
  - (ii) ensure a complete view of each Detainee is maintained across multiple service providers;
  - (iii) provide action and review timeframes for all services;

- (iv) provide clear lines of accountability for managing the outcomes of Detainees;
  - (v) fully involve Detainees and/or service providers in the development of actions;
  - (vi) provide seamless service delivery for Detainees; and
  - (vii) monitor the immigration and health and welfare outcomes for Detainees.
- (b) The Service Provider and Service Provider Personnel will share information with the Department in order to facilitate the early identification of the individual needs of Detainees and the provision of individual and proactive services to Detainees.

## PART 5 – MANAGEMENT AND GOVERNANCE

### 15. PROJECT MANAGEMENT

The Service Provider must provide all administrative and project management services necessary for the provision of the Services. The following project management services must be provided at a minimum:

- (a) implementation and compliance with the governance framework as specified in **Schedule 2** (Statement of Work);
- (b) implementation of a planned, systematic, efficient and comprehensive approach to the Transition In, delivery of the Services and Transition Out;
- (c) maintenance of a due diligence process to demonstrate compliance with all applicable health, safety, environmental, corporate governance, professional and other relevant legislative requirements;
- (d) identifying and mobilising resources;
- (e) identifying who will perform the work, when it is required, and how it will be executed and validated;
- (f) coordinating all activities and the functional outputs of all relevant persons including Subcontractors;
- (g) monitoring and measuring of progress and performance;
- (h) efficient decision-making within the Service Provider's organisation and the advising of decisions required by the Department under this Contract;
- (i) controlling and rectifying faults or other deficiencies which may arise in, or during the performance of, the Services;
- (j) managing those risks which are the Service Provider's responsibility under this Contract;

- (k) managing and reporting of Incidents to the Department in accordance with **Schedule 2** (Statement of Work);
- (l) preparing all Reports required under this Contract;
- (m) providing continuous, visible and adequate audit trails; and
- (n) preparation and implementation of all Contract Change Proposals.

## **16. PLANS**

### **16.1 Plans and approval process**

- (a) The Service Provider must prepare and submit to the Department for approval the Plans specified in **Schedule 2** (Statement of Work) and in accordance with **Schedule 6** (Transition Requirements).
- (b) No later than one (1) month from each anniversary of the Contract, the Service Provider must prepare an update of each Plan (predominantly focusing on the next twelve (12) month period) and submit a copy of that plan to the Department.
- (c) The Department may approve or reject a Plan. If the Department rejects a Plan, the Service Provider must revise and resubmit the plan in accordance with the Departments required timeframes.

### **16.2 Approved Plan**

- (a) The Departments approval of a Plan does not;
  - (i) release the Service Provider from any obligation under this Contract; and/or
  - (ii) imply any assumption by the Department of any responsibility or liability as to the adequacy or suitability of the approved plan to meet the Service Provider's obligations under this Contract.
- (b) Any revised Plan approved by the Department replaces the then current plan previously approved on the date specified in the Departments approval notice.
- (c) Any current approved Plan continues to apply pending approval of a subsequent Plan.

## **17. DETAINEE RECORDS**

### **17.1 Existing Detainee Records**

- (a) The Department will use reasonable efforts to arrange for the Service Provider to have access to Existing Detainee Records as reasonably required for the delivery of the Services.

- (b) The Service Provider acknowledges that access under **clause 17.1(a)** is dependent on the Department obtaining the consent of each relevant Detainee, and any other consents or approvals required by Law.
- (c) The Department does not warrant or represent that any Existing Detainee Record is fit for its purpose, or is complete or accurate. Any such warranty is excluded to the extent that the Law allows.

## 17.2 Creation and Supply of Detainee Records

- (a) The Service Provider must create a Detainee Record for each Detainee and maintain and use that record in accordance with this Contract.
- (b) To the extent permitted by Law, the Service Provider must:
  - (i) ensure all Subcontractors and Service Provider Personnel and any other provider involved with the care or treatment of a Detainee receive timely and open access to a Detainees Record, with a view to facilitating the delivery of coordinated, continuous and effective care and treatment to that person;
  - (ii) ensure Detainees have access to their Detainee Record; and
  - (iii) provide the Department with a copy of any Detainee Record at the times and in the manner requested by the Department.
- (c) The Service Provider must not amend, destroy or dispose of any Detainee Record or Existing Detainee Record without the Contract Administrators prior written consent.

## 18. NATIONAL CONTRACT MANAGEMENT REPRESENTATIVES

### 18.1 The Department's Contract Management Representatives

- (a) The Department must appoint one person to fulfil the role of the Contract Authority and another person to fulfil the role of the Contract Administrator, who must each be the duly authorised representatives of the Department in accordance with this Contract.
- (b) The Department must give written notice to the Service Provider of the appointment of the Contract Authority and Contract Administrator, and any replacement of those appointees.
- (c) The roles and responsibilities of the Contract Authority and the Contract Administrator are set out in **Schedule 2** (Statement of Works).
- (d) The Department may, by providing written notice to the Service Provider, delegate the Contract Administrator's or the Contract Authority's responsibilities under this Contract to any other Department Personnel.

## 18.2 Service Provider Contract Management Representatives

- (a) The Service Provider must appoint one person to fulfil the role of the Service Authority and another person to fulfil the role of the Service Administrator, who must each be the duly authorised representatives of the Service Provider in accordance with this Contract.
- (b) The Service Provider must give written notice to the Department of the appointment of each person to the roles specified in **clause 18.2(a)** and any replacement of those appointees.
- (c) The roles and responsibilities of the Service Authority and the Service Administrator are set out in **Schedule 2** (Statement of Work).

## 18.3 National Committee Meetings

The Service Provider will participate in all national committee meetings in accordance with **Schedule 2** (Statement of Work).

## 19. FACILITY MANAGEMENT PERSONNEL

### 19.1 Department Personnel

The Department will appoint a Department Regional Manager for each Facility.

### 19.2 Service Provider Personnel

- (a) The Service Provider must appoint the following national positions:
  - (i) Contract Director;
  - (ii) National Operations Director;
  - (iii) Transition Director;
  - (iv) National HR/IR Manager; and
  - (v) Commercial and Financial Director.
- (b) The Service Provider must appoint, for each Facility, a manager who is located at that Facility.
- (c) The Service Provider must give written notice to the Department of the appointment of each person to the roles specified in **clause 19.2(a)** and **19.2(b)**, and any replacement of those appointees.

## 20. REGIONAL MANAGEMENT MODEL

### 20.1 Department Regional Manager Directions Power

A Department Regional Manager may give an Executive Direction to the Service Provider for the benefit of Detainees or detention operations with respect to the following:

- (a) the manner in which the Services are to be delivered; or
- (b) requiring Additional Services in accordance with the procedure in **clause 34**

### 20.2 Limits on Directions Power

The Department Regional Manager must not give an Executive Direction that is inconsistent with the Main Terms and Conditions of the Contract.

### 20.3 Procedure for Giving and Recording Directions

All Executive Directions must be given to the Service Provider in writing, or if given orally, recorded in writing within 24 hours and a copy of the Executive Direction provided to the Service Provider.

### 20.4 Compliance with Executive Directions

The Service Provider must comply with and implement any Executive Direction within such period as may be specified by the Executive Direction within the Detention Services Fee.

### 20.5 Disputes

Any Disputes in relation to an Executive Direction pursuant to this **clause 20** will be resolved in accordance with the dispute resolution procedure in **clause 64**.

## PART 6 - PERSONNEL

### 21. KEY PERSONNEL

#### 21.1 Key Personnel

The Service Provider has retained the Key Personnel listed in **Schedule 7** (Key Personnel and Approved Subcontractors).

#### 21.2 Retention of Key Personnel

Subject to **clause 21.3**, the Service Provider must ensure that each of the Key Personnel occupy the position and provide the Services specified for them in **Schedule 7** (Key Personnel and Approved Subcontractors).



### 21.3 Replacement of Key Personnel

- (a) Where Key Personnel cease to work in respect of this Contract, the Service Provider must notify the Department immediately and must provide replacement Key Personnel acceptable to the Department at no additional charge and at the earliest opportunity. The Parties will promptly document the replacement of any Key Personnel in accordance with the Contract Change process in **clause 35**.
- (b) If the Service Provider is unable to provide replacement Key Personnel acceptable to the Department within three months of their ceasing work in respect of this Contract, the Department may, at its discretion, terminate this Contract in accordance with the provisions of **clause 66**, or remove specific categories of services from the scope of the Services from scope in accordance with **clause 35**.

### 21.4 Removal of Key Personnel

The Department may, in its absolute discretion, give notice requiring the Service Provider to remove any Key Personnel from work in respect of the Services. The Service Provider must promptly arrange for the removal of such Key Personnel from work in respect of the Services and their replacement with personnel acceptable to the Department and at no additional cost to the Department.

## 22. GENERAL OBLIGATIONS IN RELATION TO SERVICE PROVIDER PERSONNEL

### 22.1 Personnel Levels

- (a) The Service Provider will ensure that the personnel levels at the Facilities deliver the Services in accordance with this Contract within the Detention Services Fee.
- (b) The Service Provider acknowledges and agrees that each Detainee will have a variety of individual needs and circumstances, including, without limitation:
  - (i) physical, mental health (including intellectual disability), emotional, cultural or religious needs;
  - (ii) differing immigration statuses; and
  - (iii) differing level of risk assessments.
- (c) The Service Provider agrees that, regardless of such needs, circumstances, immigration status and risk assessments specified at **clause 22.1(b)**, the Service Provider will provide appropriate staffing levels to deliver Services to such Detainees in accordance with obligations under this Contract and, subject to **clause 22.1(d)**, within the Detention Services Fee.
- (d) The Service Provider is entitled to charge the Department additional fees for High Needs Detainees in accordance with the variable rates set out in **Schedule 5** (Detention Services Fee).

## 22.2 Service Provider Personnel

Without limiting **clause 21**, the Service Provider must, at its own cost, ensure that all Service Provider Personnel who carry out work or perform duties under this Contract:

- (a) are, and remain, of good character and good conduct;
- (b) are considered suitable by the Department having regard to any issues identified in an Australian Federal Police background check and brought to the attention of the Department in accordance with the requirements of **Schedule 2** (Statement of Work);
- (c) undergo induction and orientation training in accordance with the requirements of **Schedule 2** (Statement of Work) when commencing employment with the Service Provider or starting work in relation to the Services;
- (d) are appropriately skilled, trained and qualified to provide the Services in accordance with the requirements of **Schedule 2** (Statement of Work);
- (e) are authorised, registered or licensed in accordance with any regulatory requirements (including any requirements specified in **Schedule 2** (Statement of Work)) for the purposes of or incidental to the performance of the Services;
- (f) possess all relevant industry body, supplier, manufacturer and accreditation or scheme memberships and professional association membership specified in **Schedule 2** (Statement of Work) or that might be reasonably expected of providers of the Services, and produce evidence of such authorisation, registration, license, accreditation or membership to the Department upon request at any time during the term of this Contract; and
- (g) will be subject to internal disciplinary processes.

## 22.3 Documents to be Signed by Service Provider Personnel

The Service Provider must ensure that all Service Provider Personnel that are to carry out work or perform duties under this Contract have signed:

- (a) a Confidentiality Deed Poll substantially in the form of **Schedule 10** (Confidentiality Deed); and
- (b) a Deed of Non-disclosure of Personal Information substantially in the form of **Schedule 11** (Deed of Non-disclosure of Personal Information),

prior to commencing work or performing duties under this Contract.

## 22.4 Behaviour of Service Provider Personnel at Facilities

The Service Provider must ensure that all Service Provider Personnel at a Facility:

- (a) are aware of, and comply with, the Code of Conduct at all times;

- (b) carry out their duties and behave in such a way as to maximise the seamless interface between the delivery of the Services and:
  - (i) the services delivered by the Health Services Provider;
  - (ii) any other services provided by other service providers; and
  - (iii) the day to day activities of the Department,
 so that services delivered by multiple service providers give the impression of being delivered by a single provider; and
- (c) comply with the Department's policy on smoking and other work, health and safety matters as declared from time to time by the Department.

## 22.5 Illegal Workers and Non-citizens

- (a) The Service Provider must ensure that its Service Provider Personnel do not include any illegal workers and must notify the Department immediately if it becomes aware of any of its Service Provider Personnel being an illegal worker
- (b) For the purposes of **clause 22.5(a)**, an illegal worker is a person who:
  - (i) has unlawfully entered and remains in Australia;
  - (ii) has lawfully entered Australia but remains in Australia after his or her visa has expired; or
  - (iii) is working in breach of his or her visa conditions.

## 22.6 Removal of Service Provider Personnel

The Department may, in its absolute discretion, give notice requiring the Service Provider to remove any Service Provider Personnel from work in respect of the Services. The Service Provider must promptly arrange for the removal of such Service Provider Personnel from work in respect of the Services and their replacement with personnel acceptable to the Department and at no additional cost to the Department.

## 23. DELEGATIONS AND AUTHORISATIONS

### 23.1 Authorisation and Accountability

- (a) The Parties acknowledge that certain Service Provider Personnel will be required to be authorised as "Officers" or "Authorised Officers" (as defined in the Migration Act) in order to carry out their roles and responsibilities.
- (b) The Service Provider must ensure that only Service Provider Personnel who are authorised as "Officers" or "Authorised Officers" perform the functions which are conferred on "Officers" and "Authorised Officers" under the Migration Act, and

that those Service Provider Personnel meet any requirements contained in the Authorisation.

- (c) The Service Provider must, within a reasonable time, advise the Department of any:
  - (i) Service Provider Personnel requiring a relevant Authorisation or Delegation pursuant to the Migration Act or any other Department policies and orders (**Authorisations** or **Delegations**) for the provision of Services;
  - (ii) Service Provider Personnel who have been granted powers under a relevant Authorisation or Delegation but no longer require the Authorisation or Delegation for any reason; or
  - (iii) changes to the Service Provider Personnel (including any changes to Personnel's circumstances) which will require amendments to be made by the Department to the Authorisations or Delegations granted.
- (d) The Department may arrange for the Service Provider Personnel to be granted powers under a relevant Authorisation or Delegation in order to provide the Services.

## 23.2 Documentation Relating to Authorisations or Delegations

- (a) The Department undertakes to provide the Service Provider with copies of all Delegations or Authorisations relevant to the provision of the Services.
- (b) The Department undertakes to notify the Service Provider and provide copies of amendments to Delegations or Authorisations relevant to the provision of Services within 10 Business Days after the change has been approved by the relevant delegate.

## 23.3 Accountability of Service Provider Personnel

- (a) The Service Provider must ensure that any Service Provider Personnel, when exercising a power granted under an Authorisation or Delegation:
  - (i) have regard to and comply with Department-specific Policy;
  - (ii) without limiting any other requirement of this **clause 23**, comply with all administrative law obligations;
  - (iii) be objective, impartial, fair, reasonable and consistent; and
  - (iv) make decisions promptly and provide reasons for their decisions as required by Law or Australian Government Policy.
- (b) The Service Provider acknowledges that the exercise of powers under the Migration Act by Service Provider Personnel will, as far as possible, attract the same accountability as if exercised by Department Personnel and will, without limitation,

be subject to the *Ombudsman Act 1976* (Cth), the *Administrative Decisions (Judicial Review) Act 1977* (Cth), the *Archives Act 1983* (Cth), the *Privacy Act 1988* (Cth), the *Freedom of Information Act 1982* (Cth) and the Acts administered by the Australian Human Rights Commission. It is the absolute responsibility of the Service Provider to inform itself of all requirements relevant to the Service Provider under these Acts.

## **PART 7 – SUBCONTRACTOR ARRANGEMENTS**

### **24. SUBCONTRACTOR ARRANGEMENTS**

#### **24.1 Term of Subcontracts**

The Service Provider must not subcontract all of the Services and may only subcontract any part of the Services if the subcontract contains provisions that:

- (a) are in accordance with the provisions of this Contract, including all relevant terms relating to:
  - (i) subcontracting;
  - (ii) compliance with Laws and Australian Government Policies;
  - (iii) Intellectual Property;
  - (iv) audit and access;
  - (v) privacy;
  - (vi) confidentiality;
  - (vii) indemnities;
  - (viii) insurance;
  - (ix) termination;
  - (x) illegal workers;
  - (xi) work health and safety requirements; and
  - (xii) Transition Out; and
- (b) allow the Service Provider and the Department to publish details of the name of the Subcontractor and the nature of the work subcontracted to it.

#### **24.2 Approval of Major Subcontracts**

The Service Provider must not enter into a Major Subcontract without the prior written approval of the Department.

### 24.3 Initial Approved Subcontractors

Initial Approved Subcontractors are specified in **Schedule 7** (Key Personnel and Approved Subcontractors). The Department is deemed to have provided written approval for the Service Provider to enter into Major Subcontracts with the Initial Approved Subcontractors in relation to the services described in **Schedule 7** (Key Personnel and Approved Subcontractors).

### 24.4 Conditions of Subcontracts

Prior to seeking the Department's approval of a Major Subcontract, the Service Provider must:

- (a) ensure that that the Major Subcontract:
  - (i) complies with the requirements in **clause 24.1**; and
  - (ii) reserves such rights to the Department as are secured to the Department under this Contract; and
- (b) provide a copy of the proposed Major Subcontract to the Department.

### 24.5 Copies of Subcontracts

The Service Provider must:

- (a) maintain a record of each of the Subcontractors and the Services being performed by each of them; and
- (b) promptly provide details of any Subcontractor and copies of any subcontracts to the Department at the request of the Contract Administrator.

### 24.6 Service Provider Liability and Obligations

- (a) The Department's approval of any Subcontract does not relieve the Service Provider from any liability or obligation under this Contract.
- (b) The Service Provider will be liable to the Department for the acts, omissions, defaults and neglect of any Subcontractor or any representative of the Subcontractor engaged in the performance of the Services as fully as if they were the acts, omissions, defaults or neglect of the Service Provider.
- (c) The Service Provider remains responsible for ensuring that:
  - (i) the work performed by each Subcontractor meets the requirements of this Contract; and
  - (ii) no Major Subcontractor further subcontracts any work without the prior written approval of the Department.

**24.7 Subcontractor Warranty**

The Service Provider warrants that each Subcontractor:

- (a) is suitable to carry out the work under the subcontract and is accredited or qualified in accordance with relevant Laws, Australian Standards and Commonwealth requirements;
- (b) where applicable, meets the requirements of the Building Code as defined in **clause 71.2**;
- (c) where applicable, meets the requirements of this Contract and Laws; and
- (d) will exercise the standard of skill, care and diligence that would be expected of an expert professional provider of services similar to the Services being provided by the Subcontractor.

**24.8 Enforcement of Rights Against Subcontractors**

The Service Provider must take any action required by the Department in relation to the enforcement of, or recovery under, the terms of the subcontract that are identified in **clause 24.1**.

**24.9 Service Provider to be the Department's Sole Point of Contact**

- (a) The Service Provider acknowledges that the Department may, in its absolute discretion, contact any Subcontractor directly as and when required in order to obtain information regarding the Services provided by that Subcontractor.
- (b) Except as provided in **clause 24.9(a)**, the Service Provider will be the Department's sole point of contact regarding the Services, including with respect to payment.

**PART 8 - FACILITIES AND EQUIPMENT****25. LICENCE FOR USE OF FACILITIES, DEPARTMENT EQUIPMENT AND SYSTEMS****25.1 Licence**

- (a) The Department grants, and the Service Provider accepts, a fee-free, non-exclusive licence to occupy and use the Facilities and to access and use the Department Assets and Loose Assets for the sole purpose of complying with its obligations under this Contract during the Term on the terms and conditions contained in this **clause 25**.
- (b) The Service Provider acknowledges and agrees that the licence to occupy and use granted by this clause is personal to the Service Provider and any and all of the rights of the Service Provider rest in contract alone and may not be assigned. The Service Provider agrees that it has no tenancy, estate or leasehold interest in the Facilities, Department Assets or Loose Assets. The Service Provider acknowledges



that the Facilities, Department Assets and Loose Assets remain the property of the Department.

- (c) The Service Provider shall not prevent or hinder the Department or any person claiming through the Department from exercising the Department's rights as owner of the Facilities, Department Assets or Loose Assets and shall not act in a manner inconsistent with the Department's property or rights.
- (d) The Department may on written notice to the Service Provider modify the Facilities, Department Assets or Loose Assets to take into account the Department's changing requirements.

## 25.2 Condition of Facilities and Department Assets

- (a) The Service Provider acknowledges having received the Department Asset Register.
- (b) The Facilities, Department Assets and Loose Assets are licensed to the Service Provider as is.
- (c) To the extent permitted by Law:
  - (i) the Department provides no warranty as to the actual condition of the Facilities, Department Assets and Loose Assets;
  - (ii) the Service Provider waives, releases and renounces any warranty, condition, representation and terms which would or might otherwise be implied by Law in respect of the condition of the Facilities, Department Assets and Loose Assets; and
  - (iii) the Department has no liability to the Service Provider in respect of any loss or damage (including consequential loss or damage) which may be suffered or incurred or which may arise directly or indirectly from the Facilities, Department Assets or Loose Assets.

## 25.3 Utilities

The Service Provider is responsible for arranging the provision of and making prompt payment to the relevant authority or service provider of all costs or charges associated with:

- (a) water;
- (b) sewerage;
- (c) electricity;
- (d) gas (including LPG);
- (e) telephone and all other telecommunications charges including internet access fees;



- (f) council rates; and
- (g) rubbish removal,

incurred due to the use and occupation of the Facilities and/or the provision of the Services, including consumption costs, rental costs, connection fees and minimum charges, and all such costs are charged as Pass Through Costs to the Department in accordance with **Schedule 5** (Detention Services Fee).

## 25.4 Service Provider Covenants in Relation to the Facilities

The Service Provider for itself, the Service Provider Personnel, and their invitees covenants and agrees with the Department to:

- (a) use the Facilities, Department Assets and Loose Assets for the permitted use in **clause 25.1** and for no other use;
- (b) maintain the security of the Facilities, Department Assets and Loose Assets and keep them in good order and condition in accordance with the requirements of **Schedule 2** (Statement of Work);
- (c) use the Facilities, Department Assets and Loose Assets skilfully and properly, complying with the requirements set out in the relevant operating manuals or other written instructions from the Department or, in the absence of such manuals or instructions, in accordance with industry best practice;
- (d) comply with the Department's reasonable instructions and directions relating to the safety of any part of the Facilities and the health and safety of any person in or adjacent to the Facilities;
- (e) take all reasonable precautions to prevent any damage to any part of the Facilities, Department Assets or Loose Assets, or any nuisance, damage, obstruction, annoyance or inconveniences to the Department or any occupier of adjoining land;
- (f) comply at its own expense with all Laws, orders, directions and demands given by or on behalf of any authority having jurisdiction over the Facilities (including but not limited to those relating to the Building Code and the related Supporting Guidelines, disability discrimination, the environment, fire precautions, insurance and fire alarms);
- (g) not assign, transfer possession or in any way dispose of any interest in the licence granted under **clause 25.1** (including by way of any lien, charge, mortgage or other Security Interest) or allow any other person to use the Facilities, Department Assets or Loose Assets without the prior consent in writing of the Department;
- (h) not make any modification, alterations, addition or other changes (structural or non-structural) to the Facilities or Department Assets, or to erect any partitions or carry out any building or works whatsoever in or to the Facilities without the prior consent of the Department obtained in accordance with **clause 25.5**; and

- (i) allow the Department to affix or cause to be affixed to the Facilities such signage or other markings as the Department may think fit indicating that the Facility is the property of the Department, and the Service Provider shall not remove or deliberately obliterate, deface or cover such signage or markings.

## 25.5 Modifications to Facilities

- (a) Where the Service Provider seeks any modification, alteration, addition or other change (whether structural or non-structural) to a Facility, the Service Provider must (at its cost) submit a proposal for the modification works to the Department for its approval.
- (b) The Department may approve or not approve the modification works in its absolute discretion. The Department may grant its approval subject to conditions, including:
  - (i) that the modification works be undertaken by the Department or Subcontractors approved by the Department; and
  - (ii) that the modification works be undertaken at the cost of the Service Provider.
- (c) Where the Department approves a modification subject to a condition that the modification works be undertaken at the cost of the Service Provider, the Service Provider will not be obligated to carry out the modification.
- (d) Any modification works carried out pursuant to this **clause 25.5** will be owned by the Department unless otherwise agreed by the Parties in writing.
- (e) The removal of a modification will itself be deemed to be a modification and must be approved by the Department in accordance with this **clause 25.5**.
- (f) The Service Provider must repair, at its cost, any damage caused by the installation or removal of a modification by the Service Provider or its Subcontractors.

## 25.6 Damage to Facilities, Department Assets and Loose Assets

- (a) The Service Provider must notify the Department in writing of any loss, destruction, damage to, or defect in, the Facilities, Department Assets or Loose Assets (or any part thereof) in accordance with the reporting requirements for Incidents in **Schedule 2** (Statement of Work).
- (b) The Service Provider is responsible for and indemnifies the Department in respect of loss, destruction, damage to the Facilities, Department Assets or Loose Assets in accordance with **clause 58**.

## 25.7 Residential Accommodation

- (a) Subject to **clause 25.7(d)** below, the Service Provider is solely responsible for arranging and managing accommodation for its Personnel in order to deliver the Services under this Contract.

- (b) The Department may, in certain circumstances, provide prior written notification to the Service Provider that it will reimburse the Service Provider (as a Pass Through Cost) for specific Personnel accommodation. The Department will notify the Service Provider of the specific period that it will reimburse the Service Provider for Personnel accommodation.
- (c) The Service Provider must provide a proportional reduction in the Detention Service Fee to address the reimbursed cost for its Personnel accommodation (for the specific period of the reimbursement arrangement).
- (d) Where possible, the Department will provide the Service Provider with accommodation for certain Service Provider Personnel ('Eligible Personnel') on Christmas Island. Where the Department provides such accommodation, the Department grants to the Service Provider a licence to permit Eligible Personnel to occupy the relevant Department residential accommodation, in accordance with the Facility description and plans to be provided by the Department under **Schedule 6** (Transition Requirements).
- (e) The Service Provider is not liable for fair use and reasonable wear and tear of Department provided residential accommodation used by the Eligible Personnel.
- (f) Where the Department provided residential accommodation is not available for the use of Eligible Personnel, the Department and the Service Provider will agree alternative arrangements for the accommodation of Service Provider Personnel on Christmas Island, with the Service Provider entitled to recover costs incurred, in an open book manner, as a Pass Through Cost.

## 26. DEPARTMENT ASSETS AND LOOSE ASSETS

### 26.1 Management of Assets

- (a) The Service Provider is responsible for the Maintenance, management and disposal of Department Assets and Loose Assets in accordance with **Schedule 2** (Statement of Work).
- (b) The Service Provider must manage the scheduled replacement of Department Assets which have reached the end of their scheduled life in accordance with the Maintenance Management Plan. The Department will bear the cost of replacing such Department Assets as a Pass Through Cost.
- (c) Where any Department Asset breaks down and is irreparable prior to the date scheduled for disposal of that asset (as specified in the Maintenance Management Plan), the Service Provider will seek the Department's approval prior to replacing the relevant asset. If the Service Provider substantiates to the Department's satisfaction that a Department Asset is critical to the delivery of the Services, the Department will approve the replacement of the Department Asset on any conditions it sees fit.

- (d) The Service Provider will not be liable for the costs of repair or replacement of Loose Assets where, in the reasonable opinion of the Department, the repair or replacement results from reasonable wear and tear of the Loose Asset. Where the Department determines the Loose Asset is to be replaced, it may direct the Service Provider to purchase the Loose Asset, which cost will be recoverable by the Service Provider as a Pass Through Cost, or an alternative payment mechanism agreed in writing by the parties, as preferred by the Department.
- (e) The Service Provider acknowledges that any Department Asset or Loose Asset that is repaired or replaced in accordance with this **clause 26** will remain the property of the Department or will immediately become so upon its replacement, as the case may be.

## 27. SERVICE PROVIDER ASSETS

- (a) The Service Provider must provide all assets required by the Service Provider to perform its obligations under this Contract other than Department Assets and Loose Assets.
- (b) The Service Provider must label its own assets to enable the Parties to distinguish between the Service Provider's assets and Department Assets and Loose Assets.
- (c) The Service provider must provide the Department with an asset register of all Service Provider assets within the Transition In Period and update annually.

## 28. ACCESS TO FACILITIES

- (a) The Service Provider must (as an incorporated component of the Detention Services Fee) at all times, with or without notice, provide access to any part of the Facilities to Department Personnel, the Commonwealth and Immigration Ombudsman, the Australian Human Rights Commission, the Auditor-General and the Privacy Commissioner, members of the Immigration Detention Advisory Group and any persons that are required for the ongoing operation, maintenance and upkeep of the Facilities and welfare of the Detainees.
- (b) Subject to their compliance with any applicable security requirements contained in **Schedule 2** (Statement of Work), the Service Provider must facilitate access to the Facilities by representatives of those Government Agencies who have entered into memoranda of understanding with the Department, in order to enable them to provide the services referred to therein.
- (c) The Service Provider must not provide access to the Facilities for media Visits except in accordance with the procedures and conditions specified in **Schedule 2** (Statement of Work).

## PART 9 - PERFORMANCE MANAGEMENT

### 29. KEY PERFORMANCE MEASURES

#### 29.1 Purpose of Key Performance Measures

The Service Provider acknowledges and agrees that:

- (a) the purpose of the Key Performance Measures in **Schedule 4** (Performance Management Framework) is to:
  - (i) provide the Service Provider with focus on the areas which are of importance and risk to the Department in the provision of the Services; and
  - (ii) specify performance goals and minimum standards of performance required by the Department of the Service Provider in the provision of the Services, which, if not achieved, may result in an Abatement of the Detention Services Fee;
- (b) the Key Performance Measures may be adjusted in accordance with **clauses 31 and 54.6**;
- (c) except as provided in **clause 54.6**, the Service Provider:
  - (i) bears the risk of all delays, disruptions, events or circumstances affecting the provision of the Services which could prevent it from meeting or achieving any Key Performance Measures other than a risk arising from an excusable performance failure identified in **Schedule 4** (Performance Management Framework); and
  - (ii) will remain obliged to meet or achieve the Key Performance Measures notwithstanding any such delay, disruption, event or circumstance; and
- (d) it must provide Reports on its performance against Key Performance Measures to the Department at the frequency and in the manner detailed in **Schedule 4** (Performance Management Framework).

#### 29.2 Abatements Regime

- (a) The Service Provider acknowledges and agrees that the Department will suffer loss, as a result of the Service Provider's failure to meet Key Performance Measures. The Service Provider agrees that the following amounts are genuine pre-estimates of such loss that would be suffered by the Department in respect of such failure. Subject to **clause 29.2(b)** the Service Provider acknowledges and agrees that:
  - (i) Failure to meet the agreed Key Performance Measures will result in Abatements;

- (ii) the application of any Abatements may result in a reduction of the Detention Services Fee payable to the Service Provider for the Services, in accordance with **Schedule 4** (Performance Management Framework); and
  - (iii) Abatements to the Detention Services Fee will be considered on a monthly basis. The decision to apply an Abatement, and the amount of such Abatement, will be at the sole and absolute discretion of the Department in accordance with **Schedule 4** (Performance Management Framework).
- (b) The Service Provider's performance against the Key Performance Measures will not result in any increase or decrease in the Detention Services Fee in accordance with **clause 29.2(a)** during the Base Period (as that term is defined in the Performance Management Framework).

### 29.3 Process for Measuring Performance

The Service Provider agrees to participate in the reporting and governance meetings and provide any Data, Reports, logs or other data source required in order to measure performance against the Key Performance Measures in accordance with **Schedule 4** (Performance Management Framework).

## 30. KEY PERFORMANCE INDICATORS

### 30.1 Purpose of Key Performance Indicators

The Service Provider acknowledges and agrees that:

- (a) the purpose of the Key Performance Indicators in **Schedule 4** (Performance Management Framework) is to:
  - (i) provide the Service Provider with strategic focus areas which consolidate the results of the Key Performance Measures; and
  - (ii) provide the Department with a snapshot view of performance against the Department's strategic goals; and
  - (iii) provide the Department with assurance that the Service Provider is delivering Services in accordance with agreed expectations.
- (b) it must provide Reports on its performance against Key Performance Indicators to the Department at the frequency and in the manner detailed in **Schedule 4** (Performance Management Framework) and **Schedule 2** (Statement of Work).

## 31. REVIEW OF PERFORMANCE

### 31.1 Annual Reviews

The Parties will conduct an annual review of this Contract and the scope of Services.

### 31.2 Scope of Annual Reviews

- (a) For the purposes of **clause 31.1**, the Department will determine the scope, objectives and criteria of the annual review.
- (b) The scope of the reviews under **clause 31.1** will include consideration of the appropriateness and effectiveness of the Key Performance Measures and the Key Performance Indicators. As a result of the review, Key Performance Measures and Key Performance Indicators may be amended to reflect the Parties' commitment to continuous improvement and an analysis of any failures in the preceding twelve (12) months.

### 31.3 Other Reviews

The Parties will conduct the reviews specified in **Schedule 4** (Performance Management Framework).

## 32. CONTINUOUS IMPROVEMENT

### 32.1 Continuous Improvement

The Service Provider must commit itself to continuous improvement of the Services through:

- (a) the identification and application of proven techniques and tools (from the Service Provider's other operations) that would benefit the Department either operationally or financially; and
- (b) the implementation of programmes, practices and measures designed (at a minimum) to ensure that the Services are performed in accordance with this Contract and to improve levels of performance, including any programmes, practices and measures specified in **Schedule 2** (Statement of Work) and **Schedule 4** (Performance Management Framework).

## PART 10 – CHANGE MANAGEMENT / CHANGE CONTROL

## 33. ACTIVATING, DEACTIVATING AND REACTIVATING A FACILITY

### 33.1 The Department May Activate, Deactivate and Reactivate Facilities

The Department may, at any time and in its absolute discretion, by written notice:

- (a) activate or re-activate a Facility, whereupon it will become Operational;



- (b) deactivate a Facility, whereupon it will become a Contingency Facility or a Hot Contingency Facility, as notified by the Department; or
- (c) close a specified Facility by removing it from the scope of the Services in accordance with **clause 35**.

### **33.2 Activation or Reactivation of a Facility**

- (a) The Department may serve notice on the Service Provider requiring the Service Provider to make Operational a Hot Contingency Facility and ramp-up service delivery to provide:
  - (i) Basic Services at 24 hours' notice, except in relation to a Facility at Christmas Island in which case Basic Services at 72 hours' notice; and
  - (ii) the range of Services, as specified by the Department, at six (6) weeks' notice.
- (b) The Department may serve notice on the Service Provider requiring the Service Provider to make Operational a Contingency Facility and ramp-up service delivery to provide:
  - (i) Basic Services at three (3) weeks' notice; and
  - (ii) the range of Services, as specified by the Department, at six (6) weeks' notice.

### **33.3 Deactivation of a Facility**

Where a Facility is Operational and the Service Provider is providing the full scope of Services, the Department may serve notice on the Service Provider requiring the Service Provider to deactivate the Facility to:

- (a) be a Hot Contingency Facility and ramp-down service delivery to provide Care Taker Services at three (3) weeks' notice; or
- (b) be a Contingency Facility and ramp-down service delivery to provide Care Taker Services at six (6) weeks' notice.

### **33.4 Change of Status from "Hot Contingency" to "Contingency" and Vice Versa**

Where a Facility is a Hot Contingency Facility, the Department may serve notice on the Service Provider requiring the Service Provider to change the Facility to a Contingency Facility (and vice versa) at four (4) weeks' notice.

### **33.5 Delivery of Services and Entitlement to Payment**

- (a) The Service Provider must progressively ramp-up or ramp-down its Service delivery (as appropriate) so that it delivers the Care Taker, Basic or full scope of



Services, as the case may be, at the relevant Facility in accordance with the periods specified in **clauses 33.2 and 33.3**.

- (b) When a Facility has been ramped-up to be Operational, the Service Provider will be entitled to payment of:
  - (i) the Detention Services Fee for those Service Tasks comprising the Basic Services based on the relevant capacity band in the pricing tables in **Schedule 5** (Detention Services Fee) until the Service Provider is able to provide the full scope of Services; and
  - (ii) thereafter, the Detention Services Fee for those Service Tasks comprising the full scope of Services based on the relevant capacity band in the pricing tables in **Schedule 5** (Detention Services Fee).
- (c) When a Facility has been ramped-up or ramped-down to a Hot Contingency Facility, the Service Provider will be entitled to payment of the Detention Services Fee for those Service Tasks comprising the Basic Services (and any other Service Tasks required by the Department) based on the capacity band for the relevant Hot Contingency Facility in the pricing tables in **Schedule 5** (Detention Services Fee).
- (d) When a Facility has been ramped-down to a Contingency Facility, the Service Provider will be entitled to payment of the Detention Services Fee for those Facilities Management and Support Services comprising the Care Taker Services (and any other Service Tasks required by the Department) based on the capacity band for the relevant Contingency Facility in the pricing tables in **Schedule 5** (Detention Services Fee).

### **33.6 Payments Relating to the Department's Decision to Activate, Reactivate or Deactivate a Facility**

If the Department gives the Service Provider a notice to activate, re-activate or de-activate a Facility, the Department will, in respect of that Facility, be liable for Ramp-up Costs or Ramp-Down Costs (as applicable) as Pass Through Costs in accordance with **Schedule 5** (Detention Services Fee).

## **34. ADDITIONAL SERVICES**

### **34.1 Temporary or Short Term Additional Services Required by a Department Regional Manager**

- (a) The Contract Administrator, in the initial twelve (12) months after the Commencement Date, may from time to time give a written notice requiring that the Service Provider provide Additional Services for a period not exceeding seven days (or such longer period agreed by the parties in writing) and the Service Provider must supply such Additional Services to the Department from the date specified in the notice. The Department is not liable to pay Additional Fees to the Service Provider in the initial twelve (12) months after the Commencement Date unless it complies with this **clause 34.1(a)**.

- (b) In accordance with **clause 20.1**, the Department Regional Manager, subsequent to the initial twelve (12) months after the Commencement Date, may from time to time give an Executive Direction requiring that the Service Provider provide Additional Services for a period not exceeding seven days and the Service Provider must supply those Additional Services to the Department from the date specified in the notice.
- (c) Where possible, such Additional Services will be priced using an applicable pricing mechanism or metric (including any schedule of rates in **Schedule 5** (Detention Services Fee)) as agreed between the Parties.

### 34.2 Additional Services Required by the Contract Administrator

The Contract Administrator may from time to time give a written notice requiring that the Service Provider provide Additional Services and the Service Provider must supply them to the Department from the date specified in the notice. Additional Fees will be payable for such Additional Services calculated as follows:

- (a) where:
  - (i) a pricing mechanism or metric already exists within this Contract for a resource required to perform the Additional Service, are calculated using that existing pricing mechanism or metric (including rates specified in a schedule of rates contained within **Schedule 5** (Detention Services Fee)); or
  - (ii) no such pricing mechanism or metric exists within this Contract, by pricing that is fair and reasonable, having regard to the then prevailing prices commercially available in the market for similar services to like customers; or
  - (iii) if the Additional Fees cannot be calculated under **clause 34.2(a)(i)** or **clause 34.2(a)(ii)** above, as Pass Through Costs; and
- (b) in any case, reflect all cost savings to the Service Provider resulting from any changes to the Service Provider's then current arrangements or operations for the provision of the Services. For example, where the Additional Services replace the whole or any part of an existing Service, the Service Provider must ensure that any cost savings resulting from reduced resource requirements for performing the Additional Services in lieu of the replaced Service are reflected in the Additional Fees.
- (c) The Contract Administrator will notify the Service Provider (in each written notice) if an Abatement (in accordance with **clause 29.2**) will apply to the Additional Services in this **clause 34.2**.

### 34.3 Proof of Reasonable Charges

- (a) The Service Provider must provide the Department with documentary proof, to the Department's reasonable satisfaction, that the Additional Fees for Additional Services satisfy the criteria set out in **clause 34.2**.
- (b) In order to assist the Department to form a view regarding whether the Additional Fees satisfy the criteria set out in **clause 34.2**, the Department may require the Service Provider to provide a financial statement of the change in financial cost to the Service Provider as a result of the requirement to provide Additional Services, certified by an accountant independent of the Service Provider declaring:
  - (i) the Additional Services cannot be accommodated within the existing Detention Services Fee; and
  - (ii) the accuracy of the financial information provided to the Department.
- (c) If the Service Provider is required to provide a financial statement pursuant to **clause 34.3(b)**, it must do so within five Business Days.
- (d) The Department will bear the reasonable costs of any independent accountant certification required by the Department under this **clause 34**.

### 34.4 Service Provider May Suggest Additional Services

- (a) The Service Provider may at any time offer to provide Additional Services to the Department which, in the opinion of the Service Provider, will enhance the Objectives of this Contract.
- (b) In response to the Service Provider's suggestion under **clause 34.4(a)**, the Contract Administrator may, but is not obligated to, in its complete and absolute discretion, consider the provision of such Additional Services.

### 34.5 Additional Services Become Part of the Services

- (a) If the provision of Additional Services is agreed in writing by the Parties, including any additional terms and conditions as the Department may require, the Additional Services will become part of the Services, and the Additional Fees will become part of the Detention Services Fee.
- (b) The Contract Administrator will update the **Schedule 2** (Statement of Work) and, where appropriate, **Schedule 5** (Detention Services Fee) in order to incorporate the Additional Services, any terms and conditions for the provision of the Additional Services as required by the Department and the Additional Fees (if any).

### 34.6 Original Service Obligations Unaffected

For avoidance of doubt, the Parties agree that the Additional Services:

- (a) do not include any Services specified in the **Schedule 2** (Statement of Work) as at the date of the request for Additional Services or which have been added to the **Schedule 2** (Statement of Work) pursuant to **clause 35**, nor anything required to remedy any failure by the Service Provider to perform those Services; and
- (b) unless otherwise agreed by the Parties under this **clause 34**, do not affect the Service Provider's obligations to provide the Services in accordance with this Contract.

## 35. CONTRACT CHANGE PROCEDURE

### 35.1 Variations to this Contract

If the Department at any time wishes to vary this Contract, including to vary any Schedule or to increase or decrease in the scope of the Services (other than to request Additional Services pursuant to **clause 34**), the Department must do so under the terms of this **clause 35**. The change when approved under this clause will be a Contract Change.

### 35.2 Notification.

- (a) If the Department at any time wishes to vary this Contract, the Contract Administrator will notify the Service Provider in writing (**Contract Change Notice**) setting out the nature of the proposed Contract Change and the timeframe in which the Department wishes to implement the proposed Contract Change, such time to be not less than 20 Business Days from the date of the Contract Change Notice.
- (b) The Department must not give a Contract Change Notice that would have the effect of terminating all of the Services.

### 35.3 Service Provider Obligations

- (a) As soon as practicable after receipt of the Contract Change Notice, but in any event within 10 Business Days, the Service Provider must provide the Contract Administrator with a written proposal signed by a signatory with authority to bind the Service Provider (the **Contract Change Proposal**), setting out:
  - (i) details of the proposed Contract Change and its extent and its impact on the Contract (nature, scope, scale and technology employed);
  - (ii) the steps required to implement the Contract Change Proposal, including where the proposed Contract Change involves the removal of any Services the aspect of the Transition Out Plan the Service Provider proposes to implement;
  - (iii) the time within which the Service Provider proposes to implement the Contract Change;
  - (iv) the impact of the Contract Change Proposal on the delivery of Services under this Contract, including any necessary amendments to this

Contract, Schedules, Plans and/or procedures in the format of old clause and marked up new clause;

- (v) the changes to the Detention Services Fee which the Service Provider proposes to apply to the Contract Change supported by reasons for the price change and relevant measurements or documents which support or validate the change;
  - (vi) a financial statement of the change in financial cost to the Service Provider as a result of the Contract Change Proposal certified by an accountant independent of the Service Provider declaring:
    - (A) the Contract Change Proposal and its implementation cannot be accommodated within the existing Detention Services Fee; and
    - (B) the accuracy of the financial information provided to the Department;
  - (vii) details of the review the Service Provider has undertaken to allow the Contract Change Proposal to be accommodated within the existing requirements of this Contract, including the Detention Services Fee;
  - (viii) any reduction to the Detention Services Fee (if any) which the Service Provider proposes as a result of the Contract Change Notice, in order to reflect all cost savings to the Service Provider resulting from any changes to the Service Provider's then current arrangements or operations for the provision of the Services;
  - (ix) the adjustments (if any) to the Key Performance Measures and Key Performance Indicators which the Service Provider proposes as a result of the Contract Change Notice, and reasons for the adjustments;
  - (x) any risks associated with the Contract Change Proposal and any recommendations for minimising those risks; and
  - (xi) where the proposed Contract Change involves the removal of any Services from the scope of the Contract, details of any unavoidable loss as defined in **clause 67.4**.
- (b) The Contract Change Proposal must contain a full cost breakdown and a warranty from the Service Provider that all costs are reasonable and percentage profit does not exceed that used in the original Detention Services Fee and take account of any savings on other aspects of the Services affected by the Contract Change Proposal. The Service Provider must give the Department's financial representatives full access to the Service Provider's financial records to investigate the reasonableness of proposed changes to the Detention Services Fee. Such information will be treated as strictly confidential.

### 35.4 Costs

Any costs associated with assessing a Contract Change Notice and preparing the Contract Change Proposal relating to that notice shall be borne by the Service Provider.

### 35.5 Acceptance

The Department may:

- (a) accept the Contract Change Proposal by having it signed by the Contract Administrator and sending a copy to the Service Provider;
- (b) reject the Contract Change Proposal by notice in writing to the Service Provider including reasons for its decision, in which case the Parties must negotiate in good faith to resolve agreement to the Contract Change Proposal;
- (c) if the Parties are unable to agree to the Contract Change Proposal within five Business Days of the Department rejecting the Contract Change Proposal, refer the matter to dispute resolution under **clause 64**; or
- (d) withdraw the Contract Change Notice.

If the Department withdraws the Contract Change Notice, the Service Provider is not required to comply with the Contract Change Notice.

### 35.6 Implementation

If:

- (a) the Department accepts the Contract Change Proposal; or
- (b) the Department and the Service Provider negotiate an agreed outcome (following rejection of the Contract Change Proposal by the Department); or
- (c) the Department refers the matter to dispute resolution and the Dispute is resolved under **clause 64** and the Department does not, within five Business Days of resolution of the Dispute, withdraw the Contract Change Notice,

then:

- (d) the Parties must within 30 days formalise their agreement to the Contract Change Proposal in a deed in the form of **Schedule 13** (Change Control);
- (e) the Service Provider must implement the Contract Change Proposal or those proposals agreed or determined. Such implementation must be completed within six weeks, or such time as may be agreed, of the acceptance of the Contract Change Proposal or resolution of any Dispute under **clause 64** unless, in the case of the latter, the Contract Change Notice is withdrawn; and



- (f) the Detention Services Fee is adjusted in accordance with the Contract Change Proposal or, if the Contract Change Proposal is amended by mutual agreement, the amended Contract Change Proposal, or the amount determined as a result of the dispute resolution process.

### 35.7 Effect of Variations

- (a) A Contract Change Proposal will only take effect and be a valid Contract Change if both Parties have signed a formal deed of amendment to this Contract in the form set out in **Schedule 13** (Change Control).
- (b) The Department will be responsible for the preparation of new pages or a new agreement (as the case may be) incorporating the effects of a Contract Change.
- (c) Both Parties must perform each Contract Change in accordance with the formal deed of amendment to this Contract giving effect to the Contract Change Notice.

## PART 11 – DETENTION SERVICES FEE

### 36. DETENTION SERVICES FEE

#### 36.1 Obligation to Pay the Detention Services Fee

Subject to this Contract, and in consideration of the Service Provider performing its obligations under this Contract, the Department agrees to pay the Detention Services Fee to the Service Provider, which includes the following components:

- (a) the fees for delivery of the Service Tasks in accordance with **Schedule 2** (Statement of Work) and any other Services described in this Contract;
- (b) Pass Through Costs;
- (c) transition costs in accordance with the Milestone Payment Schedule upon the completion of the Milestones listed in **Schedule 6** (Transition Requirements); and
- (d) the fees for Additional Services provided, and as calculated, in accordance with **clause 34**.

#### 36.2 Annual Adjustment of the Detention Services Fee

The Detention Services Fee will be adjusted annually in accordance with **Schedule 5** (Detention Services Fee). This will include:

s. 47G(1)(a)

s. 47G(1)(a)

### **36.3 Month to Month Adjustment of Detention Services Fee**

When making payment of the Detention Services Fee, the Department may increase or decrease the amount payable to take account of:

- (a) the application of an Abatement in accordance with **clause 29.2**;
- (b) the withholding by the Department of an invoiced amount which is in dispute, in accordance with **clause 38.3**;
- (c) the off-setting by the Department of an underpayment or overpayment which resulted from the Service Provider providing an incorrect invoice, in accordance with **clause 38.4**;
- (d) the suspension of obligations following a Force Majeure Event in accordance with **clause 54.9**;
- (e) any Services which were not provided as a result of an Incident in accordance with **clause 55.3(c)**; and
- (f) any other right allowed to the Department under the terms of this Contract.

## **37. PAYMENTS TO THE SERVICE PROVIDER**

### **37.1 Timing of Payments**

The Detention Services Fee will be paid by the Department monthly in arrears within 30 days of receipt by the Department of an invoice correctly rendered in accordance with **clause 38**.

### **37.2 How Payments Must be Made**

Unless otherwise agreed, any payments under this Contract will be made by electronic transfer directly to a nominated bank account. Unless otherwise agreed, payments will be made in Australia and in Australian dollars.

### **37.3 When Payment Deemed to be Made**

Payments under this Contract will be deemed to be made:

- (a) if the payment is made by cheque, on the date on which the cheque is drawn;
- (b) if the payment is made by electronic funds transfer, at the time the funds are dispatched electronically; or



- (c) if payment is made by credit card, on the date on which the credit card voucher was signed or authorised.

## **38. INVOICES**

### **38.1 Timing of Invoices**

The Service Provider must invoice the Department monthly in arrears for the Detention Services Fees, Pass Through Costs, Additional Fees and any other amounts payable to the Service Provider under this Contract and deliver the invoices in the manner and at the frequency specified in this **clause 38**.

### **38.2 Form of Invoice**

An invoice must:

- (a) include all of the details referred to in **Attachment B** (Invoice Details) to **Schedule 5** (Detention Services Fee) and be provided to the Department in accordance with **Schedule 5** (Detention Services Fee) (including **Attachment B** (Invoice Details)); and
- (b) be provided to the Department within 10 Business Days of the last day of the month to which the invoice relates.

### **38.3 Disputes Relating to Invoices**

If the Department in good faith disputes the whole or any portion of the amount claimed in an invoice, the Department:

- (a) may withhold payment of any part of the Detention Services Fee or any Pass Through Costs that are in dispute until the Dispute is resolved; and
- (b) must notify the Service Provider in writing (within 30 days of receipt of the invoice) of the reasons for disputing the remainder of the invoice.

### **38.4 Incorrect Invoices**

If an invoice is found to have been rendered incorrectly, any underpayment or overpayment will be recoverable by or from the Service Provider, as the case may be, and, without limiting recourse to other available remedies, may be off-set against any amount subsequently due from the Department to the Service Provider. In such circumstances the Service Provider must provide to the Department a correctly rendered tax adjustment note.

### **38.5 Late Invoicing**

No invoices submitted more than three months after the date of service provision will be paid unless prior written approval from the Department is given for the late submission of such invoices.

## 39. RIGHT OF THE DEPARTMENT TO RECOVER MONEY

### 39.1 Deductions

Without limiting the Department's rights under any provision of this Contract, any payment or debt owed by the Service Provider to the Department under this Contract may be deducted by the Department from the amount of payment of any claim for the cost of Services or any other moneys payable or due to the Service Provider. Where the payment or debt owed to the Department exceeds the amount of any claim for the cost of Services, the Department may draw upon or from:

- (a) any other moneys payable or due to the Service Provider; or, if the amount of the claim is insufficient
- (b) any security under **clause 62** or a guarantor under a performance guarantee issued under **clause 63**.

For the purposes of **clause 39.1** the Department may only draw upon any security under **clause 62** or a guarantor under a performance guarantee issued under **clause 63** where the amount owing from any claim for the cost of the Services is insufficient to meet the Department's demand.

### 39.2 Notice of Deductions

Where the Department deducts the amount of a debt or payment, it must advise the Service Provider in writing that it has done so.

## 40. TAXES AND DUTIES

### 40.1 Taxes and Duties Generally

Subject to **clause 40.2**, all government, local government and semi-governmental taxes, duties and charges imposed or levied in Australia or overseas in connection with this Contract will be borne by the Service Provider and are included within the Detention Services Fee and other rates and fees specified in **Schedule 5** (Detention Services Fee).

### 40.2 GST

- (a) Unless otherwise stated, all financial figures stated within this Contract are considered GST exclusive.
- (b) Words defined in the GST Law have the same meaning in clauses concerning GST, unless the context makes it clear that a different meaning is intended.
- (c) For the avoidance of doubt the Detention Services Fee, Pass Through Costs, Transition Costs, Additional Fees and all other payments and fees specified in **Schedule 5** (Detention Service Fees) are exclusive of GST.
- (d) Notwithstanding **clause 40.2(c)**, if GST is or will be imposed on a supply made under or in connection with this Contract, to the extent that the consideration

otherwise provided for that supply under this Contract is not stated to include an amount in respect of GST on the supply:

- (i) the consideration otherwise provided for that supply under this Contract is increased by the amount of that GST; and
  - (ii) the recipient must make payment of the increase at the same time as the consideration is provided.
- (e) The recipient's obligation to pay the GST component of the price or consideration is subject to the recipient receiving a valid tax invoice in respect of the supply at or before the time of payment.
- (f) If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, either as part of or in addition to the other amounts payable, the supplier within 14 days of becoming aware of the adjustment event:
  - (i) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
  - (ii) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply; and
  - (iii) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment event.
- (g) If a Party provides a payment for or any satisfaction of a claim or a right to claim under or in connection with this Contract (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of any warranty or for indemnity or for reimbursement of any expense) which gives rise to a liability for GST, the provider must pay, and indemnify the claimant against the amount of that GST.
- (h) If a Party has a claim under or in connection with this Contract for a cost on which that Party must pay an amount for GST, the claim is for the cost plus the amount for GST (except any amount for GST for which that Party is entitled to an Input Tax Credit).
- (i) If a Party has a claim under or in connection with this Contract whose amount depends on actual or estimated revenue or which is for loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).
- (j) If there is a change in the GST rate after the date of this Contract, the parties will adjust any consideration that expressly includes GST to reflect the change in rate on a "no win no loss" basis.

## PART 12 - FINANCIAL MANAGEMENT

### 41. ACCOUNTS AND RECORDS

#### 41.1 Accounting

- (a) The Service Provider must ensure that all expenditure (and revenue, if any) in respect of or in connection with the performance of this Contract is recorded and accounted for correctly.
- (b) The Service Provider must at all times maintain full, true, separate and up to date accounts and Records in relation to the performance of this Contract, including the Detention Services Fee, Pass Through Costs and Additional Fees. Such accounts and Records must:
  - (i) include the matters specified in **Schedule 2** (Statement of Work);
  - (ii) include appropriate audit trails for transactions performed;
  - (iii) separately record all receipts and expenses in relation to the Services for the Department;
  - (iv) be kept in a manner that permits them to be conveniently and properly audited;
  - (v) be drawn in accordance with any applicable Australian Accounting Standards;
  - (vi) be kept in accordance with *A New Tax System (Goods and Services Tax) Act 1999* (Cth), except to the extent otherwise stipulated by **clause 41.1(c)**;
  - (vii) in the case of any Services performed on a time and materials or cost plus basis, identify the time spent by Service Provider's Personnel in performing those Services; and
  - (viii) enable the extraction of all information relevant to the performance of this Contract for the Department.
- (c) The accounts and Records to be held in accordance with this **clause 41** must be held for the Term of this Contract and for a period of seven (7) years from the date of expiry or termination of this Contract.

#### 41.2 Open Book Accounting

The Service Provider must:

- (a) maintain accounts, transaction information and source documents, financial systems and Records, business records and other information and Material of the Service

Provider that is held in respect of the Services on an open book and stand-alone basis;

- (b) have the accounts referred to in **clause 41.2(a)** independently audited on an annual basis within three months of the end of the Financial Year (or, where the Service Provider's audit year does not coincide with the Financial Year, within three months of the end of the audit year);
- (c) make the accounts referred to in **clause 41.2(a)** available for inspection at any time by the Department;
- (d) provide all reasonable assistance that the other Party or its agents may reasonably require in respect of access in accordance with this **clause 41.2**, including explanation of systems, policies, procedures or record keeping; and
- (e) provide such reports as reasonably requested by the Contract Administrator to assist in ensuring that the Department is receiving at all times the best possible value for money.

### 41.3 Audited Financial Statements

- (a) The Service Provider must provide to the Department a copy of the audited financial statement of the Service Provider in respect of the previous audit year:
  - (i) where the Service Provider's audit year coincides with the Financial Year, by 1 October in each year during the Term; or
  - (ii) where the Service Provider's audit year does not coincide with the Financial Year, within four months of the end of the audit year.
- (b) The audited financial statement must be signed by a person who is registered as an auditor under the *Corporations Act 2001* (Cth) or a member of the Institute of Chartered Accountants in Australia or the Australian Society of Certified Practising Accountants, and must certify that the person is satisfied that the accounts and monies held by the Service Provider or paid to the Service Provider are held or dealt with in accordance with this Contract and current Australian Accounting Standards.

### 41.4 Provision of Information Relevant to Future Market Testing

The Service Provider must within 30 days after receipt of a written request from the Contract Administrator provide to the Department all information that the Contract Administrator may reasonably require concerning the performance of this Contract for the purposes of assisting the Department to market test services similar to the Services, including to produce and publish one or more requests for tender for all or any part of those services.

## 41.5 Records Regarding Location of Department Assets

The Service Provider must keep full, up to date and accurate Records of the location of all Department Assets, Loose Assets and Department Material.

## 42. AUDIT REQUIREMENTS

### 42.1 Subject of Audits

An audit of part or all of this Contract under **clause 42.2** may be conducted at any time by the Department or its nominee. These audits may include:

- (a) the Service Provider's operational practices and procedures as they relate to this Contract, including security procedures;
- (b) the efficiency of the Service Provider's operations in relation to the provision of the Services under this Contract;
- (c) the accuracy of the Service Provider's invoices and Reports in relation to the provision of the Services and the calculation and payment of the Detention Services Fee, Pass Through Costs or Additional Fees under this Contract;
- (d) the Service Provider's costs during any ramp-up or ramp-down period following the activation or deactivation of a Facility or the provision of any Additional Services;
- (e) the Service Provider's compliance with the applicable Laws, Australian Government Policies and Detention-specific Policies;
- (f) the Service Provider's compliance with its confidentiality, privacy and security obligations; and
- (g) any other matters determined by the Department to be relevant to the performance of the Services, including ongoing financial viability.

### 42.2 Conduct of Audits

- (a) Except for those circumstances in which notice is not practicable (eg. caused by a regulatory request with shorter notice or investigation of theft or breach of Contract), the Department must give the Service Provider not less than 10 Business Days' notice of an audit and a list of the documents which the auditor will reasonably require.
- (b) The Service Provider must participate cooperatively in audits of this Contract at the frequency and in relation to the matters specified by the Department, including on an ad hoc basis if requested by the Department, for the purpose of ensuring that this Contract is being properly performed and administered.
- (c) Subject to **clause 43.1(b)**, the requirement for, and participation in, audits does not in any way reduce the Service Provider's responsibility to perform its obligations in accordance with this Contract.

- (d) The Department may appoint an independent person to assist in the audits. The Department will require its nominee to execute a confidentiality undertaking. Without limiting the Department's right to make such an appointment, the Department will consult with the Service Provider before it appoints a person to assist who is not the Auditor-General for the Commonwealth or a member of the staff of the Australian National Audit Office (as defined in section 40 of the *Auditor-General Act 1997* (Cth)).
- (e) Each Party must bear its own costs of any audits.

## **43. ACCESS TO THE SERVICE PROVIDER'S PREMISES AND RECORDS**

### **43.1 Grant of Access**

- (a) For the purposes of **clauses 42.2 and 43**, the Service Provider must, and must ensure that its Subcontractors, grant the Department and its nominees access as required by the Department, to:
  - (i) the Service Provider's premises; and
  - (ii) Data, Records, accounts and other financial material or Material relevant to the performance of this Contract, however and wherever stored or located, under the Service Provider's or its Subcontractors' custody, possession or control for inspection and/or copying.
- (b) In the exercise of the general rights granted by **clause 43.1(a)**, the Department must use reasonable endeavours not to interfere with the Service Provider's performance under this Contract in any material respect.

### **43.2 Facilities to be Made Available**

In the case of documents or Records stored on a medium other than in writing, the Service Provider must make available on request at no additional cost to the Department such reasonable facilities as may be necessary to enable a legible reproduction to be created.

### **43.3 Commonwealth and Immigration Ombudsman, Auditor-General, Information Commissioner, Privacy Commissioner, Australian Human Rights Commission and Freedom of Information Requests**

- (a) Subject to **clause 42.2(a)**, and without limiting any other provision of this Contract, the Commonwealth and Immigration Ombudsman or a delegate of the Commonwealth and Immigration Ombudsman, the Commonwealth Auditor-General or a delegate of the Commonwealth Auditor-General, the Information Commissioner or a delegate of the Information Commissioner, the Privacy Commissioner or a delegate of the Privacy Commissioner, or the Australian Human Rights Commission or a delegate of the Australian Human Rights Commission for the purpose of performing the Commonwealth and Immigration Ombudsman's, Auditor-General's, Privacy Commissioner's or the Australian Human Rights



Commission's statutory functions and/or powers respectively, may, at reasonable times:

- (i) access the premises of the Service Provider;
  - (ii) contact and engage with the Service Provider, its employees, agents or subcontractors;
  - (iii) require the provision by the Service Provider, its employees, agents or subcontractors, of Records and other information which are related to this Contract; and
  - (iv) access, inspect and copy documentation and Records or any other matter relevant to the Service Provider's obligations or performance of this Contract, however stored, in the custody or under the control of the Service Provider, its employees, agents or subcontractors.
- (b) The Service Provider must, and must ensure that Service Provider Personnel and Subcontractors, cooperate with any enquiries, investigations or Freedom of Information Request (FOIR) by the Commonwealth and Immigration Ombudsman or a delegate of the Commonwealth and Immigration Ombudsman, the Commonwealth Auditor-General or a delegate of the Auditor-General, the Information Commissioner or a delegate of the Information Commissioner, the Privacy Commissioner or a delegate of the Privacy Commissioner, the Australian Human Rights Commission or a delegate of the Australian Human Rights Commission or FOIR representative of the Commonwealth.
- (c) Nothing in this Contract reduces, limits or restricts in any way any function, power, right or entitlement of the Commonwealth and Immigration Ombudsman or a delegate of the Commonwealth and Immigration Ombudsman, the Commonwealth Auditor-General or a delegate of the Commonwealth Auditor-General, the Information Commissioner or a delegate of the Information Commissioner, the Privacy Commissioner or a delegate of the Privacy Commissioner, or the Australian Human Rights Commission or a delegate of the Australian Human Rights Commission.

#### **43.4 Survival of Clause**

This **clause 43** applies for the Term and for a period of seven years from the date of its expiration or termination.

### **PART 13 – INFORMATION MANAGEMENT**

#### **44. INTELLECTUAL PROPERTY**

##### **44.1 Intellectual Property Rights**

- (a) Intellectual Property rights over any Contract Material and Department Material vest immediately upon its creation in the Department.



- (b) The Service Provider agrees to execute all documents as necessary to assign and novate all rights, title and interest in any Contract Material to the Department, upon request of the Department.
- (c) The Parties acknowledge that:
  - (i) the provision of Contract Material and Department Material to the Service Provider does not in any way affect the ownership of any Intellectual Property rights in the Contract Material and/or Department Material; and
  - (ii) except as specified in this Contract, the provision of Service Provider Material does not in any way affect the ownership of any Intellectual Property rights in the Service Provider Material.

#### 44.2 Grant of Licences

- (a) The Service Provider grants to the Department a royalty-free, irrevocable, world-wide, perpetual, non-exclusive licence, including the right to sublicense, to use, reproduce, modify and adapt any Intellectual Property rights in any Service Provider Material in conjunction with any Contract Material.
- (b) The Service Provider shall obtain from any relevant person, permission to use any and all Intellectual Property which may be required in order for the Service Provider to perform the Services. Such permission to use Intellectual Property shall include all necessary licences and other government approvals.
- (c) The Service Provider must ensure that the Department is granted a licence from any Subcontractor on the same terms as **clause 44.2(a)**.
- (d) The Department grants the Service Provider for the Term a royalty-free, world-wide, non-exclusive licence, including the right to sublicense, to use, reproduce, modify and adapt any Intellectual Property rights in the Contract Material and Department Material to the extent necessary and for the sole purpose of performing its obligations under this Contract.

#### 44.3 Moral Rights

Each Party:

- (a) acknowledges that Moral Rights will accrue to the relevant individual authors of copyright Material, which may include their respective employees and the authors of copyright Material obtained from their respective contractors; and
- (b) must obtain consents from relevant Moral Rights holders to ensure that the Parties and any other person who may at any time acquire a right in respect of the copyright Material may use that Material for or treat the work in any manner they desire in respect of the uses for which that copyright Material was created without infringing Moral Rights.

#### 44.4 Intellectual Property Warranty

The Service Provider warrants that the exercise by the Department of any of its rights under this Contract or in relation to Intellectual Property comprised in the Material provided to the Department, or otherwise licensed by the Service Provider to the Department pursuant to this Contract does not and will not infringe the Intellectual Property rights of any person.

#### 44.5 Intellectual Property Indemnity

- (a) The Service Provider must indemnify, keep indemnified, and hold harmless the Department, and any other person acting on the Department's behalf (**Indemnified Persons**), against any and all liability, Loss, damage, costs (including the costs of any settlement and legal costs and expenses on a solicitor/client basis), compensation or expense whatsoever incurred by any Indemnified Person, arising out of any action, claim demand or proceeding brought or made against an Indemnified Person, by any person in respect of any infringement or alleged infringement of that person's Intellectual Property rights, if and to the extent that the infringement or alleged infringement is caused by any breach by the Service Provider of the warranty in **clause 44.4**.
- (b) For the purposes of **clause 44.5(a)** "infringement" includes authorised acts which would, but for the operation of section 163 of the *Patents Act 1990* (Cth), section 96 of the *Designs Act 2003* (Cth), section 183 of the *Copyright Act 1968* (Cth), and section 25 of the *Circuits Layout Act 1989* (Cth), constitute an infringement.

#### 44.6 Survival of Clause

This **clause 44** survives the expiration or termination of this Contract.

### 45. SERVICE PROVIDER'S CONFIDENTIAL INFORMATION

#### 45.1 Protection of Service Provider's Confidential Information

- (a) The Department will take all reasonable steps to ensure that it does not make public or disclose the Service Provider's Confidential Information listed in **Schedule 9** (Confidential Information).
- (b) This clause does not prevent the Department from disclosing any information provided by the Service Provider:
  - (i) to its auditors and professional advisers on terms consistent with the terms on which the receiving party makes available its own confidential information to such persons and (to the extent they provide for a higher level of duty) the confidentiality terms of this Contract;
  - (ii) to any Government Agency;
  - (iii) to any Commonwealth Minister;

- (iv) to any House or Committee of the Parliament of the Commonwealth of Australia;
  - (v) in accordance with any relevant Australian Government Policy; or
  - (vi) to make disclosure for any other legitimate government purpose or process.
- (c) If any Service Provider's Confidential Information is disclosed pursuant to **clause 45.1(b)**, the Department will take all reasonable steps to ensure that such information is treated as confidential by such Government Agencies and their personnel.
- (d) For the avoidance of doubt, the Parties acknowledge that the terms and conditions of this Contract are not the Service Provider's Confidential Information.

## **46. DEPARTMENT INFORMATION**

### **46.1 Protection of Department Information**

The Service Provider must not, and must ensure that a Subcontractor does not, release any information relating to any aspect of:

- (a) Services provided under this Contract;
- (b) service delivery and/or performance in relation to matters contained or anticipated to be provided in this Contract;
- (c) operational matters relating to Removal;
- (d) this Contract, including the Schedules and Attachments;
- (e) surveillance tapes; or
- (f) any Department Confidential Information which is provided pursuant to this Contract,

without the prior written approval of the Contract Administrator.

### **46.2 Provision of Department Information to Service Provider Personnel and Subcontractors**

- (a) The Service Provider must not permit any director, officer, employee, agent or Subcontractor of the Service Provider to have access to the Department's Confidential Information until such time as that director, officer, employee, agent or sub-contractor has entered into a Confidentiality Deed Poll and a Deed of Non-disclosure of Personal Information in accordance with **clause 22.3**.

- (b) The Contract Administrator may at any time require the Service Provider to provide the original version of any undertaking signed by Service Provider Personnel in accordance with **clause 22.3**.
- (c) The Service Provider:
  - (i) must, at its cost, take all reasonable steps to ensure that the Confidential Information of the Department and all records of it are kept under the Service Provider's effective control and are secure from theft, loss, damage and unauthorised access, modification, use and disclosure; and
  - (ii) notify the Department in writing immediately if the Service Provider becomes aware of:
    - (A) any actual, suspected or likely breach by the Service Provider of this **clause 46**; or
    - (B) any actual, suspected, likely or threatened theft, loss, damage or unauthorised access, modification, use or disclosure of any Department Confidential Information.

#### **46.3 Additional Security Obligations**

- (a) Unless otherwise notified by the Department, the highest level of Security Classified Information that the Service Provider will have access to under this Contract is Negative Vetting 1.
- (b) The Service Provider agrees:
  - (i) to ensure that all Personnel that require access to Security Classified Information have obtained the appropriate security clearance;
  - (ii) to prevent access to Security Classified Information by Personnel whose security clearances are revoked, have lapsed or who no longer require access for the purposes of the contract;
  - (iii) to make its Personnel available to attend any security training provided by the Department;
  - (iv) to notify the Department of any change in the personal circumstances of Personnel referred to in **clause 46.3(b)(i)**;
  - (v) to notify the Department immediately if it becomes aware that a Security Incident has occurred and otherwise implement the Department's procedures for Security Incident reporting as advised by the Department from time to time;
  - (vi) not to perform the Services outside Australia without the Department's prior written approval; and

- (vii) to comply with the additional security requirements, and any variations or additions to those requirements, as notified by the Department from time to time.
- (c) The Service Provider agrees to implement security procedures to ensure that it meets its obligations under this **clause 46.3** and will provide details of these procedures to the Department on request.
- (d) The Service Provider acknowledges that any failure to fully comply with any its obligations under this **clause 46.3** may, for the purposes of **clause 66.2(b)**, be treated by the Department at its absolute discretion as a material breach that is not capable of remedy.

#### 46.4 Scope and Survival of Confidentiality Obligations

- (a) The obligations of the Parties under **clauses 45 and 46** (other than the Service Provider's obligations under **clause 46.3**) will not be taken to have been breached to the extent that the relevant Confidential Information:
  - (i) is disclosed by a Party to its Personnel solely in order to comply with obligations or to exercise rights under this Contract and, in the case of Service Provider Personnel, they have signed the undertakings specified in **clause 22.3**;
  - (ii) is in the public domain otherwise than as a result of a breach of an obligation of confidentiality; or
  - (iii) is authorised or required by Law to be disclosed, or by an order of any court or tribunal of competent jurisdiction.
- (b) Where a Party discloses Confidential Information to another person pursuant to **clause 46.4(a)(i)**, that Party must notify the receiving person of the confidential nature of the information being disclosed.
- (c) If a Party is required to disclose any Confidential Information in the circumstances outlined in **clause 46.4(a)(iii)**, each Party must:
  - (i) notify the other in writing with details of the Confidential Information required to be disclosed and the person to whom disclosure is to be made, so that other Party has sufficient notice, at its option, to oppose or restrict disclosure or seek a protective order or other means of preserving the confidentiality of the Confidential Information or agree on the form and content of disclosure; and
  - (ii) if disclosure cannot be avoided:
    - (A) only disclose the Confidential Information to the extent legally required;

- (B) use its best endeavours to ensure that any Confidential Information is kept confidential; and
- (C) follow any reasonable directions of the other Party concerning the disclosure.
- (d) The obligations under **clauses 45 and 46** continue, notwithstanding the expiry or termination of this Contract.
- (e) For the avoidance of doubt, nothing in **clauses 45 and 46** derogates from any obligation which the Service Provider may have either under the *Privacy Act 1988* (Cth) or under this Contract in relation to the protection of Personal Information, as defined in that Act.

## 47. PRIVACY

### 47.1 Definitions

The following definitions apply to and are used in this **clause 47**:

- (a) **Permitted Purpose** means a purpose for which the Service Provider may collect, use, disclose or handle Personal Information as specified or contemplated in this Contract;
- (b) **Personal Information** has the same meaning as in the *Privacy Act 1988*(Cth);
- (c) **Personal Information of the Department** means Personal Information held by the Department and provided to the Service Provider by the Department in connection with this Contract or otherwise accessed by or disclosed to the Service Provider in the course of providing the Services, including Personal Information of Department Personnel, Detainees' Information, Detainees' Records including Existing Detainee Records and Personal Information of people who have been in Immigration Detention;
- (d) **Privacy Act** means the *Privacy Act 1988* (Cth);
- (e) **Privacy Legislation** means the Privacy Act and any other privacy legislation applicable to the performance of this Contract by the Service Provider; and
- (f) **Sensitive Information** has the same meaning as in the Privacy Act

### 47.2 Privacy Obligations

The Service Provider must:

- (a) comply with the Australian Privacy Principles set out in the Privacy Act which concern the collection, security, storage, access, correction, use and disclosure of Personal Information with respect to any act done or practice engaged in by the Service Provider for the purposes of this Contract, in the same way and to the same extent as if it were a Government Agency;

- (b) comply with its obligations arising under or in connection with the Privacy Legislation in respect of any information that comprises Personal Information of the Department or the Service Provider Personnel; and
- (c) comply with any policy guidelines laid down by the Department or issued by the Privacy Commissioner from time-to-time relating to the handling, collection, storage, access, correction, use or disclosure of Personal Information of the Department.

### 47.3 Permitted Disclosures

- (a) The Service Provider must not disclose any Personal Information of the Department to any person without first obtaining the Department's written consent, except:
  - (i) to the extent necessary for a Permitted Purpose; and
  - (ii) in accordance with its rights or obligations under this Contract.
- (b) Despite the restrictions otherwise set out in this Contract, the Service Provider's obligations of confidence do not apply to any Personal Information that the Service Provider is required to disclose:
  - (i) by Law or by an order of any court or tribunal of competent jurisdiction; or
  - (ii) by any Government Agency, stock exchange or other regulatory body having the legal right to require the disclosure.
- (c) In relation to a disclosure or proposed disclosure referred to in **clause 47.3(b)**, the Service Provider must:
  - (i) immediately upon becoming aware that it may be required to disclose Personal Information, notify the Department in writing with details of the Personal Information required to be disclosed and the person to whom disclosure is to be made, so that the Department has sufficient notice, at its option, to oppose or restrict disclosure or seek a protective order or other means of preserving the confidentiality of the Personal Information or agree on the form and content of disclosure; and
  - (ii) if disclosure cannot be avoided:
    - (A) only disclose Personal Information of the Department to the extent legally required;
    - (B) use its best endeavours to ensure that any Personal Information of the Department is kept confidential; and
    - (C) follow any reasonable directions of the Department concerning the disclosure.



- (d) The Parties acknowledge that any disclosure of Personal Information or Sensitive Information by the Service Provider to the Department, or any use of the disclosed Personal Information or Sensitive Information by the Department if disclosed and/or used (as the case may be) pursuant to any obligation under this Contract or Law, will not be an act or practice which is contrary to an Australian Privacy Principle, in accordance with Section 6A(2) of the Privacy Act.

#### **47.4 Permitted Uses**

The Service Provider must not use any Personal Information of the Department, without first obtaining the Department's written consent, except:

- (a) to the extent necessary for one or more of the Permitted Purposes; or
- (b) in accordance with its rights and obligations under this Contract.

#### **47.5 Copies and Other Records**

The Service Provider may make Records of the Personal Information of the Department, or allow Records to be made, but only to the extent necessary for a Permitted Purpose.

#### **47.6 Security**

The Service Provider must, at its cost:

- (a) take all reasonable steps to ensure that the Personal Information of the Department and all Records of it are kept under the Service Provider's effective control and are secure from theft, loss, damage and unauthorised access, modification, use and disclosure; and
- (b) notify the Department in writing immediately if the Service Provider becomes aware of:
  - (i) any actual, suspected or likely breach by the Service Provider of this **clause 47** or the Australian Privacy Principles; or
  - (ii) any actual, suspected, likely or threatened theft, loss, damage or unauthorised access, modification, use or disclosure of any Personal Information of the Department.

#### **47.7 Information Commissioner and the Privacy Commissioner**

- (a) The Service Provider is to advise the Contract Administrator within two Business Days of it becoming aware of the Information Commissioner or the Privacy Commissioner initiating any action under the Privacy Act relevant to the Service Provider and its performance under this Contract including:
  - (i) advice from the Information Commissioner or Privacy Commissioner's office that it is investigating a complaint against the Service Provider;

- (ii) an audit by the Information Commissioner or Privacy Commissioner;
  - (iii) a request by the Information Commissioner or Privacy Commissioner to be provided access to the Service Provider's premises; and
  - (iv) an injunction against the Service Provider being sought by the Information Commissioner or Privacy Commissioner.
- (b) The Service Provider must cooperate with any reasonable demands or inquiries made by the Information Commissioner or Privacy Commissioner.
  - (c) The Service Provider must keep the Contract Administrator informed of the conduct, progress and outcome of any action, including but not limited to any determination made by the Information Commissioner or Privacy Commissioner.
  - (d) The Service Provider agrees to comply with any direction from the Contract Administrator to comply with a determination made by the Information Commissioner or Privacy Commissioner.
  - (e) If the Service Provider has not complied with the determination made by the Information Commissioner or Privacy Commissioner within 10 Business Days, the Department may, to the extent possible and at the Service Provider's cost, comply with the determination on the Service Provider's behalf.

#### 47.8 Return or Destruction of Records

On the earlier of:

- (a) the Department's request;
- (b) when no longer required for a Permitted Purpose; and
- (c) the expiry or termination of this Contract,

the Service Provider must as soon as practicable, at its cost:

- (d) stop using and disclosing any Personal Information of the Department or Detainees; and
- (e) deliver to the Department, or, at the Department's request and direction, destroy, erase or de-identify, all tangible and intangible Records of the Personal Information of the Department (whether prepared by or for the Service Provider or the Department or any other person) in the possession, custody or control of the Service Provider or any person to whom it has given access to these Records, whether or not in accordance with this Contract.

#### 47.9 No Release

The Service Provider's compliance with this **clause 47** does not release it from any of its other obligations under this Contract or otherwise.

**47.10 Indemnity**

The Service Provider indemnifies the Department against any loss, liability or expense suffered or incurred by the Department which arises directly or indirectly from a breach of this **clause 47**.

**47.11 Survival of Obligations**

The provisions of this **clause 47** survive the termination or expiration of this Contract.

**48. RECORDS MANAGEMENT****48.1 Commonwealth Records**

- (a) The Service Provider will create, maintain, store and archive all Records required by this Contract in an orderly and efficient manner and in accordance with the requirements of this Contract and relevant Australian Government Policies.
- (b) Unless otherwise agreed in writing between the Contract Administrator and the Service Provider in relation to a particular record or type of record, all Records created pursuant to this Contract become upon their creation and remain the property of the Department. All such Records will be deemed to be Commonwealth Records.
- (c) The Contract Administrator may at any time inspect Commonwealth Records or require that they be transferred to the custody of the Contract Administrator.
- (d) Other than to a Subcontractor for the purposes of the performance of the Services, the Service Provider must not arrange for, nor effect, a transfer of custody or ownership of any Commonwealth Record without the prior written approval of the Contract Administrator, nor shall the Service Provider remove any such record, without the prior written approval of the Contract Administrator.
- (e) Where the Contract Administrator authorises the transfer of custody of Commonwealth Records to the Service Provider, the Service Provider must comply in every respect with the requirements of the *Archives Act 1983* (Cth) or guidelines issued by the National Archives of Australia and/or the Department.
- (f) The Service Provider must comply with any direction given by the Department for the purpose of transferring Commonwealth Records to the Department.
- (g) The Service Provider must adhere to any moratoria or records disposal freezes issued by the Department or the National Archives of Australia.
- (h) The Service Provider must comply with any other directions concerning records management given by the Department

## 49. DATA SECURITY

### 49.1 Acknowledgement

The Service Provider acknowledges and agrees that:

- (a) the Department holds and deals with highly sensitive information; and
- (b) the Department is concerned that such information is not improperly used or disclosed contrary to this Contract or any Laws.

### 49.2 Use of Department Data

The Service Provider must:

- (a) use Department Data only for purposes directly in relation to the supply of the Services and the performance of its obligations under this Contract;
- (b) not make any Department Data available to any third party other than a Subcontractor and then only to the extent necessary to enable the Subcontractor to perform its part of the Services, subject to compliance with confidentiality and security obligations under **clause 46**;
- (c) keep Department Data in its possession, or under its control, safe and secure; and
- (d) prevent the theft, loss, damage, destruction, alteration and unauthorised access, use and disclosure of any Department Data in its possession, including by the establishment and maintenance of safeguards, that:
  - (i) are no less rigorous than those maintained by:
    - (A) the Service Provider in respect of Service Provider's Confidential Information; and
    - (B) the Department; and
  - (ii) comply with all procedures specified in this Contract, including:
    - (A) all data management and security requirements in **Schedule 2** (Statement of Work);
    - (B) obligations of confidentiality and security under **clause 46**; and
    - (C) all Laws.

### 49.3 Compliance with Security Requirements

The Service Provider must:

- (a) comply with all Commonwealth and Departmental data security requirements in respect of access to, use or disclosure of Department Data;

- (b) prohibit and prevent any person who does not have the appropriate level of security clearance from gaining access to Department Data; and
- (c) notify the Department immediately and comply with all directions of the Department if the Service Provider becomes aware of any contravention of Commonwealth or Departmental data security requirements.

#### 49.4 Records

- (a) The Service Provider must keep full and accurate Records of the location of all Department Data and must include in the reports referred to in **clause 41** sufficient information to ensure the Department is kept fully informed about the nature and location of any database containing Department Data.
- (b) The Service Provider must, on request by the Department at any time, provide to the Department any Department Data which relates to Detainees, which Data may be used, copied, modified or disclosed for Department purposes.

### 50. PROVISION OF INFORMATION

#### 50.1 Sharing of Information

The Department agrees to provide to the Service Provider such information as it considers necessary in its sole and absolute discretion, subject to the terms and conditions of this Contract.

#### 50.2 Department's Nominated Information Technology System

- (a) The Department will provide certain Service Provider Personnel with access to parts of the Department's nominated information technology system relevant to their role, as determined by the Department in its absolute discretion. The Service Provider must ensure that only those Personnel who have been provided with access by the Department access the Department's nominated information technology system and that such access is only for the purposes performing their role under this Contract.
- (b) The Department may require that Service Provider Personnel obtain a higher level of security clearance than that required under **Schedule 2** (Statement of Work) prior to providing access to a part of the Department's nominated information technology system. The Service Provider must ensure that Service Provider Personnel provide the information required by the Department in order to obtain the relevant security clearance, and the cost of the security clearance will be borne by the Service Provider. The Service Provider must provide any computers, hardware, software peripherals and other devices which are not provided by the Department which are required in order to access and use the Department's nominated information technology system.
- (c) The Department does not warrant the efficacy of the Department's nominated information technology system, or the currency of the information contained in it.

and the Service Provider will not be relieved of any obligation under this Contract as a result of its reliance on information obtained from the Department's nominated information technology system.

## 51. REPORTS

- (a) The Service Provider must submit electronic Reports:
  - (i) at the intervals identified in **Schedule 2**(Statement of Work); and
  - (ii) in a form and covering the subject matter identified in **Schedule 2** (Statement of Work).
- (b) The Department may require the Service Provider to prepare and submit additional reports to those identified in **Schedule 2** (Statement of Work). In that event, the Parties will agree on the scope, timing and cost of the report.
- (c) The Service Provider must regularly liaise with, and promptly and fully respond to any questions of, the Contract Administrator in relation to any Reports submitted in accordance with this **clause 51**.
- (d) The Department may, at its own cost, seek to independently verify any Reports provided by the Service Provider under this **clause 51** and, in which case, the Service Provider must provide reasonable cooperation to the Department (or its officers or agents).

## 52. ARCHIVES ACT

- (a) The Service Provider must at all times comply with the requirements of the *Archives Act 1983* (Cth) relating to the Service Provider's dealing with Commonwealth Records (as that phrase is defined in the *Archives Act 1983* (Cth)).
- (b) Without limiting the obligation in **clause 52(a)**, the Service Provider must, in particular, comply with the requirements of section 24 of the *Archives Act 1983* (Cth) dealing with the disposal, destruction or transfer of Commonwealth Records and such dealings must accord with the requirements of the National Archives of Australia.

## 53. PUBLICITY, MEDIA AND EXTERNAL RELATIONSHIP MANAGEMENT

### 53.1 Publicity and Media to be Managed by the Department

- (a) The Service Provider acknowledges and agrees that the Department will have management and control of:
  - (i) all publicity, dealings with, inquiries from, comments to or other matters related to the media that are directly or indirectly related to this Contract, including, without limitation, regarding the Department and any matter related to the Services, any Detainees, or the relationship or issues between the Service Provider and the Department; and

- (ii) the relationship and dealings with Stakeholders and external parties (including industry groups, special interest or lobby groups, and the community), except to the extent that such contact has been approved by the Department in writing.

### **53.2 Service Provider Not to Make Public Statements**

The Service Provider must not, and will ensure that its Personnel do not:

- (a) make any public statement;
- (b) release any information to, make any statement or comment to, deal with any inquiry from or otherwise assist or advise the media;
- (c) publish, distribute or otherwise make available any information or Material to third parties,

that concerns or is related to or which might reasonably be expected to affect:

- (d) the Department, its personnel, officers, agents or contractors (whether specifically referred to or not);
- (e) the Services;
- (f) the relationship between the Parties; or
- (g) any other matter directly or indirectly related to this document,

other than:

- (h) to direct any such inquiry to the Department;
- (i) as is specifically authorised this Contract or the Law;
- (j) to the minimum extent necessary to fulfil the Service Provider's obligation under this Contract or comply with the Law; or
- (k) as may be otherwise specifically authorised in writing by the Department.

## **PART 14 - INTERRUPTIONS TO SERVICE DELIVERY**

### **54. FORCE MAJEURE**

#### **54.1 Mitigation**

In the instance of an actual or threatened Force Majeure Event, the Service Provider agrees to take all precautions, measures and actions to:

- (a) avoid delay or failure to carry out any obligations under this Contract; and



- (b) mitigate any loss suffered as a result of the Service Provider's failure to carry out any obligations under this Contract.

## 54.2 Force Majeure Notice

If the Service Provider becomes aware of any matter likely to constitute a Force Majeure Event affecting its performance of any of its obligations under this Contract, the Service Provider must provide notice of that fact to the Contract Administrator, together with particulars of its probable impact on Contract performance, within six (6) hours of becoming so aware.

## 54.3 Suspension Notice

In addition to any notice given under **clause 54.1**, the Service Provider must give the Contract Administrator a suspension notice as soon as possible, but not later than 12 hours, after any Force Majeure Event occurs, containing:

- (a) full particulars of the Force Majeure Event;
- (b) its nature and an estimate of its likely duration;
- (c) the obligations affected by it, and the nature and extent of its effect on those obligations; and
- (d) a plan on what work-around procedures are being undertaken to effect business continuity of the Services during the Force Majeure Event.

## 54.4 Management of Force Majeure Event

- (a) The Service Provider must comply with all directions of the Contract Administrator or Department Regional Manager in relation to the Force Majeure Event, or the effects of the Force Majeure Event.
- (b) Subject to **clause 54.4(a)**, the Service Provider must take all reasonable steps to avoid being, or to mitigate the extent to which it is, prevented from meeting its obligations or achieving the relevant Key Performance Measures and Key Performance Indicators as a result of the Force Majeure Event.

## 54.5 Meeting Between the Parties

The Parties and any other relevant service providers will meet within 24 hours of the Force Majeure Notice being issued to discuss any additional measures that may be necessary to resume and/or maintain, as the case may be, as much as possible the effective and timely provision of Services.

## 54.6 Suspension of Obligations

- (a) Subject to **clause 54.10**, if the Service Provider is prevented from performing an obligation under this Contract by reason of the Force Majeure Event for which no agreed work-around exists to continue the provisions of the Service, the obligation

will be suspended from the date the Service Provider gives a suspension notice in respect of that Force Majeure Event until the cessation of the Force Majeure Event.

- (b) If an obligation is suspended pursuant to **clause 54.6(a)** the Service Provider will be entitled to:
  - (i) an extension of any time limit for the performance of such obligation under this Contract; and
  - (ii) an adjustment of the measurement of the Service Provider's performance against any relevant Key Performance Indicator,

providing that the Service Provider has complied fully with the requirements of this **clause 54** and can demonstrate to the satisfaction of the Contract Administrator that the obligations affected by the claimed Force Majeure Event cannot be reasonably accommodated within the existing applicable timeframe.

- (c) Where the Force Majeure Event is the exercise of a step in right by the Department under **clause 56** then **clause 54.6(a)** shall only apply to the extent that the Service Provider is prevented from performing an obligation other than an obligation which has been suspended under **clause 56.1(a)**.

#### **54.7 Termination**

The Department may terminate this Contract in accordance with **clause 66.3(i)**.

#### **54.8 Service Provider Must Update Contract Administrator**

- (a) The Service Provider must keep the Contract Administrator continually updated and informed at reasonable intervals during any suspension and upon the request of the Contract Administrator, provide written advice to the Contract Administrator of:
  - (i) the estimate of the likely duration of the Force Majeure;
  - (ii) the action taken and the action proposed by the Service Provider to mitigate or minimise the effects of that Force Majeure Event including any temporary and/or work-around measures; and
  - (iii) any other matter relevant to the Force Majeure Event or the Service Provider's obligations.
- (b) The Service Provider must give immediate notice to the Contract Administrator of the cessation of a Force Majeure Event and must as soon as reasonably possible after cessation of that Force Majeure Event, resume performance of any obligation suspended as a result of it.

**54.9 Alternative Supply and Fee Reduction**

During the suspension of any obligation, the Contract Administrator may:

- (a) make alternative arrangements for the performance of the Services whether by another person or otherwise of any obligation so suspended without incurring any liability to the Service Provider; and
- (b) reduce the Detention Services Fee to exclude any amount otherwise payable for the suspended obligation.

**54.10 Payments, Unconditional Financial Undertaking and Performance Guarantee**

This clause does not apply to any obligation by the Service Provider to pay money or provide an Unconditional Financial Undertaking or Performance Guarantee.

**55. INCIDENTS****55.1 Incident Prevention**

- (a) The Service Provider must use its reasonable endeavours to prevent Incidents from occurring.
- (b) The Service Provider must actively and continually assess its current and planned activities and areas of responsibility for potential Incidents and implement plans, practices and procedures to prevent potential Incidents from occurring and, if despite all efforts such Incidents should occur, to minimise the extent and duration of any Incident and related damage or other adverse consequence and respond to and deal with Incidents in which it is involved in a timely and professional manner and with appropriate discretion so as to protect the interests of the Department.

**55.2 Notification of Incidents**

Upon an Incident occurring or the Service Provider becoming aware that an Incident is likely to occur, the Service Provider must comply with the notification requirements set out in **Schedule 2** (Statement of Work) and:

- (a) immediately implement the provisions of the Incident Management Protocols insofar as they relate to the Incident; and
- (b) as far as possible, continue delivering the Services in accordance with this Contract.

**55.3 Incident Response and Management**

- (a) The Service Provider must ensure that all resources and expertise that may be necessary to rapidly respond to and effectively deal with an Incident will be rapidly marshalled and effectively deployed, coordinated and managed so as to protect the interests of the Department. The Service Provider must ensure that safety, environment protection and security are a priority concern in the Incident response.

- (b) In managing any Incident, the Service Provider must, in addition to any other obligations under this Contract:
- (i) comply with the Incident Management Protocols;
  - (ii) ensure, as much as possible, the safety of all Detainees and other people located in and around the Facility;
  - (iii) ensure, as much as possible, continued compliance with the Department's directions and/or instructions (as notified to the Service Provider from time to time);
  - (iv) minimise the disruption to the ordinary operation and management of the Facility; and
  - (v) minimise damage to the Facility.
- (c) During and after an Incident, the Department will continue to pay the Detention Services Fee to the extent the Services continue to be provided by the Service Provider in accordance with this Contract. Except as expressly provided in this Contract, the Service Provider is responsible for all costs of and incidental to the management and operation of the Facility including the provision of the Services during and after an Incident.

#### 55.4 Joint Development of Incident Management and Response Policies

The Service Provider must actively contribute to the ongoing maintenance and development of the Department's Incident management and response policies and procedures both generally and specifically related to this document. In particular the Service Provider must:

- (a) be an active participant in any Incident management structure that covers the Department's operations including the Services provided under this Contract;
- (b) be seen as an Incident prevention and management champion and role model;
- (c) be an active participant in Incident analysis, debriefing, organisational learning, training and simulation exercises;
- (d) ensure Incident management and response policies and procedures, training and risk management have a high profile and are diligently pursued throughout the Service Provider's operations; and
- (e) promptly advise the Department of any matter, fact or circumstance that the Service Provider believes is or may not be adequately dealt with by Incident Management Protocols policies or procedures or their related training, awareness and compliance programmes.

## 56. STEP IN RIGHTS

### 56.1 Step-in

- (a) At any time if:
  - (i) the Department is entitled under **clause 66** to terminate this Contract; or
  - (ii) the Secretary considers that circumstances exist which require the Department's intervention,

the Department may, in its absolute discretion, suspend the performance of any service by the Service Provider, arrange for the Department or a third party to perform such suspended service or otherwise intervene in the management of a Facility by giving written notice to the Service Provider (**Step-in Right**).

- (b) The Department's Step-in Right will continue until the circumstance giving rise to the Step-in Right have been rectified or cease to exist.
- (c) The Service Provider must cooperate with the Department during a period where the Department has exercised its Step-in Right including without limitation by ensuring compliance by the Service Provider and Service Provider Personnel with all directions given by the Department.
- (d) Nothing in this **clause 56.1** obliges the Department to exercise the powers given under this **clause 56.1**.
- (e) The exercise of the powers under this clause is without prejudice to any other rights the Department may have to enforce or terminate this Contract.
- (f) If the exercise of the Step-in Right was not due to a breach of Contract by the Service Provider, the Service Provider will be entitled to payment of any costs necessarily incurred as a result of compliance with its obligations under this **clause 56.1** which are not recovered through the Detention Services Fee.
- (g) If the exercise of the Step-in-Right was due to a breach of Contract by the Service Provider, the Department may suspend payment of Detention Services Fees (or part thereof) from the date such services are suspended pursuant to this clause.

## PART 15 – REPRESENTATIONS AND WARRANTIES

### 57. REPRESENTATIONS AND WARRANTIES

#### 57.1 Service Provider Representations and Warranties

The Service Provider represents and warrants that:

- (a) the Services are fit for their intended purpose;

- (b) the Service Provider Personnel are appropriately skilled, trained and qualified to provide the Services in accordance with the requirements of **Schedule 2** (Statement of Work);
- (c) the Services comply with all representations made to the Department (whether made by the Service Provider before or after the Commencement Date) in relation to the standard, quality or timing of the Services;
- (d) the Service Provider possess all relevant industry body, supplier, manufacturer and accreditation or scheme memberships and professional association membership specified in **Schedule 2** (Statement of Work) or that might be reasonably expected of providers of the Services;
- (e) **(status)** it is a company limited by shares under the *Corporations Act 2001* (Cth);
- (f) **(power)** it has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) enter into this Contract and to carry out the transactions that this Contract contemplates;
- (g) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this Contract and its carrying out the transactions that this Contract contemplates;
- (h) **(Authorisations)** it holds each Authorisation that is necessary or desirable to:
  - (i) enable it to properly execute this Contract and to carry out the transactions that this Contract contemplates;
  - (ii) ensure that this Contract is legal, valid, binding and admissible in evidence; or
  - (iii) enable it to properly carry on its business,

and it is complying with any conditions to which any of these Authorisations is subject;
- (i) **(documents effective)** this Contract constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and Laws affecting creditors' rights generally);
- (j) **(no contravention)** neither its execution of this Contract nor the carrying out by it of the transactions that this Contract contemplates, does or will:
  - (i) contravene any Law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;

- (ii) contravene any Authorisation;
  - (iii) contravene any undertaking or instrument binding on it or any of its property;
  - (iv) contravene its constitution; or
  - (v) require it to make any payment or delivery in respect of any Financial Indebtedness before it would otherwise be obliged to do so;
- (k) **(no litigation)** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending, or to the knowledge of any of its officers after due inquiry, threatened which, if adversely decided, could have a material adverse effect on it;
- (l) **(Accounts):**
- (i) the accounts and any other financial statements and reports that it has given to the Department have been prepared in accordance with the Law and (unless inconsistent with the Law) generally accepted accounting principles consistently applied;
  - (ii) the accounts that it has given to the Department give a true and fair view of the financial condition of it and its subsidiaries as at the date to which they are made up and of the results of operations of it and its subsidiaries for the period that they cover; and
  - (iii) there has been no change since the date of the most recent accounts that it has given to the Department that could have an adverse effect on it;
- (m) **(no unpaid employee entitlements)** the Service Provider and its Subcontractors do not have any unpaid claims in respect of judicial decisions made against the Service Provider or its Subcontractors relating to employee entitlements;
- (n) **(other information):**
- (i) the other information and reports (if any) that it has given to the Department in connection with this Contract are true and accurate in all material respects and not misleading in any material respect (including by omission); and
  - (ii) any forecasts and opinions in them are fair and reasonable (and were made or formed after due inquiry and consideration by appropriate officers of the Service Provider),
- as at the Commencement Date or, if given later, when given;
- (o) **(disclosure of relevant information)** it has disclosed to the Department all the information that is material to an assessment by the Department of the risks that it assumes by entering into this Contract;



- (p) **(no filings or Taxes)** it is not necessary or desirable, to ensure that this Contract is legal, valid, binding or admissible in evidence, that this Contract or any other document be filed or registered with any Government Agency, or that any Taxes be paid;
- (q) **(no default)** no breach of this Contract has occurred and is continuing, and it is not in breach of any other document or agreement in a manner that could have a material adverse effect on it or any of its subsidiaries; and
- (r) **(no trust)** it is not entering into this Contract as trustee of any trust or settlement.

## 57.2 Repetition of Representations and Warranties

The representations and warranties in this clause are taken to be repeated every six months from the Commencement Date, on the basis of the facts and circumstances as at that date.

## 57.3 Reliance on Representations and Warranties

The Service Provider acknowledges that the Department has executed this Contract and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made or repeated in this clause.

## 57.4 No Representations by the Department

The Service Provider acknowledges that it has not relied and will not rely on any representation, statement or promise made by or on behalf of the Department in deciding to enter into this document or to exercise any right or perform any obligation under it.

# PART 16 – INDEMNITY AND INSURANCE

## 58. INDEMNITY

s. 45(1), s. 47G(1)(a)

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*Freedom of Information Act 1982*

Released by DIBP under the  
*Freedom of Information Act 1982*



s. 45(1), s. 47G(1)(a)

### 63. PERFORMANCE GUARANTEE

The Service Provider must, at its expense, provide to the Department, within 10 Business Days of the Commencement Date, a performance guarantee executed by a guarantor acceptable to the Department, guaranteeing the performance by the Service Provider of its obligations under this Contract, which must be substantially in the form of the performance guarantee appearing at **Part B of Schedule 8** (Performance Securities) and remains in force for as long as the Service Provider has obligations under this Contract.

## PART 18 – DISPUTE RESOLUTION

### 64. DISPUTE RESOLUTION

#### 64.1 Application

Subject to the application of a relevant limitation period, a Party must not commence proceedings in any court or tribunal in relation to any Dispute unless:

- (a) that Party has complied with the requirements of this **clause 64** and the Dispute remains unresolved in accordance with **clause 64.4**;
- (b) the proceedings are brought in accordance with **clause 64.9**; or



- (c) the Dispute relates to proceedings that have been commenced by:
  - (i) a third party against the Service Provider and/or the Department; or
  - (ii) the Service Provider and/or the Department against a third party.

#### **64.2 Conditions Precedent to a Dispute Being Dealt With Under This Clause**

- (a) If a Dispute arises, a Party must give the other Party an Initial Notice in respect of the Dispute. From the giving of the Initial Notice, the Parties have 40 Business Days to resolve the Dispute by negotiation.
- (b) If a Dispute is resolved in accordance with **clause 64.2(a)**, the Parties must immediately detail the agreement in writing. The agreement must clearly state the Dispute and basis upon which it has been resolved. If only part of the Dispute is resolved, the agreement must state which part of the Dispute has been resolved and the basis upon which that part has been resolved.
- (c) If a written agreement is not produced pursuant to **clause 64.2(b)** in relation to all or part of the Dispute within 40 Business Days after the giving of the Initial Notice, the Dispute (or that part of the Dispute in respect of which there is no written agreement) is deemed to be unresolved.
- (d) Where an Initial Notice has been given under **clause 64.2(a)** by either Party, the Department may, at any time prior to the expiration of 40 Business Days, give to the Service Provider an expedition notice requiring a Dispute Notice to be issued in accordance with **clause 64.3(b)**.

#### **64.3 Negotiation Between Service Authority and the Contract Authority**

- (a) If a Dispute or part of a Dispute is unresolved in accordance with **clause 64.2(c)**, or if an expedition notice has been given under **clause 64.2(d)**, the Party who gave the Initial Notice must give to the other Party a Dispute Notice in accordance with **clause 64.3(b)**.
- (b) The Dispute Notice must:
  - (i) be in writing;
  - (ii) state that it is given pursuant to this **clause 64.3**;
  - (iii) include or be accompanied by reasonable particulars of the Dispute including:
    - (A) a brief description of the circumstances in which the Dispute arose;
    - (B) references to any:
      - (I) provisions of the Contract;

- (II) direction, instruction or document; or
- (III) acts or omissions of any person,  
relevant to the Dispute;
- (C) the amount in Dispute (whether a monetary amount, or expressed by reference to some other commodity) and, if not known, the best estimate available; and
- (D) if part of the Dispute has been resolved, a copy of the agreement pursuant to **clause 64.2(b)**; and
- (iv) be given no later than 10 Business Days after the Dispute or part of the Dispute is deemed to be unresolved in accordance with **clause 64.2(c)** or the date on which an expedition notice has been given under **clause 64.2(d)**.
- (c) Within 20 Business Days of the giving of a Dispute Notice, the Service Authority and the Contract Authority must meet at places and times agreed by them to attempt to resolve the Dispute.
- (d) The Parties must ensure that their representatives at all meetings make genuine efforts to resolve the Dispute.
- (e) If the Dispute or part of the Dispute is resolved within 20 Business Days of the giving of the Dispute Notice, the Service Authority and the Contract Authority must immediately detail the agreement in writing. The agreement must clearly state the Dispute and the basis upon which it has been resolved. If only part of the Dispute is resolved, the agreement must state which part of the Dispute has been resolved and the basis upon which that part has been resolved.
- (f) If a written agreement is not produced pursuant to **clause 64.3(e)** in relation to all or part of the Dispute within 20 Business Days after the giving of the Dispute Notice, the Dispute or that part of the Dispute in respect of which there is no written agreement is deemed to be unresolved.

#### **64.4 Negotiation by the Senior Managers**

- (a) If a Dispute or part of a Dispute is unresolved as detailed in **clause 64.3(f)**, the Party who gave the Dispute Notice must give a Second Dispute Notice in accordance with **clause 64.4(b)**.
- (b) The Second Dispute Notice must:
  - (i) be in writing;
  - (ii) state that it is made pursuant to this **clause 64.4**;

- (iii) annex a copy of the Dispute Notice (and any accompanying documents) given pursuant to **clause 64.3(b)** together with any documents which the Party giving the Second Dispute Notice considers would further assist the Senior Managers in resolving the Dispute;
  - (iv) if part of the Dispute has been resolved, annex a copy of the agreement prepared pursuant to **clause 64.2(b)** or **64.3(e)**; and
  - (v) be given no later than 10 Business Days after a Dispute or part of a Dispute is deemed to be unresolved in accordance with **clause 64.3(f)**.
- (c) Within 20 Business Days of the giving of a Second Dispute Notice, the Senior Managers must meet at places and times agreed by them to attempt to resolve the Dispute.
- (d) Each Party must ensure that their Senior Manager makes genuine efforts to resolve the Dispute.
- (e) If the Dispute or part of the Dispute is resolved within 20 Business Days of the giving of the Second Dispute Notice, the Senior Managers must immediately detail the agreement in writing. The agreement must clearly state the Dispute and the basis upon which it has been resolved. If only part of the Dispute is resolved, the agreement must state which part of the Dispute has been resolved and the basis upon which that part has been resolved.
- (f) If a written agreement is not produced pursuant to **clause 64.4(e)** in relation to all or part of the Dispute within 20 Business Days after the giving of the Second Dispute Notice, the Department's Deputy Secretary may, within 40 Business Days of the Second Dispute Notice, give notice to the Service Provider that the Dispute or any part of the Dispute is thereby:
  - (i) referred for expert determination in accordance with **clause 64.5**;
  - (ii) referred for expedited arbitration in accordance with **clause 64.6**; or
  - (iii) referred for mediation in accordance with **clause 64.7**.
- (g) If:
  - (i) there is no referral under **clause 64.4(f)** within 40 Business Days of the giving of the Second Dispute Notice;
  - (ii) the referral under **clause 64.4(f)** does not deal with part of the Dispute, or
  - (iii) the Parties have fully complied with **clause 64.5**, **64.6** and/or **64.7**;
 the Dispute, or that part of the Dispute that is not dealt with, is deemed to be unresolved.

**64.5 Expert Determination**

- (a) The expert determination must be conducted in accordance with the IAMA Expert Determination Rules as published from time to time.
- (b) The expert determination must be conducted:
  - (i) by an expert agreed upon between the Parties, with that agreement to be reached within five (5) Business Days of the referral pursuant to **clause 64.4(f)(i)** or such further period as the Department's Deputy Secretary may reasonably determine; or
  - (ii) if the Parties are unable to agree on the identity of the expert to be appointed within the time period detailed in **clause 64.5(b)(i)**, on the application of either Party, by an expert nominated by the President for the time being of IAMA, or such person authorised by the President to make the appointment, where that expert accepts appointment as an expert.
- (c) The Parties must promptly sign whatever reasonable terms of engagement the expert requires (including any indemnity), but if one of them does not so sign, the other may engage the expert by itself.
- (d) In respect of any Dispute or part of a Dispute that is referred to expert determination:
  - (i) the Parties must agree on the terms of reference and the matters to be determined by the expert within 10 Business Days of the referral pursuant to **clause 64.4(f)(i)**, failing which the terms of reference will be clarified in accordance with the IAMA Expert Determination Rules; and
  - (ii) each Party will be their own costs associated with the expert determination (and share the costs of the Expert equally), unless the Parties agree otherwise in the terms of reference.
- (e) Any information which either Party obtains from the other under this **clause 64.5** is taken to be Confidential Information for the purposes of **clause 45** and **clause 46**.
- (f) The expert determination will be final and binding on both Parties.
- (g) Nothing in this **clause 64.5** ousts the jurisdiction of a court to hear any proceeding brought by either Party in relation to a Dispute or part of a Dispute.
- (h) The Parties have not fully complied with this **clause 64.5** until the earlier of:
  - (i) the conclusion, or termination by agreement, of the expert determination, or

- (ii) the expiration of 40 Business Days from the date of appointment of an expert if the Dispute or part of the Dispute is not resolved by expert determination at this date.

#### 64.6 Expedited Arbitration Procedure

- (a) Within 10 Business Days of the referral pursuant to **clause 64.4(f)(ii)** or within such further period as the Department's Deputy Secretary may reasonably determine, the Parties must arrange for the appointment of an arbitrator, to be appointed by IAMA.
- (b) The Parties must, within five (5) Business Days of the appointment of the arbitrator, sign whatever reasonable terms of engagement the arbitrator requires (including any indemnity), but if one of them does not so sign, the other may engage the arbitrator by itself.
- (c) The Parties agree that:
  - (i) the expedited arbitration must be conducted in accordance with the IAMA Rules for the Determination of Commercial Arbitration, specifically, Schedule 2, as published from time to time (**EA Rules**);
  - (ii) they must abide by the EA Rules and must procure the arbitrator's agreement to conduct the expedited arbitration according to the EA Rules;
  - (iii) they may be represented by legal counsel at the expedited arbitration; and
  - (iv) for the purposes of interpreting the EA Rules, a reference to the Notice of Dispute in the EA Rules shall be a reference to the notice in **clause 64.4(f)**.
- (d) Costs of the expedited arbitration will be determined by the arbitrator in accordance with subrule 15(2) of the EA Rules.
- (e) Any information which either Party obtains from the other under this **clause 64.6** is taken to be Confidential Information for the purposes of **clause 45** and **clause 46**.
- (f) The Parties have not fully complied with this **clause 64.6** until the earlier of:
  - (i) the conclusion, or termination by agreement, of the expedited arbitration; or
  - (ii) the expiration of 40 Business Days from the date of appointment of an arbitrator if the Dispute or part of the Dispute is not resolved by expedited arbitration at this date.

**64.7 Mediation Procedure**

- (a) Within 10 Business Days of the referral pursuant to **clause 64.4(f)(iii)**, the Parties must arrange for the appointment of a mediator, to be mutually agreed between the Parties.
- (b) If the Parties are unable to agree on the identity of the mediator to be appointed within the time period detailed in **clause 64.7(a)**, a mediator must be nominated by the President for the time being of the IAMA, or such person authorised by the President to make the appointment, on the application of the Department and provided the person nominated agrees to act as mediator.
- (c) The Parties must, within five (5) Business Days of the appointment of the mediator, sign whatever reasonable terms of engagement the mediator requires (including any indemnity), but if one Party does not so sign, the other Party may engage the mediator by itself.
- (d) Within 20 Business Days of the referral pursuant to **clause 64.4(f)(iii)** the Parties must hold a preliminary conference in that mediation, in the presence of the mediator.
- (e) The Parties agree that:
  - (i) the mediation must be conducted in accordance with the IAMA Mediation Rules as in force from time to time (**Mediation Rules**);
  - (ii) they must abide by the Mediation Rules and must procure the mediator's agreement to conduct the mediation according to the Mediation Rules;
  - (iii) they may be represented by legal counsel at the mediation;
  - (iv) they must act in good faith and use their best endeavours to achieve the resolution of the Dispute, or the part or parts of the Dispute, at the mediation; and
  - (v) for the purposes of interpreting the Mediation Rules, a reference to the Notice of Dispute in the Mediation Rules shall be a reference to the notice referred to in **clause 64.4(f)**.
- (f) Each Party will bear its own costs of the mediation, unless otherwise agreed between the Parties.
- (g) The Parties have not fully complied with this **clause 64.7** until the earlier of:
  - (i) the conclusion, or termination by agreement, of the mediation; or
  - (ii) the expiration of 40 Business Days from the date of appointment of a mediator if the Dispute or part of the Dispute is not resolved by mediation at this date.

**64.8 Continuance of Performance**

Despite the existence of a Dispute, the Service Provider will continue to perform its respective obligations under the Contract and any related agreements.

**64.9 Summary or Urgent Relief**

Nothing in this **clause 64** will prevent either Party from instituting proceedings to seek enforcement of any payment due under the Contract or to seek urgent injunctive, interlocutory or declaratory relief in respect of a Dispute.

**64.10 Termination**

This **clause 64** does not apply to an action by the Department to terminate this Contract under **clause 67** or **clause 68**.

**PART 19 – DEFAULT AND TERMINATION****65. DEFAULT****65.1 Notification**

The Service Provider must notify the Contract Administrator of the occurrence of a Default as soon as it becomes aware of the occurrence of the Default.

**65.2 Department Rights**

If a Default occurs (whether or not the Service Provider has notified the Contract Administrator of that Default), the Department may:

- (a) give the Service Provider a Default Notice; and
- (b) issue a certificate and reduce the Detention Services Fee in accordance with **clause 36.3**.

**65.3 Cure**

- (a) The Department may, in its absolute discretion, specify in the Default Notice that it requires the Service Provider to remedy the Default, in which case, upon receipt of a Default Notice, the Service Provider:
  - (i) will have the time specified in the Default Notice (**Cure Period**) from the date of the Default Notice to remedy the Default; and
  - (ii) must submit a Cure Plan within five Business Days of the Default Notice, or such other period agreed between the Parties, setting out how the Service Provider will cure the Default within the Cure Period.
- (b) Where the Department specifies in a Default Notice that it requires the Service Provider to remedy a Default, the Service Provider must remedy the Default,



including the identification, assessment and rectification of any systemic issues contributing to the Default, within the Cure Period or such extended period as is agreed by the Department following submission of a Cure Plan.

- (c) In determining the Cure Period, the Department will act reasonably and have regard to the nature of the Default required to be remedied.

#### 65.4 Remedies

- (a) If a Default has occurred and the Service Provider fails to remedy the Default within the Cure Period or such extended period as is agreed by the Department following submission of a Cure Plan, the Department may exercise all or any of the following remedies:
  - (i) deduct money from amounts payable under **clause 36** or call on the Unconditional Financial Undertaking to cover the costs arising directly or indirectly from the Default, including but not limited to any costs incurred in remedying the Default and any costs associated with the exercise of Step-in Rights as a result of the Default, taking into account any moneys to be deducted under **clause 29.2** or **36.3**;
  - (ii) sue the Service Provider for compensation arising directly or indirectly out of that Default; or
  - (iii) any other remedies available to the Department under this Contract or in law or equity.
- (b) The use of any of the above remedies will be without prejudice and are in addition to any other rights provided for and conferred by this Contract with respect to that Default, including without limitation any action under **clauses 29.2**, **clause 36.3** and **clause 66**.

### 66. TERMINATION FOR DEFAULT

#### 66.1 Termination by the Department

Where the Department seeks to terminate this Contract in accordance with this **clause 66**, it must give written notice (**Termination Notice**) to the Service Provider specifying at least:

- (a) the reasons for termination; and
- (b) the date of termination.

#### 66.2 Termination Events

Without prejudice to its rights at common law or any other right which has accrued or may accrue to the Department (including any right of the Department to damages), the Department may, by giving a Termination Notice to the Service Provider, immediately terminate this Contract if:



- (a) the Service Provider commits a breach of this Contract (which breach is capable of remedy) and the Service Provider fails to remedy the breach within the Cure Period specified in a Default Notice;
- (b) the Service Provider commits a material breach of this Contract (which breach is not capable of remedy);
- (c) a termination event specified in **clause 66.3** occurs;
- (d) notwithstanding **clauses 66.2(a)** and **66.2(b)**, the Service Provider commits a breach or breaches of this Contract that at common law entitles the Department to terminate this Contract;
- (e) the Service Provider fails to replace any Key Personnel, in accordance with **clause 21**, with replacements acceptable to the Department;
- (f) the Service Provider commits a breach of **clause 47**, or fails to comply with any of the Department's security requirements in **clause 49** and **Schedule 2** (Statement of Work);
- (g) any of the representations or warranties in **clause 57** ceases to be true;
- (h) the Service Provider breaches **clause 70** and where the breach has a material adverse affect on the Department as determined by the Department acting reasonably, but only to the extent that that breach does not fall within **clause 66.2(a)**; or
- (i) the Service Provider fails at any time to comply with the requirements of a Performance Improvement Notice or fails to implement a Rectification Plan as detailed in Schedule 4.

### 66.3 Insolvency and Other Events

Without prejudice to its rights at common law or any other right which has accrued or may accrue to the Department under **clauses 66.2(a)**, **66.2(c)** or otherwise, the following events are termination events for the purposes of **clause 66.2(c)**:

- (a) the Service Provider suspends payment of its debts or becomes insolvent;
- (b) a receiver, receiver and manager, administrator (including a voluntary administrator), trustee or similar official is appointed over the whole or a substantial part of the assets or undertaking of the Service Provider;
- (c) the Service Provider makes an assignment of its estate for the benefit of creditors (or any class of them) or enters into any arrangement, compromise or composition with its creditors (or any class of them);
- (d) an application (other than a vexatious or frivolous application) or order is made for the winding up or dissolution of, or the appointment of a provisional liquidator to, the Service Provider, or the Service Provider goes into liquidation or passes a

resolution to go into liquidation, otherwise than for the purpose of reconstruction, or becomes subject to any petition or proceedings in a court for its compulsory winding-up or becomes subject to supervision of a court either voluntarily or otherwise;

- (e) the Service Provider suffers any execution against its assets having adverse effect on its ability to perform this Contract;
- (f) the Service Provider ceases, or threatens to cease, to carry on its business;
- (g) the Service Provider assigns its rights otherwise than in accordance with the requirements of this Contract;
- (h) any matter relating to the Service Provider or any of its subsidiaries becomes subject to a direction under, or having effect as if it were a direction under, section 14 of the *Australian Securities and Investments Commission Act 2001* (Cth), or to an investigation under, or taken to be under, that Act;
- (i) the Service Provider is prevented by a Force Majeure Event (or a series of Force Majeure Events) from performing obligations under this Contract that is continuing for a period of 60 days or more; or
- (j) the Service Provider suffers a change in control or ownership which in the reasonable opinion of the Department, adversely affects the Service Provider's ability to perform the Services.

#### **66.4 Materiality**

The materiality of any breach, and whether a breach has a material adverse effect, for the purposes of **clauses 66.2** and **66.3** will be determined in light of the absolute importance to the Department that the Australian public have, and continue to have, confidence in the efficient, effective and competent administration of the Facilities and provision of the Services.

#### **66.5 Repayment on Termination**

Where, before termination of this Contract, the Department has made any payment in advance to the Service Provider for which it has not received, the whole of the Services relating to that payment, that amount of the payment (to which the unreceived Services relate) must be repaid by the Service Provider to the Department immediately on termination and, if not repaid, is recoverable by the Department from the Service Provider as a Commonwealth debt.

#### **66.6 Consequences of Termination for Default**

If this Contract is terminated under this **clause 66**:

- (a) subject to this Contract and **clause 69** in particular, the Parties are relieved from future performance, without prejudice to any right of action that has accrued at the date of termination;

- (b) subject to the requirements of the Service Provider to perform Services in accordance with **clause 69**, all licences and Authorisations granted to the Service Provider by the Department, terminate immediately despite anything to the contrary contained in the relevant licence or Authorisation;
- (c) the Service Provider must comply with **clause 69**; and
- (d) the Department must pay the Service Provider for any Services that were performed in accordance with this Contract prior to the date of termination.

#### **66.7 Service Provider's Acknowledgement**

The Service Provider acknowledges that the performance of the Services is critical to the performance of the functions of the Department and that the Department will incur expenses in seeking a Successor and transferring the Services to a Successor. The Service Provider will assist in all respects with the transfer of the Services to a Successor according to the needs and instructions requested by the Department and will ensure business continuity of the Services prior to and post termination of this Contract for any reason.

### **67. TERMINATION FOR CONVENIENCE**

#### **67.1 The Department May Terminate for Convenience**

In addition to any other rights it has under this Contract, the Department may terminate the Contract, by notifying the Service Provider in writing that the Contract is terminated from the date specified in the notice (**date of termination**) and, in that event, the Department may give to the Service Provider such directions as it thinks fit in relation to subsequent performance of this Contract.

#### **67.2 Transition Out Obligations**

Notwithstanding that the Service Provider may have received a notice under **clause 67.1**, the Service Provider must comply with its obligations under **clause 69** and with any directions given by the Contract Administrator.

#### **67.3 Payment for Services Rendered Prior to Termination**

The Department must pay the Service Provider for any Services that were performed in accordance with this Contract prior to the date of termination.

#### **67.4 Compensation for Unavoidable Losses**

- (a) The Department is liable to the Service Provider for any substantiated unavoidable losses necessarily incurred by the Service Provider in connection with this Contract to the extent that the unavoidable loss was necessarily incurred as a consequence of termination of this Contract in accordance with this **clause 67** or removal of any Services from scope in accordance with **clause 35**.

- (b) For the purposes of this **clause 67.4** and **clause 35.3(a)(xi)**, "unavoidable loss":
- (i) is limited to reasonable and unavoidable wind down expenses (for example redundancy expenses).
  - (ii) must not include any amount on account of loss of profits;
  - (iii) subject to **clause 67.5**, includes costs incurred in respect of terminated subcontracts or supply agreements entered into pursuant to this Contract and other costs reasonably and necessarily incurred in anticipation of completing this Contract; and
  - (iv) must not exceed the amount that would have been payable if the Department had not terminated the Contract pursuant to **clause 67.1**, or, in the case of **clause 35**, had not removed the Services from scope).

#### **67.5 Termination of Subcontracts for Convenience**

The Service Provider must, in each Subcontract or order placed with any subcontractor for the purpose of this Contract, reserve a right of variation or termination to take account of the Department's right to vary the Contract under **clause 35** and of termination under this **clause 67** and the Service Provider must, where appropriate, make use of such rights to mitigate losses in the event of termination by the Department under the provisions of this **clause 67** or variation under **clause 35**.

#### **67.6 Unfettered Discretion**

For the avoidance of doubt, the Department has an unfettered discretion to terminate this Contract in accordance with this **clause 67**.

### **68. DEEMED TERMINATION FOR CONVENIENCE**

If a purported termination for Default by the Department under **clause 66** is determined by a competent authority not to be properly a termination for default, then that termination by the Department will be deemed to be a termination for convenience under **clause 67** which termination has effect from the date of the notice of termination.

### **69. TRANSITION OUT**

#### **69.1 Development of Transition Out Plan**

- (a) Within six months after the Commencement Date, the Service Provider must develop, in consultation with and for approval by the Department, a Transition Out Plan that will provide for the Transition Out of Services from the Service Provider to the Department or its nominee as a result of:
- (i) any deactivation of a facility in accordance with **clause 33**;
  - (ii) any Services being removed from the scope of this Contract in accordance with **clause 35**;

- (iii) termination of this Contract; or
  - (iv) the expiration of this Contract.
- (b) The Transition Out Plan must, without limitation, provide for the matters referred to in this **clause 69** and must not be inconsistent with this **clause 69**.
- (c) The Transition Out Plan must set out the obligations to be performed by each Party in connection with the cessation of the delivery of the Services and, where relevant, the orderly transition of service delivery from the Service Provider to the Department or its nominee, including obligations in relation to:
  - (i) the transfer of Department Material and the Contract Material to the Department or its nominee; and
  - (ii) the transfer of employees who wish to transfer to the Successor, and if applicable the provision of relevant information to enable the Successor to ascertain the accrued rights and benefits of those employees.
- (d) Without limiting any other obligation is this **clause 69**, the Department may, at any time during the Term by notice to the Service Provider, request a copy of the Transition Out Plan applicable as at the date of the notice.
- (e) If the Service Provider receives a notice under **clause 69.1(d)** it must:
  - (i) provide to the Department a copy of the Transition Out Plan applicable as at the date of the notice given under **clause 69.1(d)** within thirty (30) Days of the date of that notice; or
  - (ii) if the Service Provider does not have a current Transition Out Plan at the date of the notice given under **clause 69.1(d)**;
    - A. develop, in consultation with and for approval by the Department, a Transition Out Plan in accordance with the requirements in this **clause 69**; and
    - B. submit the Transition Out Plan to the Department within thirty (30) days of the date of the notice.

## 69.2 Compliance with Transition Out Plan

- (a) The Service Provider must comply with the Transition Out Plan and provide all reasonable assistance and cooperation necessary:
  - (i) during any notice period prior to removal of Services from scope or termination, or upon the expiration of any date for the exercise of an option to extend the Term of this Contract; and
  - (ii) on and from the removal of Services from scope, expiration or termination of this Contract for any reason,

to transfer the Services to the Department or an alternative service provider in a manner which ensures continued provision of the Services or services similar to the Services (as the case may be) in accordance with the requirements of this Contract.

(b) In particular the Service Provider must in accordance with the Transition Out Plan:

- (i) deliver to the Department (or an alternative service provider) in an orderly manner:
  - (A) complete Commonwealth Records and any other Department property including Department Materials;
  - (B) all Department Confidential Information;
  - (C) all information about Detainees contained in any database or file;
  - (D) training at fees to be agreed on the Department's request;
  - (E) any statistical data or information contained in any table or schedule prepared in the performance of the Services;
  - (F) a detailed statement of resources setting out information on equipment, technology, Service Provider Personnel, facilities and Subcontractors used by the Service Provider to perform the Services; and
  - (G) business process flow charts, procedures manuals, plans, reports, pro-forma documentation, activity schedules, work product examples, organisational charts, skills details for Service Provider Personnel and any other documents of a similar nature necessary for an alternative service provider to assume responsibility for providing the Services;
- (ii) except with the consent of the Department or as required to comply with this **clause 69**, cease accessing any of the Department's systems;
- (iii) continue the provision of the Services, for up to 180 days after the removal of services from scope, or termination or expiry of this Contract (as the case may be) or such other date as is agreed by the Parties, so as to ensure an orderly transition of services as requested by the Department;
- (iv) at the Department's request, and to the extent it is permitted to do so, novate any contracts relating to the Services to the Department or its nominee at no additional charge to the Department;
- (v) perform its other obligations under the Transition Out Plan;
- (vi) allow the Department to audit compliance with this **clause 69**; and



- (vii) allow Successors to access the Facilities where relevant to assist in the orderly transition of the Services.

### 69.3 Transition of Services Removed from Scope

If any Services are removed from scope, the obligations of the Service Provider under **clause 69.2** in respect of that termination, apply only to the extent necessary to ensure the orderly cessation of the delivery of the relevant Services and any transition to the Department or other service provider of services similar to the Services which have been removed from scope. In that event, the Service Provider will be entitled to payment for those Transition Out Services as a Pass Through Cost in accordance with **Schedule 5** (Detention Services Fee).

### 69.4 Return of Department Assets

- (a) Upon the expiration or earlier termination of this Contract, deactivation of a Facility or a Contract Change that removes any service from the scope of this Contract, the Service Provider must return to the Department (or as the Department may direct to a Successor), all relevant Department Assets licensed to the Service Provider by the Department pursuant to **clause 25.1**, or any replacement Department Asset, which is functional and fit for purpose.
- (b) Immediately prior to the expiration or immediately following the earlier termination of this Contract or the deactivation or Contract Change, as the case may be, a stocktake and inspection shall be conducted of the equipment to be returned pursuant to **clause 69.4(a)**. The Contract Administrator will conduct this inspection in conjunction with the Service Provider and the Parties will jointly prepare and agree a report of the outcome of the inspection.
- (c) In the event of any deficiency in the value of the equipment to be returned by the Service Provider pursuant to **clause 69.4(a)** from the value of the Department Assets licensed by the Department to the Service Provider pursuant to **clause 25.1** (allowing for Consumer Price Index adjustment and fair use and reasonable wear and tear), the Service Provider will immediately pay that difference to the Department or to a Successor as the Department may direct.

### 69.5 Return of Loose Assets

- (a) Upon the expiration or earlier termination of this Contract, deactivation of a Facility or a Contract Change that removes any Services from the scope of this Contract, the Service Provider must return to the Department (or as the Department may direct to a Successor), all relevant Loose Assets licensed to the Service Provider by the Department pursuant to **clause 25.1**, or equivalent items to the same value as the Loose Assets as verified by the Service Provider under **clause 7**, which are functional and fit for purpose.
- (b) Immediately prior to the expiration or immediately following the earlier termination of this Contract or the deactivation or Contract Change, a stocktake and inspection shall be conducted of the equipment to be returned pursuant to **clause 69.5(a)**. The

Contract Administrator will conduct this inspection in conjunction with the Service Provider and the Parties will jointly prepare and agree a report of the outcome of the inspection.

In the event of any deficiency in the value of the equipment to be returned by the Service Provider pursuant to **clause 69.5(a)** from the value of the Loose Assets licensed by the Department to the Service Provider pursuant to **clause 25.1** (allowing for Consumer Price Index adjustment and fair use and reasonable wear and tear), the Service Provider will immediately pay that difference to the Department or to a Successor as the Department may direct.

#### **69.6 Update and Review of Transition Out Plan**

- (a) The Service Provider must regularly update the Transition Out Plan to ensure it is at all times consistent with the Services and **Schedule 2** (Statement of Work) and facilitates the most efficient succession to an alternative service provider.
- (b) The Parties will review the Transition Out Plan annually and not less than six months prior to the scheduled expiration of this Contract to ensure that the Transition Out Plan remains appropriate to the circumstances of the Department.

#### **69.7 Fees for Transition Out Services**

- (a) Upon the expiry of the Term by the effluxion of time or termination under **clause 67**, the Department will pay the Service Provider the Transition Out Fee specified in **Schedule 5** (Detention Services Fee). The Department is not liable for any costs associated with termination and/or redundancy of staff in the event of expiry of this Contract or termination for default pursuant to clause 66.
- (b) Where this Contract is terminated under **clause 66** but without limiting any damages that the Department may be entitled to, the Department will pay the Service Provider the Detention Services Fee for the Services that the Service Provider provides in complying with its obligations under this **clause 69**, and the Service Provider will not be entitled to payment of the Transition Out Fee.
- (c) The Parties agree that the terms and conditions of this Contract, including the Detention Services Fee, apply to any Services performed by the Service Provider during any Transition Out Period required in respect of a termination under **clause 66**.

#### **69.8 Service Provider Must Not Hinder Transition**

The Service Provider agrees that it will not hinder in any way, the transition of the provision of services similar to the Services to a Successor upon termination or expiration of the Contract or removal of Services from scope under **clause 35**.

#### **69.9 Survival**

This **clause 69** survives the expiration or termination of this Contract.



## PART 20 – GENERAL

### 70. CONFLICT OF INTEREST

- (a) The Service Provider warrants that to the best of its knowledge after making diligent inquiry, at the date of signing this Contract and at all times during the Term, no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract by itself or by Service Provider Personnel and that based upon reasonable inquiry it has no reason to believe that any Subcontractor has such a conflict.
- (b) If during the Term a conflict or risk of conflict of interest arises, the Service Provider undertakes to notify the Department immediately after the conflict or risk of conflict becomes known.
- (c) The Service Provider must not, and must use its best efforts to ensure that any Personnel, agent or Subcontractor does not, during the Term, engage in any activity or obtain any interest likely to conflict with, or restrict the fair and independent performance of obligations under this Contract and must immediately disclose to the Department such activity or interest.
- (d) If the Service Provider fails to notify the Department or is unable or unwilling to resolve or deal with the conflict as required, the Department may terminate this Contract in accordance with the provisions of **clause 66**.

### 71. GENERAL PROVISIONS

#### 71.1 Compliance with the Fair Work Principles

[Not Used]

#### 71.2 Compliance with the Building Code 2013

- (a) The Service Provider must comply with the *Building Code 2013* (Building Code). Copies of the Building Code are available at:  
[www.employment.gov.au/BuildingCode](http://www.employment.gov.au/BuildingCode).
- (b) Compliance with the Building Code shall not relieve the Service Provider from responsibility to perform the Contract, or from liability for any defect in the works arising from compliance with the Building Code.
- (c) Where a change in the Contract is proposed and that change would affect compliance with the Building Code, the Service Provider must submit a report to the Department specifying the extent to which the Service Provider's compliance with the Building Code will be affected.
- (d) The Service Provider must maintain adequate records of the compliance with the Building Code by:
  - (i) the Service Provider;

- (ii) its Subcontractors;
  - (iii) consultants; and
  - (iv) its Related Entities (refer Section 8 of the Building Code).
- (e) If the Service Provider does not comply with the requirements of the Building Code in the performance of this Contract such that a sanction is applied by the Minister for Employment, the Code Monitoring Group or the Commonwealth, without prejudice to any rights that would otherwise accrue, those parties shall be entitled to record that non-compliance and take it, or require it to be taken, into account in the evaluation of any future tenders that may be lodged by the Service Provider or a Related Entity in respect of work funded by the Commonwealth or its agencies.
- (f) While acknowledging that value for money is the core principle underpinning decisions on Government procurement, when assessing tenders, the Service Provider may give preference to subcontractors and consultants that have a demonstrated commitment to:
  - (i) adding and/or retaining trainees and apprentices;
  - (ii) increasing the participation of women in all aspects of the industry; or
  - (iii) promoting employment and training opportunities for Indigenous Australians in regions where significant indigenous populations exist.
- (g) The Service Provider must not appoint a Subcontractor or consultant in relation to the Contract where:
  - (i) the appointment would breach a sanction imposed by the Minister for Employment; or
  - (ii) the subcontractor or consultant has had an adverse Court or Tribunal decision (not including decisions under appeal) for a breach of workplace relations law, work health and safety law, or workers' compensation law and the subcontractor or consultant has not fully complied, or is not fully complying, with the order.
- (h) The Service Provider agrees to require that it and its subcontractors or consultants and its related entities provide the Department or any person authorised by the Department, including a person occupying a position in the Fair Work Building Industry Inspectorate, with access to:
  - (i) inspect any work, material, machinery, appliance, article or facility;
  - (ii) inspect and copy any record relevant to the Project the subject of this Contract; and
  - (iii) interview any person

as is necessary to demonstrate its compliance with the Building Code.

- (i) Additionally, the Service Provider agrees that the Service Provider and its Related Entities will agree to a request from the Department or any person authorised by the Department, including a person occupying a position in the Fair Work Building Industry Inspectorate, to produce a specified document within a specified period, in person, by fax or by post.
- (j) The Service Provider must ensure that all subcontracts impose obligations on Sub-contractors equivalent to the obligations under these Contract clauses.

### **71.3 Negation of Employment, Partnership and Agency**

- (a) The Service Provider must not represent itself, and must use reasonable endeavours to ensure that the Service Provider Personnel and Subcontractors do not represent themselves, as being an officer, employee, partner or agent of the Department, or as otherwise able to bind or represent the Department.
- (b) Except as specifically provided for in this Contract, the Service Provider is not by virtue of this Contract an officer, employee, partner or agent of the Department, nor does the Service Provider have any power or authority to bind or represent the Department.

### **71.4 Waiver**

- (a) If a Party does not exercise (or delays in exercising) any of its rights, that failure (or delay) does not operate as a waiver of those rights.
- (b) A single or partial exercise by a Party of any of its rights does not prevent the further exercise of any right.

### **71.5 Assignment and Novation**

- (a) The Service Provider must not novate its obligations, and agrees not to assign its rights, under this Contract without, in either case, prior approval in writing from the Contract Authority, which approval must not be unreasonably withheld.
- (b) The Service Provider must not consult with any other person for the purposes of entering into an arrangement that will require novation of this Contract.

### **71.6 Applicable Law**

This Agreement will be governed by the Laws for the time being in force in the Australian Capital Territory, and the Parties agree to submit to the non-exclusive jurisdiction of the courts of the Australian Capital Territory. For the avoidance of doubt, the *Commonwealth Places (Application of Laws) Act 1970* (Cth) applies to this Contract.

**71.7 Entire Agreement**

This Agreement constitutes the entire agreement between the Parties in relation to the provision of the Services, and supersedes all communications, negotiations, arrangements and agreements, either oral or written, between the Parties with respect to the subject matter of this Contract.

**71.8 Department Representatives**

- (a) The Contract Authority, Contract Administrator and Department Regional Manager are each Department Representatives in discharging their respective functions as set out in this Contract. The Service Provider acknowledges that Department Representatives do not:
  - (i) owe any direct duty to the Service Provider under this Contract (whether to review, accept or reject any Services or any Material submitted by the Service Provider under this Contract or otherwise); or
  - (ii) provide any form of certification, declaration or other representation that the Services or any Service Provider Materials comply with any Law, industry standards or are otherwise fit for purpose.
- (b) Unless expressly provided in this Contract, any directions, reviews, rejections, consents or other comments made by Department Representatives in relation to any Services or the use of any Service Provider Material under this Contract do not relieve the Service Provider from, or alter or affect the Service Provider's liabilities or responsibilities under this Contract or otherwise.
- (c) The Contract Authority, Contract Administrator or Department Regional Manager may at any time by written notice to the Service Provider nominate additional persons to fulfil their respective functions set out in this Contract, other than the functions of the Contract Authority and the Contract Administrator in relation to:
  - (i) dispute resolution in accordance with **clause 64**; or
  - (ii) issuing a notice of termination under **clause 66**.

**71.9 Counterparts**

This Agreement may be executed in any number of counterparts and all counterparts taken together will constitute one and the same instrument.

**71.10 Severability**

- (a) Each provision of, or any Schedule or Annexure of or to this Contract and each part of such provision, will, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part of a provision is void or otherwise unenforceable for any reason, then that provision or part (as the case may be) will be severed and the remainder will be read and construed as if the severable provision or part had never existed.

- (b) For the avoidance of doubt, **clause 71.10(a)** applies to each Schedule and Annexure of or to this Contract.

### 71.11 Further Assurance

Each Party must promptly at its own cost do all things (including executing all documents) necessary or desirable to give full effect to this Contract.

### 71.12 Consent

Whenever the consent or approval of a Party is required under this Contract to be effective, it must be in writing and signed by a representative of the Party who is authorised to give that consent or approval.

### 71.13 Equal Employment Opportunity

- (a) The Service Provider must comply with its obligations, if any, under the *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**).
- (b) The Service Provider must not enter into a subcontract under this Contract with a Subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the WGE Act.
- (c) To the extent required by Law, any subcontract must include a provision which requires the Subcontractor to notify the Workplace Gender Equality Agency of any failure to comply with the WGE Act.

## 72. NOTICES

### 72.1 Address for Notices

Unless otherwise provided, any notice, request or other communication to be given under this Contract is to be in writing and dealt with as follows:

- (a) if given by the Service Provider to the Department, signed by the Service Authority or the Service Administrator and marked for the attention of the Contract Authority or the Contract Administrator at the address set out in **clause 72.2** or as otherwise notified from time to time by the Department; or
- (b) if given by the Department to the Service Provider, signed by the Contract Authority or the Contract Administrator and marked for the attention of the Service Authority or the Service Administrator at the address set out in **clause 72.2** or as otherwise notified from time to time by the Service Provider.

### 72.2 Addresses

- (a) The address for the Department:

**Contract Authority – Detention Services Contract**

Attention: First Assistant Secretary, Infrastructure and Services Division  
PO Box 25  
Belconnen ACT 2616  
Email: s. 47E(d)

**Contract Administrator – Detention Services Contract**

Attention: Assistant Secretary, Contract and Services Management  
PO Box 25  
Belconnen ACT 2616  
Email: s. 47E(d)

- (b) The address for the Service Provider:

**Service Authority – Detention Services Contract**

Attention: Managing Director (Service Authority)  
Company Name: Serco Australia Pty Ltd  
Address: Level 1, MTAA House, 39 Brisbane Avenue, Barton ACT 2600  
Email: s. 47E(d)

Facsimile: s. 47E(d)

**Service Administrator – Detention Services Contract**

Attention: Finance Director (Service Administrator)  
Company Name: Serco Australia Pty Ltd  
Address: Level 1, MTAA House, 39 Brisbane Avenue, Barton ACT 2600  
Email: s. 47E(d)

Facsimile: s. 47E(d)

**72.3 Delivery of Notices**

Any notice, request or other communication is to be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is sent or transmitted electronically a copy is to be sent to the addressee by pre-paid post.

**72.4 Receipt of Notices**

A notice, request or other communication will be deemed to be received:

- (a) if delivered by hand, upon delivery;
- (b) if sent by prepaid ordinary post within Australia, upon the expiration of two (2) Business Days after the date on which it was sent;

- (c) if sent by prepaid ordinary post outside Australia, upon the expiration of five (5) Business Days after the date on which it was sent;
- (d) if delivered by email, upon the actual receipt by the addressee; and
- (e) if transmitted by facsimile, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

If a notice is received after Business Hours, or on a day that is not a Business Day in the place of receipt it is deemed to be effected on the next Business Day in that place.

## 73. INTERPRETATION

### 73.1 Interpretation

In this Contract, unless the context indicates a contrary intention:

- (a) capitalised terms have the meaning ascribed to them in **Schedule 1** (Glossary);
- (b) a word suggesting a gender includes all genders;
- (c) a singular word includes the plural, and vice versa;
- (d) headings are for convenience only, and do not affect interpretation;
- (e) the word **person** includes any type of entity or body of persons (including a body politic), whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
- (f) a reference to an amount in dollars, \$AUD or \$AU is to that amount in Australian dollars;
- (g) a reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as, from time to time, amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) subject to **clause 35**, a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as, from time to time, amended, supplemented, replaced or novated;
  - (iii) a **section** is to a section in a Schedule or an Annexure of or to this Contract as varied from time to time;
  - (iv) any body is:
    - (A) if that body is replaced by another organisation, deemed to refer to that organisation; and



- (B) if that body ceases to exist, deemed to refer to the organisation which most nearly or substantially serves the same purposes or objects of that body;
- (v) a **recital, clause, sub-clause, Part, Schedule or Annexure** is to the respective recital, clause, sub-clause, Part, Schedule or Annexure of or to this Contract as Varied from time to time;
- (vi) a person holding a Department or the Service Provider office includes any person from time to time holding, occupying or performing the duties of that office; and
- (vii) a Department or the Service Provider office includes, if that office is abolished, the holder of any other office at the same or equivalent level which has the same or similar responsibilities;
- (h) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (i) a Party to this Contract or any other document or arrangement includes that Party's permitted substitute or a permitted assign of that Party;
- (j) if an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing; and
- (k) the word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.

### 73.2 Precedence of documents

If there is any inconsistency between provisions of this agreement and other documents, a descending order of precedence is to be accorded to:

- (a) the Main Terms and Conditions;
- (b) **Schedule 2** (Statement of Work);
- (c) the other Schedules and Annexures;
- (d) provisions of documents incorporated by express reference in this agreement (including the policy documents referred to in **Schedule 14** (Legislation and Commonwealth Policies)),

so that the higher ranked provision prevails to the extent of the inconsistency.



**Executed** by the Parties as an agreement.

**Signed** for and on behalf of **Commonwealth of Australia**

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

Date: \_\_\_\_\_

**EXECUTED** by **Serco Australia Pty Ltd**

\_\_\_\_\_  
Authorised Signatory  
Designation:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Authorised Signatory  
Designation:

\_\_\_\_\_  
Name

Date: \_\_\_\_\_



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**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 1**

**GLOSSARY**

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**Definitions**

In this Contract, unless the contrary intention appears, the following definitions apply.

<b>Abatement</b>	reductions in the payments which would otherwise be due to the FDSP as a result of failure to meet the minimum performance standards set out in the Key Performance Measures.
<b>Acceptance Certificate</b>	a certificate or letter provided by the Department to the FDSP following successful completion of a relevant Acceptance Test.
<b>Acceptance Tests</b>	tests developed during the Transition In Period by the Department and the FDSP to ensure the FDSP's readiness to provide the full range of Services, including the functionality of all systems required for the provision of the Services.
<b>Access Management</b>	As defined at clause 6.12, Section 7 (Business Services) of Schedule 2 (Statement of Work).
<b>Accommodation</b>	accommodation provided to Detainees by the Department and managed by the FDSP at Facilities.
<b>Additional Fees</b>	amounts payable to the FDSP for the provision of Additional Services in accordance with <b>clause 34</b> of the Contract.
<b>Additional Services</b>	any additional Services the Department Regional Management or the Contract Administrator has requested the FDSP to provide by issuing a written notice in accordance with <b>clause 34</b> of the Contract.
<b>Alternative Detention</b>	Immigration Detention in a place approved by the Minister in writing where the Unlawful Non-Citizen is being held by or on behalf of an Officer and includes detention in hotels, motels and hospitals, however, for the purposes of this Contract, does not include detention in Immigration Residential Housing or Immigration Transit Accommodation or Immigration Detention facilities designated as Alternative Places Of Detention.

<b>Alternative Place of Detention or APOD</b>	places approved in writing by the Minister or his/her delegate, where a person may be kept in Immigration Detention other than an Immigration Detention Centre. Alternative Places of Detention include Immigration Residential Housing, Immigration Transit Accommodation, hospitals, nursing homes, mental health facilities, hotels and motels. <b>Alternative Places of Detention are often used to accommodate Detainees in family groups, including children and/or Detainees of any gender who are in need of medical treatment.</b> The Department may designate some, or all, of a Facility or other place as an Alternative Place of Detention.
<b>Annual Bilateral Meeting</b>	As defined at clause 8.2 of Section 7 (Business Services) of Schedule 2 (Statement of Work).
<b>Annual Performance Report</b>	As defined at Annexure A: Service Provider Business Reporting and Information Management Requirements, of Schedule 2 (Statement of Work).
<b>Asset</b>	any item of tangible or intangible property leased, created or otherwise brought into existence both wholly or in part as a consequence of the delivery of Services under this Contract with a purchase value over \$2000. This does not include perishable items such as food or consumables (including medicine).
<b>Asset Management Information</b>	Information related to the Service Provider's obligations under Section 3 (Facilities Management Services) of Schedule 2 (Statement of Work)
<b>Assistance Program</b>	the general counselling service organised by the FDSP offering confidential and professional short-term counselling to Detainees.
<b>Australian Government Policy</b>	any Australian Government policy listed in <b>Schedule 14</b> (Legislation and Commonwealth Policies) of the Contract or notified by the Department to the Service Provider, in accordance with <b>clause 3.6</b> of the Contract from time to time.
<b>Australian Privacy Principles</b>	has the same meaning as in the Privacy Act.
<b>Australian Standards</b>	standards that have been issued as Australian standards from Standards Australia.
<b>Authorisation</b>	(a) an authorisation by the Minister under the Migration Act; or (b) any approval, authorisation, consent, exemption, filing, licence, notarisation, registration or waiver however described and any renewal of or variation to any of them; as the context permits.
<b>Authorised Officer</b>	has the same meaning as in the Migration Act.

<b>Aviation Security Identification Card</b>	an identification card used to identify a person who has been the subject of a background check undertaken by AusCheck, a unit of the Attorney Generals Department.
<b>Aviation Transport Security Regulations</b>	As defined under the <i>Aviation Transport Security Regulations 2005</i> and <i>Aviation Transport Security Act 2004</i> .
<b>Base Period</b>	for each Facility, the period from the Commencement Date and expiring on the later of:  (a) three months after:  (i) the Handover Date for the Facility; or  (ii) if the Handover Date occurs before the Service Provider receives the final Certificate of Attainment in respect of the Facility, the date the Service Provider receives the final Certificate of Attainment, or  (b) 30 June 2015.
<b>Behaviour Management Plan</b>	a management plan developed and maintained by the FDSP in consultation with Stakeholders (including the Department and the DHSP) which addresses a Detainee's behavioural difficulties and sets out recommendations for support and engagement for that Detainee in order to improve behaviour.
<b>Biometrics Collection</b>	As defined in the Migration Act 1956 (Cth)
<b>Building Code</b>	Volumes One and Two of the National Construction Code (NCC) produced and maintained by the Australian Building Codes Board (ABCB) on behalf of the Australian Government and State and Territory Governments
<b>Business Continuity Plan</b>	A plan which details the proposed actions and procedures associated with continuing operations in the event of adverse conditions including, but not limited to, fire, tempest, damage and unrest developed by the Service Provider in accordance with clause 3.9 of Section 7 (Business Services) of Schedule 2 (Statement of Work).
<b>Business Day</b>	any day that is not a Saturday, Sunday or gazetted public holiday in the Australian Capital Territory or, where relevant, the capital city of the State or Territory where a Service or obligation is to be performed.
<b>Business Hours</b>	0830 hours to 1700 hours local time at the Facility concerned.
<b>Business Services</b>	the Services set out in <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.

<b>Business Services Plan</b>	the business services plan developed and maintained by the FDSP as set out in <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.
<b>Catering Manager</b>	a member of the FDSP Personnel whose duties are set out in <b>Section 2</b> (Garrison Services) of <b>Schedule 2</b> (Statement of Work).
<b>Catering Services</b>	those Services set out in <b>Section 2</b> (Garrison Services) of <b>Schedule 2</b> (Statement of Work).
<b>Catering Services Personnel</b>	FDSP Personnel who are responsible for the delivery of Catering Services.
<b>Catering Services Plan</b>	the catering services plan developed and maintained by the FDSP setting out the FDSP's procedures for providing Catering Services at each Facility, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.
<b>Certificate of Attainment</b>	certificate issued by the Department to the FDSP upon satisfactory completion of a Milestone.
<b>Cleaning Services</b>	those Services set out in <b>Section 2</b> (Garrison Services) of <b>Schedule 2</b> (Statement of Work).
<b>Cleaning Services Plan</b>	the cleaning services plan developed and maintained by the FDSP setting out the FDSP's procedures for providing Cleaning Services at each Facility, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract .
<b>Code of Conduct</b>	the code of conduct attached as <b>Annexure C</b> to <b>Schedule 2</b> (Statement of Work) that outlines expectations and guidelines regarding the conduct of the Service Provider and its Personnel.
<b>Commencement Date</b>	11 December 2014
<b>Commercial and Financial Director</b>	The person appointed by the Service Provider pursuant to clause 19.2(a)(v) of the Contract, being a national position with prime responsibility for commercial and financial related matters.
<b>Commissioning</b>	As defined at clause 3.11(b) of Section 3 (Facilities Management) of Schedule 2 (Statement of Work)
<b>Commonwealth</b>	the Commonwealth of Australia.

<b>Commonwealth Records</b>	Records created by either Party or delivered to it by a third party for the purposes of the Contract and will include Records relating to matters between either of the Parties, and Subcontractors to the FDSP, the agencies of the Department mentioned in the Contract, or any of them, but not including those Records which are specifically created and maintained by the Service Provider or its Subcontractors solely for its own or the Subcontractor's own use.
<b>Commonwealth Security Clearance</b>	Refers to any security clearances and vetting undertaken by the Australian Government Security Vetting Agency (AGSVA).
<b>Complaints Management</b>	As defined at clause 3 of Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work)
<b>Communication Services</b>	those Services set out in <b>Section 2</b> (Garrison Services) of <b>Schedule 2</b> (Statement of Work).
<b>Conditions of Entry (Visitors)</b>	a form developed and maintained by the FDSP, which sets out the conditions of entry to a Facility for Visitors.
<b>Confidentiality Deed Poll</b>	the Confidentiality Deed at Schedule 10 of this Contract.
<b>Confidential Information</b>	Department Confidential Information or FDSP Confidential Information.
<b>Consultative Committee</b>	a committee established to enable representatives of Detainees to discuss matters of concern with the Department, the FDSP and DHSP.
<b>Consumables</b>	Any item of tangible property consumed in the delivery of services under this contract including any assets with a purchase price under \$2,000.
<b>Consumer Price Index</b>	the index taken to three decimal places entitled 'Consumer Price Index (All Groups) Catalogue 6401.0' as published from time to time by the Australian Bureau of Statistics.
<b>Contingency Facility</b>	a Facility that has been deactivated and contains no Detainees, but in relation to which the FDSP is required to provide Care Taker Services and may be required to "ramp-up" in accordance with <b>clause 33</b> of the Contract.
<b>Contingency Plan</b>	The plan satisfying the requirements of clause 3.12 of Section 4 (Security Services) of Schedule 2 (Statement of Work).
<b>Continuous Improvement Plan</b>	As defined at clause 3.9(f)(ii) of Section 7 (Business Services) of Schedule 2 (Statement of Work).
<b>Contract</b>	the contract, including the main terms and conditions and all Schedules and Annexures.

<b>Contract Administrator</b>	the Contract Administrator appointed by the Secretary and any other persons nominated by the Contract Administrator from time to time to fulfil the role of Contract Administrator.
<b>Contract Authority</b>	the Contract Authority appointed by the Secretary, and any other persons nominated by the Contract Authority from time to time to fulfil the role of Contract Authority.
<b>Contract Director</b>	The person appointed by the Service Provider pursuant to clause 19.2(a)(i) of the Contract, being a national position with prime responsibility for contract related matters.
<b>Contract Change</b>	a variation to the Contract, other than a Scope Change, in accordance with <b>clause 35</b> of the Contract.
<b>Contract Change Notice</b>	a notice, in the form set out in Part B of <b>Schedule 13</b> (Change Control) of the Contract, issued by the Department in accordance with <b>clause 35.2</b> of the Contract, notifying the Service Provider that the Department wishes to vary the Contract.
<b>Contract Change Proposal</b>	a written proposal to effect a variation of the Contract in accordance with <b>clause 35.3</b> of the Contract.
<b>Contract Material</b>	any Material or information created as a consequence of the Contract, or which is copied or derived from that Material or information.
<b>Control and Restraint</b>	the use of accoutrements and procedures to control or limit a person's ability to either inflict personal injury to themselves or others; or escape/abscond from the care and control of FDSP Personnel.
<b>Controlled Items</b>	items which may only be brought into a Facility subject to conditions specified by the Department (including mobile phones, tools and equipment and other electronic recording devices)
<b>Critical Incident</b>	an Incident of the type more particularly described in the Incident Management Protocols.
<b>Cure Period</b>	the period during which a Default must be rectified, as specified in the Contract or the Default Notice, as the case may be.



<b>Cure Plan</b>	a plan proposed by the FDSP to remedy a Default, which: <ul style="list-style-type: none"><li>(a) is proposed during the Cure Period or in response to a Default Notice; and</li><li>(b) details:<ul style="list-style-type: none"><li>(i) if relevant, why an extension of the Cure Period is required;</li><li>(ii) the time required to cure the Default;</li><li>(iii) a work plan setting out each task to be undertaken and the time for each task to be completed;</li><li>(iv) the temporary measures (if any); and</li><li>(v) the mechanics for integrating the cure with the continuing provision of Services.</li></ul></li></ul>
<b>Daily Morning Meeting</b>	As defined at clause 8.4(d), Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>Data</b>	includes all information stored on magnetic tapes, disks or in written form of any kind.
<b>Decommissioning</b>	As defined at clause 4(b) of Section 3 (Facilities Management) of Schedule 2 (Statement of Work)
<b>Deed of Non-disclosure of Personal Information</b>	the form of deed poll at <b>Schedule 12</b> (Deed of Non-disclosure of Personal Information) to the Contract.
<b>Default</b>	a failure to deliver the Services in accordance with, or other failure to comply with a requirement of, the Contract.
<b>Default Notice</b>	a notice issued by the Contract Administrator under <b>clause 65.2</b> of the Contract.
<b>Delegation</b>	delegations pursuant to the Migration Act.
<b>Deliverable/s</b>	the goods, the Contract material, the Documentation and any other item to be supplied by the FDSP to the Department (or Detainees if applicable) under the Contract
<b>Demand Predictor</b>	has the meaning in clause 15 of Schedule 5 (Detention Services Fee).
<b>Department</b>	the Commonwealth represented by the Department of Immigration and Border Protection.
<b>Department Asset/s</b>	Any item of tangible property utilised in the delivery of Services under this contract

<b>Department Asset Register</b>	the register of Department Assets provided and agreed at the Commencement Date and maintained by the FDSP in accordance with Schedule 2 (Statement of Work).
<b>Department Case Manager</b>	a person appointed by the Department with responsibility for the case management of a Detainee in accordance with the National Case Management Framework.
<b>Department Confidential Information</b>	<p>any Department Material which:</p> <ul style="list-style-type: none"><li>(a) is listed as Department Confidential Information in <b>Schedule 12</b> (Confidential Information) of the Contract; or</li><li>(b) is information that is by its nature confidential, or a party knows or ought to know is confidential, but does not include:</li><li>(c) information which is or becomes public knowledge other than by breach of the Contract or any other confidentiality obligation.</li></ul>
<b>Department Facility Manager</b>	the Manager appointed, on duty or working at any Department Facility.
<b>Department Material</b>	any Material or information provided by the Department to the FDSP for the purposes of the Contract or which is copied or derived from that Material or information.
<b>Department Personnel</b>	the officers, employees, agents, advisers and contractors of the Department (other than the FDSP and FDSP Personnel).
<b>Department Regional Manager</b>	<p>the person (or delegate) appointed by the Department:</p> <ul style="list-style-type: none"><li>(a) at each Facility to perform the role of Department Regional Management; or</li><li>(b) in any State or Territory which does not contain a Facility, who is (or will be, following commissioning of a new Facility) responsible for detention operations at the Immigration Residential Housing or Immigration Transit Accommodation in that State.</li></ul>
<b>Department Representative</b>	any person acting for or on behalf of the Department, and includes Department Personnel.
<b>Department's Nominated IT System</b>	the centralised information technology system used to record and share certain information in the provision of care and service to Detainees.
<b>Department-specific Policy</b>	any Department-specific policy listed in <b>Schedule 14</b> (Legislation and Commonwealth Policies) of the Contract or notified by the Department to the FDSP, in accordance with clause 3.7 of the Contract.

<b>Detainee</b>	has the same meaning as in the Migration Act.
<b>Detainee Information</b>	information held by the Department or the FDSP pertaining to a Detainee who is or was in Immigration Detention, including but not necessarily limited to Personal Information.
<b>Detainee Records</b>	all records relevant to the experience of a Detainee, and includes Case Files.
<b>Detainees' Rights and Responsibilities</b>	a form developed and maintained by the FDSP setting out the rights and responsibilities of a Detainee whilst in a Facility, which is provided by the FDSP to each Detainee during the Induction Process and which the Detainee is required to sign.
<b>Detainee Security Risk Assessment</b>	a risk assessment undertaken for each Detainee and regularly updated throughout their Detention, detailing the individual risks associated with that Detainee against any relevant indicators.
<b>Detention Facility or Facility</b>	comprise Immigration Detention Centre(s), Immigration Residential Housing, Immigration Transit Accommodation, and Alternative Place(s) of Detention
<b>Detention Facility Report</b>	As defined at clause 3.1 of Annexure A to Schedule 2 (Statement of Work).
<b>DHSP Health Advisory Service (DHSP HAS)</b>	An out-of-hours medical advice service provided by the DHSP for the benefit of the Service Provider and the Department.
<b>Detention Health Services Provider (DHSP)</b>	the organisation contracted by the Department to provide to primary health care, and to facilitate access to secondary and tertiary health care services for Detainees.
<b>Detention Services Fee</b>	the fees payable by the Department in accordance with <b>clause 36</b> and <b>Schedule 5</b> (Facilities and Detainee Services Fee and Other Payments).
<b>Detention Services Manual</b>	That part of the Procedures Advice Manual (PAM3) so described.
<b>DHSP Manager</b>	The Personnel appointed by the Detention Health Service Provider to be the Manager of Detention Health Services at any Department Facility.
<b>Dietician</b>	a registered and practising clinical dietician engaged by the FDSP whose duties are set out in <b>Section 2</b> (Garrison Services) of <b>Schedule 2</b> (Statement of Work).
<b>Discharge</b>	the Release of a Detainee from a Detention Facility, Temporary Place of Detention or Community Detention (Residence Determination) in connection with an immigration outcome, including the grant of a visa, and the Removal or Transfer of that Detainee from Australia.

<b>Discharge Process</b>	the process of managing the Release of a Detainee, including preparing the Detainee for Release and ensuring that the Department's release documentation is appropriately authorised.
<b>Dispute</b>	any dispute or difference between the Department and the Service Provider arising out of or in connection with the Contract or the Services, including any dispute arising out of proceedings brought by: <ul style="list-style-type: none"><li>(a) a third party against the FDSP or the Department; or</li><li>(b) the FDSP or the Department against a third party.</li></ul>
<b>Dispute Notice</b>	the notice referred to in <b>clause 64</b> of the Contract.
<b>Efficiency Dividend</b>	s. 47G(1)(a)
<b>Efficiency Dividend Premium</b>	s. 47G(1)(a)
<b>Eligible Personnel</b>	Has the meaning given to that term in clause 25.7(d) of the Contract.
<b>Emergency Breakdown Table</b>	A table of assets which have suffered breakdowns requiring immediate reactive maintenance.
<b>Emergency Management Plan</b>	the emergency management plan developed and maintained by the FDSP setting out the FDSP's procedures for managing and responding to emergencies on a national level and also at each Facility, as described in Section 2 (Garrison Services) and Section 7 (Business Services) of Schedule 2 (Statement of Work) of this Contract.
<b>Emergency Planning Committee</b>	As defined at clause 7.1 of Section 2 (Garrison Services) of Schedule 2 (Statement of Work)
<b>Emergency Response Team (ERT)</b>	FDSP Personnel present at each Facility who are specially trained in security matters in accordance with the Security Services Plan and whose primary purpose is to respond to and manage Critical and Major Incidents.
<b>Emergency Response Team Policy and Protocols</b>	As defined at clause 4.3(a)(iv) of Section 4 (Security Services) of Schedule 2 (Statement of Work)
<b>Emergency and Security Exercise Report</b>	A report detailing the drills and testing associated with emergency systems and processes (including evacuation procedures) that have occurred over a monthly period.

<b>End Date</b>	the last day of: (a) the Initial Term; or (b) any Extended Term under <b>clause 2.2</b> of the Contract; whichever is applicable.
<b>Environmental and Waste Management Plan</b>	the environmental and waste management plan developed and maintained by the FDSP setting out the FDSP's procedures for managing environmental, waste and energy use matters at each Facility, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.
<b>Environmental Management</b>	As defined at clause 5 of Section 2 (Garrison Services) of Schedule 2 (Statement of Work)
<b>Environmental Management System</b>	a system developed by the FDSP for the sustainable, safe and hygienic operation of each Facility.
<b>Escort</b>	a member of the FDSP Personnel who accompanies a Detainee whilst on an Escort Task.
<b>Escort Operational Order</b>	a document prepared by the FSDP detailing the way in which Transport, Transfer or Removal Escort Tasks will be undertaken, as specified in Schedule 2 (Statement of Work).
<b>Escort Security Risk Assessment</b>	a security risk assessment developed for each Escort Task, capturing all relevant risks associated with that Task including mitigation strategies and controls.
<b>Escort Task(s)</b>	any operation involving a Detainee being outside a Facility, accompanied by one or more FDSP Personnel.
<b>Excluded Items</b>	items which may not be brought into a Facility as directed by the Department. These may include weapons, currency, illicit materials and illegal substances.
<b>Executive Direction</b>	a direction given by a Regional Manager to the FDSP in accordance with <b>clause 20</b> of the Contract.
<b>Existing Agreement</b>	The following contracts between the Department and the Service Provider: (a) the "Services Contract – Immigration Residential Housing & Immigration" dated 11 December 2009; and (b) the "Detention Services Contract – Immigration Detention Centres" dated 29 June 2009.
<b>Existing Detainee Record</b>	means any record of a Detainee created and maintained prior to or independently of this Contract.

<b>Existing Services</b>	The services referred to in Annexure A (Description of Existing Services) of Schedule 6 (Transition Requirements).
<b>Extreme Risk</b>	<p>For the purposes of Transport and Escort Services, the Risk Rating determined by the agreed Security Risk Assessment.</p> <p>For the purposes of the Performance Framework, the risk according to Diagram 1 of Schedule 4 (Performance Management Framework)</p>
<b>External Detainees</b>	A detainee external to a Facility (such as on Escort, or in Alternative Detention)
<b>Fabric Check</b>	a check of a Detainee's Accommodation by the FDSP for the purpose of identifying potential health and safety issues and items in the Accommodation which may require repair, in order to maintain a safe and secure environment.
<b>Facilities and Detainee Service Provider Committee</b>	As defined at clause 8.3 of Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>Facilities Management Plan</b>	the Facilities Management Plan developed and maintained by the FDSP setting out the FDSP's procedures for providing Facilities Management Services at each Facility, as described in Section 3 of Schedule 2 (Statement of Work) of this Contract
<b>Facilities Management Report</b>	As defined at clause 3.3 of Annexure A, Schedule 2 (Statement of Work)
<b>Facilities Management Services</b>	those Services set out in Section 3 of Schedule 2 (Statement of Work).
<b>Facility or Facilities</b>	comprise Immigration Detention Centres, Immigration Residential Housing Facilities, Immigration Transit Accommodation Facilities, and Alternative Places of Detention
<b>Facility Security Requirements</b>	As defined at clause 3.1 of Section 4 (Security Services) of Schedule 2 (Statement of Work)
<b>Facility Security Risk Assessment Facility</b>	the detailed risk assessment to be conducted by the FDSP on each Facility in accordance with <b>Section 4</b> (Security Services) of <b>Schedule 2</b> (Statement of Requirement) of this Contract.
<b>Facility Security Services Plan</b>	As defined at clause 1.3 of Section 4 (Security Services) of Schedule 2 (statement of Work).
<b>Facility Shop</b>	a shop managed and stocked by the FDSP in each Facility where Detainees can trade IAP points for personal care and other incidental items.

<b>FDSP Maintenance Personnel</b>	FDSP Personnel who are responsible for the delivery of Services relating to managing and maintaining Assets.
<b>FDSP Facility Manager</b>	The Personnel appointed by the Facilities and Detainee Service Provider to be the Manager of Facilities and Detainee Services at any Department Facility.
<b>FDSP Security Personnel</b>	FDSP Personnel who are responsible for the delivery of Services relating to the provision of Security Services.
<b>File Transfer Protocol</b>	A standard network protocol used to transfer computer files from one host to another host over a network, such as the Internet.
<b>Financial Indebtedness</b>	any actual or contingent present or future obligation of a person to pay any money in respect of any moneys borrowed or raised by that person.
<b>Financial Management</b>	Refers to the processes, procedures, governance and resourcing required to manage any expenditure associated with delivery of Services under this Contract.
<b>Financial Management Services</b>	those Services set out in Schedule 5 (Facilities and Detainee Services Fee and Other Payments)
<b>Financial Year</b>	a period of one year commencing on 1 July and ending on 30 June.
<b>Fit for Travel Certificate</b>	A document issued by the Detention Health Services Provider in respect of a Detainee.
<b>Fleet Management Protocols</b>	Official procedures or systems relating to the management and upkeep of vehicle fleets at each Transport Hub.
<b>Food Safety Plan</b>	the food safety plan developed and maintained by the FDSP setting out the FDSP's procedures for managing food safety standards in line with HACCP requirements at each Facility, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.

<b>Force Majeure Event</b>	act of war (whether declared or not), military conflict, invasion, act of terrorism, act of foreign enemies, hostilities (whether or not war has been declared), civil war, civil commotion or riots (except where caused within a Facility), rebellion, revolution, insurrection, military or usurped power or martial law or confiscation by order of any foreign government, or accidental fire, disaster, flood, catastrophic weather condition, earthquake, or act of God, rain in areas with reactive clay soils preventing passage, strike or other industrial action not specific to or attributable to any action of the FDSP, embargo, or a loss or limitation of essential services such as electricity, water supply which prevents performance of this Contract by the FDSP; or the exercise of a Step-in Right by the Department under <b>clause 54</b> of the Contract.
<b>Garrison Services</b>	those Services set out in <b>Section 2</b> (Garrison Services) of <b>Schedule 2</b> (Statement of Work).
<b>Garrison Services Plan</b>	the garrison services plan developed and maintained by the FDSP setting out the FDSP's procedures for providing Garrison Services at each Facility, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.
<b>Governance and Business Reporting</b>	As defined at clause 7.1 of Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>Government Agency</b>	a State or Commonwealth government or government department or agency, or a state or federal governmental, semi-governmental person (whether autonomous or not) charged with the administration of any applicable law or governmental executive function.
<b>Grounds Maintenance</b>	As defined at clause 6 of Section 3 (Facilities Management) of Schedule 2 (Statement of Work).
<b>GST Law</b>	the same as "GST Law" means in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Handover or Handover Date</b>	in relation to each Facility, the date specified in the Transition In Plan in <b>Schedule 6</b> (Transition Requirements) to the Contract, upon which the FDSP is to commence delivering the full range of Services to that Facility.
<b>Health Services or Detention Health Services</b>	those services that the Department has contracted the Detention Health Services Provider to provide or manage for the benefit of Detainees.
<b>High Needs Detainee</b>	As defined at clause 7.13(f) of Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work).



<b>High Risk</b>	<p>For the purposes of Transport and Escort Services, the Risk Rating determined by the agreed Security Risk Assessment.</p> <p>For the purposes of the Performance Framework, the risk according to Diagram 1 of Schedule 4 (Performance Management Framework)</p>
<b>Hot Contingency Facility</b>	<p>a Facility which contains no Detainees, but in relation to which the FDSP is required to provide Care Taker Services and may be required to "ramp-up" in accordance with <b>clause 33</b> of the Contract.</p>
<b>Household Allowance Scheme (HAS)</b>	<p>a Department-approved scheme managed by the FDSP at certain Facilities, under which Detainees are allocated points to purchase household items for self-catering and personal hygiene.</p>
<b>Human Resources Management</b>	<p>As defined at clause 4 of Section 7 (Business Services) of Schedule 2 (Statement of Work)</p>
<b>Human Resource Management Plan</b>	<p>the human resource management plan developed and maintained by the FDSP setting out the FDSP's procedures in relation to management and operation of its human resources capability, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.</p>
<b>Human Resource Management Services</b>	<p>those Services set out in <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work).</p>
<b>IAMA</b>	<p>Institute of Arbitrators and Mediators Australia</p>
<b>Illegal Item</b>	<p>any item that it is illegal for a person to hold under Australian Law.</p>
<b>Immigration Detention</b>	<p>has the same meaning as in the <i>Migration Act 1958</i>.</p>
<b>Immigration Detention Centres (IDC)</b>	<p>is a Detention Facility established as a detention centre under section 273 of the Migration Act.</p>
<b>Immigration Detention Facility Report</b>	<p>a report in relation to each Facility prepared and provided by the FDSP to the Department on a monthly basis, as described in <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.</p>
<b>Immigration Detention Network (or Network)</b>	<p>the network of all Facilities in mainland Australia (including Christmas Island) in which Detainees are held, as managed and operated by the FDSP under this Contract.</p>
<b>Immigration Detention Services Programme</b>	<p>the Australian Government's policy for the provision of immigration detention.</p>

<b>Immigration Residential Housing (IRH) Facility</b>	as at the Commencement Date, either or both of Sydney Immigration Residential Housing or Perth Immigration Residential Housing, as the context requires, or any other Facility as advised by the Department from time to time.
<b>Immigration Transit Accommodation (ITA) Facility</b>	as at the Commencement Date, either or both of Brisbane Immigration Transit Accommodation, Adelaide Immigration Transit Accommodation and Melbourne Immigration Transit Accommodation, as the context requires, or any other Facility as advised by the Department from time to time.
<b>In Trust Property</b>	all Property of Detainees that is stored by the FDSP on behalf of those Detainees.
<b>Incentive</b>	additional payments to the FDSP for superior performance in delivery of the Services.
<b>Incident</b>	<p>an activity which threatens, harms or impacts, or has the potential to threaten, harm or impact upon:</p> <ul style="list-style-type: none"><li>(iv) the welfare of Detainees;</li><li>(ii) the good order, safety or security of a Facility or place of Alternative Detention;</li><li>(iii) the success of Escort/Transfer/Removal activities; or</li><li>(iv) immigration processing,</li></ul> <p>and includes Critical Incidents, Major Incidents and Minor Incidents.</p>
<b>Incident Command Suite</b>	The Incident Command Suite established or to be established in Canberra in the event of a Critical Incident occurring which requires additional management to the Emergency Control Organisation at a Facility.
<b>Incident Management Log</b>	a log held at each Facility in which the FDSP records accurately and comprehensively the date, time and location for all Incidents, the name(s) of people involved and any witnesses, the actions taken and instructions given in respect of each Incident.
<b>Incident Management Protocols</b>	protocols to be developed for each Facility by the FDSP and the Department during Transition In dealing with the handling and resolution of Incidents.
<b>Incident Report</b>	a report submitted by the FDSP to the Department documenting the details of an Incident.
<b>Incumbent Service Provider</b>	Serco Australia Pty Ltd or International Health and Medical Services Pty Ltd, as the context requires. This may also refer to Incumbent Service Provider Personnel as the context requires.

<b>Individual Allowance Points (IAP)</b>	points which Detainees may earn or otherwise acquire (in line with Departmental policy) in order to trade for personal care and other incidental items from a Facility Shop.
<b>Individual Allowance Programme</b>	As defined at clause 5.6 of Section 6 (Welfare and Engagement) of Schedule 2 (Statement of Work).
<b>Individual Management and Placement Review Meeting</b>	a meeting at each Facility attended by the FDSP and the Department, at which (amongst other things) the FDSP and the Department will review, update and implement Individual Management Plans for each Detainees (and Behaviour Management Plans, if any) and discuss placement options in relation to any Detainees identified as being at risk.
<b>Individual Management Plan</b>	a plan developed by the FDSP (in consultation with the Department and DHSP who may be required to have input) for the management of a Detainee within a Detention Facility.
<b>Induction</b>	As defined at clause 6.10 of Section 6 (Welfare and Engagement) of Schedule 2 (Statement of Work).
<b>Induction Document</b>	a document prepared and maintained by the FDSP and provided to each Detainee during the Induction Process, which sets out information regarding how a Facility operates (including the Services provided) and explaining relevant policies, procedures and roles within the Facility.
<b>Industry Development Report</b>	As defined at clause 1.2 of Annexure A, Schedule 2 (Statement of Work).
<b>Induction Process</b>	the process of providing information to Detainees regarding how a Facility operates (including the Services provided) and explaining relevant policies, procedures and roles within the Facility.
<b>Information Technology Management</b>	Refers to the processes, procedures, governance and resourcing required to manage any Information and Communication Technology requirements associated with delivery of Services under this Contract.
<b>Information Technology (IT) Policies</b>	Refers to any policies related to the management of Information and Communication Technology requirements associated with delivery of Services under this Contract.
<b>Information Technology (IT) Disaster Recovery Plan</b>	A set of policies and procedures enabling the recovery and/or continuity of vital IT infrastructure and systems following a major incident or disaster.
<b>Infrastructure Deficiency</b>	As defined at clause 1.12(g) of Section 4 (Security Services) of Schedule 2 (Statement of Work).

<b>Initial Approved Subcontractors</b>	those subcontractors listed in <b>Schedule 7</b> (Key Personnel and Approved Subcontractors) of the Contract.
<b>Initial Notice</b>	the notice referred to in <b>clause 64</b> of the Contract.
<b>Initial Term</b>	the term referred to in <b>clause 2.1</b> of the Contract
<b>Input Tax Credit</b>	As defined in the <i>A New Tax System (Goods and Services) Act 1999</i> (Cth).
<b>Intellectual Property</b>	<p>all present and future rights conferred by law in or in relation to copyright, trademarks, designs, patents, circuit layouts, plant varieties, business and domain names, inventions and confidential information, and other results of intellectual activity in the industrial, commercial, scientific, literary or artistic fields whether or not registrable, registered or patentable.</p> <p>These rights include:</p> <ul style="list-style-type: none"><li>(a) all rights in all applications to register these rights;</li><li>(b) all renewals and extensions of these rights; and</li><li>(c) all rights in the nature of these rights, excluding Moral Rights.</li></ul>
<b>International Removal Escorts</b>	As defined at clause 1.2(a)(iv) of Section 5 (Transport and Escort Services) of Schedule 2 (Statement of Work).
<b>ISM</b>	the Australian Signals Directorate's Australian Government Information Security Manual.
<b>IT Disaster Recovery Plan</b>	A set of policies and procedures enabling the recovery and/o continuity of vital IT infrastructure and systems following a major incident or disaster.
<b>Joint Facility Audit Team</b>	a team of FDSP and Department Personnel who will perform the relevant functions set out in <b>Schedule 4</b> (Performance Management Framework).
<b>Joint Service Delivery Forum</b>	As defined at clause 8.3(a) of Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>Key Performance Indicators</b>	the key performance indicators set out in Schedule 4 (Performance Management Framework) of the Contract.
<b>Key Performance Measures</b>	the incentive indicator metrics to be developed in accordance with Schedule 4 (Performance Management Framework) of this Contract.
<b>Key Personnel</b>	the Service Provider Personnel listed in Schedule 7 (Key Personnel and Approved Subcontractors)
<b>Key Positions</b>	As specified in the Service Provider's Human Resource Management Plan

<b>Law</b>	<ul style="list-style-type: none"><li>(a) the requirements of all applicable Legislation and all regulations and requirements made under such Legislation;</li><li>(b) the legal requirements of any Commonwealth, State, Territory or Local government department, agency, body, authority or instrumentality, including statutory tribunals or commissions and similar governmental bodies;</li><li>(c) treaties, conventions, agreements, compacts and similar instruments that have been ratified or adopted by the Australian Government or by a relevant foreign government;</li><li>(d) court decisions, common law and equity; and</li><li>(e) guidelines, policies and codes of the Commonwealth, States and Territories,</li></ul> <p>with which the FDSP or the Department is legally required to comply.</p>
<b>Legislation</b>	includes all Commonwealth, State and Territory legislation, including regulations, legislative instruments, by-laws and other subordinate legislation.
<b>Local Escort Task</b>	an Escort Task undertaken within a 100km radius of a Transport Hub.
<b>Location Summary</b>	A report listing Detainees by Facility, location, nationality and gender and whether adult or minor, at a specified date and time.
<b>Loose Assets</b>	the assets described in the Loose Assets Register.
<b>Loose Assets Register</b>	the register of Loose Assets maintained by the FDSP as set out in the Facilities Management Plan.
<b>Loss</b>	liability, loss, damage, compensation and costs and expenses (including the costs of the investigation, defence and settlement of any relevant claim or demand) and any legal costs and expenses in relation thereto on a solicitor and own client basis
<b>Main Terms and Conditions</b>	clauses 1 – 73 of the Contract.
<b>Maintenance</b>	work that maintains the functionality to applicable performance specifications (or where there are no specifications, to reasonable, safe operating standards) of assets, and includes preventative maintenance, repairs, replacement of lost or damaged items, refurbishment and restoration work.
<b>Maintenance of Assets</b>	As defined at clause 3.1 of Section 3 (Facilities Management Services) of Schedule 2 (Statement of Work)
<b>Maintenance Management Plan</b>	The plan set out in <b>Section 3</b> (Facilities Management and Support Services) <b>Schedule 2</b> (Statement of Work) of the Contract.

<b>Maintenance Management System</b>	The computerised system implemented by the FDSP to manage all assets at all Facility
<b>Maintenance Schedule</b>	The schedule set out in the National Asset Management and Maintenance Plan.
<b>Management of Assets (or Asset Management)</b>	As defined at clause 2.1 of Section 3 (Facilities Management Services) of Schedule 2 (Statement of Work)
<b>Management of Emergencies</b>	As defined at clause 7 of Section 2 (Garrison Services) of Schedule 2 (Statement of Work)
<b>Management of Stores</b>	As defined at clause 4 of Section 2 (Garrison Services) of Schedule 2 (Statement of Work)
<b>Major Incident</b>	an Incident of the type more particularly described in the Incident Management Protocols.
<b>Major Subcontract</b>	A contract between the FDSP and a Major Subcontractor in connection with the provision of Services, valued at more than \$1 million within a Financial Year.
<b>Major Subcontractor</b>	A person who has entered into a Major Subcontract with the FDSP.
<b>Maritime Security Identification Card</b>	an identification card used to identify a person who has been the subject of a background check undertaken by AusCheck, a unit of the Attorney Generals Department.
<b>Material</b>	any material including documents, equipment, software, reports, goods, information, plans, charts, drawings, calculations, tables, and data stored by any means including all copies and extracts.
<b>Mediation Rules</b>	the edition of the Institute of Arbitrators and Mediators Australia Mediation and Conciliation Rules current as at the date of the agreement referred to in <b>clause 64</b> of the Contract.
<b>Memoranda of Understanding (MoU)</b>	agreements in place between the Department and state and territory governments in relation to the provision of services to Detainees.
<b>Menu Plan</b>	a plan based on Recipe Cards and the National Menu Plan detailing the meals to be provided by the Service Provider to Detainees over a 28 day period at each Facility.
<b>Migration Act</b>	the <i>Migration Act 1958</i> (Cth).
<b>Milestones</b>	the milestones specified in the Transition In Plan.

<b>Milestone Payment Schedule</b>	A schedule agreed between the Parties as part of the Transition In Plan setting out transition costs.
<b>Minister</b>	the Minister for Immigration and Border Protection.
<b>Minor</b>	means a person: <ul style="list-style-type: none"><li>(a) who is under the age of 18; or</li><li>(b) whom the Department treats as under the age of 18 in the absence of documentary evidence confirming that person's age.</li></ul>
<b>Minor Incident</b>	an Incident of the type more particularly described in the Incident Management Protocols.
<b>Minor Works Programme</b>	The Minor Works Programme covers upcoming modifications, alterations, additions or changes to a Facility (excluding repair or maintenance) for the upcoming year.
<b>Moral Rights</b>	the right of integrity of authorship (that is, not to have a work subjected to derogatory treatment), the right of attribution of authorship of a work, and the right not to have authorship of a work falsely attributed, as defined in the <i>Copyright Act 1968</i> (Cth).
<b>Movement</b>	the transport of Detainees from one place to another, including Transfer, Release, Relocation and Removal.
<b>NAATI</b>	the National Accreditation Authority for Translators and Interpreters
<b>National Asset Management and Maintenance Plan</b>	the national asset management and maintenance plan developed and maintained by the FDSP setting out the FDSP's procedures for providing asset management and maintenance at each Facility, as described in <b>Section 3</b> (Facilities Management) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract
<b>National HR/ IR Manager</b>	The person appointed by the Service Provider pursuant to clause 19.2(a)(ii), being a national position with prime responsibility for Human Resource or Industrial Relations related matters.
<b>National Menu Plan</b>	a plan based on Recipe Cards detailing the meals to be provided by the Service Provider to Detainees over a 28 day period.
<b>National Operations Director</b>	The person appointed by the Service Provider pursuant to clause 19.2(a)(ii), being a national position with prime responsibility for operational matters.

<b>Negative Vetting 1</b>	A level of security clearance level undertaken by the Australian Government Security Vetting Agency.
<b>National IT Manager</b>	As defined at clause 6.6(a)(ii) of Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>NHMRC</b>	the National Health and Medical Research Council of Australia.
<b>NHMRC Australian Dietary Guidelines</b>	guidelines produced by the NHMRC which provide evidence-based information on the types and amounts of foods, food groups and dietary patterns that aim to: <ul style="list-style-type: none"><li>(a) promote health and wellbeing</li><li>(b) reduce the risk of diet-related conditions</li><li>(c) reduce the risk of chronic disease.</li></ul>
<b>Non-routine Cleaning</b>	Cleaning which is not detailed as routine within the FDSP Cleaning Services Plan or detailed as routine in Section 2 (Garrison Services) of Schedule 2 (Statement of Work).
<b>Objectives</b>	the objectives set out in Part 4 of this Contract.
<b>Officer</b>	has the same meaning as in the Migration Act.
<b>Offshore Processing Centre (OPC)</b>	any residential facility located outside of Australia, including in Papua New Guinea and the Republic of Nauru, to accommodate people Transferred from Australia.
<b>Offshore Processing Country</b>	Has the same meaning as in the Migration Act 1958 (Cth).
<b>Operations Logs</b>	As defined at clause 3.3 of Section 4 (Security Services) of Schedule 2 (Statement of Work)
<b>Partnering Charter</b>	the charter set out in <b>Schedule 3</b> (Partnering Charter) of this Contract.
<b>Party/Parties</b>	a party to the Contract, including any transferees or permitted assignees.
<b>Pass Through Costs</b>	expenses for goods and services that the Department will pay for by way of reimbursement to the FDSP, plus a margin (if applicable) in accordance with <b>Schedule 5</b> (Detention Services Fee) of this Contract.
<b>Performance Guarantee</b>	the performance guarantee in Part B of <b>Schedule 8</b> (Performance Securities).
<b>Performance Management Framework</b>	has the meaning in <b>clause 29</b> of the Contract.



<b>Performance Reporting and Management</b>	All processes and procedures relating to any reporting requirements detailed within the Contract.
<b>Personal Information</b>	has the meaning in <b>clause 47</b> of the Contract.
<b>Personal Officer</b>	a member of the FDSP Personnel allocated by the FDSP to each Detainee who will act as a personal officer for that Detainee and (amongst other things) will meet with the Detainee in order to review, discuss and update the Detainee's Individual Management Plan.
<b>Personnel</b>	FDSP Personnel and/or Department Personnel (as appropriate).
<b>Placement Review</b>	a review of Accommodation assigned to a Detainee, to be conducted by the Individual Management and Placement Review Committee in accordance with the Client Placement Model.
<b>Plan</b>	means any one or more of the plans to be prepared by the FDSP under the Contract.
<b>Planned Maintenance</b>	maintenance that is completed in accordance with the maintenance schedule specified in the national asset management and maintenance plan.
<b>Policy and Procedures Manual</b>	is the manual of standard operating policies, procedures and processes developed by the FDSP.
<b>Privacy Act</b>	the <i>Privacy Act 1998</i> (Cth).
<b>Procedures Advice Manual (PAM)</b>	the Procedures Advice Manual provides guidance to officers administering migration legislation. The Procedures Advice Manual consists of a set of policy instructions. The Procedures Advice Manual includes policy instructions that were previously Migration Series Instructions. Individual Procedures Advice Manual instructions are reissued in response to changes to legislation or to reflect new or revised policies or changes in procedures, including those relating to Detention.
<b>Programs and Activities</b>	the English language, life skills, sporting, vocational and other programmes and activities conducted by the Service Provider for Detainees in accordance with <b>Section 6</b> (Welfare and Engagement Services) of <b>Schedule 2</b> (Statement of Requirement) to this Contract.
<b>Programs and Activities Operating Model</b>	the operating model is jointly developed and updated by the Department and the FDSP to provide guidance on the requirements for the development, delivery and management of Programs and Activities to Detainees for the purpose of supporting their health and well-being.

<b>Programs and Activities Schedule</b>	a schedule developed by the Programs and Activities Coordinator, of Programs and Activities to be made available for Detainees.
<b>Property List</b>	a register of all property being held in trust by the FSDP.
<b>Property of Detainees (or Detainees Property)</b>	refers to all property in the possession of a Detainee at the time of his or her arrival at a Facility and any property received by the person during his or her stay in Immigration Detention.
<b>Property Management</b>	the Service Provider's obligations under clause 8 of Section 6 (Welfare and Engagement) of Schedule 2 (Statement of Work).
<b>Psychological Support Programme (PSP) Training Report</b>	A monthly report detailing the Personnel that have up-to-date PSP training.
<b>Public Holiday</b>	as defined by each State or Territory (including Christmas Island) in which a Facility is located.
<b>Quality Management System</b>	the system to be developed and reviewed by the FSDP outlining the standards to be met and procedures to be followed in for the delivery of Business Services.
<b>Quarter</b>	each successive period of three months, the first of which commences on the Commencement Date if the Commencement Date is the first day of a month, and otherwise on the first day of the month following the Commencement Date.
<b>Ramp-down Costs</b>	The costs associated with deactivating a Facility, whereupon it will become a Contingency Facility or Hot Contingency Facility (including redundancy costs).
<b>Ramp-up Costs</b>	The costs associated with activating a Facility, whereupon it will become Operational.
<b>Reception, Induction, Transfer, Discharge and Accommodation Services</b>	The Services set out in clause 6 of Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work)
<b>Records</b>	any documents, writing or material (including tapes or other electronic matter) including Detainees Records, business records and any other records created, developed or designed for the purpose of providing the Services and may include biometric data and/or personal identifiers.
<b>Records Management</b>	As defined at clause 5 of Section 7 (Business Services) of Schedule 2 (Statement of Work).

<b>Reactive Maintenance</b>	Any maintenance that was not planned and set out in the national asset management and maintenance plan
<b>Reception Process</b>	the process of receiving and introducing a new Detainee at a Facility.
<b>Recipe Cards</b>	cards developed by the FDSP detailing ingredients and the method of cooking each lunch and dinner to be provided to Detainees.
<b>Regional Escort Task</b>	An Escort Task which occurs more than 100km from a Transport Hub (excluding tasks involving air travel).
<b>Registered Training Organisation</b>	A training provider registered by the Australian Skills Quality Authority.
<b>Release</b>	the Movement of a Detainee out of Immigration Detention.
<b>Released Person</b>	an ex-Detainee who is the subject of Release.
<b>Religion Liaison Officer</b>	the person appointed at each Facility by the FDSP to coordinate religious activities within a Facility.
<b>Removal</b>	action taken by the Department in accordance with section 198 of the Migration Act to ensure that Unlawful Non-Citizens leave Australia, any removal under section 199 of the Migration Act and any deportation pursuant to section 200 of the Migration Act.
<b>Removal Task</b>	an Escort Task related to a Removal related activity.
<b>Reports</b>	the reports specified in this Contract, including those in Section 7 (Business Services) of <b>Schedule 2</b> (Statement of Work).
<b>Request for Tender</b>	The Request for Tender Process 04/14 for the provision of Onshore Immigration Detention Services, issued on 3 April 2014.
<b>Residence Determination (Community Detention)</b>	a determination made by the Minister under section 197AB of the Migration Act, as a result of which a Detainee can reside at a specific address in the community
<b>Response Times</b>	the response times maintenance set out in the national asset management and maintenance plan.
<b>Risk Management</b>	The process of identifying, assessing and prioritising risks.

<b>Risk Management and Fraud Control Plan</b>	the risk management and fraud control plan developed and maintained by the FDSP setting out the FDSPs procedures for managing and mitigating risk, and preventing and detecting fraud, as described in Section 7 (Business Services) of Schedule 2 (Statement of Work) of this Contract.
<b>Routine Cleaning</b>	Any routine cleaning Services as stated in the FDSP cleaning services plan, or as detailed in Section 2 (Garrison Services) of Schedule 2 (Statement of Work).
<b>Second Dispute Notice</b>	the notice referred to in clause 64 of the Contract.
<b>Secretary</b>	the Secretary of the Department.
<b>Security Classified Information</b>	any information which has been classified for security purposes in accordance with the Protective Security Policy Framework.
<b>Security Control Centre</b>	As defined at clause 3.2 of Section 4 (Security Services) of Schedule 2 (Statement of Work).
<b>Security Incident</b>	any actual or suspected security breach, violation, contact or approach from those seeking unauthorised access to Security Classified Information.
<b>Security Intelligence</b>	has the meaning given to it in <b>Section 4</b> (Security Services) of <b>Schedule 2</b> (Statement of Work).
<b>Security Interest</b>	<ul style="list-style-type: none"><li>(a) any bill of sale, mortgage, charge, pledge, hypothecation, title retention arrangement, trust or power as or in effect as security for the payment of a monetary obligation or the observance of any other obligations;</li><li>(b) any lien, profit a prendre, easement, restrictive covenant, any equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, licence to use or occupy, assignment of income or monetary claim; or</li><li>(c) an agreement to create or give any arrangement referred to in paragraphs (a) or (b) of this definition.</li></ul>
<b>Security Review Committee</b>	As defined at clause 8.4(i) of Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>Security Services</b>	those Services set out in <b>Section 4</b> (Security Services) of <b>Schedule 2</b> (Statement of Work).
<b>Security Services Plan</b>	the security services plan developed and maintained by the FDSP setting out the FDSP's procedures for providing Security Services at each Facility, as described in <b>Section 4</b> (Security Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.

<b>Senior Managers</b>	in respect of the Department, means the Deputy Secretary and, in respect of the Service Provider, the Chief Executive Officer.
<b>Service Administrator</b>	the Service Administrator appointed by the FDSP in accordance with <b>clause 18</b> of the Contract, and any replacement of the Service Administrator from time to time.
<b>Service Authority</b>	the Service Authority appointed by the FDSP in accordance with <b>clause 18</b> of the Contract, and any replacement of the Service Authority from time to time.
<b>Service Lines</b>	each of the service lines described in <b>Schedule 2</b> (Statement of Work) of this Contract, being Garrison Services, Facilities Management, Security Services, Transport and Escort Services, Welfare and Engagement Services and Business Services..
<b>Service Provider (or Facility and Detainee Services Provider, FDSP)</b>	means Serco Australia Pty Ltd and, where the context permits, includes FDSP Personnel.
<b>Service Provider Asset</b>	any assets utilised by the Service Provider in order to provide Services, but excludes Department Assets and Loose Assets.
<b>Service Provider Material</b>	any Material or information owned by or licensed to the FDSP or its Subcontractors that was in existence at the Commencement Date, or which came into existence after the Commencement Date otherwise than in connection with this Contract, which is necessary for the performance of the Service Provider's obligations under this Contract.
<b>Service Provider Operations Director</b>	See National Operations Director.
<b>Service Provider Personnel or FDSP Personnel</b>	the officers, employees, agents, advisers (and where the context permits, any Subcontractor and their officers, employees and agents) of the FDSP, who are engaged in performing the Services or activities associated with the provision of the Services.
<b>Service Provider's Confidential Information</b>	the information listed as Service Provider's Confidential Information in Schedule 9 (Confidential Information) of the Contract, as amended from time-to-time, and includes any copies or notes of that information.
<b>Service Tasks</b>	the tasks and requirements contained in each Service Line.
<b>Services</b>	the services (or any part of them) to be provided by the FDSP under the Contract including the services described in <b>Schedule 2</b> (Statement of Work) of this Contract as changed from time to time in accordance with the Contract.

<b>SIRH</b>	Sydney Immigration Residential Housing Facility
<b>Stakeholder</b>	a person or organisation, including a government department or agency, that has an interest in, or may be affected by, the provision of Services.
<b>Statement of Work</b>	the description of the Services in <b>Schedule 2</b> (Statement of Work) to the Contract.
<b>Statutory Maintenance</b>	Maintenance required due to a statutory obligation
<b>Step-in Right</b>	a right exercisable by the Department under <b>clause 56</b> of the Contract.
<b>Subcontractor</b>	means a subcontractor to the FDSP under the Contract and includes Major Subcontractors.
<b>Successor</b>	the party who assumes responsibility for the provision of the services similar to any or all Services from the FDSP.
<b>Tax</b>	any present or future tax, levy, impost, deduction, charge, duty, compulsory loan or withholding (together with any related interest, penalty, fine or expense in connection with any of them) levied or imposed by any Government Agency, other than any imposed on net overall income.
<b>Term</b>	the period referred to in <b>clause 2</b> of the Contract and includes any extension of that period under the Contract.
<b>Termination Notice</b>	the notice set out in <b>clause 66</b> of the Contract.
<b>Transfer</b>	the Movement of a Detainee from a Detention Facility placement to an Offshore Processing Centre.
<b>Transfer Task</b>	the transfer of a Detainee within the Immigration Detention Network.
<b>Transition Director</b>	The person appointed by the Service Provider pursuant to clause 19.2(a)(iii), being a national position with prime responsibility for transition related matters.
<b>Transition In</b>	the phase whereby the FDSP will accept responsibility for the provision of the Services from the incumbent service provider in accordance with the Transition In Plan.
<b>Transition In Period</b>	the period set out in <b>Schedule 6</b> (Transition Requirements) of the Contract.
<b>Transition In Plan</b>	the plan in <b>Schedule 6</b> (Transition Requirements) to the Contract detailing how the FDSP proposes to transition delivery of the services from the Incumbent Service Provider to the FDSP.

<b>Transition In Period</b>	means the period set out in <b>Schedule 6</b> (Transition Requirements) of the Contract.
<b>Transition Out</b>	the process of preparing for the cessation of the delivery of any or all of the Services, including any handover to a Successor.
<b>Transition Out Plan</b>	the plan drafted by the FDSP within six (6) months of the Commencement Date, detailing how the FDSP proposes to disengage.
<b>Transition Steering Committee</b>	the committee established in accordance with <b>Schedule 6</b> (Transition Requirements) and <b>clause 5.3</b> of the Contract.
<b>Transport and Escort Services</b>	As defined at Section 5 (Transport and Escort Services) of Schedule 2 (Statement of Work)
<b>Transport and Escorts, Services Plan</b>	the transport and escort services plan developed and maintained by the FDSP setting out the FDSPs procedures for providing Services for transport and escort services as described in <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract .
<b>Transport Hub</b>	a location designated to manage coordinate and maintain vehicles and Escorts for delivery of Escort Services within a 100km radius of that location.
<b>Transport Request</b>	a request issued by the Department to the FDSP specifying the details of required transport of Detainees.
<b>Transport Vehicle</b>	a vehicle provided by the FDSP for the transport of Detainees.
<b>Unaccompanied Minor (UAM)</b>	means a non-citizen who: <ul style="list-style-type: none"><li>(a) is under 18 years old at the time of (lawful or unlawful) arrival in Australia;</li><li>(b) is not currently in the care of their Parents or an Adult Relative;</li><li>(c) is not entering Australia for the purpose of a full and permanent adoption;</li><li>(d) does not have a spouse over the age of 21 to whom they are married in accordance with the <i>Marriage Act 1961</i> (Cth); and</li><li>(e) intends or is intended to become a permanent resident of Australia.</li></ul>
<b>Unconditional Financial Undertaking</b>	the financial undertaking in Part A of <b>Schedule 8</b> (Performance Securities) .
<b>Unlawful Non-Citizen</b>	has the same meaning as in the Migration Act.

<b>Use of Restraints</b>	As defined at clause 3.9 of Section 4 (Security Services) of Schedule 2 (Statement of Work)
<b>Verification Report</b>	the report verifying the existence and condition of the Loose Assets produced in accordance with <b>clause 7</b> of the Contract.
<b>Vermin and Pest Control</b>	As defined at clause 5 of Section 3 (Facilities Management Services) of Schedule 2 (Statement of Work).
<b>Vermin and Pest Control Plan</b>	the vermin and pest control plan developed and maintained by the FDSP setting out the FDSP's procedures for preventing and eradicating vermin and pest infestation at each Facility, as described in <b>Section 2</b> (Garrison Services) and <b>Section 7</b> (Business Services) of <b>Schedule 2</b> (Statement of Work) of this Contract.
<b>Visit</b>	a visit to a Facility by a person seeking to meet with a Detainee.
<b>Visitor</b>	a person who Visits a Detainee.
<b>Visitor Application Form</b>	a form developed and maintained by the FDSP which the FDSP requires all Visitors to complete, sign and submit to the FDSP prior to a Visit to a Facility.
<b>Visitor Log</b>	a register detailing all Visits, to be maintained by the FDSP.
<b>Visitor Management</b>	As defined at clause 4 of Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work).
<b>Weekly Review Meeting</b>	As defined at clause 8.4(e) of Section 7 (Business Services) of Schedule 2 (Statement of Work)
<b>Welfare of Detainees</b>	As defined at clause 1.2 of Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work)
<b>Work Health and Safety (WHS)</b>	The practice of protecting the health and safety of all stakeholders in the workplace from exposure to hazards and risks resulting from work activities.
<b>Work Health and Safety Plan</b>	the WHS Plan required to be developed under Section 7 (Business Services) of Schedule 2 (Statement of Work).
<b>Work Health and Safety Report</b>	A monthly report detailing any Work Health and Safety issues that have occurred, or are expected to occur.
<b>Workplace Health and Safety Committee</b>	a committee established by the FDSP at each Facility to ensure compliance with Workplace Health and Safety Legislation.
<b>Welfare and Engagement Services</b>	those Services set out in <b>Section 6</b> (Welfare and Engagement Services) of <b>Schedule 2</b> (Statement of Work).



**Wilful Default**

a deliberate act or omission with the knowledge that the act or omission may have harmful consequences but does not include any innocent or negligent act or omission or any other act or omission done or omitted to be done in good faith.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

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**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 1**  
**OVERVIEW OF THE REQUIREMENT**

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## **1. OVERVIEW OF THE REQUIREMENT**

### **1.1 General Business Requirement**

- (a) The Service Provider must provide the Services:
  - (i) in accordance with, and so as to meet all the requirements specified in, this Contract including Schedule 2 (Statement of Work);
  - (ii) in accordance with applicable law, and any policies, procedures, values, standards or principles as specified by the Department to the Service Provider, and as may be more particularly described in this Contract;
  - (iii) in a manner which is adaptable to and readily accommodates changes in Department and/or Commonwealth policy, procedures, values, standards or principles to ensure that the Services are delivered in accordance with Department and/or Commonwealth;
  - (iv) in compliance with any reasonable direction given by the Department to the Service Provider in connection with the Services;
  - (v) on a national basis as specified in Schedule 2 (Statement of Work);
  - (vi) in a manner which is flexible and scalable and with an ability to adapt to changes in Service requirements;
  - (vii) to meet the individual needs of each Detainee in a manner that is consistent with this Contract, including Schedule 2 (Statement of Work), including those Detainees who have high or complex physical and/or mental health needs, and provide adequate numbers of Service Provider Personnel, who are trained and appropriately qualified in accordance with Annexure D of Section 7 (Business Services) of Schedule 2 (Statement of Work);
  - (viii) in a manner which is adaptable and readily accommodates changes in Detainee numbers (which may significantly increase or decrease during the Term); and
  - (ix) represents value for money for the Commonwealth.

### **1.2 General Service Requirement**

- (a) The Service Provider acknowledges and agrees that:
  - (i) its overarching obligation is to deliver the Services in a way that maintains the integrity of Immigration Detention and ensures the safety and security of the Facilities and Detainees;
  - (ii) Immigration Detention is intended to be and considered an administrative function whereby people who are not Australian citizens and do not hold a valid visa – that is, Unlawful Non-Citizens – are detained while their claims to remain in Australia are considered or their Removal is facilitated;
  - (iii) there are four (4) types of Facilities in Australia:
    - (A) Immigration Detention Centres (IDCs);
    - (B) Immigration Residential Housing (IRH);
    - (C) Immigration Transit Accommodation (ITA); and
    - (D) Alternative Places of Detention (APODs).

- (b) The Service Provider must deliver the Services to Detainees from diverse backgrounds with differing needs and circumstances, including (without limitation) Detainee cohorts which may include:
  - (i) Unaccompanied Minors;
  - (ii) family groups (including children of various ages);
  - (iii) single adult males; and
  - (iv) single adult females
- (c) The Service Provider acknowledges and agrees that it must:
  - (i) remain flexible to changing Detainee cohorts in the Immigration Detention Network and to specific Services needed for each cohort (including, but not limited to, those referred to above); and
  - (ii) ensure that the Services are adaptable and respond to changing demographic groups within the Immigration Detention Network.

### 1.3 Service Delivery Requirements

Subject to the specific scope and terms and conditions applicable to each Service as set out in the remainder of this Schedule 2 (Statement of Work):

- (a) the Service Provider agrees and acknowledges that the Services comprise of the following Service categories:
  - (i) Garrison Services;
  - (ii) Facilities Management Services;
  - (iii) Security Services;
  - (iv) Transport, Escort Services; and
  - (v) Welfare and Engagement Services;
- (b) unless otherwise stated or agreed in writing by the Contract Administrator, the Service Provider will deliver Services under this Contract taking into consideration the needs of each individual Detainee and the Detainee cohort as a whole and in accordance with the costs associated with the delivery of these Services outlined in Schedule 5 (Facilities and Detainee Services Fee and Other Payments);
- (c) unless otherwise stated or agreed in writing by the Contract Administrator, all costs associated with the delivery of Services specified in this Contract are reflected in, and will not exceed, the fees specified for that Service line at Schedule 5 (Facilities and Detainee Services Fee and Other Payments);
- (d) the Service Provider must provide the Services, subject to a range of controls and restrictions, and administer the provision of the Services in a manner that promotes the good order of Facilities and the safety and welfare of everyone living and working in, or visiting Facilities. The Service Provider is responsible for ensuring that adequate, clean and appropriate space is available for the delivery of Services to Detainees, including, but not limited to dining facilities, stores, education and activities, religious services and interview rooms. The Service Provider must implement best practice Work Health and Safety, environmental and waste management procedures to ensure the safety and security of Detainees, all Personnel and the Facility;



- (e) the Service Provider is responsible under this Contract for a range of maintenance and asset management tasks. This will include the management of all Assets at Facilities and the maintenance of Assets in a manner that ensures to the greatest extent possible that they achieve their design life and the incidence of Reactive Maintenance is minimised. The Service Provider must ensure that the Assets are always safe for use and comply with all applicable laws and Australian Standards and procure, manage, replace and dispose of Assets and Consumables consistent with this Contract. The Service Provider will ensure that the procurement and logistics of all Assets and Consumables will be completed in an organised and timely manner;
- (f) the Service Provider must deliver structured Security Services that are as unobtrusive as possible, while managing routine events that respond promptly and flexibly to any Incidents. Security Services are to provide a safe and secure environment for everyone living and working in or visiting a Facility, while ensuring that each individual's human rights, dignity and wellbeing is maintained;
- (g) the Service Provider must ensure that its approach and procedures to the delivery of Services will emphasise communication and interaction strategies that address potential or actual risks before they escalate and effect their de-escalation. The Department will provide security infrastructure, including perimeter fences, access control systems and electronic detection and deterrence systems; and the Service Provider must manage the security infrastructure;
- (h) the Service Provider must provide local Escort Services for the transportation of Detainees within Facilities. This will include Escort Services within a Facility, to an airport, medical appointment or part of a set programme, external activity or excursion. The Service Provider must provide Escort Services for domestic Transfers (movement of Detainees between Facilities within Australia), Transfer of Detainees to an Offshore Processing Centres (OPCs) or international Removals;
- (i) the Service Provider must ensure Detainees, their Property and Escort Personnel are transported in safe and clean vehicles and aircraft. vehicles and Personnel to execute each Detainee movement. A Transfer or Removal task includes the collection of a Detainee from a Facility, movement by Vehicle or aircraft and delivery at the receiving Facility or International Country; and
- (j) the Service Provider must provide a range of Welfare and Engagement Services, which will take into account and address the individual needs of Detainees (including Detainees with complex physical and/or mental health needs) and facilitate activities, while maintaining the security and safety of Facilities. The Service Provider must create and maintain records and individual Management Plans for Detainee to assist in the development of Services and activities which contribute to the wellbeing of each Detainee.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 2**  
**GARRISON SERVICES**

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## **1. INTRODUCTION TO GARRISON SERVICES**

### **1.1 General**

- (a) The Service Provider is required to provide Garrison Services to Detainees including:
  - (i) Catering Services;
  - (ii) Cleaning Services;
  - (iii) Management of Stores;
  - (iv) Environmental Management;
  - (v) Work Health and Safety; and
  - (vi) Management of Emergencies.

## **2. CATERING SERVICES**

### **2.1 General**

- (a) The Service Provider must provide Catering Services as outlined in Schedule 2 (Statement of Work) at each Facility to support the health and welfare of Detainees.
- (b) The Service Provider must provide Detainees with access to food and beverages that are sufficient in quantity, offer variety, are nutritious, are culturally appropriate, are dietary specific (where required), are tailored to meet any medical requirements and the preparation of which is compliant with all applicable food and health safety legislation.
- (c) The Service Provider must implement a Catering Services Plan and a Food Safety Plan which meets HACCP requirements as part of the Garrison Services Plan for each Facility, as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (d) Catering Services include:
  - (i) menu development;
  - (ii) the provision of self-catering options where directed by the Department to Detainees at Facilities identified as having self-catering areas;
  - (iii) the purchase and storage of food supplies, produce and other Consumables required for Catering Services (including food supplies and Consumables for self-catering areas);
  - (iv) meal preparation (including packed lunches where required);
  - (v) meal service;
  - (vi) the cleaning of catering areas and associated catering equipment and the repair and maintenance of catering equipment (including the catering facilities and catering equipment used in relation to the self-catering areas); and
  - (vii) the management of kitchen waste (including waste produced as a result of the use of the self-catering areas).

## 2.2 National Menu Plan

- (a) The Service Provider must provide lunch and dinner in a designated dining area at specific times.
- (b) The Service Provider must cater for alternative meal times for specific religious events such as Ramadan, in addition to the above requirement.
- (c) The Service Provider must provide food and beverages in quantities that meet the quantities identified in the current dietary guidelines for Australian adults and children published by the NHMRC in the NHMRC Australian Dietary Guidelines.
- (d) All meals provided by the Service Provider must be nutritionally balanced in accordance with NHMRC Australian Dietary Guidelines.
- (e) The Service Provider must develop a National Menu Plan database which can be implemented and utilised across the Network for all Facilities. The National Menu Plan must comprise of an extensive set of Recipe Cards that detail the recipe, ingredients, nutritional value and method of cooking of the meals provided to Detainees, for lunch and dinner.
- (f) The Service Provider must develop a Menu Plan for each Facility in a format understood by Detainees from the National Menu Plan database incorporating the approved Recipe Cards.
- (g) The Service Provider must develop a Menu Plan for each Menu Plan cycle. A Menu Plan cycle is to last for a 28 day period.
- (h) The Service Provider must ensure the each Menu Plan is developed to meet the following requirements:
  - (i) include a choice of at least two (2) meat-based dishes, one (1) vegetarian dish and a salad bar for lunch and dinner;
  - (ii) include at least one (1) dessert and fruit at lunch and dinner;
  - (iii) includes a mix of both hot and cold meals at lunch and dinner, taking the climatic and environmental conditions into account;
  - (iv) no more than 20% of meals included in the Menu Plan for each Facility may be repeated during any given 28 day period, taking the climatic and environmental conditions into account;
  - (v) the Menu Plan for any given 28 period will repeat no more than 50% of the Menu Plan for the immediately preceding 28 day period, taking the climatic and environmental conditions into account;
  - (vi) is tailored to the Detainee cohort at each Facility, taking into account factors such as (without limitation) the nationality, cultural, ethnicity and religious needs or other spiritual beliefs of each cohort;
  - (vii) is displayed in the designated dining room;
  - (viii) is provided in a manner that is understood by Detainees and is accompanied by clear pictograms to indicate the contents of each dish, including (without limitation) which meals are vegetarian, Halal, beef, fish, chicken, lamb and the healthy option; and
  - (ix) is approved by the Department no less than seven (7) days prior to the commencement of the next Menu Plan cycle.

- (i) Recipe Cards must be approved by the Dietician (as defined at clause 2.6(b)) and take into consideration feedback from Detainees through ongoing network wide consultation processes.

### **2.3 Self-Service Breakfast and Snacks**

- (a) The Service Provider will provide self-service breakfast arrangements at designated times, and snacks at all times (24 hours per day, seven (7) days per week) in a designated self-catering area that includes, but is not limited to:
  - (i) drinking water;
  - (ii) tea and coffee;
  - (iii) fresh milk (including soy milk);
  - (iv) a variety of breads;
  - (v) a variety of jams and spreads;
  - (vi) fresh fruit;
  - (vii) sugar (and artificial sweeteners);
  - (viii) cereal;
  - (ix) cooked rice (breakfast only);
  - (x) single serve dried noodles; and
  - (xi) cooked noodles (breakfast only).
- (b) The Service Provider must provide self-service breakfast and snack items which:
  - (i) address the cultural and dietary requirements of a Facility's Detainee cohort; and
  - (ii) are in accordance with the approved Recipe Cards and Menu Plans.

### **2.4 Catering Practices**

- (a) The Service Provider must:
  - (i) obtain by the Commencement Date of this Contract and maintain for the Term of this Contract a registered and certified Food Safety Plan under the relevant State health department at each Facility based on Hazard Analysis and Critical Control Point (HACCP) requirements in the certified State Health Department format;
  - (ii) ensure that the registered Food Safety Plan is in accordance with all applicable Laws, and the Australian New Zealand Food Standards Code;
  - (iii) during Transition In, and in accordance with Section 7 –(Business Services) of Schedule 2 (Statement of Work), provide the Department with evidence of its HACCP certification and of a registered Food Safety Plan as part of the Garrison Services Plan; and
  - (iv) dispose of food, beverages and waste in accordance with all applicable Laws, and in accordance with the Australian New Zealand Food Standards Code.

- (b) The Service Provider must provide and maintain all equipment necessary to deliver the catering services for each Facility (including all consumables such as crockery and cutlery and all equipment necessary for self-catering at IRH Facilities).
- (c) The Service Provider must organise inspections of all catering facilities (including self-catering areas) to ensure compliance with the Catering Services Plan are maintained within the timeframes stipulated in such standards. If there are no timeframes specified in the standards, the Service Provider must inspect the catering facilities and self-catering areas no less than once a week.
- (d) The Service Provider must document and prominently display instructions for cleaning requirements and the maintenance of hygiene and safety in all dining areas, food preparation areas and designated self-catering areas in accordance with the Food Safety Plan and any Department instructions.
- (e) The Service Provider must produce and display at all Facilities standardised signage at all food service areas to indicate which type of meat is used in a dish, which foods are Halal, vegetarian and the healthy options, inclusive of any other indicator deemed necessary by the Department based on the nationality, religious and cultural demographics of the Detainee cohort in each Facility.
- (f) The Service Provider must, at all times, keep all food transportation, storage (including hot boxes and eskies), preparation, cooking, service, dining and waste storage areas (including designated self-catering and barbecue areas) and all equipment relating to and used for the above (including interior and exterior equipment) clean, hygienic and appropriately maintained in accordance with:
  - (i) certified Food Safety Plan, as agreed by the Department;
  - (ii) the Australian New Zealand Food Standards Code; and
  - (iii) any applicable manufacturer's or supplier's specifications for cleaning and catering equipment.
- (g) The above requirements apply to the transportation of all food and beverages at all times, including any movement of food and beverages between different areas within a Facility or between Facilities where necessary.

## 2.5 Dietary and Cultural Needs

- (a) Food provided to Detainees with specific cultural and dietary requirements including, allergenic and medical requirements is required to meet and maintain those requirements in all aspects of its storage, preparation and serving. The Service Provider should make available a variety of food for Detainees with cultural and dietary requirements including vegetarian, vegan and non-vegetarian options. Individual preferences, including preferences for organic produce or for specific brands, are not required to be met by the Service Provider.
- (b) Where the Department or the Detention Health Service Provider has advised the Service Provider that a Detainee is to be provided with meals which are tailored to meet specific medical and/or dietary requirements, the Service Provider must provide the relevant Detainee with such meals.
- (c) The Service Provider must prepare food for Detainees of Islamic faith which meets the requirements of Halal meals by:
  - (i) sourcing produce certified as Halal by a recognised Halal food certification organisation; and
  - (ii) preventing any cross-contamination between Halal food and preparation areas and non-Halal food and preparation areas.

## 2.6 Catering Personnel Requirements

- (a) The Service Provider must designate an individual (from the Service Provider Personnel) at each Facility to be the Catering Manager for that Facility who will be responsible for:
  - (i) monitoring and controlling the quality and quantity of food and beverages provided to Detainees;
  - (ii) rostering, and supervising Catering Services Personnel responsible for Catering Services;
  - (iii) ensuring that all Catering Services Personnel are appropriately and adequately trained and, if necessary, relevantly certified and to ensure that they are able to maintain their positions for the duration of their employment to a Facility;
  - (iv) ensuring that Catering Services Personnel hired as chefs have the requisite specialist training in culturally specific cuisine, or are provided with such specialist training within one (1) month of employment;
  - (v) ensuring that the Catering Services Personnel provide Detainees who wish to self-cater with the appropriate instruction and guidance on food safety standards, stock control, waste disposal, food nutrition and health, and equipment use and maintenance;
  - (vi) ensuring only Catering Services Personnel deliver the Catering Services;
  - (vii) attending all Consultative Committee meetings where Catering Services related issues are considered; and
  - (viii) liaising with the Dietician regarding the provision of the Catering Services where they relate to the dietary requirements of Detainees and implement any recommendations made by the Dietician.
- (b) The Service Provider will engage the services of an appropriately experienced Australian registered and practicing clinical Dietician to:
  - (i) assist in the development of a National Menu Plan and Recipe Cards that will be tailored to each Facility;
  - (ii) liaise with the Detention Health Services Provider at a national level to ensure that a variety of dietary needs are catered for;
  - (iii) advise on nutritional and dietary requirements that accommodate the cultural and religious needs of Detainees;
  - (iv) at the request of the Department, attend (by telephone or in person) Consultative Committee meetings, where dietary issues are being considered; and
  - (v) liaise with Service Provider Personnel at Facilities who require advice or assistance in relation to Catering Services.
- (c) The Service Provider will manage environmental issues associated with provision of Catering Services including the management and disposal of kitchen waste, as detailed in the Service Provider's approved Environmental and Waste Management Plan.

## 2.7 Self-Catering

- (a) The Service Provider must provide and manage designated self-catering areas in those Facilities set out in Annexure B of Schedule 5 (Detention Services Fee), by ensuring that:
  - (i) provision is in place to allow Detainees to self-cater either for:
    - (A) themselves individually;
    - (B) small family (or other) groups; or
    - (C) as part of a wider programme whereby Detainees self-cater on a roster basis for larger groups within the Facility;
  - (ii) self-catering areas and equipment are:
    - (A) kept clean and hygienic at all times;
    - (B) stocked with relevant kitchen equipment and utensils;
    - (C) correctly and safely stored and maintained to remain fit-for-use;
  - (iii) food and beverages are correctly and safely stored to remain fit for consumption;
  - (iv) it actively encourages Detainees to clean up after themselves in line with agreed food preparation, hygiene and cleaning standards; noting that it is the Service Provider's primary responsibility to clean self-catering areas at regular intervals, as detailed in the Cleaning Services Plan for non-IRH Facilities;
  - (v) signage is prominently displayed which provides instructions regarding maintenance of hygiene and safety self-catering areas in accordance with the Food Safety Plan and any Department instructions; and
  - (vi) Detainees receive training from the Catering Services Personnel on an as needs basis regarding food safety standards, stock control, waste disposal, food nutrition and health, and safe equipment use and maintenance.
- (b) All cooking apparatus required for self-catering at non-IRH Facilities is assumed to be provided by the Department at commencement and replaced as a Consumable.
- (c) Where a Facility has barbecue facilities, the Service Provider will manage, maintain and clean all barbecues and barbeque equipment including maintaining dietary and cultural requirements, such as vegetarian and Halal barbeque plates.
- (d) The Service Provider will make available the services of the Dietician to provide advice and assistance to Detainees who self-cater, when requested, to assist in the development of specialist menus to meet dietary and cultural requirements and to provide Recipe Cards.
- (e) Taking into consideration the security and safety of a Facility and maintaining the integrity of Immigration Detention, the Service Provider must assist Detainees to purchase supplies for self-catering as part of Programmes and Activities (for circumstances where Household Allowance Scheme does not apply).



### 3. CLEANING SERVICES

#### 3.1 General

- (a) The Service Provider is responsible for all Cleaning Services of the Facilities on a regular basis and must ensure the safety, hygiene and welfare of Detainees, and all other people at the Facility.
- (b) The Service Provider must provide all routine and non-routine Cleaning Services for Facilities and Assets (including the use of suitable cleaning practices and materials) to maximise the useful life of Facilities and Assets and minimise incidences of breakdowns and Reactive Maintenance.
- (c) The Service Provider must conduct and maintain all Cleaning Services in accordance with this Contract and to the standards agreed between the Department and the Service Provider in the Cleaning Services Plan.
- (d) The Service Provider must provide the Department with a Cleaning Services Plan, during the Transition-In period and in accordance with Section 7 – (Business Services) of Schedule 2 (Statement of Work).
- (e) The Facilities are subject to regular and clearly documented Routine Cleaning Services to ensure the safety, hygiene and welfare of Detainees and those working and visiting the Facilities. All cleaning activity must be carried out in a manner that minimises disturbance to Detainees, staff and visitors.
- (f) The Service Provider must ensure that all cleaning equipment and cleaning chemicals are safe, suitable for purpose, environmentally friendly, controlled at all times and stored securely when not in use.
- (g) Routine and Non-Routine Cleaning Services:
  - (i) The Service Provider must undertake Routine and Non-Routine Cleaning Services at each Facility. The Cleaning Services must meet all of the requirements as detailed in the Cleaning Services Plan and conform to relevant Australian Standards for workplace hazard substances and the storage and handling of workplace dangerous goods.
  - (ii) For the purposes of the delivery of Garrison Services, Cleaning Services, in accordance with the agreed Cleaning Services Plan, includes the cleaning of all Infrastructure (external and internal), including furniture and fittings and Loose Assets that forms part of a Facility including:
    - (A) office spaces for the Department and Service Provider Personnel (including demountable office space);
    - (B) all functional areas including ablution and toilet facilities, as well as all indoor and outdoor recreational and visits areas;
    - (C) health and medical facilities (excluding the removal and disposal medical waste);
    - (D) all common areas, industrial kitchens, self-service breakfast and snack areas, barbeques Detainee self-catering kitchens and areas (for non-IRH Facilities), dining areas, workshops and plant and equipment rooms;
    - (E) all windows, external and internal;
    - (F) Loose Assets, including the inside and outside of furniture and fittings such as ovens, fridges and microwaves; and
    - (G) the accommodation of Detainees, including any ensuites.

- (h) The Service Provider must ensure that Service Provider Personnel are available at all times to respond to Non-Routine Cleaning Services requirements as specified in the Cleaning Services Plan, which may be required after:
  - (i) accidents;
  - (ii) equipment malfunction; and
  - (iii) Incidents.
- (i) To the extent that any Non-Routine Cleaning Services require the intervention of the emergency services, the Service Provider will comply with its obligations in regards to its incident management policy and procedures as set out in Section 4 (Security Services) of Schedule 2 (Statement of Work).
- (j) The Service Provider must ensure that where a non-routine Cleaning Services requirement cannot be actioned by the Service Provider Cleaning Services Personnel at the Facility, the Contingency Plans as described in Section 7 of Schedule 2 (Statement of Work) are enacted to reduce the potential impact of the event on Detainees. The Service Provider must ensure that other Service Provider Personnel will undertake any non-routine Cleaning Services as required, in the event that Cleaning Services Personnel are unavailable.
- (k) The Service Provider must provide cleaning comment books in appropriate locations throughout each Facility, which includes:
  - (i) the cleaning schedule for each building;
  - (ii) a section for 'last cleaned' entry by cleaning Service Provider Personnel; and
  - (iii) details to allow for a quick assessment of cleaning effectiveness and conformance to the cleaning schedule.
- (l) The Service Provider must maintain its obligations in relation to all Cleaning Services at all times, including (without limitation) during periods of high Detainee capacity at each Facility. In so doing, the Service Provider will abide by the Cleaning Services standards as specified in the Cleaning Services Plan.
- (m) The Department may undertake inspections to monitor the cleanliness of any area within a Facility to assess whether the Cleaning Services have been maintained to the standard agreed to in the Cleaning Services Plan. To ensure that the requirements of the Cleaning Services are maintained, the Department and the Service Provider are required to meet regularly through Facility level governance arrangements to discuss, document and implement mutually agreed actions to ensure the Cleaning Services are maintained.

### 3.2 Cleaning Services Plan

- (a) The Service Provider must, during the Transition-In Period, submit for approval by the Department a Cleaning Services Plan at each Facility, as part of the Garrison Service Plan as described in Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (b) Following approval of the Cleaning Services Plan by the Department, the Service Provider must implement and maintain the requirements of the Cleaning Services Plan at each Facility.
- (c) The Cleaning Services Plan must include:
  - (i) details of the cleaning standards to be maintained by the Service Provider;
  - (ii) details of the services to be provided for routine Cleaning Services tasks, the frequency and schedules for Cleaning Services and be inclusive of office spaces for the Department and

Service Provider Personnel, all functional areas, all indoor recreational and visit areas, all common areas, industrial workshops and plant and equipment rooms and all accommodation, and ablution and toilet facilities and all areas detailed in clause 3.1(g) of Section 2 (Garrison Services) of Schedule 2 (Statement of Work);

- (iii) response timeframes to Non-Routine Cleaning Services requests and planned methods and resources required to meet these time frames;
- (iv) details of how Cleaning Services equipment and chemicals will be securely stored and managed, including the maintenance of a register of cleaning chemicals at the Facility; and
- (v) competencies for Service Provider Personnel responsible for providing the Cleaning Services.

### **3.3 Cleaning Accommodation**

- (a) The Service Provider must clean Accommodation in the following circumstances:
  - (i) before a Detainee occupies a room;
  - (ii) after a Detainee vacates a room; and
  - (iii) no less than once every three (3) weeks or more frequently if required to maintain the cleaning standards detailed in the Cleaning Services Plan.

### **3.4 Cleaning Provisions**

- (a) The Service Provider must ensure, where appropriate, that Detainees are provided with controlled access to, and use of, cleaning equipment and cleaning chemicals to allow Detainees to clean their own accommodation. The Service Provider must ensure that Detainees held in non-IRH Facilities do not retain any cleaning equipment and cleaning chemicals after use.
- (b) The Service Provider must implement a system for documenting the provision, control and return of cleaning equipment and cleaning chemicals to Detainees.
- (c) The Service Provider must ensure that Detainees or any other person are not exposed to hazards caused by the Cleaning Services, including by:
  - (i) coordinating the cleaning schedules for the Facility with the daily routine of Detainees;
  - (ii) placing warning signs where an element of the Cleaning Services may create a hazard; and
  - (iii) preventing Detainees from accessing areas while they are being cleaned or treated.

#### **4. MANAGEMENT OF STORES**

##### **4.1 General**

- (a) The Service Provider must procure and manage the supply of all stores required for the delivery of the Services at each Facility and ensure there are sufficient stores available at each Facility to meet the ongoing needs of Detainees.
- (b) The Service Provider must:
  - (i) implement a stock control system at each Facility to record and manage all stock;
  - (ii) ensure that best practice stock holding, control and management logistics are implemented and take into account the infrastructure (including storage) at each Facility; and
  - (iii) implement a logistics plan, if requested by the Department, that sets out in more detail the logistics arrangements that will apply at a Facility.
- (c) The Department will provide manual handling equipment, forklifts, pallet jacks, pallet racking and shelving, container ramps and adequate storage facilities.
- (d) The Service Provider will adopt a best practice approach to inventory management to maximise storage space.

#### **5. ENVIRONMENTAL MANAGEMENT**

##### **5.1 General**

- (a) The Service Provider must develop environmental management principles and practices, specific to each Facility to ensure the management of energy consumption, the use of resources (e.g. utilities, water and sewerage) and waste disposal.

##### **5.2 Environmental and Waste Management Plan**

- (a) The Service Provider must implement an Environmental and Waste Management Plan as part of the Garrison Services Plan for each Facility, as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work) that includes:
  - (i) the development and implementation of processes that actively support and target the reduction of energy consumption, the use of resources and waste;
  - (ii) measures to demonstrate the efficiency of the developed processes;
  - (iii) objectives for environmental management;
  - (iv) a risk assessment of the environmental impacts of the individual Facility operations and procedures to actively manage identified risks;
  - (v) measures to manage and reduce energy consumption, the use of resources and waste disposal;
  - (vi) waste management objectives and practices;
  - (vii) procedures and documentation for the implementation, development, review and continuous improvement of an Environmental and Waste Management Plan;
  - (viii) a self-assessment program;

- (ix) a process for independent annual auditing of the Environmental and Waste Management Plan; and
- (x) is based upon ASNZS ISO 14001 (Environmental Management Systems).

### 5.3 Energy and Water Use

- (a) The Service Provider must implement all reasonable and cost-effective measures to minimise energy and water use in the Facility, including:
  - (i) identifying and correcting any wasteful operation or practices;
  - (ii) conducting routine Maintenance of systems to achieve peak operational efficiency;
  - (iii) promoting the responsible use of energy, natural resources and water to Detainees, Service Provider Personnel and any Subcontractors;
  - (iv) complying with water restrictions or other water saving measures at the Facilities as notified by the Department and in accordance with all applicable Laws; and
  - (v) when requested by the Department, supplying data to assist the Department to report on energy use as part of the whole of government reporting and Commonwealth requirements on environmental data gathering and reporting.

### 5.4 Waste Management

- (a) The Service Provider must, in accordance with, all applicable Laws, manage and dispose of:
  - (i) domestic waste, including kitchen waste;
  - (ii) general liquid and solid waste;
  - (iii) non-serviceable or unused fixtures, fittings and equipment (such as white goods, mattresses, and fluorescent light tubes);
  - (iv) hazardous materials and hazardous waste;
  - (v) garden waste;
  - (vi) industrial waste (e.g. timber, pallets, crates);
  - (vii) commercial waste (e.g. tyres, batteries);
  - (viii) organic waste;
  - (ix) paper and cardboard waste; and
  - (x) grease trap waste.
- (b) When undertaking such disposals, the Service Provider must seek to maximise recycling and, where applicable, the composting of, waste.
- (c) The Service Provider must provide and manage waste infrastructure and consumables.

**6. WORK HEALTH AND SAFETY**

- (a) The Service Provider will implement a Work Health and Safety Plan based on all relevant work health and safety law and applicable principles as part of the Garrison Services Plan for each Facility, as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (b) The Service Provider must maintain an environment that supports the health and safety needs for all Detainees, Visitors, Subcontractors, Service Provider Personnel, DHSP Personnel and Department Personnel at each Facility.
- (c) The Service Provider must establish a Work Health and Safety Committee at each Facility to oversee compliance with all applicable Work Health and Safety requirements and ensure the Work Health and Safety Committee meets all requirements as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (d) The Service Provider will ensure all Detainees, Visitors, Subcontractors, Service Provider Personnel, DHSP Personnel and Department Personnel within a Facility are informed of, and observe, all Work Health and Safety rules for that Facility.
- (e) The Service Provider will provide all Personnel (including but not limited to Service Provider Personnel, DHSP Personnel, Department Personnel, other service providers and Subcontractors) with an induction at each Facility, which includes Work Health and Safety rules and emergency procedures, as agreed with the Department.

**7. MANAGEMENT OF EMERGENCIES**

- (a) The Service Provider must ensure that each Facility is a safe and secure environment for people to live and work in, and comply with all applicable Laws and Australian Standards for the control and management of emergencies.
- (b) The Service Provider will manage all emergencies in accordance with the National Incident Management Protocol, and relevant Contingency Plans.

**7.1 Emergency Planning Committee**

- (a) The Service Provider will from the Commencement Date, in conjunction with the Department and other service providers, establish and lead an Emergency Planning Committee at each Facility which will be responsible for:
  - (i) implementing emergency procedures for each type of emergency as prescribed in the Incident Management Protocol and Contingency Plans;
  - (ii) ensuring sufficient Service Provider Personnel are available to manage an emergency;
  - (iii) ensuring that all Service Provider Personnel within their area of responsibility are trained for their role in an emergency;
  - (iv) ensuring that all other service providers and the Department are consulted on the development of the Incident Management Protocol and Contingency Plans;
  - (v) reporting any matters likely to affect the viability of the Emergency Management Plan and procedures;
  - (vi) checking on the effectiveness of emergency systems and equipment; and
  - (vii) controlling emergency situations until the appropriate emergency service arrives to take control, at which time, the Emergency Planning Committee will work in conjunction with that service.

- (b) The Emergency Planning Committee will meet quarterly and within seven (7) days after any emergency.

## **7.2 Emergency Exercises**

- (a) The Service Provider must conduct all emergency exercises required by all applicable Laws and as directed by the Department at each Facility, and maintain written records of all emergency exercises conducted.
- (b) The Service Provider must involve all persons at a Facility, including Detainees, Service Provider staff and Personnel, Departmental Personnel and Visitors in emergency exercises.
- (c) The Service Provider will lead and coordinate Emergency exercises with all service providers and the Department at all Facilities.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 3**  
**FACILITIES MANAGEMENT SERVICES**

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## 1. OVERVIEW

- (a) Facilities Management Services includes:
  - (i) Management of Assets;
  - (ii) Maintenance of Assets;
  - (iii) Vermin and Pest Control;
  - (iv) Commissioning and Decommissioning; and
  - (v) Grounds Maintenance.
- (b) The Service Provider must develop a Facilities Management Plan during the Transition-In Period for approval by the Department, as detailed in Section 7 (– Business Services) of Schedule 2 (Statement of Work). The Facilities Management Plan must include:
  - (i) the national strategy for Facilities Management Services;
  - (ii) details of subcontractor arrangements; and
  - (iii) National Asset Management and Maintenance Plan, including a Maintenance Schedule for each Facility.
- (c) Schedule 2, Section 3 Facilities Management, is effective on the Commencement Date until 30 June 2015. The Service Provider must develop a comprehensive Facilities management Services proposal in accordance with Schedule 6 (Transition Requirements) for Department acceptance by 31 March 2015.

## 2. MANAGEMENT OF ASSETS

### 2.1 Overview

- (a) The Department is providing the Service Provider with a network of Facilities that includes the Departmental Assets listed on the Departmental Asset Register. The Departmental Assets Register will be provided by the Department in accordance with clause 2.5(a) below.
- (b) The Service Provider must provide operational, financial and strategic management of Departmental Assets at all Facilities and ensure that they are handed back at the completion of the Contract in substantially the same condition, subject to fair wear and tear.
- (c) Asset Management includes administration, control, monitoring and planning including procurement and distribution solutions within each Facility (or co-located Facilities) to ensure that an effective, efficient and optimal asset base is established and maintained.
- (d) The Service Provider must employ principles, practices and strategies which ensure value for money, efficiency and longevity in relation to the operation of Departmental Assets.
- (e) When considering the management of Assets, the Service Provider must have regard to Work Health and Safety Legislation, business continuity, Australian standards relevant to the particular Asset being managed, environmental management, quality management systems, records management and the welfare of Detainees and all persons at a Facility.

## **2.2 Approach**

- (a) The Service Provider must cover all costs in relation to the management of Departmental Assets and Consumables as a fixed cost with the exception of Major Repairs which will be managed as a Pass Through Cost.

## **2.3 Asset Management Principles**

- (a) The Service Provider must:
  - (i) manage and operate Departmental Assets at all Facilities in a manner that balances risk with achieving value for money for the Commonwealth of the life of the Assets;
  - (ii) manage the maintenance, disposal and replacement of Departmental Assets in accordance with the Asset Management and Maintenance Plan, or as directed by the Department, to maximise the useful life of Departmental Assets and ensure they are always safe to use; and
  - (iii) provide a monthly report detailing all new, replacement and written off Departmental Assets to the Department, in an agreed format.
- (b) The Service Provider must not undertake any Major Repair, refurbishment or replacement of a Departmental Asset without the prior written approval of the Department.
- (c) The Service Provider must demonstrate value for money in the delivery of any approved Major Repair, refurbishment or replacement of a Departmental Asset.

## **2.4 National Asset Management and Maintenance Plan**

- (a) The Service Provider must develop a National Asset Management and Maintenance Plan during the Transition-In Period, as part of the Facilities Management Plan for approval by the Department as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work). This plan must provide:
  - (i) a national model for Asset management and maintenance that balances risk with achieving cost effective outcomes for the Commonwealth;
  - (ii) a consolidated plan for the management and maintenance of Assets at all Facilities;
  - (iii) a maintenance schedule for each Facility detailing the Statutory and Planned Maintenance for all Departmental Assets at that Facility; and
  - (iv) agreed service standards and response timeframes for Reactive Maintenance.
- (b) The FDSP must submit on each annual anniversary of the Commencement Date, an updated Facilities Management Plan, which includes the National Asset Management and Maintenance Plan and its associated schedules for Department approval.

## **2.5 Departmental Asset Register**

- (a) The Department will provide to the Service Provider a Departmental Asset Register for each Facility during the Transition-In Period. The Department may also provide a schedule of assets owned by third parties. For the purposes of this Schedule 2 (Statement of Work), these assets are to be treated as Departmental Assets unless otherwise directed by the Department.
- (b) The Service Provider must manage and update the Departmental Asset Register, as agreed between the Service Provider and the Department.

- (c) The Service Provider must establish a Computerised Maintenance Management System that will record, maintain and update the Departmental Asset Register and Loose Asset Register.
- (d) The Service Provider must maintain the currency of the Departmental Asset Register by updating the register within five (5) Business Days, of any change, addition or deletion of an Asset by recording identification details of existing, new, replacement, upgraded and relocated Departmental Assets, including:
  - (i) category;
  - (ii) name;
  - (iii) condition;
  - (iv) type;
  - (v) capital replacement cost;
  - (vi) date of installation;
  - (vii) locations of Departmental Assets;
  - (viii) identifying features (including serial numbers and bar code numbers); and
  - (ix) (where applicable) certificates of compliance, warranties and test records.
- (e) The Service Provider must seek approval from the Department prior to disposing of, or writing-off, Departmental Assets with a capital replacement cost above \$2,000 (ex-GST).
- (f) The Service Provider must, in addition to maintaining the Departmental Asset Register:
  - (i) maintain and file all necessary plans, drawings, consultants reports, asset and other registers, practical completion certificates, certificates of occupancy, operation manuals, warranties and other Facility information on-site as required either by legal code, Australian Standards or to enable the effective management of the Facility;
  - (ii) maintain all commissioning data for plant and equipment (originals and upgrades) including manufacturer warranties and maintenance specifications;
  - (iii) maintain all induction records and history of inductions on- site;
  - (iv) maintain a contracts register and contact details for all Subcontractors and servicing companies, including critical dates and Subcontractor insurance certificates; and
  - (v) maintain accurate records and registers for all compliance details.

## **2.6 Facilities Management Services including contractors and Notification of Matters Impacting on operations of the Facilities**

- (a) The Service Provider will be aware that other contractor Personnel undertaking repair works or maintenance may be operating within specific Facilities from time to time, and the Service Provider must provide the following Facilities Management Services in relation to the operation and management of the Facility:
  - (i) exercising reasonable measures to ensure that its Personnel and other maintenance contractors on the Facility comply with all relevant legislation, policies and procedures relating to Work Health and Safety;
  - (ii) seek to identify, manage and mitigate all risks within its control;
  - (iii) escorting contractors at all times while at a Facility unless they have completed an appropriate security induction to operate independently without being escorted by the Service Provider; and
  - (iv) ensuring other contractor Personnel are participants in the Work Health and Safety Committee.

## **2.7 Computerised Maintenance Management System**

- (a) The Service Provider must implement a Computerised Maintenance Management System to facilitate Maintenance management that contains:
  - (i) details of planning, scheduling and performance of all Departmental Asset Maintenance including Planned and Reactive Maintenance;
  - (ii) details of planning, scheduling and performance of modifications, and any additional works as agreed by the Department;
  - (iii) the status of work orders issued against specific Departmental Assets;
  - (iv) periodic condition audits undertaken by the Department or its authorised representative; and
  - (v) building condition reports and plans provided by the Department.
- (b) The Computerised Maintenance Management System must provide for both local and remote access by the Department. Real time data access should include but not limited to:
  - (i) access to all Planned Maintenance, Statutory Maintenance and Reactive Maintenance work records;
  - (ii) real time reports by facility and job category;
  - (iii) active notification of priority one equipment failures that impact on Facility operations;
  - (iv) KPI failure by task;
  - (v) daily, weekly and monthly work plans; and
  - (vi) the Departmental Assets Register.

## **2.8 Help Desk**

- (a) The Service Provider must provide a Help Desk to receive, action and monitor 100% of requests through to completion 24 hours per day, seven (7) days per week.
- (b) The Help Desk must:
  - (i) monitor and track requests to completion including following up Subcontractors when delayed;
  - (ii) for works resulting from requests, follow up post-completion to check quality/timeliness of work and to survey client satisfaction before closing each request;
  - (iii) implement and maintain a system which enables online or email delivery to check job completion and satisfaction with on-site Personnel;
  - (iv) record details of requests, works completed and customer satisfaction to manage Subcontractor performance;
  - (v) provide after-hours call out service for mobilising necessary Subcontractors when required; and
  - (vi) maintain work history and event log for all services and sites to enable analysis of building and Asset fault levels for input into maintenance strategy and capital works planning.

## **2.9 Projects**

- (a) The Service Provider is not responsible for the project management of capital works.
- (b) The Department may request the Service Provider to provide a proposal for project management or contractor escorting services on a case by case basis.

## **2.10 Procurement**

- (a) The Service Provider must provide a Procurement service.
- (b) The objective of the Procurement service is to ensure that Planned and Reactive Maintenance Services, utilities, and specialist expertise are provided in the most cost-effective and efficient manner. Subject to the demonstration of value for money, the Service Provider may self-perform some or all of the Planned and Reactive Maintenance Services.
- (c) It is essential that procurement processes are conducted in a manner consistent with the principles of the Commonwealth Procurement Rules (CPR's) and the Contract.
- (d) At a minimum, the Service Provider must:
  - (i) manage the procurement of Subcontractors, panels, or other suppliers and expertise as required subject to Departmental review and approval; and
  - (ii) achieve value for money in accordance with the principles of the CPRs.
- (e) Personnel involved in delivering this Service must maintain current knowledge of Commonwealth procurement policy.

- (f) The Service Provider must factor into its procurement planning timeframes for the Department to obtain the relevant Departmental approvals for each procurement it undertakes. The timeframes for these approvals can involve extended periods depending on the value and complexity of the procurement.
- (g) The Department is primarily responsible for:
  - (i) approving procurement processes and the engagement of Major Subcontractors; and
  - (ii) approving termination of Major Subcontractors.

#### **2.11 Subcontractor Management**

- (a) The Service Provider must provide a subcontractor management service. This includes:
  - (i) managing the performance of subcontractors, including relationship management and contract administration;
  - (ii) exercising reasonable measures to ensure that its Personnel and other subcontractors on the Facility comply with all relevant legislation, policies and procedures relating to Work Health and Safety;
  - (iii) seek to identify, manage and mitigate all risks within its control; and
  - (iv) escorting subcontractors at all times while at a Facility unless they have completed an appropriate security induction to operate independently without being escorted by the Service Provider.

### **3. MAINTENANCE OF ASSETS**

#### **3.1 General**

- (a) The Service Provider must provide Planned Maintenance and Reactive Maintenance of all Departmental Assets at all Facilities unless otherwise directed by the Department.
- (b) When considering the Maintenance of Assets, the Service Provider must have regard to Work Health and Safety Legislation, business continuity, Australian Standards relevant to the particular Asset being maintained, manufacturers' specifications, environmental management, quality management systems, records management and the welfare of Detainees and all persons at a Facility.
- (c) Maintenance includes service and repair, inspection and testing and will include all labour, plant, tools and equipment, consumable parts and any licencing, regulatory or statutory requirements.
- (d) The Service Provider must employ principles, practice and strategies which balance risk, value for money and efficiency in relation to Departmental Assets.
- (e) The Service Provider must achieve best possible value from the Department's Assets through the effective management of all Subcontractors and suppliers, and the close monitoring and management of all Facility and Asset related costs. The Service Provider must ensure that Planned and Reactive Maintenance Services, and specialist expertise are provided in the most cost-effective and efficient manner that achieves value for money for the Commonwealth over the life of the Assets.

### 3.2 Alternative Arrangements During Maintenance

- (a) In the event that a Departmental Asset is defective or has to be taken out of service for Maintenance, the Service Provider must:
  - (i) make alternative arrangements to minimise the impact on operations, maintain security, Work Health and Safety and environmental standards until the Asset is returned to service; and
  - (ii) notify the Department immediately of the arrangements and any impact these arrangements may have on provision of the Services.

### 3.3 Maintenance Standards

- (a) When considering the Maintenance of Assets, the Service Provider must have regard to the following Maintenance Standards:
  - (i) **Normal** maintenance standards will ensure operational requirements are met, compliance with statutory health, safety and environmental obligations, and rectification of faults before consequential damage incurs additional cost. The requirement will preserve the operational capacity of the Asset as much as possible.
  - (ii) **Minimal** maintenance standards will apply to Assets that have a limited life or are in use on an interim basis. Maintenance is aimed at minimising current operational costs whilst continuing to preserve essential functionality for operational purposes and complying with statutory obligations to the maximum extent possible.
  - (iii) **Mothball** maintenance standards will apply to Assets that are not in current use, either due to being closed or relocated. Maintenance is aimed at maintaining safety and security, protecting against vandalism or other damage and limiting any cost penalties.
- (b) During Transition In, the Maintenance Standards for each Facility will be determined by the Department.
- (c) Unless otherwise directed by the Department, the default Maintenance Standard for all Facilities will be 'Normal' pursuant to clause 3.3(a)(i) of this Section 3 (Facilities Management Services) of Schedule 2 (Statement of Work) and consistent with those standards in the approved Facilities Management Plan.
- (d) The Department may direct the Service Provider to change the Maintenance Standards for a Facility. The Service Provider must submit an updated Facility Maintenance Schedule no later than seven (7) calendar days of this direction.

### 3.4 Planned Maintenance

- (a) The Service Provider must provide Planned Maintenance of Departmental Assets.
- (b) Planned Maintenance includes:
  - (i) Statutory Maintenance;
  - (ii) manufacturer's recommended maintenance and servicing; and
  - (iii) any maintenance scheduled by the Service Provider.

- (c) The National Asset Management and Maintenance Plan, must include a Planned Maintenance Schedule for each Facility, including:
  - (i) a list of any proposed Service Provider Maintenance Personnel;
  - (ii) a schedule of inspection and testing of all Departmental Assets at that Facility (including security and emergency systems); and
  - (iii) a schedule of Planned Maintenance that includes preventative, statutory and manufacturer specified servicing and Maintenance requirements for all Departmental Assets at that Facility.

### **3.5 Reactive Maintenance**

- (a) The Service Provider is required to undertake Reactive Maintenance where required.
- (b) Reactive Maintenance should be undertaken to ensure that the Departmental Assets' continued operation is assured or, in circumstances of breakdown, are returned to full functionality ensuring their ongoing safe operation and effectiveness.
- (c) Reactive Maintenance includes:
  - (i) Emergency and Breakdown repairs;
  - (ii) non-routine repairs; and
  - (iii) corrective and restorative works where any element of the Facility fails (including all associated fixtures, fittings and equipment).
- (d) The Service Provider must:
  - (i) repair all Facility service breakdowns as soon as possible within the agreed response times set out in the National Asset Management and Maintenance Plan and at Table 1 of this Section 3 (Facilities Management) of Schedule 2 (Statement of Work);
  - (ii) record all material details related to each defect, fault or damage and subsequent action taken in response to Reactive Maintenance;
  - (iii) ensure availability or reasonable access to critical spare parts; and
  - (iv) provide the Department visibility of Reactive Maintenance requests and responses as requested by the Department, and as detailed in the monthly report specified in Section 7 (– Business Services) of Schedule 2 (Statement of Work).

### **3.6 Damage by Detainees**

- (a) The Service Provider must take all reasonable steps to ensure that deliberate damage, vandalism and misuse of Assets or Consumables is avoided.
- (b) Instances of deliberate damage, vandalism and misuse of Assets will be managed through implementation of the Service Provider's IMP/BMP processes, identifying and implementing objectives and timelines as agreed by all stakeholders.
- (c) If Detainees damage Departmental Assets, the Service Provider must:
  - (i) repair or replace the Asset in accordance with the Departmental Asset Management and Maintenance Plan;



- (ii) notify the Department; and
- (iii) record the cost of repairing or replacing Assets damaged through malicious action as a separate item in the Computerised Maintenance Management System,  
  
and the costs of repairing or replacing any such Asset will be charged to the Department as a Pass Through Cost.

### **3.7 Asset Modifications**

- (a) Where the Service Provider believes modifications are required to reduce Maintenance costs, or improve the operational efficiency or effectiveness of Departmental Assets, the Service Provider may provide a business case to the Department that quantifies the cost and benefits of the proposed modifications to the Department and Detainees.
- (b) The Department, in its sole discretion, may either approve or reject the business case and will inform the Service Provider of its decision in writing.

### **3.8 Work Practices**

- (a) The Service Provider must:
  - (i) ensure all Maintenance work practices are compatible with the Immigration Detention environment; and
  - (ii) where Maintenance or modifications are conducted at a Facility maintain safety and security in the Facility;
  - (iii) as far as reasonably practicable, organise for Maintenance or modifications to be done during Business Hours (this requirement does not apply to repairs to critical systems);
  - (iv) ensure tools are controlled at all times and remain inaccessible to Detainees; and
  - (v) ensure all Service Provider Personnel abide by Conditions of Entry to any Facility.

### **3.9 Communication about Maintenance and Modifications**

- (a) The Service Provider must:
  - (i) ensure all people affected by any Maintenance work or modifications being undertaken at a Facility are aware of the nature and extent of the activity; and
  - (ii) communicate details of actions required to maintain safety and security such as:
    - (A) prevention of unauthorised access to areas under maintenance, repair or modification;
    - (B) erecting barriers and signage in accordance with the requirements of all relevant Work Health and Safety Laws and Australian Standards; and
    - (C) notifying Detainees and other people affected of any alternative arrangements including the duration that they may be in place.

**Table 1: Repair/Response times**

Priority	Criticality	Definition	Target Response Times	Target Rectification Time
1	Critical	Life threatening or has the probability of causing injury Compromises critical operations Compromises security Has a high probability of causing property damage or personal injury Will have a major impact on services (in most Priority 1 situations the activity should be to attend and make safe. Subsequent to making safe, a routine work order should then be raised to perform any corrective action)	1 Hour	24 Hours
2	Urgent	Will significantly impact on services if not attended to May cause property damage (attend and make safe) Significantly reduces operational efficiency Additional property damage may result if left unattended	24 Hours	7 Days
3	Routine	Minimal impact on services and routine in activity	7 Days	14 Days
4	Planned	Works that can be scheduled for efficiency. Improvement e.g: paint a building, replace floor covering Replacement of broken furniture, etc	30 Days	90 Days

### 3.10 Response and rectification definitions

**Timeframes** – All timeframes are specified in Calendar days

**Date and Time Requested** – For reactive maintenance tasks, both Response Time and Rectification Time are measured from the time the job is logged with the Service Provider Facilities Management call centre by phone or email.

**Response Time** – Time when the job was recorded in Service Provider's Computerised Maintenance Management System, allocated and scheduled to be completed within respective Priority rating Rectification timeframe, and the requester advised (either verbally at time of call or via email), of expected completion timeframe and a job reference number.

**Rectification Time** – Asset is restored to working order/function within normal operating parameters, and in accordance with manufacturer's specification. If a temporary fix or workaround is put in place, the work order is to remain open until the item has been fully restored.

### **3.11 Commissioning of Infrastructure**

- (a) The Service Provider is responsible for commissioning any new infrastructure or any works that substantially change the intended use or purpose of existing infrastructure.
- (b) For the purposes of this Contract, Commissioning includes:
  - (i) conducting an assessment to confirm the infrastructure is fit for purpose, functioning and ready for ongoing use;
  - (ii) conducting an assessment to confirm the infrastructure does not present a risk to health, safety or security;
  - (iii) recording all new assets in the Computerised Maintenance Management System including warranty and defect liability information;
  - (iv) preparation of the facility for operation including any equipment specific staff training;
  - (v) development of operational delivery models including any alterations to existing procedures and plans or development of new ones; and
  - (vi) providing the Department with written acceptance of the infrastructure.
- (c) Where requested by the Department, the Service Provider will be required to provide a plan outlining the activities to be completed in order to commission a piece of infrastructure and the associated timeframes as part of the Contract Change Proposal process.

### **4. DECOMMISSIONING OF INFRASTRUCTURE**

- (a) The Service Provider is responsible for Decommissioning infrastructure where it is no longer required, has reached the end of its life or when requested by the Department.
- (b) For the purposes of this Contract, Decommissioning includes:
  - (i) removal, transfer or disposal of all consumables, furniture, fixtures, fittings, and portable assets from the facility; and
  - (ii) assisting the Department in meeting any make good requirements, including arranging and managing make good works.

### **5. VERMIN AND PEST CONTROL**

- (a) The Service Provider must implement a Vermin and Pest Control Plan as part of the Facilities Management Plan for each Facility as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work), that:
  - (i) is compliant with all applicable Laws and Australian Standards; and
  - (ii) includes measures that are required to be taken to prevent or eradicate vermin or pest infestations, such as:
    - (A) environmental and habitat measures to disrupt breeding and life-cycles;
    - (B) low level chemical measures such as localised dusting and misting; and
    - (C) the scope of the measures to be implemented and the frequency.
- (b) The Service Provider must deliver contemporary vermin and pest control services in accordance with current industry standards and practice, including expert pest and vermin advice in order to

maximise the use and longevity of Departmental Assets and provide a safe and healthy environment for each Facility. The Service Provider must avoid exposing any person to hazards caused by vermin and pest control activities by implementing measures including:

- (i) coordinating vermin and pest control activities with the daily routine of Detainees;
  - (ii) placing warning signs where vermin and pest control activities may create a hazard;
  - (iii) preventing Detainees from accessing areas that are being treated with hazardous chemicals; and
  - (iv) consulting with the Department before commencing any pest or vermin control activities that will significantly disrupt daily activities in a Facility.
- (c) The Service Provider must ensure that Detainees, Visitors, Service Provider Personnel, Subcontractors, Department staff and any other person who may be at a Facility are not exposed to hazardous substances and Material Safety Data Sheets for all chemicals used in the delivery of Services (including chemicals used by Subcontractors) are readily available in case of emergency.
- (d) Hazardous substances are as defined in the hazard substances information system in accordance with the *Approved Criteria for Classifying Hazardous Substances* [NOHSC:1008(2004)], or as amended.

## 6. GROUNDS MAINTENANCE

- (a) The Service Provider must manage and maintain all grounds including landscaping, planting and horticultural services and built infrastructure (such as roads, stormwater drains and fences) ensuring amenities at the Facility are maintained in accordance with local community standards and sound environmental management practices.
- (b) The National Asset Management and Maintenance Plan must include a national model for grounds maintenance.
- (c) The national model for grounds maintenance must comply with all applicable Laws and Australian Standards.:
- (i) Commonwealth, State/Territory and Local Legislation; and
  - (ii) Australian Standards.
- (d) The Facilities require pro-active and responsive Grounds Maintenance Services including, but not limited to monitoring, managing and maintenance of:
- (i) grassed areas (mowing and slashing);
  - (ii) trees and shrubs (including tree registers, pruning, planting and replacement);
  - (iii) trees affected by storm damage or drought (includes minor tree and associated waste material removal);
  - (iv) landscape condition (e.g. vegetation coverage, degradation appraisal, rehabilitation requirements);
  - (v) bio-security (e.g. fire ants, rabbits and foxes);
  - (vi) garden areas, including ponds and water features;
  - (vii) sporting fields, ovals, tennis courts including marking (for sporting activities), top dressing, re-seeding and aerating;

- (viii) outdoor recreational (e.g. BBQ areas, playgrounds, soft-fall and pergolas);
- (ix) drainage infrastructure (e.g. open drains, rollovers, culverts);
- (x) weed control/eradication; and
- (xi) open irrigation systems, flood channels, swale drains, storm water pits, intake grates and storm water reticulation.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 4**  
**SECURITY SERVICES**

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**1. DELIVERY OF SECURITY**

**1.1 Overview**

- (a) The Service Provider must provide a safe and secure environment in all Facilities for Detainees, all Service Provider Personnel, Department Personnel, Visitors, Subcontractors and all other people who from time to time may be present in a Facility (Security Services), ensuring that each individual's human rights, dignity and welfare is preserved in accordance with the direction of the Department.
- (b) The Service Provider must support the operations of the Network through the delivery of Security Services at each Facility that:
  - (i) support, maintain and assure the continuity and integrity of internal and external operations of the Facility;
  - (ii) enable the Service Provider to manage routine events in the Facility;
  - (iii) enable the Service Provider to respond promptly and flexibly to any non-routine event or Incident;
  - (iv) scale to accommodate the unique needs, risks and challenges associated with each Detainee, and the Detainee cohort as a whole; and
  - (v) is informed by intelligence as required under clause 1.11 (Security Intelligence Obligation) of this Section 4 (Security Services).
- (c) The Department must provide the infrastructure and associated surveillance and security monitoring equipment listed in the Department Asset Register and Loose Assets Register at each Facility.

**1.2 Integrity of Immigration Detention**

- (a) The Service Provider must ensure Detainees at Facilities remain in Immigration Detention at all times in accordance with relevant provisions of the *Migration Act 1958* (Cth);
- (b) Immigration Detention is defined under clause 5.5 of the *Migration Act 1958* (Cth), to include being in the company of and being restrained by an Officer, or being held by, or behalf of, an Officer in an Immigration Detention Centre or in another place approved by the Minister in writing.
- (c) The Service Provider agrees and acknowledges that it must co-operate fully with the Department to ensure all Personnel are designated and maintained as Officers or Authorised Officers, as appropriate, for the purposes of the *Migration Act 1958* (Cth).
- (d) The Service Provider must ensure that where a Detainee is temporarily in Alternative Detention outside a Facility (excluding APOD Facilities), the Detainee remains in Immigration Detention at all times, including by providing Service Provider Personnel Escorts for Alternative Detention where required.

### **1.3 Security Services Plan**

- (a) The Service Provider must implement a Security Services Plan, as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work) that includes:
  - (i) a National Facility Security Services Plan containing schedules for Facilities with site-specific security requirements supported by Facility Security Risk Assessments;
  - (ii) details regarding how the Service Provider will implement the Security Services contained in this Schedule 2 (Statement of Work);
  - (iii) details of the restraint devices which will be utilised by it and which have been approved in accordance with all applicable legislation and standards; and
  - (iv) details of the use of force practices and procedures which will be utilised by it and which have been approved in accordance with all applicable legislation and standards.

### **1.4 Service Provider Security Personnel**

- (a) The Service Provider must provide a sufficient number of appropriately trained Service Provider Security Personnel to deliver all Security Services in accordance with Schedule 2 (Statement of Work), taking into consideration available infrastructure and the unique needs and circumstances of each Detainee, and the Detainee cohort as a whole, and in accordance with Welfare and Engagement Services, to:
  - (i) deliver Security Services unobtrusively, 24 hours a day, seven (7) days a week at each Facility;
  - (ii) respond effectively to any Incidents while treating Detainees with dignity and respect;
  - (iii) engage with Detainees and other Stakeholders to detect possible Incidents before they occur; and
  - (iv) prevent Incidents from occurring wherever possible.

### **1.5 Rostering of Service Provider Security Personnel**

- (a) The Service Provider must ensure that the daily roster for each Facility provides for a sufficient number of appropriately qualified Service Provider Security Personnel with the skills, experience and fitness required to manage the security environment of a Facility. The relevant security environment for each Facility will be determined through the Service Provider undertaking a Facility Security Risk Assessment process, taking into consideration the available infrastructure of each Facility and the unique needs and circumstances of each Detainee (including their respective Security Risk Assessments), and the Detainee cohort as a whole.
- (b) The Service Provider must provide the Department with roosting arrangements for Service Provider Personnel for a fortnightly period, within 10 Business Days of request by the Department.

### **1.6 Prevention of Escapes**

- (a) The Service Provider must use its best endeavours to prevent Detainees from escaping from Immigration Detention.



### 1.7 Detainee Security Risk Assessment

- (a) The Service Provider must create (during the reception process), update and maintain a Detainee Security Risk Assessment for each Detainee.
- (b) In creating and updating a Detainee's Security Risk Assessment, the Service Provider must take into consideration:
  - (i) all previous risk assessments for that Detainee;
  - (ii) all available information related to that Detainee; and
  - (iii) those other considerations relevant to the safety and security of the Facility, Department Assets, Department, Service Provider and DHSP Personnel, Visitors and other Detainees .
- (c) The Service Provider must:
  - (i) review, and where appropriate, update the Detainee Security Risk Assessment for each Detainee monthly;
  - (ii) re-assess and, where appropriate, update the Detainee Security Risk Assessment within 24 hours after the Detainee has been involved in an Incident or disturbance, or the Detainee has received information or been named in an Incident report as having either been involved in any matter or witnessed any situation that may have adversely impact on their security disposition;
  - (iii) consider any information provided by the Detention Health Service Provider that may impact a Detainee's Security Risk Assessment;
  - (iv) consider the Detainee Security Risk Assessment and intelligence data holdings when developing Individual Management Plans, accommodation placement reviews and Escort Operational Orders for Escort Tasks; and
  - (v) upload the Detainee SRA to the Department's nominated IT system for a new Detainee, following the monthly update, and at any other time the security risk rating of the detainee changes.

### 1.8 Alternative Detention

- (a) The Service Provider must manage Alternative Detention as an integral part of managing a Facility under this Contract. For the purposes of this Contract, Alternative Detention may include, but is not limited to detention in hospitals, overnight stays up to 24 hours and schools.
- (b) Where directed by the Department, the Service Provider must arrange, manage, coordinate and provide Services for Detainees whose care needs have necessitated their placement in Alternative Detention.
- (c) The Service Provider must, in consultation and agreement with the Department, develop a policy and procedure document which details the Alternative Detention service requirements in accordance with Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (d) Where required as part of a Transport and Escort task, or otherwise directed by the Department, the Service Provider must arrange for Accommodation in Alternative Detention.
- (e) The Service Provider must ensure the safety, security and well-being of Detainees held in Alternative Detention.
- (f) The Service Provider must use its best endeavours to ensure the integrity of the Immigration Detention environment when a Detainee is held in Alternative Detention to ensure that a Detainee does not escape.

- (g) Alternative Detention is distinct from APOD Facilities detailed under this Schedule 2 (Statement of Work).
- (h) Alternative Detention will be provided as part of a Transport and Escort task and Detainees will be managed in accordance with the requirements of the Transport and Escort Services specified in Schedule 2 (Statement of Work). The cost of the provision of this service will be paid for by the Department as a cost under the associated Transport and Escort Services pricing schedules. The first four (4) hours of the task will be covered by the Fixed Fee with any subsequent hours attracting the variable pricing escort task rate at the applicable risk and banding level set out in Schedule 5 (Detention Services Fee).
- (i) Any Alternative Detention arrangements exceeding seven (7) days may be reviewed by the Contract Administrator or their authorized representative in conjunction with the Service Provider.

#### **1.9 Appointment of Places of Alternative Detention**

- (a) The Service Provider must:
  - (i) only place Detainees who have been identified by the Department for placement in Alternative Detention in Department approved places of Alternative Detention;
  - (ii) nominate to the Department locations for temporary and standing approval as places of Alternative Detention; and
  - (iii) demonstrate to the Department each nominated location's suitability to accommodate Detainees in Alternative Detention, including:
    - (A) the availability, applicability and suitability of services available at each location;
    - (B) that the nominated location provides value for money for the Department;
    - (C) that the owner of the nominated location has agreed to that location being used to accommodate Detainees; and
    - (D) that the nominated location is able to accommodate Detainees of varying profiles, needs, circumstances and security risks.

#### **1.10 Delivery of Services to Detainees being held in Alternative Detention**

- (a) The Service Provider must:
  - (i) ensure that Detainees being held in Alternative Detention are provided with a range of Services, as agreed by the Parties in the Service Provider's relevant Policy and Procedure Manual, to maintain the health and welfare of the Detainee;
  - (ii) maintain the security of the Alternative Detention location;
  - (iii) take due regard of the nature and expected duration of Alternative Detention when providing the Services;
  - (iv) only use Service Provider Personnel for Alternative Detention Service delivery who have undergone training for the delivery of Services in the public domain;
  - (v) in the case of providing Alternative Detention Services to Minors, only use Service Provider Personnel who are accredited for the delivery of Services to children and meet any obligations in this Contract in respect of working with children; and
  - (vi) ensure that the standards for all Services delivered to Detainees being held in Alternative Detention are comparable with the standards of Services delivered at Facilities.

- (b) If the Service Provider is unable to deliver any of the Services to Detainees being held in Alternative Detention, it must demonstrate to the satisfaction of the Department why those Services could not be delivered to Detainees being held in Alternative Detention.

#### **1.11 Security Intelligence Obligation**

- (a) The Service Provider must develop intelligence operational procedures, which are consistent with any Departmental intelligence policies, procedures or frameworks.
- (b) The Service Provider must:
  - (i) gather and record Security Intelligence to inform the development of Facility and Detainee Security Risk Assessments and to maintain the safety and security of the Facility;
  - (ii) gather and store Security Intelligence (including security related risks identified by Service Provider Personnel) in accordance with all applicable Laws, record keeping obligations, including privacy and confidentiality obligations, of this Contract;
  - (iii) ensure appropriately trained Service Provider Personnel perform, at each Facility, intelligence analyst functions and collate and analyse all information received;
  - (iv) implement a computerised intelligence analysis procedure for use in relation to the Detainee population that provides Material on external and internal threats to the integrity of the Immigration Detention Network;
  - (v) provide training and induction to all Service Provider Personnel and Department Personnel (during scheduled Service Provider training sessions) on the overall mechanism of the intelligence system, ;
  - (vi) provide training to all Service Provider Personnel, and comply with, the Department's Security Intelligence reporting and recording requirements.
  - (vii) provide and manage a security telephone hotline to the communications room of each Facility, 24 hours per day, seven (7) days per week to ensure that Detainees, Department Personnel, DHSP Personnel or Service Provider Personnel may call at any time to provide intelligence information to the Service Provider; and
  - (viii) share information routinely with the Department and provide the Department with unfettered access to all intelligence data holdings upon request. The Service Provider must convene a group or forum to discuss intelligence related matters, as described above, with all stakeholders, as directed by the Department.
- (c) Security intelligence includes:
  - (i) unusual occurrences;
  - (ii) information received from a Detainee, Department or other Stakeholder;
  - (iii) a person or group of Detainees acting unusually, or out of character;
  - (iv) Incident Reports;
  - (v) trends in Incidents;
  - (vi) trends in individual or group Detainee behaviour;
  - (vii) external threats to the Facility which threaten the integrity of Immigration Detention, the delivery of Services or the safety of Detainees and all other persons at a Facility; and

- (viii) relevant information received from any source.

#### **1.12 Facility Security Risk Assessment**

- (a) The Service Provider must, during Transition-In, develop a Facility Security Risk Assessment for each Facility that accords with AS/NZS ISO 31000:20009 Risk Management Standard.
- (b) In developing and updating each Facility Security Risk Assessment, the Service Provider must take account of:
  - (i) the number of Detainees accommodated at the Facility, the length of time spent in Detention by the Detainees and the risk profile of the Detainees at the Facility;
  - (ii) the overall security situation (including any intelligence that might be made available by the Department, other government agencies or other sources), including:
    - (A) Visitors, including on-site contractors;
    - (B) arrivals, transfers and removals of Detainees in the Facility;
    - (C) protests and rallies;
    - (D) special events;
    - (E) significant dates;
    - (F) availability of and response times for emergency services;
    - (G) the condition and arrangement of built infrastructure and associated technology including any temporary arrangements for new construction or Facility Maintenance; and
    - (H) all other Security Intelligence.
- (c) The Service Provider must review the Facility Security Risk Assessment for each Facility monthly and within 24 hours of any Critical Incident or Major Incident that could impact the overall security of the Facility.
- (d) The Service Provider must provide the Department with a copy of the current Facility Security Risk Assessment, in the format requested by the Department, within five (5) Business Days of that request.
- (e) At the completion of all security audits, the Service Provider must make available to the Department copies of all findings and reports, including any operational responses to issues raised in the findings of these audits.

- (f) Where the Service Provider acting reasonably believes there is an Infrastructure Deficiency at a Facility then:
  - (i) the Service Provider may write to the Department detailing the issue and the Service Provider's proposed mitigation strategy for the Infrastructure Deficiency; and
  - (ii) if the Department, acting reasonably, acknowledges that an Infrastructure Deficiency exists, and is satisfied that the mitigation strategy mitigates the Infrastructure Deficiency:
    - (A) both parties shall implement the mitigation strategy, and
    - (B) the costs associated with implementing the mitigation strategy will be charged to the Department at the additional monitoring variable rate set out in Schedule 5 (Detention Services Fee) or such other applicable pricing mechanisms in the Contract.
- (g) Infrastructure Deficiency means any issue that exceeds 12 hours, and that has the potential to materially and adversely affect the integrity of immigration detention, security of a Facility, or the safety of any persons in a Facility, including but not limited to the following:
  - (i) where a component of Facility Infrastructure has been installed, is capable of being operated but the Department has directed the Service Provider either not to operate the component or to operate it in a manner that is not in accordance with manufacturer's operating instructions, or other obligations under this Contract; or
  - (ii) where a component of Facility Infrastructure is defective or fails, and the cause of that defect or failure is not caused by the failure of the Service Provider to maintain the asset in accordance with manufacturer's operating instructions, or other obligations under this Contract; or
  - (iii) where substantial and significant Facility capital works projects are being undertaken.
- (h) Detainees should be placed at Facilities that are appropriate for their security risk, taking into consideration the individual Detainee Security Risk Assessment and the Facility Security Risk Assessment. Where the Service Provider acting reasonably believes that the security controls are not sufficient to maintain the integrity of immigration detention, then:
  - (i) the Service Provider may write to the Department detailing the issue and the Service Provider's proposed mitigation strategy for the Detainee(s); and
  - (ii) if the Department, acting reasonably, acknowledges the security risk, and is satisfied that the mitigation strategy mitigates the security risk of the Detainee(s):
    - (A) both parties shall implement the mitigation strategy, and
    - (B) the costs associated with implementing the mitigation strategy will be charged to the Department at the additional monitoring variable rate set out in Schedule 5 (Detention Services Fee) or such other applicable pricing mechanisms in the Contract.

### **1.13 Communication of Facility Security Requirements**

- (a) The Service Provider must communicate Facility Security Requirements, including WHS and emergency procedures as detailed at clause 6 of Section 2 (Garrison Services) of Schedule 2 (Statement of Work) to all people at a Facility upon arrival at the Facility including Detainees, Service Provider Personnel, Department Personnel, Subcontractors, other service providers and Visitors. This communication will:
  - (i) contain only information which the relevant audience needs to know;
  - (ii) encourage compliance with the Facility security rules;
  - (iii) be in a language and form understood by the relevant audience; and
  - (iv) accommodate all those with special needs, such as illiteracy or visual impairment.
- (b) The Service Provider will ensure all people at a Facility are aware of the Facility Contingency Plans for the Facility and observe all reasonable directions given to them by the Service Provider in respect of any security-related matter.

## **2. ENTRY CONTROL**

### **2.1 Entry Control Requirements**

- (a) The Service Provider must:
  - (i) facilitate controlled and efficient access to the Facility by all persons, vehicles and goods in an efficient manner and in accordance with the *Migration Act 1958* (Cth) and in a manner which maintains the integrity of the Immigration Detention for the Facility;
  - (ii) maintain a written record of all Visitors to the Facility; and
  - (iii) ensure that all Visitors to the Facility are treated with dignity and respect throughout the entry process and in accordance with Departmental directions.

### **2.2 Identification**

- (a) The Service Provider must implement a system to identify all people seeking access to a Facility and provide a visual means of readily identifying all people while they remain in the Facility, including:
  - (i) confirming access rights and escort requirements;
  - (ii) creating and issuing identification passes; and
  - (iii) discretely monitoring the movement and location of all people in the Facility.

### **2.3 Detection of Excluded and Controlled Items and Illegal Items**

- (a) The Service Provider must:
  - (i) use its best endeavours to detect Excluded and Controlled Items, Illegal Items and any other items that may pose a risk to the security of the Facility; and
  - (ii) screen all persons, personal belongings, vehicles and goods entering the Facility in accordance with the Detention Services Manual and Law.

- (b) Screens and searches conducted by the Service Provider may include:
  - (i) the use of metal and other material or substance detectors;
  - (ii) the use of x-ray machines; and
  - (iii) visual inspections.
- (c) Where required, the Service Provider may search Detainees in accordance with the Detention Services Manual and law.
- (d) Searches of Detainees conducted under this Schedule 2 (Statement of Work) may include:
  - (i) pat searches; and
  - (ii) strip searches.
- (e) The Service Provider must:
  - (i) implement a weekly checking regime to ensure Service Provider compliance with all screening and searching procedures; and
  - (ii) collate the outcomes of the weekly checks into a monthly report to the Department, as detailed in Annexure A of Section 7 (Business Services) of Schedule 2 (Statement of Work)

#### **2.4 Management of Excluded and Controlled Items**

- (a) The Service Provider must manage and keep safe Excluded and Controlled Items detected by:
  - (i) removing and holding in trust all Excluded or Controlled Items detected or received;
  - (ii) recording relevant details;
  - (iii) securely storing the Excluded or Controlled Items;
  - (iv) returning the Excluded or Controlled Items to the person who owns the item when the person leaves the Facility; and
  - (v) otherwise complying with the provisions of clause 8 of Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work).

#### **2.5 Illegal Items**


- (a) The Service Provider must :
  - (i) remove and hold in trust all Illegal Items detected or received;
  - (ii) ensure the Illegal Item does not pose an ongoing safety risk to the Facility or any persons at the Facility;
  - (iii) notify the Department in accordance with Incident management reporting requirements;
  - (iv) record relevant details of Illegal Items;
  - (v) inform the relevant authorities, including any law enforcement agency; and
  - (vi) securely store the Illegal Item in a manner which protects the integrity of any evidence until custody of the Illegal Item can be transferred to the relevant authority.

- (b) The Service Provider acknowledges that all Service Provider Personnel will be subject to random searches on entry to the Facility at times and frequencies to be determined by the Service Provider in consultation with the Department Regional Manager.

## 2.6 Access to Controlled Areas

- (a) The Service Provider must manage access to controlled areas within the Facility, including implementing a strict control regime for access keys and locks. Controlled areas include:

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## 2.7 Visitor Escorts

- (a) The Service Provider must ensure that:
  - (i) all Visitors to the Facility, including (without limitation) Contractors, Subcontractors, DIBP Personnel, Detainee Visitors and any officers of public scrutiny bodies such as the Ombudsman's Office) to the Facility who are assessed by the Service Provider as requiring a Visitor escort are accompanied by Service Provider Personnel at all times and, subject to clause 2.7(b), the Service Provider will retain sufficient Personnel to provide such escorts; and
  - (ii) Visitor escorts are conducted as discretely as possible, allowing for private conversations between Detainees and Visitors.
- (b) Where significant Facility capital works are undertaken, any additional escort costs must be approved in writing, in advance, by the Contract Administrator, through the Additional Service Request process or another process as agreed between the Parties. The costs of additional escort services will be charged at the variable pricing element rates as set out in Schedule 5 (Detention Services Fee).



### **3. FACILITY SECURITY**

#### **3.1 Facility Security Requirements**

- (a) The Service Provider must:
  - (i) maintain a safe and secure environment in each Facility to maintain the safety and security of all people at the Facility;
  - (ii) constantly monitor the security of the Facility in a discrete manner; and
  - (iii) ensure security activities involve the use of security technology and the presence of skilled Service Provider Personnel who will interact with Detainees in a friendly and professional manner in accordance with the Code of Conduct and directions given by the Department.

#### **3.2 Security Control Centre**

- (a) The Service Provider must:
  - (i) staff and maintain a Security Control Centre (where available) to manage all security requirements in each Facility; and
  - (ii) ensure the Security Control Centre is staffed at all times.

#### **3.3 Operations Logs**

- (a) The Service Provider must:
  - (i) maintain operations logs at each Facility to record the date, time and location for all security related events and actions taken in order to constitute an official record of activities and events within the Facility;
  - (ii) ensure operations logs provide a comprehensive and accurate account of all security related events;
  - (iii) inform the Department of the range, intent and scope of operations logs in use, and will advise any changes; and
  - (iv) provide operations logs as soon as reasonably practicable to the Department upon receiving a written request and, in any event, no later than 10 Business Days after receipt of the request.

#### **3.4 Digital Records**

- (a) The Service Provider must digitally record an audio and visual record of all instances where:
  - (i) use of force is planned (excluding planned use of force or restraints when external to the Facility, unless directed to do so in special circumstances);
  - (ii) the Accommodation of a Detainee is searched; or
  - (iii) there is any other Incident that the Service Provider, acting reasonably, knows that the Department would wish to view or hear as evidence of the actions of Service Provider Personnel.

- (b) Where such audio and visual recordings have been made, the Service Provider is required, within 24 hours of making the recording, to:
  - (i) make an unedited copy of the recording;
  - (ii) label the original and copy of the recording with the date and time of the recording, and the names of the people who appear in the recording; and
  - (iii) provide a copy of the recording to the Department on request, in an appropriate file format as determined by the Department.
- (c) The Service Provider must maintain copies of all audio and/or visual records (including digital records and surveillance camera records) in accordance with the *Archives Act 1983* and, in the instance of any recordings of Incidents, for the duration of the Term upon the expiry of which, all such recordings shall be transferred to the Department in accordance with the provisions of Section 7 (Business Services) of Schedule 2 (Statement of Work).

### 3.5 Surveillance Camera Records

- (a) The Service Provider will operate and monitor all surveillance cameras at a Facility 24 hours per day, seven (7) days per week.
- (b) The Service Provider must, after each Incident:
  - (i) review the surveillance camera recordings to determine if any recording captures evidence that may be relevant to the Incident; and
  - (ii) provide the Department with a copy of any recording that captures evidence that may be relevant to an Incident, within 24 hours of a request.
- (c) The Service Provider must provide the Department with a copy of any recording:
  - (i) that the Service Provider, acting reasonably, knows that the Department would wish to view; or
  - (ii) if requested by the Department, within the 28 day storage period referred to below.
- (d) The Service Provider must:
  - (i) keep all surveillance camera recordings in secure storage for at least 28 days after the recording is made;
  - (ii) provide the Department with access to all surveillance camera recordings and any other related Material in secure storage; and
  - (iii) ensure that any recordings that capture an Incident are not deleted.

### 3.6 Checks to Verify all Detainees are Present and Safe

- (a) The Service Provider must verify that all Detainees are present and safe in the Facility several times during each day, which may include but is not limited to:
  - (i) at meal times; and
  - (ii) at night.
- (b) The check conducted by the Service Provider must be conducted in a manner that respects the cultural, religious, gender and privacy needs of Detainees.

- (c) Service Provider Personnel undertaking checks need to be skilled in identifying Detainees who may be unwell or not coping in the Immigration Detention environment, including in circumstances where the Detainee may be attempting to hide a problem.
- (d) The Service Provider must immediately report to the Department any concerns that it may have regarding a Detainee's safety and security.

### 3.7 Searches and Fabric Checks

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- (iv) conduct searches within the Facility in accordance with:
  - (A) the Migration Act 1958 (Cth);
  - (B) Departmental policies and procedures as notified by the Department; and
  - (C) any other applicable Laws.

### 3.8 Use of Force

- (a) The Service Provider must:
  - (i) ensure that force is not used unless as a measure of last resort when all other methods have failed or have been assessed as inadequate, and then only with the reasonable level of force necessary to resolve the situation in accordance with directions given by the Department;
  - (ii) ensure that, whenever force is used on Detainees that are frail, elderly or Minors, Service Provider Personnel take all reasonable precautionary measures to ensure the safety of the Detainee that are appropriate to the circumstances of that Detainee;
  - (iii) ensure that Service Provider Personnel who use force are trained and accredited in the use of force in accordance with applicable law;
  - (iv) monitor and control the use of force in each Facility; and
  - (v) ensure that Service Provider Personnel apply use of force in accordance with applicable law.
- (b) When the use of force is planned by the Service Provider, the Service Provider must:

- (i) consult with the Detention Health Services Provider prior to using any planned use of force against a Detainee to ensure that no medical reasons preclude the use of force against the relevant Detainee; and
- (ii) seek the Department's approval for that planned use of force, prior to such force being used against a Detainee.

### **3.9 Use of Restraints**

- (a) The Service Provider must:
  - (i) ensure that restraints are not used in a manner which is likely to cause injury, serious discomfort or potential danger to a Detainee;
  - (ii) use only those restraints approved from time to time by the Department;
  - (iii) ensure that, whenever restraints are used on Detainees who are frail, elderly or Minors, Service Provider Personnel take all reasonable precautionary measures to ensure the safety of the Detainee that are appropriate to the circumstances of that Detainee;
  - (iv) ensure that only Service Provider Personnel who use restraints are trained and accredited in the use of restraints in accordance with Law;
  - (v) ensure Service Provider Personnel do not carry restraints in public view;
  - (vi) monitor and control the use of restraints in each Facility; and
- (b) When the use of restraints is planned by the Service Provider, the Service Provider must:
  - (i) consult with the Detention Health Services Provider prior to any planned use of restraints to ensure that no medical reasons preclude the use of restraints against the relevant Detainee; and
  - (ii) seek the Department's approval for any planned use of restraints, prior to the restraints being used against a Detainee.


### **3.10 Follow Up to the Use of Force or Restraints**

- (a) When Service Provider Personnel have used force or restraints, the Service Provider must:
  - (i) inform the Department of any use of force in accordance with the Incident management reporting requirements;
  - (ii) ensure that the Service Provider Personnel involved in the use of force or restraints provide a verbal report to Service Provider management immediately after each Incident, which must be minuted, and a written report completed by the Service Provider Personnel prior to the end of their shift;
  - (iii) provide a comprehensive, written report to the Department in accordance with Annexure A of Section 7 (Business Services) of Schedule 2 (Statement of Work); and
  - (iv) ensure that Detainees who were subjected to the use of force or restraints are referred to the Detention Health Services Provider for a medical examination immediately after the use of force or restraints has occurred.

### **3.11 Perimeter Security**

- (a) The Service Provider must ensure that the security of the perimeter of each Facility is maintained at all times in accordance with Departmental policies and procedures or as notified from time to time by the Department.
- (b) The Service Provider must ensure that the internal and external perimeter is checked and manually tested:

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- (c) The Service Provider must ensure that all perimeter security checks are formally recorded by the Service Provider.

### 3.12 Contingency Plans and Procedures

- (a) The Service Provider must:
  - (i) implement Contingency Plans for each Facility during the Transition -In Period as part of the Business Services Plan as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work). The Contingency Plans must detail the control arrangements, communications, and other processes and procedures required for the Service Provider to maintain the safety and security of Detainees and other people who may be in the Facility at the time of an Incident, other non-routine or emergency event;
  - (ii) ensure that the Contingency Plans addresses a range of plausible contingencies and is developed and maintained in accordance with ASNZS 3745: 2010 (Planning for emergencies in facilities);
  - (iii) ensure that the Contingency Plans includes:
    - (A) procedures for notifying the Department and other service providers that the Contingency Plan is in effect;
    - (B) coordination procedures with the Department, other service providers and other authorities;
    - (C) processes for communicating emergency procedures to Detainees, Service Provider Personnel and all other people at the Facility to ensure they understand the emergency procedures;
    - (D) plans and arrangements for applicable emergency services (such as ambulance services, fire services, police services, utilities and nominated contractors) to access and move through the Facility;
    - (E) procedures which apply to a variety of emergency situations (to include evacuation where warranted);
    - (F) suitable evacuation sites for each Facility, as agreed with the Department; and
    - (G) frequency of emergency drills and tests.
  - (iv) ensure that any relevant Security Intelligence relating to the possibility of an Incident occurring is considered during the drafting and updating of the Contingency Plan; and

- (v) for each Facility, host an annual multi-agency, full day, contingency planning exercise, involving local emergency services, local authority emergency planning teams and the Department, where the contingency plans for potential serious Incidents will be tested.
- (b) The Contingency Plans developed pursuant to this Section 4 (Security Services) must be approved by the Department, in accordance with Section 7 (Business Services) of Schedule 2 (Statement of Work).

### **3.13 Security Exercises**

- (a) The Service Provider must:
  - (i) implement a Departmental approved schedule of quarterly security exercises to test security and Incident response capabilities (including emergency exercises) required to meet the obligations of this Section 4 –(Security Services); and
  - (ii) provide a written report to the Department on the outcomes of each quarterly security exercise conducted, including any proposals for continuous improvement, in the relevant monthly Immigration Detention Facility Report for each Facility , as detailed in Annexure A of Section 7 (Business Services) of Schedule 2 (Statement of Work).

## **4. INCIDENT MANAGEMENT**

### **4.1 General**

- (a) The Service Provider must:
  - (i) manage all Incidents, in accordance with the requirements detailed in this Section 4 (Security Services), to ensure the safety and welfare of Detainees and other people at the Facility; and
  - (ii) restore safety and security in the Facility as quickly as possible after an Incident has occurred.
- (b) The Service Provider will manage all Incidents unless the Department exercises a Step-in Right, in which case the Service Provider will comply with the requirements of clause 56 of this Contract and any Departmental instructions or protocols.
- (c) The Service Provider must inform the Department of Incidents in accordance with Incident Management reporting requirements set out in Section 7 (Business Services) of Schedule 2 (Statement of Work)
- (d) The Service Provider must immediately inform the Department of any Incidents it believes may have a significant adverse impact on the welfare of any person, or the security and safety of the Facility.
- (e) The Service Provider must ensure that all relevant managers are qualified in Command of Serious Incidents (or equivalent), in accordance with Annexure D of Section 7 (Business Services) of Schedule 2 (Statement of Work), within three (3) months of commencement of their employment.

### **4.2 Incident Management Protocol**

- (a) During the Transition-In Period, the Service Provider and the Department will develop a national Incident Management Protocol as part of the Security Services Plan, as detailed in Section 7 (Business Services) of Schedule 2 (Statement of Work),
- (b) The Incident Management Protocol will include incident category definitions and specific Facility requirements that will detail the Department's expectations in relation to managing Incidents and the Service Provider's approach and actions to appropriately manage Incidents at the Facilities,

inclusive of roles and responsibilities, issues escalation, coordination of operations, collection of Security Intelligence and deployment of resources.

#### 4.3 Capability

- (a) The Service Provider must:
  - (i) implement a Policy and Procedure Manual for managing Incidents at each Facility that are in accordance with the directions given by the Department;
  - (ii) have the capability to respond to Incidents, including large scale incidents of mass non-compliance, at each Facility in a manner that minimises any adverse consequences to the delivery of the Services or to the welfare of Detainees, Visitors and other people at the Facility;
  - (iii) implement, train and maintain an Emergency Response Team (ERT) capability as agreed between the Service Provider and the Department, and detailed in the Facility Security Services Plan. The Service Provider must be able to provide a permanent ERT presence at major Facilities and be able to provide a deployable ERT capability and other supporting resources as required in order to manage Major and Critical Incidents, short notice contingencies or other designated non routine high risk operations or activities including but not limited to large scale off/on shore transfers, repatriations and returns. The ERT are to be comprised of specially trained security staff who undertake regular duties when the ERT is not in operation;
  - (iv) develop and implement an Emergency Response Team Policy and Protocols which will detail the relevant policies, procedures and qualifications for ERT and will form part of the Security Services Plan, as detailed at Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (b) The Service Provider Operations Director may authorise a deployment of ERT in consultation with the Contract Administrator.
- (c) When an ERT capability is deployed the ERT variable deployment rate set out in Schedule 5 (Detention Services Fee) will apply. Travel and accommodation costs will be a Pass Through Cost.
- (d) Resolution of public order incidents is a policing responsibility and included in relevant Memorandum of Understandings with the Australian Federal Police (AFP) and state policing agencies.

#### **4.4 Response to Incidents**

- (a) The Service Provider must respond to all Incidents immediately and in accordance with the Incident Management Protocol.
- (b) Where an Incident involves a Detainee, the Service Provider will ensure that the Detainee is informed of the outcome of any investigation of that Incident within three (3) Business Days of the resolution of the Incident.

#### **4.5 Command and Control**

- (a) The Service Provider must designate a space within each Facility which has reliable internal and external communications and is reasonably secure, to use for the command and control of Incidents.
- (b) The command and control space does not need to be a dedicated area at all times and may need to be moved offsite during an Incident if necessary.

#### **4.6 Incident Management Log**

- (a) The Service Provider must:
  - (i) maintain an Incident Management Log in the command and control area for all Incidents where the command and control area has been activated; and
  - (ii) ensure that the Incident Management Log is an accurate and comprehensive record of the date, time and location for all Incidents, the name(s) of people involved and any witnesses, other agencies, the actions taken and instructions given.

#### **4.7 Reporting of Incidents**

- (a) The Service Provider must:
  - (i) immediately (no later than 30 minutes) on becoming aware of a Critical Incident occurring, verbally inform the Department of the Critical Incident;
  - (ii) immediately (no later than 60 minutes) on becoming aware of a Major Incident occurring, verbally inform the Department of the Major Incident;
  - (iii) internally audit Incidents, to continuously improve the Service Provider's response to Incidents, at the following frequencies:
    - (A) 100% of all Critical Incidents to be audited;
    - (B) 100% of all Major Incidents to be audited; and
    - (C) 10% of all Minor Incidents per month to be audited;
  - (iv) provide the Department with written Incident Reports in accordance with the following:
    - (A) Critical Incident – within four (4) hours of the Department being informed within agreed timeframes and updated regularly until the Incident has been closed;
    - (B) Major Incident – within six (6) hours of the Department being informed within agreed timeframes and updated regularly until the Incident has been closed; and
    - (C) Minor Incident – within 24 hours and updated regularly until the Incident has been closed.



- (v) have in place data integrity and quality procedures and a reporting quality assurance framework to ensure the timely, complete and accurate reporting of Incidents;
- (vi) ensure complete Incident Reports accurately describe:
  - (A) the Incident;
  - (B) the background of, and sequence of events leading to the Incident (including relevant Security Intelligence);
  - (C) participants in, and witnesses to, the Incident;
  - (D) the resolution of the Incident; and
  - (E) any follow up action that has been undertaken following the Incident.
- (vii) submit Incident Reports electronically using the Department's nominated information technology system;
- (viii) finalise Incident Reports in the Department's nominated information technology system once the Incident has been resolved;
- (ix) ensure finalised Incident Reports are of a high quality and contain data integrity; and
- (x) work collaboratively with the Department to further develop and refine reporting requirements as required.

#### **4.8 Post Incident Review**

- (a) After a Critical or Major Incident has been resolved, the Service Provider must:
  - (i) conduct a post-Incident review to:
    - (A) determine the causes and contributing factors to the Incident (including relevant Security Intelligence);
    - (B) analyse and evaluate the actions taken in response to the Incident, including the conduct of Service Provider Personnel;
    - (C) identify any gaps in processes, procedures and training requirements; and
    - (D) make appropriate recommendations and implement any necessary changes to processes, procedures and training in accordance with the ASNZS ISO 9001:2008 (Quality Management Systems).
  - (ii) provide a written post-Incident report that focuses on providing actionable information to the Department at each Facility as soon as possible, but no later than within one (1) week of the resolution of the Incident; and
  - (iii) submit post-Incident reports electronically using the Department's nominated information technology system, unless directed otherwise by the Department.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 5**  
**TRANSPORT AND ESCORT SERVICES**

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## 1. TRANSPORT AND ESCORT SERVICES

### 1.1 General

- (a) The Service Provider must:
- (i) manage and coordinate all Australian based domestic and international Escort Tasks as directed by the Department;
  - (ii) supply transport and escort Services for each Facility;
  - (iii) transport Detainees and the Property of Detainees in accordance with Department requests, requests from the Detention Health Services Provider and the Programmes and Activities Schedule at each Facility; and
  - (iv) provide at all times an adequate numbers of Service Provider Personnel at each Facility to act as Escort(s) and driver(s) commensurate with the risks involved in ensuring the security of Detainees who are outside a place of Immigration Detention for whatever reason.

### 1.2 Escort Tasks

- (a) For the purposes of this Section 5 (Transport and Escort Services) of Schedule 2 (Statement of Works), Escort Tasks consist of five types of activities:
- (i) *Local Transport and Escort* - Local Transport and Escort Services encompasses the provision of transport and Escorts for Detainees and the Property of Detainees to and from the same Facility or another Facility within a 100km radius. Local Transport and Escort Services will consist mostly of travel within a metropolitan or district area.
  - (ii) *Compliance Transport and Escort* - Compliance Transport and Escort Services encompasses the provision of transport and Escorts for Detainees and the Property of Detainees from an initial point anywhere in Australia to a place of Immigration Detention, or from a place of Immigration Detention to an international airport within Australia for Removal from Australia.
  - (iii) *Transfer between Facilities Escort* - Transfer between Facilities Escorts, encompass the provision of Escorts for individuals or groups of Detainees and the Property of Detainees being transferred between Facilities within the Immigration Detention Network. In general this will consist of Escort Services on a commercial flight.
  - (iv) *International Removals Escort* - International Removal Escorts encompass the provision of Escorts for Detainees and the Property of Detainees on board an international flight while they are being Removed from Australia. International Removal Escort Services also include ensuring Detainees are cleared by immigration control or otherwise received by approved officials in the country of destination, and ensuring that documentation associated with the Removal is completed.
  - (v) *Offshore Processing Country Transfer Escort* - Offshore Processing Country Transfer Escorts encompass the provision of Escorts for individuals or groups of Detainees and the Property of the Detainees being Transferred to Offshore Processing Countries pursuant to this Section 5(Transport, Escort, Transfers and Removals) of Schedule 2 (Statement of Work). Transfer Escorts will consist of travel by air on either commercial or charter aircraft.
  - (vi) *Other Escort Activities* – The Department may require Escort Services for individuals discharged from Immigration Detention, or other circumstances not covered by the categories mentioned above from time to time.

- (b) Escort Tasks conducted by the Service Provider may include:
  - (i) escorting Detainees from an initial point of detention to a Facility;
  - (ii) escorting Detainees between different locations in the Immigration Detention Network;
  - (iii) escorting Detainees to and from local and regional appointments;
  - (iv) escorting Detainees to and from off-site Programs and Activities;
  - (v) escorting Detainees to a point of Removal;
  - (vi) escorting Transferees by air to an Offshore Processing Country; and
  - (vii) removing Detainees from Australia to an international destination.
- (c) The term “Escort Task” includes any associated vehicle requirements (excluding flights).
- (d) When Serco arranges transport and staff in advance of a service task which is subsequently cancelled (due to circumstances reasonably outside of the Service Providers control), the Department will be responsible for substantiated and unavoidable costs.

### 1.3 Integrity of Immigration Detention

- (a) The Service Provider must ensure all Detainees remain in Immigration Detention at all times during any Escort Task in accordance with relevant provisions of the *Migration Act 1958* (Cth).
- (b) Where a Detainee is being held in a place of Alternative Detention, the Service Provider must:
  - (i) provide Service Provider Personnel at the Alternative Detention location ensure the Detainee remains in Immigration Detention;
  - (ii) liaise with personnel in the other institutions (such as hospital management) to ensure they are informed that the Detainee is in Immigration Detention;
  - (iii) ensure that security measures are maintained by the Service Provider in respect of that Detainee; and
  - (iv) act in accordance with the Service Provider Alternative Detention policy and procedure document.

### 1.4 Delivery of Escort Services

- (a) The Service Provider must:
  - (i) deliver Escort Services in a manner that takes into account the Department’s requirements, the needs and welfare of the Detainees, integration with other service providers, risk to the community and contingency situations and related risks;
  - (ii) provide appropriate vehicles and vehicle fitments, including communications devices and first aid equipment, for the various types of Escort Services;
  - (iii) provide appropriately trained Service Provider Personnel to conduct Transport and Escort Services, particularly drivers and/or Escorts for tasks involving all domestic travel (including air travel);
  - (iv) coordinate Transport and Escort Services with the Department and other service providers (including the Detention Health Services Manager); and

- (v) provide a Transport capability in States and Territories where there is no Facility, in order to respond to Transport Requests from the Department.

### **1.5 Transport and Escort Hub**

- (a) The Department will, in consultation with the Service Provider, designate Transport Hub in specific Facilities across the country providing centralised Transport and Escort management and coordination for its respective state.
- (b) All Transport and Escort Services undertaken within a 100km radius of a Transport Hub are termed Local Escort Tasks and will be covered under the Transport Hub's fixed fee. More information is detailed at, Schedule 5(Facilities and Detainee Services Fee and Other Payments).
- (c) All Transport and Escort Services undertaken outside of the 100km radius of a Transport Hub are termed Regional Escort Tasks and will be based on variable pricing Escort rates detailed in Schedule 5 (Facilities and Detainee Services Fee and Other Payments).
- (d) In States and Territories without a Transport Hub, the Service Provider must establish appropriate arrangements to deliver Escort Services consistent with any directions from the Department in that State or Territory and such tasks will be Regional Escort Tasks from the nearest Transport Hub unless otherwise agreed with the Department.

### **1.6 Welfare of Detainees during Escort Tasks**

- (a) The Service Provider must ensure that all Detainees being Escorted are the person nominated in the Transport Request before the Escort Task commences.
- (b) Unless otherwise directed by the Department, for all Escort Tasks the Service Provider must ensure that Detainees are aware of where they are going, the purpose of the Escort Task and the expected time of departure and arrival.
- (c) Unless otherwise directed by the Department, the Service Provider must provide all meals and beverages required for the Escort Task, which:
  - (i) meet the cultural, religious, nutritional, medical and dietary needs of Detainees;
  - (ii) may be purchased for Detainees during the Escort Task in circumstances where meals and beverages cannot be prepared at the Facility; and
  - (iii) in the case of any meals transported prior to consumption, are required to be transported in accordance with the standards provided in the Catering Services Section 2 (Garrison Services) of Schedule 2 (Statement of Work).
- (d) For Escort Tasks from IRH Sites, the Service Provider must enable and actively encourage Detainees to prepare their own meals prior to an Escort Task occurring. In circumstances where this is not possible, requirements under clause 1.6(c) apply.
- (e) For all air movements, the Service Provider must liaise with relevant providers to ensure that all Detainees are provided with appropriate meals and beverages required during Transfer or Removal, which meet the cultural, religious, nutritional, medical and dietary needs of Detainees.;
- (f) The Service Provider must ensure that all Detainees are aware of what can and cannot be taken on an aeroplane.
- (g) The Service Provider must ensure that Detainees have access to all required medication, and medication carried by the Escorts is stored and managed in accordance with a pharmacist's instructions or is administered by a registered health professional.
- (h) For all Escort Tasks the Service Provider, subject to appropriate and reasonable risk assessment, must:

- (i) provide Detainees with comfort and exercise breaks of at least 15 minutes for every two (2) hours of surface travel;
  - (ii) allow Detainees to stretch and walk on domestic and international flights at appropriate times;
  - (iii) ensure Detainees have access to potable water at all times during the Escort Task;
  - (iv) provide secure storage for any Property of Detainees;
  - (v) deliver Transport and Escort Services in a manner that ensures respect for and protects the dignity of Detainees;
  - (vi) take reasonable measures to ensure that Detainees are not placed in situations that threaten their personal safety or security; and
  - (vii) monitor and manage at all times the behaviour of Detainees to ensure Detainees and all other persons welfare and safety is maintained; and
  - (viii) when an Escort Task involves the movement of a Detainee whose age is under 18, the Service Provider must manage any special needs arising from that Detainee's particular age and circumstance.
- (i) As part of its obligations to continuously improve its delivery of Transport and Escort Services, the Service Provider must:
- (i) seek and consider feedback received from Detainees, Consultative Committees, Department Personnel, Service Provider Personnel and Stakeholders; and
  - (ii) where the Service Provider identifies possible service delivery improvements that would address feedback received, provide the Department with a report that sets out the feedback received and the recommended service delivery improvements.

#### **1.7 Timeliness of Transport and Escort Services**

- (a) The Service Provider must:
- (i) comply with the timings specified in the Transport Request or as directed by the Department;
  - (ii) where the Department specifies that a Local Escort Task should commence as soon as possible, depart within one (1) hour of acknowledging the Department's Transport Request (these requests should be limited to collections from authorities, and tasks that are genuinely required urgently);
  - (iii) where an 'as soon as possible' request is made, the requesting agency must follow up the written request with a verbal notification in all circumstances;
  - (iv) ensure for a Regional Escort Task Detainees are collected as soon possible and no later than 24 hours from the time of receiving the Transport Request;
  - (v) take all reasonable measures to ensure that Detainees arrive at their destination within the timeframe specified in the Transport Request;
  - (vi) implement procedures for managing planned and unplanned Transport Requests, surges in numbers of Detainees and Incidents; and
  - (vii) ensure that adequate numbers of Service Provider Personnel are on duty, or on call, to manage all Transport Requests.

**1.8 Escort Operational Order**

- (a) The Service Provider must develop and implement an Escort Operational Order for each Escort Task, based on the Escort Security Risk Assessment (see clause 1.14), each relevant Detainee Security Risk Assessment and any instructions from the Department, which identifies:
  - (i) the Detainee(s);
  - (ii) the driver(s) and Escort(s);
  - (iii) the vehicle(s) and/or flights to be used;
  - (iv) if any part of any Escort Task involves vehicle travel that does not have Detainees as passengers in the vehicle;
  - (v) proposed departure and arrival dates and times;
  - (vi) the risk level of the Detainee and any specific Transport and Escort considerations, including the suitability or otherwise of transporting Detainees with different Security Risk ratings in the same vehicle;
  - (vii) emergency contact numbers (including Interpreters);
  - (viii) the route to be taken, including any planned stops;
  - (ix) provision of food, beverages and any required medication;
  - (x) when an Escort Task involves the Transport or Escort of a Detainee whose age is under 18, any special requirements arising from that person's age;
  - (xi) whether any interpreting requirements exist for the Escort Task; and
  - (xii) contingency plans.
- (b) The Service Provider must seek the Department's approval of the Escort Operational Order prior to the commencement of the Escort Task when:
  - (i) the Service Provider identifies an Escort Task to be High or Extreme Risk;
  - (ii) the Department requests in writing that it wishes to approve a specific Escort Operational Order; or
  - (iii) for any Escort Task involving 10 or more Detainees.

- (c) Where the Service Provider has provided the Escort Operational Order to the Department for High and Extreme Risk Escort Tasks in accordance with this clause:
  - (i) the Service Provider will include, where it considers necessary, acting reasonably, the requirement for restraints or other risk controls to be approved by the Department;
  - (ii) the Department shall consider the Escort Operational Order and either approve the use of restraints or other risk controls as contained in the Escort Operational Order or advise in writing that the use of restraints or other risk controls is not approved, in accordance with clause 1.14(b); and
  - (iii) if the Service Provider reasonably determines that additional staff are required to mitigate the increased risk due to the non-approval of restraints or other risk controls, the Schedule 5 (Detention Services Fee) additional Escort officer variable rate will apply, in accordance with clause 1.15(d).

#### **1.9 Domestic and International Air Travel**

- (a) The Service Provider must plan for any domestic or international air travel required for a Transfer or Removal Task in conjunction with the Department, and any associated logistics provider.
- (b) When a Transfer Task involves a mix of travel modes, the Service Provider must provide Escorts for the full journey of the Detainee, including all surface sectors and domestic and international air travel sectors required as part of the Transfer Task.
- (c) The Department must book and pay for all domestic and international air transport and accommodation required for a Transfer Task.

#### **1.10 Escorts for International Escort Tasks**

- (a) In addition to all other requirements for Escorts specified in Section 5 (Transport and Escort Services) of Schedule 2 (Statement of Work) , when an international Transfer or Removal requires the movement of Detainees to an international destination, the Service Provider must also ensure that the Escorts:
  - (i) receive from the Department a briefing that specifies the individual requirements for the Transfer or Removal task, including any special requirements to manage the Property of the Detainee and documentation;
  - (ii) hold a passport or other valid travel document and visas that are valid for the destination;
  - (iii) have received from the Department, before the Transfer or Removal task commences, approval of the aircraft operator for the Escort Task in accordance with Aviation Transport Security Regulations;
  - (iv) receive from the Department, and carry with them for handover to the Detainee(s) at the destination, the official documentation required for the Detainee(s) to pass through immigration control at the destination and any planned stop-over;
  - (v) receive from the Department a list of official contacts at the destination and any intermediate stop-overs that will meet the Detainee(s) on arrival, or can assist the Escort should any issues arise during the course of the Transfer or Removal Task;
  - (vi) supervise the Detainee(s) until the Detainee(s) has been accepted through immigration control at the destination or, when required, have been handed over to an official nominated by the Department;
  - (vii) have the capacity to meet relevant obligations imposed under the Aviation Transport Security Act 2004, the Aviation Transport Security Regulations 2005 and the Convention



on Offences and Certain other Acts Committed on Board Aircraft (Tokyo Convention and Chicago Convention);

- (viii) are trained in aviation security techniques and responsibilities, and specifically, protect Detainees' welfare and general aviation security to include preventing unlawful interference with an aircraft; and
  - (ix) have the capacity to work in a public environment and interact effectively and professionally with foreign officials and agencies.
- (b) The Department reserves the right to specify the number and composition of Escorts for any Transfer or Removal Task if it assesses that any Transfer or Removal Task requires additional operational support. Additional Escorts may also be mandated by external organisations (such as airlines or Government authorities). Costs of additional Escorts will be charged to the Department at the additional Escort officer variable rate as set out in Schedule 5 (Detention Services Fee).

#### 1.11 Transport Vehicles

- (a) The Service Provider must:
- (i) provide Transport Vehicles in types and quantities suitable for transporting Detainees;
  - (ii) ensure all Transport Vehicles:
    - (A) comply with Laws for passenger transport vehicles;
    - (B) are fully maintained in accordance with manufacturer specifications;
    - (C) are adequate to meet the unique needs of the Detainee cohort of that Facility;
    - (D) have been cleared by the Department of Infrastructure, Transport, Regional Development and Local Government if required to enter restricted airport areas;
    - (E) are searched immediately before each Escort Task;
    - (F) are clean and tidy;
    - (G) protect Detainees from undue public attention or publicity;
    - (H) cannot be externally identified as detention services Transport Vehicles;
    - (I) are appropriate to the risk profile of the Detainee being transported;
    - (J) are appropriate to the number of Detainees that are being transported on any particular Escort Operational Order;
  - (iii) carry the following equipment:
    - (A) first aid kit;
    - (B) hand held metal detector;
    - (C) communication devices able to maintain direct communication with the Service Provider's base;
    - (D) digital video/audio recording device and capture system;
    - (E) restraints; and

- (F) fire extinguisher.
- (iv) augment communications with the allocation of a suitable satellite-based mobile phone to Service Provider Personnel where domestic systems are unreliable or it is otherwise deemed necessary; and
- (v) ensure that all Transport Vehicles used for Regional Tasks are installed with GPS monitoring.

#### **1.12 Transport Vehicle Numbers**

- (a) The Service Provider is expected to manage its national fleet of Transport Vehicles to ensure that it has the capacity to respond to Department requests for Escort Tasks at each Facility.
- (b) Where the Department requires the Service Provider to conduct Escort Tasks that exceed the capability of the Service Provider's Transport Vehicles at a Facility, the Service Provider may seek the Department's approval to hire a vehicle and the Department may approve the Service Provider hiring a vehicle and all costs in connection with the hiring of the vehicle will be a Pass Through Cost payable by the Department.
- (c) Where the Department or the Service Provider identifies that there is evidence that the Service Provider's fleet of Transport Vehicles (either at the Facility level or nationally) is:
  - (i) insufficient to meet the Transport and Escort needs of Detainees; or
  - (ii) greater than that required to meet the Transport and Escort needs of Detainees,the Department and the Service Provider will meet to determine whether the Service Provider's fleet of Transport Vehicles should be adjusted.
- (d) Where the Department and the Service Provider agree that the Service Provider's fleet of Transport Vehicles should be adjusted, the Department will provide the Service Provider with a Contract Change Notice.

#### **1.13 Coordination with the Detention Health Service Provider**

- (a) For all Escort Services detailed in this Contract the Service Provider must:
  - (i) work cooperatively with the Detention Health Services Provider to ensure the health of Detainees is maintained during Transfer or Removal, which may require the Service Provider to Transport a health care professional or specialist medical equipment with the Detainee; and
  - (ii) confirm that the Detention Health Services Provider has issued a Fit-for-Travel Certificate for all Transfer or Removal Escort Tasks, before commencing the Transfer or Removal Task.

#### **1.14 Escort Security Risk Assessment**

- (a) The Service Provider must:
  - (i) develop a Transport and Escort Security Risk Assessment for each Escort Task;
  - (ii) ensure the Escort Security Risk Assessment is based on each Detainee's Individual Security Risk Assessment;
  - (iii) ensure that each Escort Security Risk Assessment includes risk controls for ensuring the safety and security of Detainees, Service Provider Personnel and the public during the conduct of Escort Tasks; and
  - (iv) ensure the Escort Security Risk Assessment accords with AS/NZS ISO 31000:2009 Risk Management Standard.
- (b) Where concerns are raised regarding the appropriateness of an Escort Security Risk Assessment rating or proposed risk controls, these concerns must be escalated to the Contract Administrator for resolution. The Escort Task will not proceed until the matter has been resolved. Resolution of the issue will be confirmed in writing between the Service Provider and Department National offices.

#### **1.15 Number and Gender of Drivers and Escorts**

- (a) The Service Provider must determine the number and gender of drivers and Escorts required for each Escort Task, after completing the Transport and Escort Security Risk Assessment.
- (b) In determining the number of drivers and Escorts required, the Service Provider must:
  - (i) ensure that back-up driver(s) and Escort(s) are available to support the Escort Task if required;
  - (ii) ensure that there is at least one (1) female Escort on each Escort Task where a female Detainee is being Transported;
  - (iii) ensure compliance with all applicable Laws and the National Fatigue Management Guidelines; and
  - (iv) ensure that the driver is not simultaneously tasked with the duties of Escort, regardless of the outcome from the Escort Security Risk Assessment.
- (c) Where qualified, drivers and Escorts may swap duties at a rest stop provided that the Service Provider ensures there is clear definition of which person has which role at all times.
- (d) For Escort Tasks assessed as High or Extreme Risk, the Department reserves the right to stipulate the number and composition of drivers and Escorts for that Escort Task. Any substantiated additional costs arising from a direction given by the Contract Administrator (or their authorised representative) may be charged to the Department at the additional Escort officer variable rate set out in Schedule 5 (Detention Services Fee).

#### **1.16 Screens and Searches of Detainees**

- (a) The Service Provider will at IDC Facilities:
  - (i) screen each Detainee before that Detainee is moved on an Escort Task; and
  - (ii) search each Detainee when Detainees are transferred from an initial point of Immigration Detention.

- (b) The Service Provider must at APOD, ITA and IRH Facilities, when determined to be required by the relevant Escort Security Risk Assessment:
  - (i) screen a Detainee before that Detainee is moved on an Escort Task; and
  - (ii) search a Detainee when that Detainee is transferred from an initial point of Immigration Detention.
- (c) The Service Provider must ensure that any screens or searches conducted under this clause 1.16 are in accordance with *the Migration Act 1958* (Cth) and applicable Departmental policy and procedures.

#### **1.17 Transport Vehicle Drivers**

- (a) The Service Provider must ensure all Transport Vehicle drivers:
  - (i) are Service Provider Personnel, or have been approved by the Department;
  - (ii) are fit to undertake their duties;
  - (iii) conduct themselves in a professional manner, and respect the human rights, dignity and privacy of Detainees in accordance with the Code of Conduct, any applicable Departmental values or standards, and as directed by the Department;
  - (iv) hold a current drivers licence applicable to the Transport Vehicle being used on the Escort Task;
  - (v) are briefed with any specific Department instructions;
  - (vi) hold an Aviation Security Identification Card and an airside driver's licence where applicable;
  - (vii) hold a Maritime Security Identification Card where applicable; and
  - (viii) are dressed and equipped appropriately to the nature of the task (noting that Service Provider Personnel should not usually wear uniforms for Programs and Activities related Escort Tasks).

#### **1.18 Escorts**

- (a) The Service Provider must ensure that all Service Provider Personnel tasked with escorting Detainees:
  - (i) carry any required travel documents;
  - (ii) conduct themselves in a professional manner and respect the human rights, dignity and privacy of Detainees in accordance with the Code of Conduct and relevant policies as advised by the Department;
  - (iii) are trained in accordance with applicable Laws and Australian Standards, and any Department instructions;
  - (iv) are fit to undertake their duties;
  - (v) are dressed and equipped appropriately to the nature of the task (noting that Service Provider Personnel would not usually wear uniform for Programs and Activities related Escort Tasks);

- (vi) comply with the Aviation Transport Security Regulations when required to escort Detainees by air;
  - (vii) hold an Aviation Security Identification Card when required to enter airport restricted areas;
  - (viii) hold a Maritime Security Identification Card when required to enter restricted areas at a seaport; and
  - (ix) hold current Control and Restraint certification
- (b) Where custody of a Detainee is being transferred to another service provider, the Service Provider must take all reasonable measures to inform the service provider who is taking custody of the Detainee of all relevant information about the Detainee.

#### **1.19 Using Restraints on Detainees**

- (a) Subject to clause 1.8 the Service Provider must not use restraints (other than seatbelts) on Detainees during an Escort Task, unless:
- (i) the Detainee is attempting to escape;
  - (ii) the Detainee is at risk of causing injury to themselves or others;
  - (iii) the Detainee is damaging property; or
  - (iv) the Department has otherwise approved the use of restraints as part of an Escort Security Risk Assessment process.
- (b) The Service Provider must ensure that:
- (i) the use of restraints by Service Provider Personnel is, at all times, in accordance with all applicable Laws and Department policy and procedures subject to clause 1.8(c); and
  - (ii) all instances where restraints are used on a Detainee are reported to the Department in accordance with the Critical Incident reporting requirements as detailed in this Contract.
- (c) Service Provider Personnel conducting Escorts may only use restraints that comply with relevant Legislation and that have been approved by the Department.

#### **1.20 Digital Record**

- (a) The Service Provider must digitally record an audio and visual Record of all Escort Tasks involving a "High" or "Extreme" risk Detainee, while the Detainee is within the vehicle.
- (b) Where such recordings have been made, the Service Provider must, within one (1) hour of completing the Escort Task:
- (i) make an unedited copy of the recording;
  - (ii) label the original and copy of the recording with the date and time of the recording, and the names of people who were involved; and
  - (iii) provide the unedited copy of the recording to the Department.

**1.21 Recording Escort Tasks**

- (a) The Service Provider must:
  - (i) record any Incidents or significant events that occurred, including the use of force or restraints and any follow up action, within one (1) hour of completion;
  - (ii) record the other details of each Escort Task within 24 hours of completion including:
    - (A) the purpose of the trip;
    - (B) compliance or otherwise with all items in the Escort Operational Order;
    - (C) the reason for and location of any stops made;
    - (D) any requests or complaints from Detainees, and the actions taken by Service Provider Personnel;
    - (E) the time of Transfer if a Detainee was transferred into or from the Service Provider's custody;
    - (F) total distance travelled; and
    - (G) the time and number of hours that any Escorts are rostered on duty to undertake the Escort Operational Order.
  - (iii) use the Department's nominated information technology system to record the movement details of each Escort Task; and
  - (iv) have in place data integrity and quality procedures and a reporting quality assurance framework to ensure the timely and accurate reporting of the Escort Task.
- (b) For the purposes of this Contract an Escort Task is complete once the Service Provider has performed the Escort Task in accordance with the Escort Operational Order and conducted the debriefing.

**1.22 Property of Detainees during Escort Tasks**

- (a) The Service Provider must ensure that the Property of Detainees is transferred with a Detainee during an Escort Task between Facilities, Removal or Transfer to an Offshore Processing Centre.
- (b) Detainee Property must be managed and accounted for at all times to ensure the Property is appropriately secured and safe.





**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 6**  
**WELFARE AND ENGAGEMENT SERVICES**

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## **1. INTRODUCTION TO WELFARE AND ENGAGEMENT SERVICES**

### **1.1 General**

- (a) The Service Provider will provide and assist with a range of Services provided for the Detainees (Welfare and Engagement Services) at the Facilities and facilitate and encourage Detainees to access these Services.
- (b) In delivering Welfare and Engagement Services, the Service Provider must take into account the individual needs and circumstances of Detainees and aim to improve health and welfare outcomes for each Detainee. Welfare and Engagement Services include the following categories of services:
  - (i) Welfare of Detainees;
  - (ii) Communication Services;
  - (iii) Complaints Management;
  - (iv) Visitor Management;
  - (v) Programmes and Activities;
  - (vi) Reception, Induction, Transfer, Discharge and Accommodation Services;
  - (vii) Individual Management Plans; and
  - (viii) Property Management.

### **1.2 Welfare of Detainees**

- (a) The Service Provider acknowledges and agrees that each Detainee will have a variety of individual needs and circumstances, including:
  - (i) physical, mental health (including intellectual disability), emotional, cultural or religious needs;
  - (ii) differing immigration statuses; and
  - (iii) differing risk assessments.
- (b) Regardless of the Detainee's needs, circumstances, immigration status or risk assessment, the Service Provider must provide the Services to all Detainees to meet all of their individual needs and circumstances in accordance with this Schedule 2 (Statement of Work).
- (c) The Service Provider will facilitate and encourage all Detainees to access these Services.
- (d) All service delivery decisions taken and all Services provided by the Service Provider must take account of the individual needs of Detainees, and must aim to improve health and welfare outcomes for each Detainee.
- (e) The Service Provider must provide a range of Services to promote the welfare of Detainees and create a safe and secure environment at each Facility.

- (f) The Service Provider must ensure that it and all Service Provider Personnel treat Detainees equitably and fairly, with dignity and respect.
- (g) The Service Provider will:
  - (i) facilitate visits from family, friends and support groups for Detainees;
  - (ii) encourage positive interaction between Detainees; and
  - (iii) facilitate external excursions for Detainees.

## **2. COMMUNICATION SERVICES**

- (a) The Service Provider must provide a range of Communication Services to Detainees which provide fair and reasonable access to telecommunications and mail services. Communication Services include:
  - (i) access to and use of telephones;
  - (ii) access to television and other media;
  - (iii) use of computers and internet;
  - (iv) access and use of mail;
  - (v) maintaining the security of mail; and
  - (vi) the communication of information to Detainees.
- (b) The Service Provider must implement a booking system at each Facility for Detainees to access telephones, facsimile machines, Internet service facilities, desktop computers and other communications systems, which is open and transparent, ensures that the provision of communication services is fair and equitable to Detainees and allows for priority access to be provided to Detainees working on matters related to their immigration case.

### **2.2 Access to and Use of Telephones and Facsimile Machines**

- (a) The Service Provider must ensure that Detainees have access to Communication Services, unless otherwise advised by the Department, including:
  - (i) access to a telephone for telephone calls within Australia during designated times (or otherwise by appointment) to make a call to any person without charge to the Detainee; and
  - (ii) access to a telephone at any time by a Detainee where the Detainee wishes to contact a family member, a legal representative or a consular official in relation to immigration process without charge to the Detainee.
- (b) The Service Provider will provide public telephones in all Facilities for Detainee use, except at the Christmas Island Facilities. The Department will arrange for public telephone access for Detainees on Christmas Island.
- (c) The Service Provider must ensure that Detainees who are classified as IMAs do not retain a mobile phone within a Facility.

- (d) Unless otherwise directed by the Department, the Service Provider must:
  - (i) make provision for Detainees to have access to incoming telephone calls at any time;
  - (ii) notify a Detainee of incoming calls received on a landline; and
  - (iii) notify Detainees of any calls received for them when the Detainee was not available to receive the call, maintaining privacy and security of this information at all times.
- (e) The Service Provider must make provision for Detainees to have access to incoming and outgoing facsimiles, including a system to record all incoming and outgoing facsimiles and provisions for facsimile and photocopying services for Detainee use.
- (f) The Service Provider must deliver faxes received for Detainees by the end of the Business Day on which the fax is received, or first thing the next Business Day if the fax is received out of hours. If a fax is deemed to be urgent, it should be delivered within four (4) hours of receipt.
- (g) The Service Provider must meet the cost of outgoing facsimile and photocopying services and ensure the confidentiality of the information contained within a facsimile when handling facsimiles for Detainees.

### 2.3 Television and Other Media

- (a) The Service Provider, unless otherwise directed by the Department, must provide and facilitate access by Detainees to:
  - (i) free-to-air television and other broadcast services (excluding any pay-to-view television services), where available, covering news, current affairs and other content that the Service Provider may recommend to promote the welfare of Detainees;
  - (ii) library services suitable to the current demographic and occupancy levels of Detainees, including:
  - (iii) English and foreign language videos/DVDs;
  - (iv) a selection of local, national and foreign language books; and
  - (v) foreign language – English translation dictionaries.
- (b) The Service Provider must:
  - (i) ensure that the books offered through the library service meet the cultural, educational and recreational needs of the Detainee cohorts of the Facility;
  - (ii) ensure that the quantity of books available is adequate for the population at the Facility; and
  - (iii) review and maintain the library stock holdings on a quarterly basis, factoring in recommendations from the Consultative Committees or the Department.
- (c) The Department will provide the infrastructure associated with access to free-to-air television (including television sets, media players, cabling, ports and satellite dishes, where required).
- (d) The Service Provider may, with the approval of the Department, restrict access to some television and other media services in certain circumstances.
- (e) The Service Provider must ensure that Detainees who access media and entertainment facilities comply with the requirements set out in the Rights and Responsibilities of Detainees in Immigration Detention Facilities.

## **2.4 Access and Use of Computers and Internet**

- (a) The Service Provider must, at each Facility, provide, facilitate and manage access to computers for Detainees to perform functions such as word processing, spreadsheets, internet and email for their private use, for purposes related to Programmes and Activities and for the preparation of documents related to their immigration outcome.
- (b) The Service Provider must develop procedures at Commencement Date for the fair and equitable access to and use of printing services at Facilities.
- (c) The Service Provider must provide a memory stick to each Detainee with a minimum one gigabyte storage capacity.
- (d) The Service Provider must ensure that Detainees, and any Visitors seeking to assist Detainees to use internet or computer services, understand and sign the Conditions of Computer Use (in a form approved by the Department) before they can access any internet service or desktop computer.
- (e) The Department will provide the infrastructure associated with access to telecommunications services. The Service Provider is required to identify and manage appropriate Telecommunications Providers and Internet Service Providers for each Facility to provide internet and telecommunications services to Detainees. The costs associated with these services will be treated as Pass Through Costs in accordance with Schedule 5 (Facilities and Detainee Services Fee and Other Payments).
- (f) Where the hardware to access these telecommunication and internet services is not available at a Facility for the use of Detainees, the Service Provider is required to supply and manage such hardware. These items are incorporated in the fixed fee for each Facility, in accordance with Schedule 5 (Facilities and Detainee Services Fee and Other Payments).
- (g) The Service Provider must provide, facilitate and manage access by Detainees to internet services at each Facility and ensure appropriate filtering software, supervision and other measures as necessary are in place, in accordance with Departmental requirements, to control and limit access by Detainees to:
  - (i) pornographic and other prohibited sites, including those containing or promoting illegal acts;
  - (ii) personal software;
  - (iii) File Transfer Protocol sites, software or data; and
  - (iv) prohibited sites in foreign languages.

## **2.5 Access and Use of Mail**

- (a) The Service Provider must provide facilities for Detainees to send and receive mail in a timely manner and register all received mail which is addressed to a Detainee, with mail to be collected and processed once daily;
- (b) Subject to clause 2.6 below, the Service Provider must ensure that all mail addressed to a Detainee is distributed unopened to that Detainee on the same day it is received at the Facility; and
  - (i) ensure each Detainee signs for all mail received by them; and
  - (ii) notify the Department if a Detainee receives any correspondence from the Department or any other body which relates to that Detainee's immigration status or pathway.
- (c) Postage costs for mail sent by Detainees will be at the Detainee's expense except when a Detainee does not have the means to pay for postage, in which circumstances, that Detainee may utilise Individual Allowance Points (IAP) points to meet the costs of postage.

## **2.6 Security of Mail Services**

- (a) The Service Provider must identify and intercept malicious or inappropriate content in mail delivered to a Facility.
- (b) Where the Department has provided electronic scanning equipment (which may include x-ray equipment), the Service Provider must electronically scan all delivered mail.
- (c) Where the Service Provider has a reasonable suspicion that a letter or package may contain Illegal Items, Excluded Items or Controlled Items, the Service Provider will request that the Detainee open the letter or package addressed to them in the presence of Service Provider Personnel.
- (d) Where a Detainee refuses to open a letter or package when requested by the Service Provider Personnel, the Service Provider Personnel will withhold the letter or package and immediately contact the Department.
- (e) Where Illegal Items, Excluded Items or Controlled Items are found in a letter or package, the Service Provider will:
  - (i) remove the Items;
  - (ii) hold the Items in trust; and
  - (iii) deal with the Items in accordance with this Schedule 2 (Statement of Work).

## **2.7 Communication of Information to Detainees**

- (a) The Service Provider must ensure that all information and documents provided to a Detainee by the Service Provider and all other information and documents displayed in a Facility are in a language understood by the Detainees. The Service Provider is responsible for the translation of such information and documents.

## **2.8 Translation Services**

- (a) The Service Provider must allow Detainees to nominate a preferred language during Reception, which is to be included in their Detainee record.
- (b) The Service Provider must facilitate Detainees with access to Department provided interpreters where a Detainee requests such assistance.
- (c) Where a Detainee is assessed by the Service Provider or the Department as not being able to competently communicate in English, the Service Provider must ensure that an appropriately qualified interpreter and/or translator is used for all formal communication with that Detainee.
- (d) Where the services of an interpreter and/or translator are either requested by a Detainee or identified as required by the Department or the Service Provider, the Service Provider must:
  - (i) ensure that the Department provided interpretation and/or translation services are utilised to communicate information to the Detainee in the first instance; or
  - (ii) engage additional translation or interpreting services that are accredited by the National Accreditation Authority for Translators and Interpreters (NAATI); and
  - (iii) the costs of the additional translation are included in the Detention Services Fee. The costs of additional interpreting services are a Pass Through Cost.
- (e) The Service Provider may only engage the services of another Detainee to interpret on the behalf of the Service Provider in emergency situations or instances where informal or social communication is intended.

- (f) The Service Provider must ensure that Service Provider Personnel receive guidance in effectively working with interpreters.

## **2.9 Visa Application Forms and Statutory Declarations**

- (a) The Service Provider must, in accordance with section 256 of the *Migration Act 1958* (Cth), ensure that the following is made available to a Detainee upon their request:
  - (i) a visa application form (provided by the Department); and
  - (ii) the means to make a statutory declaration, including availability of a witness with authority under the *Statutory Declarations Act 1959* (Cth).

## **3. COMPLAINTS MANAGEMENT**

### **3.1 General**

- (a) The Service Provider must develop, implement and manage a system, to be approved by the Department, which allows Detainees to make a complaint or provide feedback on matters relevant to their detention and manage such feedback and complaints.
- (b) The Service Provider agrees and acknowledges that it will encourage Detainees to resolve any complaints or supply any feedback in the first instance through collaborative interaction, which will include (without limitation):
  - (i) promoting the role of the Consultative Committees;
  - (ii) instructing Personal Officers assigned to each Detainee to meet regularly with such Detainees to discuss welfare matters, including ascertaining whether there are any complaints or feedback; and
  - (iii) instructing Service Provider Personnel to interact with Detainees generally.
- (c) In the management of complaints, the Service Provider must:
  - (i) ensure that its Personnel, where practicable, seek to resolve any complaints or feedback immediately in discussion with a Detainee. If a resolution is achieved in this manner, the Service Provider need not record the complaint or feedback made;
  - (ii) use the Department's nominated information technology system to accurately record and manage all complaints, feedback or suggestions within 48 hours of receipt of the complaint;
  - (iii) clearly communicate the complaint and feedback system mechanics to all Detainees during Induction, including the provision of a written guide in a language understood by each Detainee to be provided to Detainees during the Induction Process;
  - (iv) ensure that all feedback and complaints are acknowledged within 24 hours from the time the complaint is received;
  - (v) if the request or complaint is made orally, ensure that the request or complaint is transcribed onto the relevant form to maintain a consistent documentation audit trail;
  - (vi) assess all complaints and feedback and use reasonable endeavours to provide an outcome to the complaint or request within ten (10) Business Days of the receipt of the complaint or request. The Service Provider will give the Detainee an update every ten (10) Business Days where a complaint or feedback cannot be resolved within the initial timeframe;
  - (vii) when a complaint is resolved, update the Department's nominated information technology system to show the complaint as resolved; and

- (d) ensure that its Personnel at each Facility review monthly with the Department the types and numbers of complaints received in order to identify any trends or systemic issues.

### **3.2 Complaints to the Service Provider, the Department and Other Agencies**

- (a) The Service Provider must inform Detainees of their right to complain without hindrance or fear of reprisal:
  - (i) to the Service Provider, its Personnel and/or Subcontractors, the Department, the Australian Human Rights Commission or the Commonwealth and Immigration Ombudsman;
  - (ii) in the case of a suspected criminal offence, to the Police; or
  - (iii) in the case of suspected child abuse, to the relevant State/Territory welfare agency.

### **3.3 Forwarding of Complaints to Other Agencies**

- (a) The Service Provider must ensure that complaints that are either expressed to be for the attention of a third party or are deemed by the Department or the Service Provider to be more appropriately resolved by a third party, are forwarded to the relevant agency in a timely fashion and in accordance with applicable Laws.
- (b) The Service Provider must advise the Department as soon as possible when the Service Provider is of the view that a complaint should be forwarded to another agency.
- (c) Once the complaint has been forwarded to the third party, including complaints directed to the Health Services Provider, no further action is required by the Service Provider.
- (d) Complaints forwarded to a third party are not required to be lodged in the Department's nominated information technology system.

### **3.4 Display Material**

- (a) The Service Provider will display in Facilities in language understood by the Detainees of each Facility:
  - (i) guidance about the complaints process;
  - (ii) material provided by the Department, the Australian Human Rights Commission, United Nations High Commissioner for Refugees, the Commonwealth and Immigration Ombudsman, the Australian Red Cross Society and other authorised agencies providing information related to Immigration Detention;
  - (iii) notices to advise of regular visits by the Commonwealth and Immigration Ombudsman; and
  - (iv) the Service Provider's Code of Conduct.
- (b) The Service Provider will provide facilities for Detainees to contact the agencies referred to in clause 3.4(a)(ii) above by mail or facsimile.

### **3.5 Internal management of Complaints, Feedback and Suggestions made by Detainees**

- (a) The Service Provider must:
  - (i) advise the Detainee of the reasons where a suggestion cannot be actioned;
  - (ii) ensure the Detainee's identity remains confidential (in relation to the complaint made or feedback rendered), and minimise the risk of any possible retribution from other Detainees or illegal conduct; and



- (iii) advise the Department within three (3) days when the Detainee is dissatisfied with the outcome or seeks higher level review.

### **3.6 Complaints by Detainees to the Department**

- (a) Where a Detainee (or former Detainee) makes a complaint, feedback or suggestion direct to the Department in relation to:
  - (i) any aspect of the provision of Services by the Service Provider;
  - (ii) the conduct of Service Provider Personnel or any Subcontractor;
  - (iii) any matter which is more appropriately forwarded to a third party agency; or
  - (iv) any matter relating to that Detainee's time in a Facility which falls within the scope of this Contract or any Additional Service provided pursuant to this Contract,then the Department will forward such complaint, feedback or suggestion to the Service Provider National Office within 24 hours of receipt.
- (b) Upon notification, the Service Provider will ensure that the complaint, feedback or suggestion has been recorded accurately on the Department's nominated information technology system and manage the complaint in accordance with the provisions of this Schedule 2 (Statement of Work).

### **3.7 Complaints by Detainees against Department or Service Provider Personnel**

- (a) The Service Provider will notify the Department of any complaint made by a Detainee about the conduct of Department Personnel, Service Provider Personnel or third party service providers as soon as practicable and, in any event, within 24 hours of receipt of the complaint.

### **3.8 Requests, Complaints, Feedback or Suggestions from the Community or Stakeholders**

- (a) If the Service Provider receives a request, complaint, feedback or suggestion from a member of the community or a Stakeholder, it will:
  - (i) notify the Department, of the request, complaint, feedback or suggestion within 24 hours and accurately record details of the request, complaint, feedback or suggestion on the Department's nominated information technology system; and
  - (ii) provide a written response to the person who lodged the request, complaint, feedback or suggestion, setting out the action taken or the reason why no action will be taken within 10 Business Days from the date the request, complaint, feedback or suggestion was received.

## **4. VISITOR MANAGEMENT**

### **4.1 Visitor Management - General**

- (a) The Service Provider must undertake all administration relating to visits and use the Department's nominated information technology system to record Visitor and visit details and implement Visitor management procedures that are consistent across all Facilities, which include:
  - (i) develop Conditions of Entry (Visitors) and Visitor Application Forms, to be approved by the Department during the Transition-In Period;
  - (ii) create, maintain and prominently display, in agreed translated languages, an approved Conditions of Entry (Visitors) sheet in the visits registration area;
  - (iii) maintain the approved Visitor Application Form that is readily available to persons seeking to visit Detainees at Facilities;



- (iv) ensure that all people seeking to visit Detainees, including any nominated legal representatives or recognised diplomatic and consular representatives, are supplied with and sign both the Conditions of Entry (Visitors) sheet and the Visitor Application Form;
- (v) ensure that all Visitors to Facilities are informed of any responsibilities they may have while within a Facility, including complying with any reasonable direction given by Service Provider Personnel;
- (vi) inspect all Visitor identification documents;
- (vii) receive authorisation from the Detainee for the visit;
- (viii) screen Visitors to Facilities on arrival for Excluded, Controlled and Illegal Items in accordance with the Detention Services Manual and, unless the Department otherwise approves in advance, ensure that Visitors do not take any property into the Facility with the exception of food brought by Visitors provided that all leftovers are removed from the Visitors area by the Visitor at the end of the visit;
- (ix) ensure that all Visitor information is managed in accordance with the Privacy Act;
- (x) notify the Detainee as soon as practicable that the Visitor has arrived;
- (xi) manage Visitor access to and use of storage lockers;
- (xii) where required, escort the Visitor to and from designated visit areas;
- (xiii) provide tea, coffee, water and biscuits, and arrange for the provision of other food and beverage vending machines in the Visitor area (purchases from which will be at the expense of the Detainee or Visitor);
- (xiv) record Visitor and visit details in the Visitor Log in accordance with clause 4.2 below; and
- (xv) record Visitor and visit details on the Detainee's Record.

#### 4.2 Visitor Log

- (a) The Service Provider must create and maintain a Visitor Log, which must be accessible to the Department, to record:
  - (i) the name of the Visitor;
  - (ii) the name of the Person or Detainees being visited;
  - (iii) verification of Visitor identification documents presented;
  - (iv) the purpose of the visit;
  - (v) the date and time the Visitor entered and departed the Facility;
  - (vi) any personal property of the Visitor which is kept in possession or in trust with the Service Provider for the duration of the visit;
  - (vii) when the Service Provider denies, reschedules or terminates a visit, justification for the Service Provider actions and any justification offered by the Visitor or the Detainee being visited; and
  - (viii) any special security actions taken in relation to the visit.

#### 4.3 Designated Visits Areas

- (a) Unless otherwise approved by the Department, the Service Provider will ensure all visits to Detainees are conducted in areas designated by the Department.
- (b) The Service Provider must ensure that the visit areas include:
  - (i) chairs and tables;
  - (ii) hot/cold drinks and confectionery vending machines; and
  - (iii) an area which is suitable for children to play.
- (c) The Service Provider must ensure that Visitors have access to:
  - (i) toilet facilities; and
  - (ii) hand washing and baby change facilities.
- (d) The Service Provider will, during hours when the Facility kitchen is open and where the visit will last longer than three hours, provide a make to order sandwich service for Visitors, which will be paid for by the Visitor.

#### 4.4 Private Interview Rooms

- (a) The Service Provider must:
  - (i) where possible, facilitate contact in a private interview room with the Detainee's Diplomatic, Consular, Legal, Australian Human Rights Commission and Commonwealth and Immigration Ombudsman representatives;
  - (ii) where possible, facilitate contact in a private interview room with any other Visitor approved by the Department; and
  - (iii) provide Service Provider Security Personnel near the interview rooms.

#### 4.5 Visitor Conditions and Restrictions

- (a) The Service Provider must ensure the Detainee agrees to meet with a Visitor before permitting the Visitor access to the Facility, unless that Visitor is entitled to visit the Detainee under any relevant Commonwealth, State/Territory and Local Legislation or order of Court.
- (b) The Service Provider must ensure Detainees being held in restrictive detention do not receive Visitors, unless the visit has been approved by the Department.
- (c) The Service Provider must treat all Visitors with politeness and respect and ensure Visitors are advised of all conditions or restrictions imposed by the Department on Visitors prior to their entry into the Facility.
- (d) The Service Provider must refuse Visitor access to the Facility when:
  - (i) the Service Provider has a reasonable suspicion the Visitor possesses a weapon or an item that could pose a threat to the security or good order of the Facility or the safety and welfare of any Detainee or Service Provider Personnel or assist in escape;
  - (ii) the Visitor is in possession of any item not permitted in a Facility and refuses to surrender it to the Service Provider;
  - (iii) the Visitor refuses to comply or the Service Provider has a reasonable suspicion that the Visitor has not, or is not, complying with Facility entry requirements, including any requirements to undergo screening; or
  - (iv) the Visitor breaches any condition or restriction placed on their visit.
- (e) The Service Provider acknowledges and agrees that it has no power to forcibly remove a Visitor unless a Visitor is acting in a violent or threatening manner.
- (f) If the Service Provider requests that a Visitor leave and they refuse, the Service Provider must notify the Department and relevant enforcement agencies where required. The Service Provider will inform the Detainee when a visit has been refused and the reason for refusal immediately, or in any event no longer than 24 hours of the refusal.

#### 4.6 Visiting Hours

- (a) The Service Provider must manage standard visiting hours at each Facility unless otherwise approved by the Department, publish standard visiting hours that provide for a minimum of six (6) visiting hours each day unless otherwise mutually agreed by the Service provider and Contract Administrator; and:
  - (i) enable visits outside of these times to cater to special and operational needs, provided that the Visitor applies in advance supplying reasons for the visit outside of standard visiting hours and the Department agrees in advance;
  - (ii) enable official, legal or case related visits/interviews between designated hours every day of the year, including Public Holidays;
  - (iii) enable official, legal or case related visits/interviews outside these times for urgent requirements; and
  - (iv) make provision to process Visitors before standard visiting hours to allow visits to Detainees to commence immediately at the start of standard visiting hours.
- (b) Where the Department has advised the Service Provider of the name and contact details for an intending volunteer Visitor, the Service Provider will:

- (i) initiate an Australian Federal Police check and any other check required by Commonwealth, State/Territory and Local Legislation as detailed in Section 7 - Business Services of Schedule 2 (Statement of Work) (as a Pass Through Cost to the Department); and
  - (ii) immediately notify the Department if any of these checks indicate that an individual may not be a suitable person to work with Detainees.
- (c) The Department may provide standing approval for visits to Detainees from approved individuals from approved volunteer organisations.
- (d) The Service Provider must allow religious practitioners who wish to conduct religious services or pastoral services to enter the Facility in accordance with Departmental Policy.
- (e) The Service Provider must:
  - (i) not provide access to the Facility for media visits unless the visit has been approved by the Department;
  - (ii) ensure that media personnel only conduct activities approved by the Department; and
  - (iii) if deviation from approved activities occurs, terminate the visit, and immediately inform the Department as to the circumstance of the termination.
- (f) The Service Provider must provide unrestricted access to the Facility for representatives of any advisory bodies as notified by the Department to the Service Provider from time to time and the Commonwealth and Immigration Ombudsman, after normal screening procedures.
- (g) The Department will provide the Service Provider with a list of representatives of any advisory bodies who have standing approval to visit the Facilities at any time, without restriction and without prior notification.

#### **4.7 Accepting Property**

- (a) The Service Provider must:
  - (i) provide facilities for Visitors to leave property at the Facility for delivery to Detainees; and
  - (ii) issue a receipt to the Visitor for the property and, after security screening to detect any Excluded and Controlled, and Illegal Items, transfer the property to the Detainee within 24 hours and in accordance with this Schedule 2 (Statement of Work).

## **5. PROGRAMMES AND ACTIVITIES**

### **5.1 Programmes and Activities - General**

- (a) The Service Provider must manage and deliver structured and unstructured Programmes and Activities designed to provide educational and recreational opportunities, and provide meaningful activities that will enhance the mental health and welfare of individuals in Immigration Detention and mitigate the risk of disturbance. The Programme and Activity Service includes:
  - (i) the development of a Programmes and Activities Schedule with educational, vocational, sporting, religious and instructive programmes or activities delivered to Detainees;
  - (ii) the delivery of religious activities;
  - (iii) the delivery of excursions;
  - (iv) the management of an Individual Allowance Programme;
  - (v) the management of a Facility Shop; and
  - (vi) the provision of hairdressing services.

### **5.2 Programme and Activity Requirements**

- (a) The Service Provider must:
  - (i) liaise with other service providers in developing structured and unstructured Programmes and Activities to;
  - (ii) ensure that Service Provider Personnel providing services in relation to Programmes and Activities are suitably qualified and trained;
  - (iii) provide all equipment necessary or desirable to facilitate structured and unstructured Programmes and Activities;
  - (iv) develop strategies to encourage Detainees to participate in Programmes and Activities, noting that participation is voluntary, including (without limitation) ensuring that Detainees' Personal Officers actively encourage them to partake in Programmes and Activities and promote the physical and mental health benefits of Programme and Activity participation;
  - (v) ensure Programmes and Activities cater for the diverse needs of Detainees and that Programmes and Activities are provided to Detainees to meet their individual needs, including (without limitation) their physical, mental health (including intellectual disability), emotional, cultural or religious needs;
  - (vi) include supervised external excursions in the range of Programmes and Activities offered to Detainees (including Unaccompanied Minors (UAMs), and subject to availability on UAM specific excursions, other children accompanied by a parent/guardian with appropriate consent form) to ensure that all Detainees have the opportunity to take part in an excursion on a regular basis;
  - (vii) take into account the demographics of Detainees at each Facility, in particular giving specific consideration to those Detainees who should receive educational and vocational Programmes and Activities (which do not attract formal qualification);
  - (viii) consider feedback received from Detainees when developing Programmes and Activities;
  - (ix) vary the types of Programmes and Activities on offer;

- (x) maintain a tailor-made individual programme for all Detainees who will be in a Facility for a period longer than ten days (as advised by the Department).
- (b) The Service Provider must appoint a dedicated Manager of Programmes and Activities at each Facility.
- (c) The Service Provider must ensure that no Programme or Activity results in any Detainee acquiring a formal accreditation or qualification.
- (d) Costs of enrolment fees, uniforms, and offsite or external training courses up to a total cost per annum of \$250k (including GST) will be accepted for Detainees who meet specific criteria as notified by the Department from time to time. Costs above this amount, or for Detainees who do not meet the relevant criteria will be treated as a Pass-Through Cost.
- (e) The Service Provider must deliver Programmes and Activities which are consistent with Departmental policies and the Programmes and Activities Operating Model, which must be mutually agreed during the Transition In Period and reviewed thereafter by the parties from time to time.

### 5.3 Programmes and Activities Schedule

- (a) The Service Provider must:
  - (i) provide a monthly Programme and Activities Schedule for each Facility for the Department's approval;
  - (ii) seek approval from the Department if it proposes a change to the Schedule in relation to any structured Programme and Activity in accordance with Department Policy and the Programmes and Activities Operating Model;
  - (iii) ensure the Programme and Activities Schedule is responsive to changes in the population of Detainees and their individual and group needs and requests;
  - (iv) implement the Programme and Activities described in the approved Schedule; and
  - (v) provide the equipment and qualified Service Provider Personnel required to support the Programme and Activities Schedule.
- (b) The Programmes and Activities, including excursions, listed in the Schedule may be specific or generic in nature in order to allow the Service Provider to provide Programmes and Activities in a flexible fashion to cater for unforeseen circumstances, including (without limitation) changes in weather and the wishes of Detainees at a particular time.
- (c) Structured Programmes & Activities will generally be conducted during normal business hours, excluding weekends.
- (d) The Service Provider must develop a system accessible to the Department which:
  - (i) records the names of Detainees who attend each Programme and Activity and the duration of that attendance;
  - (ii) for structured Programmes and Activities that attract IAP credits, record the IAP credits accumulated by each Detainee; and
  - (iii) where a Detainee's non-participation is noticeable either in all activity areas, or one specific area, ensure that:
    - (A) Service Provider Personnel, including but not limited to that Detainee's Personal Officer, talk to the Detainee informally to ascertain why he/she is not attending, and log the results of the interview in the Detainee's Individual Management Plan; and

- (B) the Service Provider advises the Department of Detainees who do not regularly participate in Programmes and Activities and gives detail regarding reasons for non-participation.

#### **5.4 Religious Activities**

- (a) The Service Provider must ensure all Detainees are free to practice their religion of choice individually or communally in accordance with Departmental Policy and subject to the overriding safety and security of Detainees.
- (b) The Service Provider will appoint a Religion Liaison Officer (RLO) to coordinate all religious activities at each Facility. The coordination of all religious activities must be performed in accordance with Departmental Policy. Where an RLO can readily provide Services at more than one Facility, the Service Provider must only appoint one RLO to service those Facilities.
- (c) Religious activities are to be included on the Programmes and Activities Schedule.

#### **5.5 Excursions**

- (a) For all excursions included in the schedule of Programmes and Activities, the Service Provider must ensure that:
  - (i) Detainees in restrictive detention are not eligible to apply for, or participate in, an excursion during the period of restrictive detention;
  - (ii) all excursions are based on risk management principles including the Australian New Zealand Risk Management Standard (AS/NZS ISO 31000:20009) and the Department's Risk Management Framework; and
  - (iii) it records all movement of Detainees in the Department's nominated information technology system as well as any Incidents that occur during any excursion.

#### **5.6 Individual Allowance Programme**

- (a) The Service Provider will implement a system to manage and record Detainee participation in Programmes and Activities and award Individual Allowance Programme (IAP) points for such participation, in line with Departmental policy.
- (b) IAP points can be exchanged by Detainees for small items at the Facility shop.
- (c) The Service Provider must:
  - (i) record the Detainee's current IAP balance on the Detainee dossier before the Detainee is Transferred;
  - (ii) provide Detainees with a copy of their IAP accounts balance, including all allocated and expended IAP credit points, and/or IAP point balances on Detainee request;
  - (iii) provide the Department with a monthly summary of all IAP accounts, including details of all credit point allocations and expenditures for each IAP account; and
  - (iv) upon request from the Department, provide within two (2) Business Days, full details of current balances of any or all IAP accounts, including details of all credit point allocations and expenditures.
- (d) In managing the IAP, the Service Provider must:
  - (i) not allow Detainees to use IAP points to purchase services, such as extra internet usage time;

- (ii) not allow Detainees to exchange IAP points for cash while in Immigration Detention or on Release from Immigration Detention;
- (iii) ensure that Personal Officers to Detainees actively encourage them to use their IAP for a variety of goods on offer in the Facility shop, in particular encouraging them to use IAP points for educational or meaningful engagement items;
- (iv) not transfer IAP points between Detainees (unless it is within family units);
- (v) ensure that Detainees who have children do not use the IAP points of their children to acquire items for themselves and not their children, in particular the acquisition of cigarettes; and
- (vi) ensure that Detainees retain their IAP balance regardless of where they are placed or transferred within the Immigration Detention network.

#### **5.7 Household Allowance Scheme**

- (a) The Service Provider must, unless otherwise directed by the Department:
  - (i) manage the Department's approved Household Allowance Scheme (HAS), in which Detainees are allocated points that are used to purchase household items for self-catering, and personal hygiene, in those Facilities participating in HAS. HAS must not be used for the purchase of cleaning supplies, pursuant to clause 3.4 of Section 2 (Garrison Services) of Schedule 2 (Statement of Work). The HAS points are not to be exchanged for cash at any time and the transfer of HAS points between Detainees is not permitted;
  - (ii) the Service Provider will manage the HAS for each individual Detainee participating in it. This includes recording HAS points and implementing a system for Detainees to manage their HAS account. The Service Provider is responsible for invoicing the Department for actual HAS points expended by Detainees as a Pass-Through Cost.
- (b) The Service Provider must assist Detainees to manage HAS point purchases including:
  - (i) identifying shopping requirements (such as cultural or dietary requirements) and assisting them in meeting these requirements;
  - (ii) facilitate Transport and Escort Services for Detainees as part of purchase of supplies using HAS;
  - (iii) encouraging Detainees to acquire food that is healthy and nutritious;
  - (iv) assisting Detainees with budgeting their HAS accounts; and
  - (v) assisting Detainees with special purpose requests, noting items that are prohibited in the Facility.
- (c) The HAS only applies to detainees at the Immigration Residential Housing Facilities.

#### **5.8 Facility Shop**

- (a) The Service Provider must:
  - (i) stock and manage a shop in each Facility that trades IAP points with items such as personal care products, telephone cards, stamps, writing paper, tobacco and snack food;
  - (ii) prominently display prices and opening times in the Facility Shop, with signage in all relevant languages as appropriate to the Facility's population; and



- (iii) implement a system to facilitate the redeeming of IAP points for items at the Facility shop.
- (b) The Service Provider must ensure that the Facility Shop is open for a minimum of two (2) hours per day, seven (7) days per week, including a morning and afternoon session, unless different operating hours have been approved in writing by the Department.

#### **5.9 Hair Dressing Service**

- (a) The Service Provider must:
  - (i) provide Detainees with a free basic haircut service, provided by a qualified hairdresser or barber; and
  - (ii) provide access to a suitable location for the hair cut service and a visitor escort to the hairdresser or barber.
- (b) For the purposes of clause 5.9(a) above, a basic haircut service comprises of a wash and cut.

#### **5.10 Education for Children in Local Schools**

- (a) The Service Provider must encourage Detainees who are unaccompanied Minors to attend local school and Detainee parents or guardians of school age children to send their children to local school.
- (b) The Service Provider must:
  - (i) provide all school aged Detainee children with access to local schools. The Department will advise the Service Provider of the appropriate local schools for these children to attend;
  - (ii) provide Detainee children attending schools with uniforms for which any cost will be paid by the Department as a Pass Through Cost;
  - (iii) report to the Department any instances where:
    - (A) a Detainee requests to send their children to a different school; or
    - (B) parents refuse to enrol their school age children at a school;
  - (iv) report to the Department weekly in writing:
    - (A) any instances of Detainee children enrolled in school who are not attending school; and
    - (B) the reason for any Detainee children enrolled in school not attending school; and
  - (v) support Detainee parents to understand and exercise parental responsibility to send their children to school.

### **6. RECEPTION, INDUCTION, TRANSFER, ACCOMMODATION AND DISCHARGE OF DETAINEES**

#### **6.1 General**

- (a) The Service Provider is responsible for managing all Reception, Induction, Transfer, Accommodation and Discharge processes and conducting these Services in a manner that promotes the welfare and safety of Detainees and ensures that Detainees are regularly informed about what is happening to them in a language they understand.

- (b) The Service Provider must ensure that Service Provider Personnel are available to undertake Reception, Induction Transfer, Accommodation and Discharge activities at any time, and:
  - (i) have capacity to undertake these processes simultaneously;
  - (ii) commence the Reception Process, including arriving at Accommodation, immediately after a Detainee arrives at the Facility and completes the Reception Process within 12 hours of their arrival at the Facility;
  - (iii) commence the Induction Processes as soon as reasonably practicable after the Detainee's arrival at the Facility and completes the Induction Processes within 48 hours of the Detainee arriving at a Facility;
  - (iv) undertake Transfer and Discharge Processes in accordance with timeframes determined by the Department on a case by case basis; and
  - (v) undertake Discharge processes at the time the Service Provider is advised to do so by the Department.

## 6.2 Reception Process

- (a) The Service Provider must:
  - (i) use a Reception Process and checklist to receive a Detainee into a Facility, as detailed in a Policy and Procedure Manual and in accordance with Departmental policy;
  - (ii) use the Department's nominated information technology system to record data relating to a Detainee collected during the Reception Process;
  - (iii) equip the Reception area of each Facility with television screens that show an explanatory video/DVD (in languages, and with subtitles, appropriate to the audience) about the Facility and the Reception process;
  - (iv) develop, translate at its own cost and make available leaflets on the Reception and Induction Processes in a range of languages to complement the video/DVD with clear pictograms to explain the Reception and Induction Processes;
  - (v) on admission of a Detainee to the Facility, offer the Detainee a hot or cold meal and drink, access to a shower area, adequate (weather appropriate and in good condition) clean and decent clothing and basic toiletries;
  - (vi) provide Detainees with the opportunity to make a local telephone call within 24 hours of admission to the Facility; and
  - (vii) ensure that Service Provider Personnel involved in the Reception process are specifically trained to manage the Reception process in a non-threatening and threat-reducing way, with a focus on welfare of Detainees at all times.

## 6.3 Identification of Detainees

- (a) The Service Provider must collect and record information and biometric data relating to a Detainee during the Reception Process to assist in the identification of the Detainee, in accordance with Department policy and guidance, in particular the identification tests instruction (see Detention Services Manual – Chapter 3 – Entering and Leaving Detention), unless the Detainee:
  - (i) has been Transferred from another Facility;
  - (ii) has already provided personal information and biometric data at another Facility; and

- (iii) such information and data is recorded in the Department's nominated information technology system and is accessible to the Service Provider during the Reception process.
- (b) The Department will provide the Service Provider with the equipment required to capture biometric data concerning a Detainee.
- (c) The Service Provider must ensure that all Service Provider Personnel using biometric data capture equipment are trained and cleared by the Department.
- (d) The Service Provider is not responsible for establishing the integrity of any information provided to them by the Detainee but will immediately refer any concerns they may have about the identity of a Detainee to the Department.
- (e) The Service Provider must create and issue a photographic identity card to each Detainee.

#### **6.4 Screening and Search**

- (a) The Service Provider must:
  - (i) ensure that Detainees understand the screening and searching process, and that at all stages of the process there are clear explanations given to Detainees about why any screening or searching procedure is being carried out;
  - (ii) screen and where necessary search, all Detainees and their property on arrival at a Facility to detect Illegal, Excluded or Controlled Items, in accordance with the *Migration Act 1958* (Cth), Departmental policy and the requirements of Section 5 (Transport and Escort Services) of Schedule 2 (Statement of Work);
  - (iii) conduct screening and searches with sensitivity; and
  - (iv) ensure that whenever Detainees are searched by any method they are only searched by a member of the same sex (where practicable), with two (2) Service Provider Personnel present at all times for any search beyond a pat-down search.

#### **6.5 Bedding, Clothing and Footwear**

- (a) The Service Provider must ensure that each Detainee is allocated with the following items during the Reception process:
  - (i) bedding that is clean and fit for purpose;
  - (ii) freshly laundered linen that is in good condition and suited to the local climate; and
  - (iii) where required, clothing and footwear that is new, suited to the local climate and the Detainee's cultural needs.
- (b) The Service Provider must replenish a Detainee's bedding, clothing and footwear as required while accommodated in Immigration Detention.

#### **6.6 Toiletries**

- (a) The Service Provider must, unless a Detainee has been transferred from another Facility and has brought with them their own toiletries, ensure that each Detainee is allocated with a starter pack of toiletries during the Reception process that includes (where appropriate):
  - (i) soap, shampoo and conditioner;
  - (ii) toothbrush and toothpaste;

- (iii) hairbrush or comb;
  - (iv) deodorant, moisturiser and talcum powder;
  - (v) razor and shaving cream (if required);
  - (vi) sanitary items (for female Detainees);
  - (vii) baby items (including baby formula);
  - (viii) fingernail clippers;
  - (ix) sunscreen and insect repellent; and
  - (x) mosquito nets (if required).
- (b) The Service Provider must:
- (i) Detail in a Policy and Procedure Manual which toiletries will be replenished, and at what frequency by the Service Provider, and those which will be stocked in the Facility Shop, as agreed with the Department; and
  - (ii) if using refillable containers to replenish toiletries, ensure the containers are functional and hygienic.

#### **6.7 Creation of Detainee Record**

- (a) The Service Provider must:
- (i) create a Detainee Record for each Detainee under its care during the Reception Process, unless the Detainee has been Transferred from another Facility and already has a Detainee Record in which case the Detainee Record must be updated by the Service Provider upon the arrival of the Transferred Detainee; and
  - (ii) comply with the record keeping requirements specified in Section 7 (Business Services) of Schedule 2 (Statement of Work).

#### **6.8 Creating of the Detainee Security Risk Assessment**

- (a) During the Reception Process, the Service Provider must conduct a Detainee Security Risk Assessment for each Detainee, which includes an examination of any previous risk assessments and information about the Detainee that might be provided by the Department or other government agencies.

#### **6.9 Detainees Under the Age of 18**

- (a) The Service Provider must:
- (i) take reasonable measures to identify any Detainees who are under the age of 18;
  - (ii) immediately inform the Department if the Service Provider is informed, or has a reasonable suspicion, that a Detainee may be under the age of 18;
  - (iii) ensure that any Service Provider Personnel who manage or interact with Minors in Immigration Detention have obtained all necessary checks in accordance with the relevant State child protection legislation before commencing any work with Minors; and

- (iv) ensure that any Service Provider Personnel who manage or interact with Minors in Immigration Detention are familiar with, and adhere to, Department policy and Service Provider procedures in relation to child protection.
- (b) While awaiting instruction from the Department in relation to a suspect minor, the Service Provider must:
  - (i) seek to determine whether the Detainee is accompanied, including asking families and Detainees whether they are caring for children under the age of 18 years other than their own, or whether they know of any children who are separated from their parents or relatives;
  - (ii) if the Detainee is accompanied, separate the Detainee and their guardian or nominated minder from the general population of Detainees;
  - (iii) if the Detainee is unaccompanied, separate the Detainee from the general population of Detainees;
  - (iv) assess and address any immediate special needs of the Detainee, taking into account the Detainee's (suspected) age, gender and background;
  - (v) treat the Detainee appropriately according to their (suspected) age; and
  - (vi) manage the Detainee in accordance with instructions provided by the Department.
- (c) The Service Provider must not separate the Detainee from their family unit or guardian under any circumstances, unless directed to do so by the Department.

#### **6.10 Induction**

- (a) The Service Provider must complete the Induction Process for each Detainee by providing each Detainee with an induction briefing for the Facility in which they are being detained.
- (b) The Service Provider must develop a Policy and Procedure Manual which details all Induction activities and Services.
- (c) The Service Provider will ensure that the induction briefing includes all information relevant to detention in each Facility including:
  - (i) a description of domestic routines, facilities and services that are available, including how to access Services and amenities;
  - (ii) the Detainees' Rights and Responsibilities;
  - (iii) the roles and responsibilities of the Department and Service Provider Personnel;
  - (iv) how to communicate with Service Provider Personnel, including access to translators and interpreters;
  - (v) how to arrange a meeting with Department Personnel;
  - (vi) how to access legal advice or contact diplomatic or consular representatives;
  - (vii) how to access information from the Australian Human Rights Commission, the Commonwealth and Immigration Ombudsman, the International Organisation for Migration and other international and regulatory bodies;
  - (viii) how to submit requests and complaints and provide effective feedback;

- (ix) how to obtain access to non-government organisations;
  - (x) information on Consultative Committees and how to be involved;
  - (xi) information on the Individual Allowance Program, Programmes and Activities, and associated schemes;
  - (xii) a notification that photos of Key Service Provider Personnel are placed on the Facility noticeboard;
  - (xiii) which items are Illegal, Excluded and Controlled Items and why; and
  - (xiv) other relevant information as determined by the Service Provider or as notified by the Department.
- (d) The Service Provider will provide a copy of the Rights and Responsibilities to the Detainee for signature during induction. A Detainee who has already entered into a signed agreement is not required to do so again.
- (e) The Service Provider must use the Department's nominated information technology system to record data relating to a Detainee collected during the Induction Process.
- (f) For those Detainees who are placed in restrictive detention, the Department will advise the Service Provider if the Induction Process should be modified or delayed.
- (g) Induction Processes for a Detainee who has been placed in restrictive detention may differ, as directed by the Department.
- (h) The Service Provider will nominate and appoint a Personal Officer from amongst its Personnel to act as Personal Officers for each Detainee during the Induction Process.

#### **6.11 Induction Document and Detainee Rights and Responsibilities**

- (a) The Service Provider must:
- (i) develop, translate at its own cost and provide to each Detainee an Induction Document and Detainee Rights and Responsibilities Document in a language they understand;
  - (ii) explain the Induction Document and the Detainee Rights and Responsibilities Document to each Detainee in a language they understand;
  - (iii) ensure that each Detainee has received and understood, the Induction Document;
  - (iv) ensure that each Detainee has received, understood, and signed a copy of the Detainee Rights and Responsibilities Document;
  - (v) ensure that the Induction Document covers, at least, the following:
    - (A) routines such as visitor hours and arrangements for meals;
    - (B) welfare checks;
    - (C) use of the facilities such as sport, recreational, and computer equipment;
    - (D) Detainee complaint and request mechanisms;
    - (E) the role of Service Provider Personnel and Department staff, and what Detainees should expect from them;

- (F) Programs and Activities and how Detainees can access them and how Detainees can acquire IAP points for participating in structured Programs and Activities;
- (G) how Detainees can access amenities including:
- (H) Self-catering facilities;
- (I) laundry facilities;
- (J) secure property storage;
- (K) the Facility Shop;
- (L) counselling under the Assistance Program;
- (M) expectations for behaviour of Detainees and the Detainee Rights and Responsibilities;
- (N) access to translators and interpreters; and
- (O) how Detainees can access Health Services (to be developed in conjunction with the Detention Health Services Provider).

#### **6.12 Accommodation Placement**

- (a) The Service Provider is responsible for the allocation of accommodation for Detainees within each Facility.
- (b) The Service Provider must:
  - (i) take into consideration the individual welfare, cultural, family and security related needs and circumstances of the Detainee prior to accommodation placement;
  - (ii) ensure each Detainee is provided with all requirements under clauses 6.5 and 6.6 of this Section 6 (Welfare and Engagement Services);
  - (iii) take Detainee requests into consideration;
  - (iv) ensure Detainee accommodation is fit for purpose in line with this Schedule 2 (Statement of Work); and
  - (v) provide the Department with an updated accommodation placement report within 24 hours of any Departmental request, as detailed in Annexure A of Section 7 (Business Services) of Section 2 (Statement of Work).

#### **6.13 Placement Review**

- (a) The Service Provider must:
  - (i) participate in the Individual Management Plan and Placement Review Committee at each Facility to review each Detainee's Individual Management Plans;
  - (ii) notify the Department, where the Service Provider believes that existing placement in a Facility is inappropriate for the Detainee (including where the Service Provider believes the Detainee should be moved within the existing Facility or should be transferred to another Facility) and include reasons why they formed this view, but are required nevertheless continue to provide all Services to such Detainee in accordance with the terms of this Contract; and

- (iii) use the Department's nominated information technology system to record all Accommodation details for Detainees.

#### **6.14 Transfer**

- (a) When notified by the Department, the Service Provider will prepare Detainees for their Transfer within the Network and will:
  - (i) check the Detainee's identification prior to Transfer;
  - (ii) ensure it has received a Fit for Travel certificate for the Detainee from the Detention Health Services Provider;
  - (iii) transfer that Detainee's current Individual Management Plan and any existing Behavioural Management Plan relating to the Detainee to the new Facility;
  - (iv) ensure that the Detainee Security Risk Assessment has been reviewed and updated prior to the Transfer;
  - (v) ensure that the Escort Operational Order has been received from the Department;
  - (vi) ensure that medications and other essential items are prepared;
  - (vii) ensure that all Property of Detainees is transferred with the Detainee unless the Detainee wishes to leave the Property permanently with the Service Provider in which case the Service Provider must obtain a signature from the Detainee consenting to such Property being donated or destroyed at the Service Provider's discretion and upload the signed document on the Department's nominated information technology system;
  - (viii) ensure that Detainees are advised of the reason for the Transfer, and are provided with the opportunity to ask questions, contact support networks and seek further advice;
  - (ix) ensure that all hard copy Detainee Records are provided to the Escort for transfer to the same destination as the Detainee; and
  - (x) ensure that the Detainee has been provided with clothing that is appropriate for the journey and the destination climate.



#### **6.15 Discharge of Detainees**

- (a) When notified by the Department, the Service Provider must prepare Detainees for Discharge from the Facility (including Discharge for Removal) and will:
  - (i) confirm that the identity of the Detainee matches that in the Department's release documentation;
  - (ii) confirm that the Department release documentation is complete and has been properly authorised;
  - (iii) ensure that all Service Provider Personnel engaged in the Discharge of Detainees are trained in the requirements of their role in the Discharge process, with refresher training provided on a regular basis;
  - (iv) ensure that Detainees are advised of the reason for Discharge, and are provided with the opportunity to ask questions, contact support networks and seek further advice;
  - (v) update the Detainee Security Risk Assessment before Discharge;
  - (vi) ensure the Detainee has been provided with a meal at a reasonable time prior to the time of Discharge;
  - (vii) ensure the Detainee has been provided with clothing appropriate to the journey and destination climate;
  - (viii) ensure all personal belongings are returned to the Detainee or the Detainee's Escort if the Detainee is being Removed;
  - (ix) ensure that where medication is involved, specific instructions from the prescribing medical officer are included in the information to be handed to the Escorting staff or to the Detainee;
  - (x) ensure Detainee Records held by the Service Provider are transferred to the Department, and that the Department's nominated information technology system is updated accordingly, by the end of the next business day following discharge;
  - (xi) use the Department's nominated information technology system to record Detainee Discharge details and procedures; and
  - (xii) immediately inform the Department of any concerns about the post-Release welfare of a Detainee.

#### **6.16 Discharge for Removal**

- (a) When notified by the Department that a Detainee is being removed, the Service Provider will:
  - (i) update the Detainee's Security Risk Assessment before Removal and complete the Service Provider assessment of a Detainee for aviation travel;
  - (ii) ensure the Detainee has appropriate travel documentation;
  - (iii) ensure that a Health Discharge Summary has been issued for the Detainee by the Detention Health Services Provider;
  - (iv) organise packing and weighing of the Property of Detainees and explain to the Detainee any relevant airline baggage weight restrictions; and

- (v) assist the Department by facilitating the Removal through the requirements of Section 4 (Transport, Escorts, Transfers and Removals) of Schedule 2 (Statement of Work).

**6.17 Post Release**

- (a) When requested by the Department, the Service Provider must:
  - (i) book temporary accommodation arrangements (for example, in a hostel or motel) and provide transport to that accommodation for a Detainee who is being Released, in accordance with the destination and accommodation requirements notified by the Department;
  - (ii) assist the released person to settle into new accommodation (including assisting with check-in);
  - (iii) if the released person has not arranged for someone to meet them at the interstate destination, arrange for the released person to be met and accompanied to the initial point of accommodation; and
  - (iv) issue a temporary living allowance to the released person, upon Release.
- (b) If accommodation and transport involves interstate air travel, there is no requirement for the Service Provider to escort the person during the flight.
- (c) In relation to costs incurred by the Service Provider under clause 6.17:
  - (i) flight costs incurred by the Service Provider in the delivery of post-Release services will be paid by the Service Provider and reimbursed by the Department as a Pass-Through Cost;
  - (ii) the temporary living allowance will be a set amount as determined by the Department that will be paid by the Service Provider and reimbursed by the Department as a Pass Through Cost; and
  - (iii) accommodation costs incurred by the Service Provider in the delivery of post-Release services will be paid by the Service Provider and reimbursed by the Department as a Pass Through Cost.

## **7. INDIVIDUAL MANAGEMENT**

### **7.1 General**

- (a) The Service Provider must:
  - (i) develop a Policy and Procedure Manual which details all individual management Services;
  - (ii) create and maintain an environment where the health and welfare needs of Detainees are identified and responded to;
  - (iii) establish processes to prevent Detainees being subjected to illegal and anti-social behaviour, and where such behaviour becomes apparent, to deal with the issues cooperatively with the Department and other service providers;
  - (iv) promote a culture in which Service Provider Personnel interact with Detainees on a regular basis in both formal and informal settings, developing trust and effective communication channels in undertaking their duties; and
  - (v) ensure all interaction between Service Provider Personnel and Detainees is conducted in a culturally appropriate and professional manner, taking into account the individual needs of each Detainee.

### **7.2 Interaction with Detainees**

- (a) The Service Provider must:
  - (i) implement policies and procedures at each Facility that promote positive and culturally sensitive interaction between Service Provider Personnel and Detainees; and
  - (ii) ensure the policies and procedures set out the standards and qualities the Service Provider expects of Service Provider Personnel when they interact with Detainees and other Stakeholders
- (b) The Service Provider must ensure that all Service Provider Personnel:
  - (i) read, understand, sign and abide by the Code of Conduct as set out in Annexure C of Section 7 (Business Services) of Schedule 2 (Statement of Work) as a fundamental obligation of their terms of employment with the Service Provider before commencing duty in a Facility;
  - (ii) maintain regular contact with Detainees and interact with Detainees in a way that treats them with dignity and respect;
  - (iii) coordinate access by Detainees to Services;
  - (iv) proactively manage issues relating to Detainees as they arise and before they impact on a Detainee's welfare; and
  - (v) document and report any matters they consider material to the welfare of Detainees in Individual Management Plans and advise the Department accordingly.

### 7.3 Individual Management Plans

- (a) The Service Provider must:
  - (i) identify the individual welfare requirements of a Detainee within 48 hours after commencement of Reception into a Facility;
  - (ii) allocate each Detainee with a member of Service Provider Personnel to act as a Personal Officer for that Detainee and who will meet regularly with the Detainee, in any event, at least once every fourteen (14) calendar days and will, during such meetings review and discuss the Detainee's Individual Management Plan and record such discussions (including any recommendations of amendments to the Individual Management Plan) in the Department's nominated information technology system within 24 hours of each meeting;
  - (iii) implement an Individual Management Plan for every Detainee within ten (10) calendar days of the Detainee arriving at the Facility in conjunction with the Detention Health Services Provider, any other service provider and the Department's Personnel who are responsible for the case management of the relevant Detainee.
  - (iv) ensure that each Individual Management Plan identifies and tailors the ongoing care and Services required for each Detainee through the recording and updating of planned actions, including any suggested Programmes and Activity requirements and any appropriate prevention strategies for those at risk, and will cover those matters notified by the Department to the Service Provider from time to time; and
  - (v) use the Department's nominated information technology system to record and update all Individual Management Plans within 24 hours of stakeholder Individual Management and Placement Review Committee meetings.
- (b) The Service Provider, having collated input from the Personal Officer for each Detainee, will participate in a monthly (or more frequently as directed by the Department ) Individual Management and Placement Review Committee meeting, as described in Section 7 (Business Services) of Schedule 2 (Statement of Work).
- (c) If required, the Service Provider will agree with the Department and all other relevant stakeholders, including the Detention Health Service Provider on more frequent meetings for Detainees identified as having complex needs or circumstances;
- (d) The Service Provider must review and update a Detainee's Individual Management Plan on the occurrence of any of the following:
  - (i) any Critical or Major Incident involving the Detainee;
  - (ii) the creation of a Behaviour Management Plan;
  - (iii) a significant health event;
  - (iv) a change in the Security Risk Assessment of a Detainee;
  - (v) a significant Immigration pathway event;

- (vi) the placement of a Detainee on any psychological support programme; and
  - (vii) any other event identified as significant by the Service Provider, any other service provider or the Department.
- (e) The Service Provider must review and update all Detainee Individual Management Plans every month, regardless of whether the Detainee has been escalated to the Individual Management Plan and Placement Review Committee, including:
- (i) updating all Detainee Individual Management Plans in the Department's nominated information technology system; and
  - (ii) addressing action items identified during the Individual Management Plans review within the time periods as directed by the Department.
- (f) The Service Provider will develop and implement, during Transition In, an Assistance Program, consisting of a welfare officer and Personal Officer for Detainees, which will be run at each Facility between 0900 - 1700 hours, Monday to Friday.

#### **7.4 Provision of Services to People under the Age of 18**

- (a) No Minors will be held in Immigration Detention Centres.
- (b) Where the Department places a Detainee whose age is under 18 in any Facility, the Service Provider will manage that Person in accordance with this Schedule 2 (Statement of Work) and any instructions provided by the Department.

#### **7.5 Health of Detainees**

- (a) The Service Provider must ensure that any Detainee who requests, or appears to be in need of medical attention, is referred for appropriate medical attention.
- (b) Where it appears that a Detainee requires emergency medical attention, the Service Provider must:
  - (i) seek emergency medical attention for the Detainee immediately, including arranging for an ambulance or transport to take the Detainee to the nominated medical facility at the Department's cost;
  - (ii) provide first aid; and
  - (iii) inform the Detention Health Services Provider of the Detainee's condition as soon as the Service Provider's initial response is complete.

#### **7.6 Facilitation of Health Services**

- (a) The Service Provider must:
  - (i) facilitate Detainee self-administration of prescription medications (excluding Schedule 4 and Schedule 8 drugs), that are issued on a weekly basis to Detainees by the DHSP through blister pack or equivalent packaging;
  - (ii) issue non-prescription or over the counter (OTC) medications during the DHSP out of hours period only under the direct instruction of a representative from the DHSP, with such instruction to be given on each and every occasion that such medication is required to be issued;
  - (iii) record all instances where the Service Provider issues non-prescription drugs including details of the Detainee, the details of the DHSP representative that issued the instruction, what was issued to what Detainee and at what times;

- (iv) facilitate Detainee access to appropriate medication storage containers including refrigerated storage as provided by the Department;
  - (v) maintain medication storage containers including refrigerated storage; and
  - (vi) provide non-medical input, including recommendations, into the DHSP assessment process when determining the suitability of Detainees to self-administer medication.
- (b) The Service Provider will:
- (i) Facilitate detainee telephone or video access to the DHSP Health Advisory Service (DHSP HAS) during the DHSP out of hours period for health consultations for the purpose of triage and other unscheduled health consultations; and
  - (ii) record all instances where Detainee access is facilitated to the DHSP HAS including details of the Detainee, the details of DHSP representative conducting the clinical assessment, the time and any subsequent instruction issued by the DHSP representative.
- (c) Any additional resources or substantiated costs incurred during the DHSP out of hours period, in order to implement subsequent instructions from the DHSP to the Service Provider, are to be subject to the additional monitoring variable rate set out in Schedule 5 (Detention Services Fee) or other pricing mechanisms in the Contract.
- (d) The Service Provider is not responsible for:
- (i) clinical assessment of Detainees or provision of any form of health related advice or triage services in relation to the medical treatment of Detainees or decisions over the dispensing of medication at any time;
  - (ii) supporting scheduled medical appointments or consultations through the DHSP HAS or other forms of external telephone or video conference media during DHSP out of hours;
  - (iii) scheduling follow up consultations with the DHSP as a result of facilitation with the DHSP HAS;
  - (iv) storage, handling, dispensing, administration or security of any form of prescription medication at any time;
  - (v) issuing any form of non-prescription medications when DHSP staff are at a Facility;
  - (vi) procurement and provisioning of non-prescription or OTC medications;
  - (vii) the provision or suitability of storage containers including refrigerated storage of prescription, non-prescription and OTC medications;
  - (viii) provision of telephone or video conferencing facilities to support access to the DHSP HAS;
  - (ix) provision of interpreter or translation to support facilitation to health services; or
  - (x) provision or management of sharps or other clinical waste collection or disposal arrangements.

- (e) The Department will:
- (i) provide appropriate storage containers including refrigerated storage for prescription, non-prescription and OTC medications;
  - (ii) ensure the DHSP provides appropriate induction and refresher training to all Service Provider staff involved in the issuing of non-prescription drugs and facilitation of Detainee access to the DHSP HAS; and
  - (iii) facilitate the development of a joint policy and procedure to govern the management of Detainee self-medication practices and access to DHSP HAS during the DHSP out of hours period, including arrangements for families and minors.
- (f) A reference to “DHSP out of hours period” in this clause means the fixed time periods when the DHSP is not required to be on site at the relevant Facility. The times when the DHSP is required to be on site at the relevant Facility is set out in the table below:

Facility	Health Services Coverage Times Detention Health Services Provider
<b>VIDC</b>	0900-1700hr each weekday excluding weekends and public holidays
<b>SIRH</b>	2hrs each weekday excluding weekends and public holidays
<b>MITA</b>	0900-1700 hr each weekday excluding weekends and public holidays
<b>MIDC</b>	0900-1700 hr each weekday excluding weekends and public holidays
<b>YHIDC</b>	0900-1700 hr each weekday excluding weekends and public holidays
<b>PIDC</b>	0900-1700 hr each weekday excluding weekends and public holidays
<b>PIRH</b>	1hr each weekday excluding weekends and public holidays
<b>AITA</b>	3hr each weekday excluding weekends and public holidays
<b>BITA</b>	0900-1700 hr each weekday excluding weekends and public holidays
<b>WPIDF</b>	0900-1700 hr each weekday excluding weekends and public holidays
<b>BAPOD</b>	
<b>CI</b>	0900-1700 hr each weekday excluding weekends and public holidays

**7.7 Detainees under the Influence of Drugs or Alcohol**

- (a) The Service Provider must:
  - (i) ensure that a Detainee who appears to be under the influence of drugs or alcohol is supervised by Service Provider Personnel until the Detainee appears to be no longer affected; and
  - (ii) refer the Detainee for assessment by the Detention Health Services Provider within 12 hours, unless emergency medical attention is required, in which case the Service Provider will immediately contact the relevant emergency services for the Detainee.

**7.8 Mental Health Awareness**

- (a) The Service Provider must ensure all Service Provider Personnel attend:
  - (i) mental health awareness training prior to commencing work in a Facility; and
  - (ii) a refresher course every two (2) years.
- (b) The Service Provider must ensure that mental health awareness training covers (without limitation) identifying and responding to threatened, attempted and actual self-harm.

**7.9 Behavioural Management of Detainees**

- (a) The Service Provider must:
  - (i) develop and implement a Policy and Procedure Manual of Detainees behavioural management strategies that aims to defuse tensions and conflicts before they become serious or violent;
  - (ii) develop and implement a Policy and Procedure Manual to manage Detainees whose behaviour is deemed to be illegal, antisocial, disruptive or otherwise a cause for concern (as identified either by the Service Provider, any other service provider or the Department); and
  - (iii) obtain the Department's prior agreement to use more interventionist or restrictive measures where deemed necessary by the Service Provider.

**7.10 Illegal and Anti-Social Behaviour**

- (a) The Service Provider must develop and implement processes, in cooperation with the Department and other service providers, for detecting and managing instances where Detainees are engaged in behaviour that is illegal, has breached the Detainee Rights and Responsibilities or is anti-social in nature.
- (b) For the purposes of this clause 7.10, behaviours which may be illegal, breach the Detainee Rights and Responsibilities or which may be considered as anti-social may include:
  - (i) bullying;
  - (ii) sexual or other forms of harassment;
  - (iii) assault;
  - (iv) malicious destruction of property; and
  - (v) possession of weapons or illegal drugs.



- (c) The Service Provider must:
  - (i) communicate the processes concerning anti-social behaviour to all Detainees during the Induction Process; and
  - (ii) prominently display the policy on anti-social behaviour in all relevant languages throughout each Facility.
- (d) Where the Service Provider has identified, or suspects, that a Detainee has engaged in behaviour that is illegal, , breaches the Detainee Rights and Responsibilities or is anti-social, the Service Provider must:
  - (i) immediately inform the Department with recommendations for:
    - (A) dealing with the perpetrator(s); and
    - (B) preventing recurrence; and
  - (ii) use the Department's nominated information technology system to record details and responses to instances of individual illegal, non-compliant or antisocial behaviour by Detainees.
- (e) The Department is responsible for approving all Service Provider actions that result in the withdrawal of a Detainee's privileges or placement in a more restrictive placement of Accommodation, and the Service Provider will not take such actions without the written approval of the Department.
- (f) The Service Provider must ensure that Detainees identified as victims of anti-social behaviour are supported by Service Provider Personnel, with relevant details recorded in the Department nominated information technology system. The Service Provider must refer such Detainees to the Detention Health Service Provider in the following circumstances:
  - (i) where the Service Provider considers a referral necessary; and
  - (ii) where the Detainee requests to see the DHSP after the Detainee is advised that such a request can be made.

#### **7.11 Detainees in More Restrictive Places of Accommodation**

- (a) When the Department has approved the placement of a Detainee in a more restrictive place of Accommodation in the Facility, the Service Provider must:
  - (i) ensure that Service Provider Personnel make regular contact with the Detainee while the Detainee remains in the more restrictive place of Accommodation;
  - (ii) use the Department's nominated information technology system to record notes related to Service Provider Personnel contact with and observations of Detainees in more restrictive places of detention; and
  - (iii) develop a Behavioural Management Plan with the Detainee.
- (b) Where a Detainee is placed in restrictive or separation detention as directed by the Department or in accordance with an order from a Court of competent jurisdiction, then any additional staffing costs will be payable at the additional monitoring variable rate specified in Schedule 5 (Detention Services Fee).

## 7.12 Behavioural Management Plan

- (a) The Service Provider must ensure that all Behavioural Management Plans are specific to the particular Detainee and include:
  - (i) the background to behaviour management difficulties;
  - (ii) any action that was taken;
  - (iii) details of the more interventionist or restrictive measures then in place and contemplated for future enforcement (if required);
  - (iv) an undertaking by the Detainee to behave in a specific manner;
  - (v) milestones at which the behaviour of the Detainee will be reassessed;
  - (vi) a review by the Detention Health Services Provider for any medical, psychological or psychiatric assessment and recommended treatment implications;
  - (vii) access to amenities;
  - (viii) access to Visitors, as advised by the Department; and
  - (ix) signatures of the relevant Service Provider Personnel and the Detainee, noting that the agreement is still to be treated by the Service Provider as effective even if the Detainee refuses to sign;
  - (x) provide the Detention Health Services Provider with relevant background information and access to the Detainee such that the Detention Health Services Provider can make an informed assessment as to the clinical counselling or medical needs of the Detainee; and
  - (xi) incorporate any recommendations from the Detention Health Services Provider (or other service provider) into the development of the Behavioural Management Plan.
- (b) Where a Behavioural Management Plan exists for a Detainee, the Service Provider must:
  - (i) discuss and explain the contents of the Behavioural Management Plan with the Detainee (in a language they understand), in particular highlighting the fact that the Service Provider can take more interventionist and restrictive action, such as withdrawing amenities, if the Detainee's behaviour does not improve in the way designated in the milestones set out in the Behavioural Management Plan;
  - (ii) reassess the Detainee's behaviour at the milestones set out in the Behavioural Management Plan;
  - (iii) note on the Behavioural Management Plan the results of the reassessment; and
  - (iv) give the Department the results of the reassessment within one (1) Business Day of conducting the reassessment.

### 7.13 Identification of Detainees who are at Risk

- (a) The Service Provider must:
  - (i) develop and implement an evidence-based system for determining if a Detainee is emotionally distressed, or at risk of self-harm or harm to others; and
  - (ii) ensure the system is responsive to advice from the Detention Health Services Provider and includes risk identification and risk mitigation strategies;
- (b) In respect of any Detainee who appears to be emotionally distressed, the Service Provider must conduct reasonable supervision, including providing static Service Provider Personnel to monitor the Detainee individually to mitigate the risk of them causing harm to themselves or others.
- (c) In managing the immediate needs of those at risk of self-harm or harm to others, the Service Provider must:
  - (i) act immediately to ensure the safety of any Detainee;
  - (ii) place the Detainee under immediate observation; and
  - (iii) advise the Department of the identified Detainee and actions taken.
- (d) Where a detainee is placed on SM&E resulting from the Detention Health Services Provider's (DHSP) Psychological Support Programme (or the Service Provider supporting policy where the DHSP is offsite or unavailable) and the Detainee remains on SM&E for a consecutive period in excess of 72 hours then any costs incurred by the Service Provider in providing supportive monitoring and engagement to the Detainee for the period in excess of the initial 72 hours will be payable at the Psychological Support Programme (PSP) high imminent or PSP moderate variable rates (as applicable) set out in Schedule 5 (Detention Services Fee). For clarity, the calculation of the 72 hour period commences at the time the Detainee is placed on a SM&E plan (i.e. the classification of a detainee as High imminent, Moderate or Ongoing is a single event triggering commencement of the 72 hour period).
- (e) In developing a system under this clause 7.13 the Service Provider may review existing Departmental Policy relating to suicide and self-harm to develop their own system in conjunction with the appropriate professional advice (including discussion with the Detention Health Services Provider).
- (f) High Needs Detainees means those detainees not subject to or compensated accordingly by SM&E under the Psychological Support Program and require an enhanced level of security monitoring due to a consistent pattern of anti-social and/or unacceptable behavior, that threatens the integrity of immigration detention and/or the safety of persons in the Facility.
- (g) A Detainee will only be classified as a High Needs Detainee following approval by the Contract Administrator.
- (h) In managing High Needs Detainees the Service Provider must develop a national complex case review process which promotes close cooperation with DIBP National Office and reflects view of all relevant stakeholders and other relevant service providers, and is approved by the Contract Administrator, in order to assess, monitor and manage the individual needs regardless of their mental health, physical health or other needs.
- (i) Where additional costs are incurred by the Service Provider in assessing, monitoring and managing the individual needs of a High Needs Detainee in accordance with clause 7.13(e) then the additional monitoring variable rate set out in Schedule 5 (Detention Service Fee) will apply or such other applicable pricing mechanisms in the Contract.

- (j) Where specialist additional care is required for Detainees with significant health conditions, supported by appropriate clinical assessment, including but not limited to the following:
  - (i) neuro development disorders;
  - (ii) congenital or behavioural conditions;
  - (iii) mental disorders; or
  - (iv) physical, cognitive, mental, sensory, emotional or development disabilities,the resulting costs will be covered under an Additional Service Request.

## **8. PROPERTY OF DETAINEES**

### **8.1 General**

- (a) The Service Provider must:
  - (i) once a person is designated as a Detainee, be responsible for ensuring that the Detainee's Property reaches the Facility where they are held;
  - (ii) ensure that all Property of Detainees that enters a Facility is screened, checked, managed and stored appropriately and in accordance with Departmental requirements and the Service Provider's property management Policy and Procedure Manual (associated administrative processes may be completed independently of the reception and induction process, provided they are completed within four (4) days of the Detainee's arrival at the Facility);
  - (iii) clearly inform the Detainee of the procedures for management of their Property, in particular the importance of the Detainee securely maintaining any receipts for Property which are issued to them by the Service Provider; and
  - (iv) manage the secure storage of:
  - (v) all Property of Detainees provided voluntarily by the Detainee for storage; and
  - (vi) all Excluded and Controlled Items.

### **8.2 Excluded and Controlled Items and Items Voluntarily Provided by Detainees**

- (a) The Service Provider must:
  - (i) remove from each Detainee and hold as 'In Trust' Property all property on the Excluded and Controlled Items List; and
  - (ii) when removing / holding in trust Excluded and Controlled Items:
  - (iii) explain to the Detainee the reason for the removal;
  - (iv) record all items on the Property List and in the Department's nominated information technology system and provide a receipt for the same to the Detainee;
  - (v) securely store all items and, in particular, ensure that any documents of the Detainee that are required for international travel (Travel Documents) are stored securely and separately from other Property belonging to the Detainee in a container specifically identifying the contents as being Travel Documents;

- (vi) return all items that the Detainee may legally possess to that Detainee immediately upon Release, provided that the Detainee can provide a validly issued receipt for such Property (other than the Travel Documents);
- (vii) provide all items, and in particular the Travel Documents, that the Detainee may legally possess to an Escorting Officer when the Detainee is being Removed or Transferred, provided that the Detainee can provide a validly issued receipt for such Property (other than the Travel Documents); and
- (viii) after a Detainee is Released, Transferred, Discharged or Removed, update the Department's nominated information technology system in relation to that Detainee's Property.

### **8.3 Illegal Items**

- (a) The Service Provider must:
  - (i) remove and hold 'In Trust' for each Detainee all items that are illegal for the Detainee to possess by Commonwealth, State/Territory and local laws; and
  - (ii) when removing and holding 'In Trust' any Property of a Detainee:
    - (A) explain to the Detainee the reason for the removal of the Property;
    - (B) notify the Department in accordance with the Incident Management reporting requirements;
    - (C) record all identifying details concerning the Property removed and held In Trust; and
    - (D) securely store the Property while further instructions are sought and provided by the Department.

### **8.4 Storage of and Access to Property of Detainees**

- (a) The Service Provider must:
  - (i) securely and separately store Property of Detainees;
  - (ii) provide Detainees with a receipt for all Property that will be stored by the Service Provider, explaining to the Detainee the importance of safely securing the receipt as non-production of a receipt may result in Property not being returned;
  - (iii) provide Detainees with access to their In Trust Property, while ensuring they do not have access to Excluded and Controlled Items; and
  - (iv) maintain a register to record all access to the secure store and ensure that all access is monitored.

### **8.5 Recording of Property of Detainees**

- (a) The Service Provider must:
  - (i) record all Property of Detainees in the Detainee's presence;
  - (ii) record all Property retained by a Detainee while in the Facility;
  - (iii) record all In Trust Property;

- (iv) record all Illegal, Excluded and Controlled Items which have been removed and held In Trust; and
- (v) provide a receipt to the Detainee for all Property held by the Service Provider.
- (b) The records referred to in clause 8.5(a) above may be collected by visual/audio devices.
- (c) All such records will be made on the Department's nominated information technology system.

#### **8.6 Returning In Trust Property**

- (a) The Service Provider must:
  - (i) return a Detainee's Property to the Detainee upon their Discharge;
  - (ii) provide the opportunity for Detainees to inspect their In Trust Property on Discharge; and
  - (iii) provide the opportunity for the Detainee to sign a statement indicating their satisfaction or otherwise with the Property returned and the condition of the Property and, if the Detainee wishes, a statement stating that the Detainee no longer wishes to possess the Property and consents to it being left in the Service Provider's possession for donation or destruction, as the Service Provider sees fit.
- (b) Where there is a dispute in relation to the quantity or condition of the Property returned to a Detainee, the Service Provider must ensure that:
  - (i) full details of the Property in question, including the cause of dissatisfaction, are obtained from the Detainee; and
  - (ii) an investigation is conducted to ensure that any confirmed mistake which is capable of being addressed prior to Discharge is addressed by the Service Provider.
- (c) Where a dispute in relation to the quantity or condition of the Property returned to a Detainee is unresolved at the time of Discharge, the Service Provider must:
  - (i) ensure that the Detainee is given contact details of the Facility;
  - (ii) ask the Detainee for contact details; and
  - (iii) where subsequent investigations after Discharge confirm a mistake by the Service Provider, ensure that:
    - (A) the correct Property is sent to the person via secure post; and
    - (B) an amount of compensation determined by the Service Provider manager of the Facility (but which will be appropriate to the degree of inconvenience caused) is also sent to the person.

#### **8.7 Lost, Stolen, Damaged or Discarded Property of Detainees in the Care of the Service Provider**

- (a) Where In Trust Property is lost, stolen or damaged, the Service Provider will reimburse, at its own cost, the Detainee for the then replacement value of the property if such claim is substantiated to the reasonable satisfaction of the Service Provider.
- (b) Subject to this Section 6 (Welfare and Engagement Services), the Service Provider is not responsible for any property retained by the Detainee in the Facility that is lost, stolen or damaged.

- (c) The Service Provider is only responsible for costs associated with any property retained by the Detainee in the Facility that is lost, stolen or damaged where that loss, theft or damage is caused by any act, omission or neglect on the part of the Service Provider or Service Provider Personnel.
- (d) Where any property of a current or former Detainee has been discarded by that person then the Service Provider will use reasonable endeavours to locate the owner of that property. If the Service Provider cannot locate such owner, then the Service Provider may dispose of that property in accordance with all relevant and applicable Commonwealth, State/Territory and Local Legislation.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 2**

**STATEMENT OF WORK**

**SECTION 7**  
**BUSINESS SERVICES**

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## **1. OVERVIEW**

### **1.1 Business Service Requirements**

- (a) The Service Provider will provide Business Services that are documented, professional and follow nationally consistent programme management and administration processes and procedures that underpin the effective delivery of the other Services under this Contract.
- (b) The Service Provider will provide the following general Business Services:
  - (i) Programme management and administration of Services, which includes:
    - (A) contract and relationship management;
    - (B) planning and programme implementation;
    - (C) human resource management Services;
    - (D) records management;
    - (E) financial management Services;
    - (F) information technology requirements; and
    - (G) programme governance and business reporting Services.

### **1.2 Introduction to programme management and administration Services**

- (a) This section of Schedule 2 (Statement of Work) sets out the arrangements and obligations for the management and administration of this Contract by the Service Provider. The Service Provider will perform its obligations under this Contract to comply with the requirements of this section of Schedule 2 (Statement of Work).
- (b) The Department has responsibility for the coordination and management of Facilities and Detainee Services, as part of the Immigration Detention Services Programme. It has responsibility for programme and policy guidance and oversight, administration of the quality assurance programme, and all ministerial and parliamentary reporting.
- (c) The Service Provider will manage and administer delivery of Facilities and Detainee Services, as outlined in this Section 7 (Business Services) of Schedule 2 (Statement of Work).

## **2. CONTRACT AND RELATIONSHIP MANAGEMENT**

### **2.1 General**

- (a) The Service Provider must:
  - (i) implement and manage its internal governance arrangements to foster cooperation and a professional working relationship with the Department and other service providers working in each Facility;
  - (ii) develop and implement its own governance arrangements for effective contract and relationship management to ensure service delivery is accountable, consistent across all Services, and in coordination with the Department and other service providers; and
  - (iii) be responsive to requests from the Department, including for changes in delivery to Services and requests for reporting.

## **2.2 Code of Conduct**

- (a) The Service Provider must ensure that all Service Provider Personnel comply with the Code of Conduct. The Code of Conduct sets out the Department's expectations of all Service Provider Personnel. The Code of Conduct provides guidance to the Service Provider and Service Provider Personnel. The Service Provider will ensure Service Provider Personnel act in accordance with the Code of Conduct in all of their dealings with Detainees.

## **2.3 Service Provider Key Roles**

- (a) The Service Provider must ensure that the Key Positions are occupied at all times to achieve a strong and effective partnership and facilitate effective Service delivery and contract management.
- (b) These positions are to include a Service Authority and a Service Administrator (as counterparts to the Department positions set out in this Contract) to perform the roles and functions allocated to them under this Contract.

## **2.4 Service Provider Location**

- (a) The Service Provider must have a national representative/s based in Canberra.
- (b) The Service Provider agrees and acknowledges that the purpose of its national representative/s based in Canberra is to ensure an Incident Command Suite can be established in the event of an emergency incident, or as directed by the Department.
- (c) The Service Provider must:
  - (i) coordinate its delivery of Services with the Department, Subcontractors and other service providers operating in and outside of the Facilities to ensure that the required Services are delivered and decisions are made based on the needs of the Detainee in accordance with this Contract; and
  - (ii) cooperatively work with the Department, all service providers and Subcontractors servicing Detainees in the community and any other form of Immigration Detention Services outside a Facility to ensure that all decisions concerning the required Services to be delivered are made based on the needs of the Detainee.

## **2.5 Stakeholders**

- (a) The Service Provider agrees and acknowledges that there are multiple Stakeholders interacting within the Network with the Service Provider and that the number of Stakeholders and the level of cooperation required may vary according to the specific requirements of each Facility and may be subject to change during the Term. The Department will provide written guidance to the Service Provider on the level of cooperation required.
- (b) The Service Provider will interact and cooperate with these Stakeholders directly and indirectly throughout the Term in a responsive, professional and collaborative manner.
- (c) The Service Provider may meet, at its discretion, with community groups on a regular basis at each Facility to strengthen the relationships and address any community concerns to ensure appropriate external support for Detainees. It is at the discretion of the Service Provider's Facility Manager, in agreement with the Department, whether community consultations are appropriate for that Facility.
- (d) The Service Provider will establish relationships with other service providers and stakeholders, such as emergency services, hospitals, schools, local councils and government departments. The Service Provider will be aware of this diverse set of Stakeholders.
- (e) The Service Provider agrees and acknowledges that the success of the Services depends on a close cooperative relationship between the Department and the Service Provider. The Service Provider will ensure a high level of cooperation with all key Stakeholders.

## **2.6 Cooperation with Enquiries, Investigations and Coronial Inquests**

- (a) The Service Provider must cooperate with any enquiries or investigations or inquests launched or commenced by an advisory body, the Commonwealth and Immigration Ombudsman, the Australian Human Rights Commission, law enforcement agencies, Auditor-General, any coroner, or any other investigation as notified by the Department.
- (b) The Service Provider will make its Personnel, including contractors and Subcontractors engaged by the Service Provider, available for any enquiry or investigation or inquest.
- (c) Subject to clause 2.6(d) of Section 7 below, the cost of travel, attendance and expenses (including legal costs) at an enquiry or investigation is the sole responsibility of the Service Provider in accordance with Schedule 5 (Facilities and Detainee Services Fee and Other Payments), unless specifically outlined in writing by the Department.
- (d) The Service Provider will be able to submit an Additional Service Request to the Department for consideration to recover costs without mark up where either special circumstances arise and or the Department directs the Service Provider to assist with any enquiry, investigation or inquest which will require the Service Provider to incur:
  - (i) abnormal external costs (including legal costs); or
  - (ii) abnormal employee travel and attendance costs.

## **2.7 Memoranda of Understanding**

- (a) Where the Department has negotiated an existing Memorandum of Understanding (MOU) with other authorities or organisations, the Service Provider will, where applicable, deliver the Services using the procedures established in that MOU.

## **3. PLANNING AND PROGRAMME IMPLEMENTATION**

### **3.1 Overview**

- (a) The Service Provider must perform the Services in an efficient manner in accordance with the following requirements.
- (b) The Service Provider must provide all relevant plans to the Contract Administrator within the specified timeframes outlined in this Schedule 2 (Statement of Work).
- (c) The Service Provider must ensure all Plans outlined in clause 3.2 below, include:
  - (i) specific requirements for each Facility, where appropriate; and
  - (ii) overarching management principles.

### 3.2 Plans

- (a) The Service Provider must develop the following plans and documents for approval by the Department, as detailed in Annexure B of Section 7 (Business Services) of Schedule 2 (Statement of Work), and comply with those plans and documents once they have been approved:
  - (i) Contract Transition-In Plan;
  - (ii) Contract Transition-Out Plan;
  - (iii) Risk Management and Fraud Control Plan;
  - (iv) Work Health and Safety Plan;
  - (v) Human Resource Management Plan;
  - (vi) Policy and Procedure Manuals;
  - (vii) Business Services Plan
  - (viii) Garrison Services Plan;
  - (ix) Facilities Management Plan;
  - (x) Security Services Plan;
  - (xi) Transport and Escorts Services Plan; and
- (b) The Service Provider must develop the plans and documents as specified below for approval by the Department in accordance with the following milestones, unless otherwise stated in Annexure B of Section 7 (Business Services) of Schedule 2 (Statement of Work):
  - (i) a draft of the relevant plan or document by the Commencement Date (unless otherwise stated in the below requirements);
  - (ii) a finalised version of the relevant plan or document, within 30 Business Days of the Commencement Date, incorporating any changes requested by the Department; and
  - (iii) an updated version of the relevant plan or document annually on the anniversary of the Commencement Date.
- (c) The Service Provider will submit all Plans to the Department Contract Administrator to ensure national oversight and consistency.
- (d) The Service Provider will develop nationally consistent templates for all Plans, which must be customised by the Service Provider to the individual Facilities, as required.

### 3.3 Contract Transition-In Plan

- (a) The Service Provider must provide the Department with a Contract Transition-In Plan for approval by the Department that includes the finalised version of the Transition-In Plan within 10 Business Days of the Commencement Date, incorporating any amendments required by the Department.
- (b) The Contract Transition-In Plan is required at a minimum to meet all requirements set out in Schedule 6 (Transition Requirements).

### 3.4 Contract Transition-Out Plan

- (a) The Service Provider must provide the Department with a Transition-Out Plan for approval by the Department, which includes:
  - (i) a draft within six (6) months of the Commencement Date;
  - (ii) a final version if requested by the Department, within 30 Business Days of the receipt of comments from the Department, incorporating any amendments requested by the Department;
  - (iii) an update annually on the anniversary of the Commencement Date;
  - (iv) at the end of Contract:
    - (A) within one (1) month of the date on which a Termination Notice is given by the Department in accordance with this Contract; or
    - (B) at least six (6) months before this Contract expires.
- (b) The Contract Transition-Out Plan must at a minimum:
  - (i) describe how the Service Provider will effectively and efficiently disengage from the Services upon expiry or termination of this Contract by the end of the Term or the date of Termination of this Contract (or such other date agreed by the Department);
  - (ii) describe all the tasks and activities necessary to effect the Transition-Out Plan, including:
    - (A) proposed staffing arrangements;
    - (B) proposed records and information management systems;
    - (C) proposed Asset management systems;
    - (D) communication and stakeholder engagement protocols;
    - (E) financial records and acquittal procedures; and
    - (F) proposed management of departmental property.
  - (iii) describe how the Service Provider will manage the secure delivery, transfer or destruction of Department Material, Contract Material and all other relevant Material (including Detainee records), to the Department or its nominee as agreed with the Department;
  - (iv) describe how the Service Provider will work with the Department and other service providers to ensure service continuity to Detainees where there is a Handover of the Services;
  - (v) describe how the Service Provider will ensure all Services commenced under the Contract are completed in accordance with this Contract or are appropriately transferred to the Department or another Service Provider (as required by the Department);
  - (vi) meet all other Transition-Out Plan requirements as detailed by the Department;
  - (vii) identify appropriate Milestones and timeframes for performing the Contract Transition-Out activities and tasks; and
  - (viii) describe the responsibilities of the Parties during the Contract Transition-Out Period.

### 3.5 Risk Management and Fraud Control Plan

- (a) The Service Provider agrees and acknowledges that the aim of the Risk Management and Fraud Control Plan will manage risks effectively and to take a systematic and stringent approach to the prevention and detection of fraud to achieve outcomes.
- (b) Effective risk management requires the Service Provider and the Department to understand the nature of the risks and to systematically identify, assess, treat, monitor, and review those risks. The Service Provider will ensure that risk and fraud identification, assessment, and prevention are embedded into processes at all levels.
- (c) These requirements may be met through two separate documents, or a consolidated plan.
- (d) The Service Provider will provide the Department with a Risk Management and Fraud Control Plan for approval in accordance with the following schedule:
  - (i) a draft by the Commencement Date;
  - (ii) a final version within 30 Business Days of the Commencement Date, incorporating any amendments requested by the Department; and
  - (iii) an update annually on the anniversary of the Commencement Date.
- (e) The Service Provider must ensure that the Risk Management and Fraud Control Plan will be consistent with the Department's Risk Management strategies and the Commonwealth Fraud Control Guidelines, and will:
  - (i) describe how the Service Provider will identify, seek to prevent and manage risks in relation to the Services;
  - (ii) conform to recognised standards for risk management (ASNZS ISO 31000:2009);
  - (iii) include criteria for identifying and managing risks, including descriptions of likelihood and consequence criteria;
  - (iv) describe how risks will be categorised and appropriate risk treatment strategies;
  - (v) describe how the risks will be reported internally and to the Department;
  - (vi) describe the thresholds for escalation and management of risks;
  - (vii) describe how the Service Provider will identify, prevent and manage the risk of fraud in the performance of the Services and the Network; and
  - (viii) describe how any instances of fraud or suspected fraud will be reported internally and to the Department.
- (f) The Service Provider must:
  - (i) address any comments by the Department in relation to the Risk Management and Fraud Control Plan;
  - (ii) comply with and implement the approved Risk Management and Fraud Control Plan during the Term;
  - (iii) perform its obligations under this Contract in a manner that facilitates identification, control, management and mitigation of risks in connection with this Contract, whether or not a risk is identified in the approved Risk Management and Fraud Control Plan;

- (iv) provide the Department with information and documents in relation to the Risk Management and Fraud Control Plan within 10 Business Days of request by the Department;
- (v) report to the Department on the status of the Risk Management and Fraud Control Plan, and any significant new or changed risks within 10 Business Days of request by the Department; and
- (vi) regularly update the Risk Management and Fraud Control Plan throughout the Term as and when necessary, to ensure it at all times identifies current risks and appropriate prevention or mitigation strategies.

### **3.6 Work Health and Safety Plan**

- (a) The Service Provider must provide the Department with a Work Health and Safety Plan for approval in accordance with the following schedule:
  - (i) a draft by the Commencement Date;
  - (ii) a finalised version within 30 Business Days of the Commencement Date, incorporating any changes requested by the Department; and
  - (iii) an update annually on the anniversary of the Commencement Date.
- (b) The Service Provider must ensure that the Work Health and Safety Plan:
  - (i) describes how the Service Provider will comply with its work health and safety obligations under the Contract and applicable legislation and any current industry standards and practice ;
  - (ii) identify, prevent and manage the risk of work health and safety issues (including for Service Provider Personnel, Department Personnel, other service provider personnel and Detainees) in the performance of the Services;
  - (iii) includes Facility specific Work Health and Safety Plans;
  - (iv) be developed and implemented in collaboration with other service providers and the Department, and be interoperable with other Work Health and Safety Plans at each Facility;
  - (v) be consistent with AS/NZS 4801:2001 – Occupational Health and Safety Management System;
  - (vi) includes policies and procedures relating to:
    - (A) hazard control;
    - (B) infection control (where appropriate);
    - (C) occupational hygiene;
    - (D) safety and security of persons working at a Facility;
    - (E) Work Health and Safety training requirements for Service Provider Personnel working onsite at a Facility;
    - (F) emergency and disaster management for Facilities, including procedures in the event of cyclones and bushfires where relevant to risk; and

(G) Service Provider Personnel support including Post-Incident Management and debrief activities.

(c) The Service Provider must:

- (i) regularly review and update the Work Health and Safety Plan throughout the Term to ensure it remains appropriate and current at all times; and
- (ii) comply with the Work Health and Safety Plan.

### 3.7 Human Resource Management Plan

(a) The Service Provider must provide the Department with a Human Resource Management Plan, which includes:

- (i) providing a draft version of the Human Resource Management Plan at the Commencement Date;
- (ii) providing a finalised version of the Human Resource Management Plan, within 30 Business Days of the Commencement Date, incorporating any changes requested by the Department;
- (iii) providing an updated version of the Human Resource Management Plan annually on the anniversary of the Commencement Date.

(b) The Service Provider must ensure that the Human Resource Management Plan includes:

- (i) Induction and ongoing training programmes for Service Provider Personnel that are sufficiently tailored for the different roles and responsibilities of the Service Provider Personnel. The induction and ongoing training must be delivered in accordance with Annexure D to Section 7 of Schedule 2;
- (ii) compliance with the requirements across the Schedule 2 (Statement of Work), the Contract and the Code of Conduct;
- (iii) describes the Service Provider's attraction and retention strategy and how it will ensure it has sufficient Personnel with appropriate skills to deliver the required Services;
- (iv) identifies specific Personnel for Key Positions nominated by the Service Provider (including Specified Personnel) and details the Specified Personnel minimum qualifications and experience for these Key Positions;
- (v) strategies to ensure Personnel meet ongoing qualification, registration and training requirements for the different roles; and
- (vi) explains the Service Provider's training strategy.



### 3.8 Policy and Procedure Manuals

- (a) The Service Provider must provide the Department with Policy and Procedures Manuals for approval in accordance with the following schedule:
  - (i) provide draft Policy and Procedures Manuals by the Commencement Date;
  - (ii) provide a finalised version of the Policy and Procedures Manuals, within 30 Business Days of the Commencement Date, incorporating any changes requested by the Department; and
  - (iii) provide updated Policy and Procedures Manuals annually on the anniversary of the Commencement Date.
- (b) The Service Provider must ensure that the Policy and Procedure Manuals:
  - (i) describe in detail the range of operational policies, procedures and processes necessary and appropriate for the day to day delivery of Services to Detainees in accordance with this Contract, including all Policies and Procedures expressly required to be adhered to in this Contract;
  - (ii) are consistent (and support compliance) with Departmental policy and instructions;
  - (iii) are consistent with relevant accepted industry best practice; and
  - (iv) comply with any relevant business process maps maintained by the Department and as notified by the Department to the Service Provider.
- (c) The Service Provider must comply with, and ensure that all Service Provider Personnel comply with, the Policy and Procedures Manuals on and from Handover Date for each Facility.
- (d) The Department reserves the right to review any procedures set out in the Policy and Procedures Manual at any time during the Term
- (e) The Service Provider must incorporate any changes to procedures requested by the Department within 10 Business Days of receipt of the request.
- (f) The Service Provider must provide the Department with a copy of the then current Policy and Procedures Manuals, in the form requested by the Department, within 10 Business Days of the request.

### 3.9 Business Services Plan

- (a) The Service Provider must develop a Business Services Plan which must be approved by the Department in accordance with clause 3.2. The Business Services Plan must include the following sub-plans:
  - (i) Business Continuity Plan;
  - (ii) Continuous Improvement Plan;
    - (A) Contingency Plans; and
    - (B) Information Technology (IT) Policies.
- (b) The Business Services Plan is intended to underpin the effective delivery of Business Services at each Facility. The Service Provider must use the approved Business Services Plan to deliver Business Services in a consistent manner across all Facilities.

- (c) The Department and the Service Provider will implement a collaborative approach to continuous process improvement and work together in improving Service delivery.
- (d) The Business Services Plan must:
  - (i) include all the sub-plans detailed in this clause 3.9;
  - (ii) include details as to how the Service Provider will provide Business Services, including how it will ensure consistency across all Facilities;
  - (iii) set out the Service Provider's corporate and business objectives for the delivery of the Services;
  - (iv) be consistent with the Department's Immigration Detention Policies and Procedures that underpin the delivery of Services as amended from time to time;
  - (v) identify initiatives to address innovation in the delivery of Services;
  - (vi) identify information technology enhancements and strategies to improve the delivery of Services;
  - (vii) identify any areas of service improvement that have been linked to fault analysis and service failure identified as part of continuous improvement;
  - (viii) include contingency plans for significant events that may require a change in Service requirements at short notice, as well as contingency plans for significant increases in Detainee numbers and complexity of issues;
  - (ix) identify strategies to improve the workforce quality of Service Provider Personnel;
  - (x) detail quality assurance mechanisms for the coming year; and
  - (xi) identify areas where the Service Provider anticipates that it can deliver services to a standard or scope that exceeds the standards and scope of current Services.
- (e) The Service Provider must provide the Department with a copy of the current Business Services Plan, in the form requested by the Department, within 10 Business Days of the request.
- (f) The Business Services Plan must include the sub-plans identified in clause 3.9(a) above. These sub-plans include:
  - (i) Business Continuity and Continuous Improvement Plan (may be delivered in separate documents):
    - (A) using business continuity industry standards , outline the measures which will be taken by the Service Provider, to ensure the continuity of Services under a variety of circumstances that may threaten or disrupt the operations of the Services and the Facility;
    - (B) ensure the delivery of key Services for the safety, security and well-being of Detainees and Service Provider Personnel;
    - (C) be consistent with the approved Risk Management and Fraud Control Plan;
    - (D) seek to improve the quality and cost effectiveness and reduce the risk associated with the delivery of Services;
    - (E) include the analysis of trends, as well as the feedback of Stakeholders, to deliver improved outcomes under the Contract;

- (F) identify improvements for the Service Provider 's service delivery processes and procedures set out in the Policy and Procedures Manuals;
  - (G) includes measures for change and continuous improvement in the delivery of Services that achieve efficiencies and value for money for the Department;
  - (H) implement enhancements in the Service delivery process to achieve service outcomes which represent better value for money for the Department
  - (I) report on the implementation of IT enhancements in line with an agreed implementation schedule; and
  - (J) provide for Detainees' feedback on Service delivery.
- (g) The Contingency Plans must include:
- (i) a description of the contingency plans to be implemented in order to address significant events at a Facility that may require a change in Service requirements at short notice, as well as contingency plans for significant increases in Detainee numbers and complexity of issues; and
  - (ii) a description of how the Service Provider intends to respond to a changing environment, whilst maintaining continuity of Services and the safety and security of Detainees, Service Provider Personnel, DHSP Personnel and Department Personnel.
- (h) The IT Policies must include:
- (i) a description of the Service Provider's IT policies, procedures and business processes to enable the Services to be provided in an efficient, secure and accountable manner;
  - (ii) a description of the Service Provider's IT security;
  - (iii) the Service Provider's IT Disaster Recovery Plan and business continuity arrangements;
  - (iv) a description of the Service Provider's user access and password management; and
  - (v) a description of the Service Provider's process for handling data privacy, based on the Privacy Act and the Australian Privacy Principles as amended from time to time.
- (i) In addition to the security requirements detailed in this Contract, the Service Provider must develop and maintain appropriate policies and procedures for appropriate information management in accordance with the Protective Security Policy Framework, the specifications set out in IT Requirements of this Section 7 (Business Services) of Schedule 2 (Statement of Work) and any other requirements provided by the Department.

### **3.10 Garrison Services Plan**

- (a) The Service Provider must develop a Garrison Services Plan, which must include the following sub-plans:
- (i) Catering Services Plan;
  - (ii) Food Safety Plan which meets Hazard Analysis and Critical Control Point requirements;
  - (iii) Cleaning Services Plan;
  - (iv) Environmental and Waste Management Plan; and
  - (v) Vermin and Pest Control Plan.

- (b) The Garrison Services Plan must include Facility specific plans, which address the individual differences between Facilities.
- (c) The Garrison Services Plan and all of the sub-plans within the Garrison Services Plan must detail how the Service Provider will deliver the Garrison Services.

### **3.11 Facilities Management Plan**

- (a) The Service Provider must develop a Facilities Management Plan, including the following sub-plans:
  - (i) National Asset Management and Maintenance Plan, which include Facility specific schedules;
  - (ii) Asset Register Management Plan; and
  - (iii) Department Asset Register and Loose Asset Register.
- (b) The Facilities Management Plan must include Facility specific schedules, which address the individual service requirements and maintenance plans between Facilities.

### **3.12 Security Services Plan**

- (a) The Service Provider must develop a Security Services Plan, including the following sub-plans:
  - (i) Facility Security Services Plan;
  - (ii) Incident Management Protocols; and
  - (iii) Emergency Response Team Policy and Protocols.
- (b) The Facility Security Services Plan must include Facility specific schedules, which address the individual differences between Facilities.

### **3.13 Transport and Escort Services Plan**

- (a) The Service Provider will develop a Transport and Escort Services Plan, including the following sub-plans:
  - (i) Transport and Escort Policies; and
  - (ii) Fleet Management Protocols;
- (b) The Transport and Escort Services Plan will include Facility specific Transport and Escort Services plans, which address the individual differences between Facilities.

#### 4. HUMAN RESOURCE MANAGEMENT SERVICES

##### 4.1 Overview

- (a) This section describes the Service Provider obligations with respect to human resource management. For the avoidance of doubt, nothing in this section limits or reduces the Service Provider's obligations, or the Department's rights, under this Contract.
- (b) The Service Provider must:
  - (i) recruit, train, roster and support Personnel with appropriate skills, experience, registration and qualifications to perform the Services outlined in this Schedule 2 (Statement of Work) and in accordance with Annexure D of Section 7(Business Services) of Schedule 2 (Statement of Work);
  - (ii) ensure that at all times there are adequate numbers of Personnel to perform and deliver the Services;
  - (iii) ensure Personnel are appropriately qualified, skilled and experienced to deliver the Services;
  - (iv) ensure Personnel have undergone and obtained all relevant police checks;
  - (v) ensure Personnel who will, or may, work with Minors in any capacity comply with applicable State and Territory Child Protection Legislation, including undertaking necessary Working with Children Checks;
  - (vi) provide counselling support to Personnel where appropriate;
  - (vii) clearly define roles, responsibilities and duties for each Personnel;
  - (viii) ensure Personnel are aware of and abide by the principles and objectives of Immigration Detention and the Service Provider's obligations under this Contract;
  - (ix) ensure all Personnel can access, are aware of and comply with the Department's policies and procedures and the Service Provider's Policy and Procedure Manuals ; and
  - (x) ensure that all Personnel are aware of and abide by their Duty of Care requirements and the Code of Conduct.
- (c) The Service Provider agrees and acknowledges that the number of its Personnel necessary to perform the Services will vary. The Service Provider must have the capacity to be flexible and scale its Personnel resources up and down to meet the levels of Personnel required nationally and at each Facility to perform the Services, while minimising the cost associated with such flexibility and scalability. This may include but is not limited to:
  - (i) Human Resource Management;
  - (ii) Records Management;
  - (iii) Financial Management;
  - (iv) Information Technology Management;
  - (v) Performance Reporting and Management;
  - (vi) Governance and Business Reporting.

- (d) Information regarding the required qualifications and training of Personnel is detailed in Annexure D of Section 7(Business Services) of Schedule 2(Statement of Work).

#### **4.2 Service Provider Personnel - General**

- (a) To enhance the well-being of the Service Provider Personnel, the Service Provider will:
  - (i) ensure that employment conditions and tenure are clearly communicated to Service Provider Personnel, rosters are fair and equitable, and counselling support for Service Provider Personnel is available;
  - (ii) develop and implement a personal performance assessment system for all Service Provider Personnel that contains core Personnel competencies and behaviours measured regularly against the Service Provider Code of Conduct;
  - (iii) ensure that Service Provider Personnel are skilled, qualified, registered, trained, supported and experienced for their specific roles and responsibilities as detailed in Annexure D of Section 7 (Business Services) of Schedule 2 (Statement of Work);
  - (iv) clearly define roles, responsibilities and duties for each Service Provider Personnel;
  - (v) ensure and demonstrate that there are a sufficient number and mix, including gender, of Service Provider Personnel available at all times to deliver the Services; and
  - (vi) ensure that all Service Provider Personnel are aware of the scope of their Duty of Care.
- (b) The Service Provider must provide the Department with an updated document of Service Provider Personnel Clearances, (General, Working with Children, Security and Health) within 10 Business Days of request by the Department.
- (c) The Service Provider must provide the Department with rostering arrangements for Service Provider Personnel for a fortnightly period, within 10 Business Days of request by the Department.

#### **4.3 Clearances - General**

- (a) Prior to and as a condition of their employment or engagement, the Service Provider will make appropriate and reasonable investigations of the suitability of prospective Service Provider Personnel. These investigations are to be undertaken at the Service Provider's cost and consist of a review of each individual's criminal, professional and employment history. The results or findings of such investigations and reviews, for any Service Provider' Personnel (de-identified), are to be provided to the Department within five (5) Business Days of any Departmental request
- (b) A review of the Service Provider's Personnel criminal history must be conducted by the Service Provider through an Australian Federal Police background check. This must be conducted by the Service Provider before Service Provider Personnel commence any duties or provide any Services in relation to this Contract.
- (c) Where an Australian Federal Police background check has not been received before Service Provider Personnel are ready to commence duty, the Department may approve commencement of duties on a case-by-case basis.
- (d) The Department reserves the right to refuse access to any Facility or to a Detainee in an external environment for any Service Provider Personnel who the Department considers to be unsuitable on the basis of the Australian Federal Police Background Check.
- (e) The Service Provider must refer any offences or issues identified in the Australian Federal Police Background Check to the Department within five (5) Business Days.

- (f) At any time where it would be reasonable for the Service Provider to suspect that there may be a problem with any Service Provider Personnel (including contractors and subcontractors), or following a reasonable request by the Department to do so, the Service Provider must promptly:
  - (i) investigate the suitability of the Service Provider Personnel for employment in connection with this Contract; and
  - (ii) provide the results or findings of such investigations to the Department on concluding the investigation or within five (5) Business Days of any Departmental request, whichever is the earlier.

#### **4.4 Clearances – Working with Minors**

- (a) The Service Provider must, during Transition-In, develop and implement a child protection procedure as part of the Policy and Procedures Manual.
- (b) The Service Provider must ensure:
  - (i) that all Service Provider Personnel who will, or may, work with Minors in any capacity comply with relevant State or Territory child protection legislation and the Service Provider's child protection procedures as part of the Policy and Procedures Manuals;
  - (ii) that all relevant Service Provider Personnel have obtained all necessary checks in accordance with the relevant State or Territory child protection legislation before commencing any work with Minors;
  - (iii) that where any Service Provider Personnel has been deemed unsuitable to work with Minors as a result of the relevant checks:
    - (A) that person does not work with Minors; and
    - (B) the Department is notified as soon as possible that the person has been deemed unsuitable as working with Minors.
- (c) The costs associated with obtaining a Working with Children Check for all Service Provider Personnel will be invoiced by the Service Provider as a Pass Through Cost to the Department.

#### **4.5 Clearances – Security Clearance**

- (a) A number of Key Positions and other roles of the Service Provider require a Commonwealth Government Security Clearance to the Negative Vetting level one (1) as specified in this Contract.
- (b) The Service Provider must ensure during Transition-In and throughout the Term that the Service Provider Personnel identified as requiring a Commonwealth Security Clearance obtain and maintain the appropriate clearance.
- (c) The Service Provider must advise the Department of the details of any Service Provider Personnel who occupy positions nominated by the Department as requiring Commonwealth Security Clearances.
- (d) The Department will manage the process of obtaining the required Commonwealth Security Clearances, the cost of which is the sole responsibility of the Service Provider.



#### **4.6 Clearances – Health Clearance**

- (a) The Service Provider must ensure that, as a condition of their employment in connection with this Contract, all Service Provider Personnel have undertaken pre-employment medical screening consistent with accepted industry standards. The Service Provider must ensure that Service Provider Personnel have been appropriately immunised for the locations in which they will work, and other vaccines as specified by the Department from time to time.
- (b) The Department reserves the right to refuse access to any Facility, or to a Detainee for any Service Provider Personnel who the Department considers to be unsuitable on the basis of the vaccination or health screening requirement.

#### **4.7 Training and Minimum Qualifications for Service Provider Personnel**

- (a) The Service Provider must:
  - (i) ensure that all Service Provider Personnel are trained, registered, qualified and experienced prior to delivering Services or commencing duties with a Detainee, including regular cultural awareness, first aid, mental health awareness, self-harm awareness, human rights and human interaction training to at least the levels described at Annexure D of Section 7 (Business Services) of Schedule 2 (Statement of Work);
  - (ii) provide the Department with an up-to-date record of all Service Provider Personnel's training, accreditation and qualifications quarterly, or as directed by the Department;
  - (iii) ensure that all Service Provider Personnel who may work with Detainees in Facilities attend training that encompasses working and positively engaging with Detainees who may be traumatised, including communication, building rapport, mental health training and mental health first aid, prior to commencing work with Detainees;
  - (iv) ensure that Service Provider Personnel who may work with Detainees in Facilities attend training to obtain an awareness of, and be able to apply all of the Department's mental health related policies, including any Departmental policies in relation to psychological support and the identification of survivors of torture and trauma policies.
  - (v) ensure all training packages delivered to Service Provider Personnel are updated to reflect any policy changes and is cleared by the Department, and
  - (vi) provide input into any quality assurance and evaluation activities in relation to training and qualifications as directed by the Department.

#### **4.8 On-Going Training of Service Provider Personnel**

- (a) The Service Provider must:
  - (i) implement an on-going training and development programme for all Service Provider Personnel that:
    - (A) maintains and develops Service Provider Personnel skills and is based on the training needs analysis developed during Transition-In for each Facility;
    - (B) provides opportunities for Service Provider Personnel career development and advancement; and
    - (C) is relevant to the roles of Service Provider Personnel in relation to their employment pursuant to this Contract.
  - (ii) deliver refresher training that can be incorporated into the duty rosters, allowing Service Provider Personnel regular access to training without removing them from operational duties for extended periods; and



- (iii) regularly review and annually update the training needs analysis for each Facility.

#### **4.9 Appointment as Officers**

- (a) The Service Provider must ensure that all Service Provider Personnel are trained and instructed with regard to the tasks that the person is required to perform in relation to this Contract, including by ensuring that:
  - (i) all Personnel performing a duty or exercising a power under the *Migration Act 1958* (Cth) as Officers, meet the character and training requirements for Officers as set out in Annexure D of Section 7 (Business Services) of Schedule 2 (Statement of Work); and
  - (ii) all Personnel performing a duty or exercising a power under a written Authorisation as an Authorised Officer meet the character and training requirements for Authorised Officers as set out in Annexure D of Section 7 (Business Services) of Schedule 2 (Statement of Work).

### **5. RECORDS MANAGEMENT**

#### **5.1 Overview**

- (a) Without limiting or reducing the Service Provider's obligations under this Contract, the Service Provider must:
  - (i) Australian and International Standard for Records Management, AS ISO 15489;
  - (ii) ensure Detainee privacy is maintained in accordance the *Privacy Act 1988* (Cth) and the Australian Privacy Principles;
  - (iii) produce timely, legible, accurate and comprehensive records of all Services;
  - (iv) transfer the custody of any hard or soft copy records to the Department within agreed timeframes acceptable to the Department;
  - (v) ensure data, records or reports are safeguarded from unauthorised access or use and that no data, records or reports are inappropriately accessed, removed, lost, corrupted or misplaced
  - (vi) ensure all hand written records are transferred into an electronic record in the Service Provider's relevant IT system; and
  - (vii) ensure all electronic records have been effectively backed up on a daily basis; and

#### **5.2 Maintaining Detainee Privacy**

- (a) All personal Detainee information the Service Provider records and transfers to the Department will be managed in accordance with the standards and obligations prescribed by the Privacy Act, and including the Australian Privacy Principles. This clause does not limit the Service Provider's obligations under this Contract in respect of Privacy.
- (b) The Service Provider must provide the Department with information collected for the purpose of delivering the Services , including all Detainee information as required in this Schedule 2 (Statement of Work).
- (c) In some circumstances the *Privacy Act 1988* (Cth) requires that Detainees' consent be obtained before their Personal Information is disclosed. In these circumstances, the Service Provider will obtain a Detainee's written consent before disclosing their Personal Information.
- (d) Detainee consent may be withdrawn by the Detainee at any time. The Service Provider will provide the Department with any Detainee information which may result in delays to resolution of their immigration status, including if a Detainee withdraws their consent.

- (e) The Service Provider will ensure that all confidentiality and privacy Obligations under this Contract are appropriately administered and complied with by all Personnel, including subcontractors, and are to ensure the Policy and Procedure Manual includes specific guidance on treatment of personal information and confidential information.
- (f) The Service Provider will deliver to the Department a Records Management Procedures as part of the Policy and Procedure Manual.

## **6. INFORMATION TECHNOLOGY REQUIREMENTS**

### **6.1 Overview**

- (a) The Service Provider must develop and provide the Department with details of its IT Policies and environment as part of the Business Services Plan, Schedule 2 (Statement of Work) in accordance with the following requirements and Annexure B of Section 7 (Business Services) of Schedule 2 (Statement of Work):
  - (i) provision of a draft version at Commencement Date; and
  - (ii) a final version if requested by the Department, within 30 Business Days of the receipt of comments from the Department, incorporating any amendments requested by the Department
  - (iii) an update annually on the anniversary of the Commencement Date.

### **6.2 Provision of IT to Detainees**

- (a) The Service Provider must provide and maintain computers at each Facility for the use of Detainees to access the internet as described in Section 6 (Welfare and Engagement Services) of Schedule 2 (Statement of Work).
- (b) The Service Provider must develop policies regarding the number of computers required at each Facility and computer maintenance as part of the IT Policies.

### **6.3 Provision of Service Provider Computers**

- (a) The Service Provider is responsible for providing and managing IT equipment for the use of its own staff.
- (b) Sufficient IT equipment should be provided to enable the efficient and effective management and operation of Services.

#### 6.4 Movement of Computers and Storage Media

- (a) The Service Provider must ensure that any IT storage media, including hard drives, owned or managed by the Service Provider that has at any time held Detainee Records, or has been accessed by a Detainee, is sanitised in accordance with the Australian Signals Directorate and Australian Government Information Security Manual (ISM) prior to leaving a Facility or provided to any other service provider.

#### 6.5 Specific IT System Requirements

- (a) The Service Provider must:
  - (i) provide connectivity to the Department's nominated IT system at each Facility to enable prompt and accurate data entry and support ongoing management of Detainees;
  - (ii) limit access to the Department's nominated IT System to authorised Service Provider Personnel in accordance with the Department's IT security requirements and broader Commonwealth Guidelines;
  - (iii) ensure that any Service Provider IT system containing Detainee Records or information is protected in a manner that meets the requirements of the ISM;
  - (iv) develop and provide to the Department its IT Policies for acceptance to ensure its IT system adheres to ISM requirements and the Department's Information Communication Technology (ICT) Security Instructions;
  - (v) ensure that any outsourced ICT arrangements for the Service Provider IT environment supplying services to the Department comply with the requirements of the Department;
  - (vi) ensure that only the Department approved Service Provider Personnel can access Service Provider IT systems containing Detainee Records or IT systems used by Detainees;
  - (vii) Not Used
  - (viii) report to the Department, on a quarterly basis the names of all Service Provider Personnel who no longer require access to the Department's nominated IT systems; and
  - (ix) provide to the Department in accordance with the Transition In Schedule, and annually thereafter, independent verification that compliance with IT policies and government security requirements is met.
- (b) The Department will conduct an initial IT Security Risk assessment on the Service Provider's IT system after the Commencement Date and will review the Security Risk assessment annually in accordance with the ISM.
- (c) The Service Provider's business processes must cover IT system management, network management, user management, credential management, access management, risk management, and vulnerability management which must be in accordance with the Department's ICT Security Instructions and any other security requirements required by the Department.

## **6.6 IT Personnel Requirements**

- (a) The Service Provider must:
  - (i) ensure that trained and experienced information services technical Service Provider Personnel are available for each Facility with responsibility for IT service delivery including procurement, deployment, management, maintenance, support and training;
  - (ii) have a National IT Manager to co-ordinate the on-site technical Service Provider Personnel in meeting operational, business and Department IT needs; and
  - (iii) ensure a core team of training staff are available to train new Personnel in the Department's nominated IT system using 'train the trainer' methodology, where required.

## **6.7 Use of Departmental Systems**

- (a) The Service Provider must use the Department's nominated IT system as described in, and in accordance with Schedule 2 (Statement of Work).
- (b) The Department will work collaboratively with the Service Provider in establishing access arrangements to the Service Provider interface of the Department's nominated IT system.
- (c) The Service Provider must ensure its chosen software is compatible with Microsoft Office Suite to ensure no data is corrupted while moving from the Service Provider's environment into the Department's environment.

## **6.8 Compatibility with the Department's IT systems**

- (a) The Service Provider must ensure that its IT systems are compatible with the Department's broader IT environment.

## **6.9 Future Departmental IT Systems**

- (a) The Service Provider must be flexible and have the ability to integrate new systems into its processes when managing Detainees, as and when requested by the Department.

## **6.10 Service Desk, Support and Maintenance Arrangements**

- (a) The Department will provide service desk, support and maintenance facilities for the Department's nominated IT system.
- (b) All end user support issues must be managed by the Service Provider's Helpdesk or nominated contact to conduct initial analysis of any ICT incident in the first instance.
- (c) Once an ICT incident or problem is identified as a Departmental IT system issue, the Service Provider's nominated contact must advise the Department of the issue and further analysis of the incident or problem will be conducted by the Department.

## **6.11 IT Security Controls**

- (a) The Service Provider must upon request by the Department demonstrate how it, and all its Personnel, satisfy:
  - (i) the Department's current ICT Security Instructions;
  - (ii) the Department's current Protective Security Instructions;
  - (iii) the Department's current Security Framework; and

- (iv) the requirements of the Privacy Act.
- (b) The Service Provider must comply with any Departmental issued directives relating to vulnerability management, security controls, security policies or procedures within an agreed timeframe acceptable to the Department, depending on the criticality of the directive.
- (c) The Service Provider must ensure its IT environment has the necessary IT security systems in place to ensure the continued protection of Departmental and Detainee data from threats to confidentiality and integrity. The Service Provider must ensure that appropriate measures are in place to protect data while it is stored with the Service Provider and while it moves to and from the Department over public networks. The Service Provider must ensure that anti-malware and desktop firewall measures are in place to ensure that Departmental systems are not exposed to threats originating from the Service Provider's IT environment.
- (d) To ensure Detainee and Departmental information is not accessed by unauthorised parties and assist the formal process for managing Identity Assurance, the Service Provider must submit the following to the Department for approval with its IT Policies:
  - (i) any locations that end users will be accessing Departmental systems and information; and
  - (ii) any static internet protocol (IP) addresses from which they will connect to Departmental systems (to a limit of five).
- (e) The Service Provider must not use these locations until approval has been obtained in advance from the Department's Service Provider contract management area, in consultation with the Department's Security Advisor. Any changes to location or IP address must be submitted to the Department for approval. Procedures for nominating and varying contact details, IP addresses and other information must be approved by the Department.
- (f) In the case of a security breach, the Service Provider must cooperate with Departmental security audits or investigations, and facilitate access by auditors and investigators to the Service Provider networks, computing devices, log files and other functions as requested, at no additional cost to the Department.

## **6.12 Identity and Access Management**

- (a) The Service Provider must ensure any user gaining access to the Department's IT systems is allocated their own user ID and password for that system. To enhance communication, support security administration and to support the dissemination of information, the Service Provider must ensure all of its Personnel with Departmental IT system access have a valid and unique email address accessible via the internet.
- (b) The Service Provider must use the Departmentally approved procedures and forms for requesting and maintaining user access to Departmental systems. The Service Provider must maintain an up-to-date list of users who are permitted access to Departmental systems, and must provide this list to the Department if requested for auditing or reconciliation purposes.
- (c) The Service Provider must keep all identity records current and terminate access promptly on termination of a Personnel's employment.
- (d) The Department prohibits the sharing of user IDs and passwords between individuals. The Service Provider must ensure that appropriate procedures and policies are in place to prevent its Personnel using another person's user ID and password. If a computer or device is shared between multiple users, Personnel must ensure that they exit Departmental IT systems before handing over the computer to a colleague. Failure to comply with the above will be considered a breach of security and a breach of this Contract.

## **6.13 Training**

- (a) The Department may provide training in the use of Departmental IT systems, by computer-assisted learning packages or otherwise. If specified by the Department, Service Provider's Personnel and Subcontractors must not access or use particular Departmental IT systems until they have successfully completed the relevant training.
- (b) The Service Provider must ensure that all Personnel that will access Departmental systems or any IT environment to record Detainee information, have received relevant training in the use of the Department's system, the Department's current ICT Security Instructions, the Department's current Protective Security Instructions, and the Department's current Security Framework.

## **6.14 End User Computing**

- (a) On every desktop, laptop or other computing device that will be used for accessing Departmental systems or Detainee data, the Service Provider must implement and maintain up-to-date:
  - (i) software patching;
  - (ii) anti-virus and anti-spyware software;
  - (iii) personal/host-based firewall;
  - (iv) hard disc encryption where there is the possibility of Detainee data being stored locally; and
  - (v) technical controls to enforce password policies and data protection policies.
- (b) The Service Provider must ensure all Personnel are trained in the use of any information management systems used to record Detainee information.

#### 6.15 Physical Security

- (a) The locations that end users will be accessing Departmental systems from must be constructed to a Zone 2 requirement as defined in the Protective Security Policy Instructions ([www.protectivesecurity.gov.au](http://www.protectivesecurity.gov.au)) and certified by the Department's Security Adviser before access commences.

#### 6.16 Mobile Computing

- (a) A mobile computing device (also known as a handheld device, handheld computer or simply handheld) means, but is not limited to:
  - (i) tablet computers;
  - (ii) laptop computers; and
  - (iii) smartphones.
- (b) If mobile computing devices are used to access Departmental systems or Detainee information, all the requirements for End User Computing, as set out above, must be fully satisfied.
- (c) The Service Provider must develop a mobile computing policy, as part of the IT Policies, detailing the protocols and safeguards that will ensure the protection of Detainee information from unauthorised disclosure or modification. Mobile computing devices must be designed to protect Detainee information from unauthorised disclosure or modification. Use of mobile computing devices to access departmental systems or Detainee data must comply with the Service Provider's mobile computing policy, which must be accepted by the Department before the use of mobile computing devices for the Services by the Service Provider.

#### 6.17 Detainee Network

- (a) If Departmental data must traverse the Service Provider's networks, the Service Provider must enforce the need-to-know principle, that is, only people with a specific business need have access to Departmental data.
- (b) The Service Provider must provide the Department with static IP addresses from which it will connect to Departmental systems. The Service Provider must limit the number of IP addresses to no more than five (5).
- (c) Procedures for nominating and varying contact details, IP addresses and other information must be approved by the Department under this Contract. This must be a formal process for managing identity assurance.

#### 6.18 Data Retention

- (a) The Service Provider must retain records for the Term of this Contract, or as otherwise required under the *Archives Act 1983*(Cth). At expiry or termination of this Contract the Service Provider must transfer all records to the Department and destroy all copies it retains in accordance with the instructions provided by the Department.
- (b) The Service Provider must not store or retain records offshore, or outside of Australia, without the Department's written authority.

**6.19 Business Processes**

- (a) The Service Provider must have and maintain business processes that comply with this Contract in relation to departmental information covering:
  - (i) system management;
  - (ii) network management;
  - (iii) user management;
  - (iv) access management;
  - (v) risk management; and
  - (vi) vulnerability management.
- (b) The Service Provider's Helpdesk or nominated contact must be a single point of contact for all departmental IT system support issues including; access control, problem management and incident reporting. Service Provider Personnel must not contact the Department's IT support directly, except via the Service Provider's nominated contact.
- (c) The Service Provider must provide, install, manage and support IT and communications systems that:
  - (i) have the software, hardware, encryption and scanning capacity and functionality to support compliance with this Contract;
  - (ii) meet the Department's security and privacy requirements for data and information protection, including by encrypting information classified as sensitive;
  - (iii) are appropriately licensed at all times;
  - (iv) have the capacity and flexibility to respond to fluctuations in service demand and volumes;
  - (v) are properly maintained, updated, supported and available at all necessary times;
  - (vi) minimise multiple records for Detainees;
  - (vii) are in all respects suitable and appropriate for Service Delivery requirements and are able to be easily used by appropriately trained Service Provider Personnel; and
  - (viii) are capable of responding flexibly to new and emerging technologies that assist in the delivery of Service Provider.
- (d) Before the end of each day, the Service Provider must produce a backup of all electronic data created or used for the provision of the Detainee Records and store that data in a secure and safe location.
- (e) The Service Provider must provide appropriate and timely training for Service Provider Personnel in the use of IT relevant to their role and responsibilities associated with the provision of the Services.



## **6.20 Capture of Biometric Data**

- (a) The Service Provider must:
  - (i) capture, using systems provided by the Department, a Detainee's biometric data in accordance with the Department's requirements, policy and procedures or as notified by the Department from time to time; and
  - (ii) ensure that all Service Provider Personnel using biometric capture equipment are trained to do so and cleared by the Department to use the equipment; and
  - (iii) ensure that only trained Service Provider Personnel capture biometric data from a Detainee.

## **7. OVERVIEW OF GOVERNANCE FRAMEWORK AND BUSINESS REPORTING**

### **7.1 Overview**

- (a) The Service Provider is required to comply with the Governance and Business Reporting Requirements set out below in Schedule 2 (Statement of Work).
- (b) The Governance Framework provides:
  - (i) a formal structure to support the delivery of contractual requirements and outlines the various committees and related matters essential for programme delivery;
  - (ii) a structure for communication and knowledge sharing between the Department and the Service Provider on issues, policies and decisions at key levels; and
  - (iii) assistance to the Parties to fulfil their obligations and provides the necessary support for measuring the Service Provider's performance.
- (c) The Governance Framework will be developed by the Department and will provide an overview of the roles and responsibilities of the Service Provider and the Department by:
  - (i) outlining the cooperative approach expected of the Service Provider, the Department, and all other service providers and Stakeholders;
  - (ii) describing how the Service Provider and the Department will work cooperatively to build a long-term relationship and improve Service delivery over the Term of this Contract; and
  - (iii) describing the contract management structure in place nationally, including the committees and cooperative initiatives that the Service Provider are to participate in.
- (d) The Service Provider will comply with the Governance Framework as notified by the Department.

## 7.2 Three-tiered Governance Framework

- (a) The Governance Framework will be made up of three tiers:
  - (i) **Strategic** - The strategic level includes the Executive Levels of the Department and the Service Provider. This tier focuses on the long-term Government Policy and the design of Services.
  - (ii) **Tactical** - The tactical level focuses on the procedures and planning associated with the management of Service Provider Services.
  - (iii) **Operational** - The Operational level focuses on how resources are used to deliver Services to Detainees on a day to day basis.
- (b) The Governance Framework does not replace the need for effective and cooperative informal mechanisms for day-to-day dealings between the Department and the Service Provider; rather, it is the foundation of those relationships. The Governance Framework does not limit or affect the IDSP Obligations under this Contract.

## 8. MEETINGS

### 8.1 Overview

- (a) The Service Provider must attend and participate in bilateral meetings and forums with the Department as well as multilateral meetings with other service providers, Departmental Personnel and other Stakeholders, as required by the Department and any other Stakeholders (as applicable).
- (b) The meetings will mirror the Governance framework:
  - (i) Strategic – Long-term deliverables;
  - (ii) Tactical – Short to Medium-term deliverables; and
  - (iii) Operational - Short term and day-to-day.
- (c) While subject to change, dependent on proposals from the market, changing business needs and requirements of government, the following is an indicative list of meetings that the Service Provider must participate in actively and cooperatively and as required by the Department.
- (d) The Service Provider will attend, at their own expense, each of the meetings specified in this Contract, unless otherwise directed by the Department.

### 8.2 Strategic Meetings

- (a) Annual Bilateral Meeting
  - (i) Timing – Annually. The Annual Bilateral Meeting will be convened at the Department's discretion.
  - (ii) The Annual Bilateral Meeting will provide the opportunity for the Department to provide an update on government objectives in regards to Immigration Detention for the coming year. In addition to this, the Service Provider will agree forward planning strategies for the forthcoming year, maintain high-level relations with the Department and other service providers and Stakeholders.
  - (iii) Attendance – In person, at all levels up to Chief Executive Officer (CEO) of the Service Provider, and all levels up to the Deputy Secretary or First Assistant Secretary of the Department.

- (iv) Convened and facilitated by the Department in Canberra, unless otherwise agreed.

### 8.3 Tactical Meetings

- (a) Joint Service Delivery Forum – Multilateral:
  - (i) Timing – quarterly, as agreed between Service Provider and DHSP.
  - (ii) Attendance – as required from practitioner and management Personnel of the Service Provider and up to the Assistant Secretary level of the Department.
  - (iii) Purpose – not limited to, but including: guide service delivery, discuss and respond to emerging issues.
  - (iv) Convened and facilitated by the Department in Canberra, unless otherwise agreed.
- (b) Facilities and Detainee Service Provider Committee:
  - (i) Timing – monthly. Where possible, the aim is for these meetings to occur around the same time as DHSP meetings to facilitate cooperation between the Service Provider and its common Stakeholders.
  - (ii) Attendance – as required, management Personnel of Service Provider, Department, other service providers and Stakeholders as required.
  - (iii) Purpose – not limited to, but including: guide service delivery, discuss and respond to emerging issues specifically relating to the Service Provider.
  - (iv) Convened and facilitated by the Department in Canberra, unless otherwise agreed.

### 8.4 Operational Meetings

- (a) The Service Provider will participate in joint committees, regular status meetings and other joint initiatives. In certain situations, the Service Provider will be required to chair and lead these operational meetings. The level of cooperation required may vary according to the specific requirements of each Facility and may be subject to change during the Term of this Contract.
- (b) The following is a list of the committees and meetings that are to be attended by the Service Provider at each Facility (unless otherwise indicated). The Department may alter the list of committees and meetings, and/or the role of the Service Provider for each Facility during this Contract Term. Unless otherwise specified, the Department will provide the secretariat services for the committee/meeting.
- (c) When any of the committees or meetings results in an actionable item on behalf of the Service Provider, being an item that requires follow up, resolution, feedback or review, that item must be resolved by the Service Provider within the timeframe agreed at the meeting for resolution of the item.

- (d) Daily Morning Meeting:
  - (i) The Service Provider will attend a daily morning meeting with the Department and other service providers on Business Days only, unless otherwise directed by the Department.
  - (ii) The daily morning meeting aims to resolve issues that have arisen over the past 24 hours and to set key goals for the day ahead.
  - (iii) The Service Provider will provide secretariat services to the daily morning meeting.
- (e) Weekly Review Meeting:
  - (i) The Service Provider will participate in a review meeting with the Department every week or more frequently as directed by the Department.
  - (ii) The weekly review meeting will focus on resolving on-going issues and reviewing the Service Provider performance in line with the Performance Framework;
  - (iii) Participants at the weekly review meeting will include the Department Facility Manager, the Service Provider manager and the DHSP manager representative.
  - (iv) The Department will provide secretariat services at the weekly review meeting.
- (f) Individual Management and Placement Review Meeting – at a minimum Monthly:
  - (i) The Service Provider will participate in the Individual Management and Placement Review Meeting at each Facility, which will:
    - (A) review, update and action Detainee Individual Management Plans, as detailed in Department's Policy and Procedure Manual;
    - (B) develop and implement prevention strategies, as part of the Individual Management Plan, for Detainees who have been identified as being at risk;
    - (C) review Detainee placement options for Detainees who have been identified as being at risk; and
    - (D) review, update and action Detainee Behavioural Management Plans.
  - (ii) The Individual Management and Placement Review Meeting will include representation from the Department, the Service Provider and relevant Service Provider senior management representatives.
  - (iii) The Department and the Service Provider acknowledge and agree that some Detainees require more frequent Individual Management and Placement Review meetings to meet the individual needs of all Detainees.
  - (iv) The Department and Service Provider will be jointly responsible for secretariat services at these meetings.

- (g) Consultative Committee – Monthly
  - (i) The Consultative Committee will include representation from the Department, relevant Service Provider senior management representatives and Detainees.
  - (ii) The Consultative Committee provides a forum for the Department, Service Provider and Detainees to discuss issues in service delivery.
  - (iii) The Service Provider will provide secretariat services to the Consultative Committee every month, including:
    - (A) the translation and display of information notifying the date and time of Consultative Committee meetings and the minutes of such meetings; and
    - (B) the provision of the minutes to the departmental Facility Manager.
- (h) Work Health and Safety Committee – Monthly:
  - (i) The Service Provider will establish a Work Health and Safety Committee at each Facility which will oversee compliance with all relevant Work Health and Safety requirements.
  - (ii) The committee will include representatives from the Service Provider, the Department and any other service providers working at the Facility.
  - (iii) The Service Provider will provide secretariat services to the Work Health and Safety Committee.
- (i) Security Review Committee – Monthly:
  - (i) The Service Provider must participate in a monthly Security Review Committee with the Department, which involves:
    - (A) raising and resolving security related issues and incidents;
    - (B) reviewing the Facility Security Risk Assessment;
    - (C) reviewing Detainee Security Risk Assessments, as required under the Policy and Procedure Manual; and
    - (D) reviewing Emergency and Security Exercise Reports, Contingency Plans and emerging trends and issues.
  - (ii) The Service Provider is responsible for the Security Review Committee, including secretariat services, however the security review will be a joint approach with the DHSP.
- (j) Emergency Planning Committee – Quarterly
  - (i) The Service Provider must establish and lead an Emergency Planning Committee meeting, to ensure suitable planning and preparations are made to manage emergencies.
  - (ii) The Emergency Planning Committee will meet quarterly and within seven (7) days after any emergency.

**Table 1: Immigration Detention Services - Governance Framework**

		Frequency	Secretariat Services
Strategic Level Meetings	Annual Bilateral Meeting	Annually	DIBP
Tactical Level Meetings	Joint Service Delivery Forum	Quarterly	DIBP
	Facilities and Detainee Service Provider Committee	Monthly	DIBP
Operational Level Meetings	Morning Meeting	Daily	Service Provider
	Weekly Review Meeting	Weekly	DIBP
	Individual Management and Placement Review Meeting	Monthly	Service Provider/DIBP
	Detainee Consultative Committee	Monthly	Service Provider
	Workplace Health and Safety Committee	Monthly	Service Provider
	Security Review Committee	Monthly	Service Provider
	Emergency Planning Committee	Quarterly	Service Provider

## **8.5 Other Meetings**

- (a) As well as meetings associated with the governance and administration, the Service Provider will also participate in ad-hoc meetings associated with the delivery of Services and operational requirements as required by the Department.

## **9. BUSINESS REPORTING**

### **9.1 Purpose**

- (a) This section outlines the reporting and information provision requirements for the Service Provider.
- (b) Quality service delivery necessitates an effective, efficient, accurate, and timely data entry and reporting system. In line with the Department's evolving information and data needs, the Department may change its reporting requirements (including the nature, formatting, and regularity of reports) at any time.
- (c) The Service Provider will be required to extend full cooperation and support to the Department in achieving open and timely sharing of all relevant information (within the bounds of all relevant laws).
- (d) Proper reporting and supply of timely and accurate performance and Service delivery related information and data is essential to the Department in:
  - (i) monitoring and assessing the Service Provider's performance of, and compliance with, Service provisions and associated operational processes and standards, including data entry in to the Department's nominated IT system. It also enables the Department to make informed operational and managerial decisions; and
  - (ii) assisting the Department in satisfying its general public accountability and transparency obligations.

### **9.2 Required Business Reports**

- (a) The Service Provider will develop and submit a range of reports to the Department in regards to the provision of Facilities and Detainee Services.
- (b) Reporting will include both qualitative and quantitative analysis at the Strategic, Tactical and Operational levels.

### **9.3 Incident Reporting**

- (a) The Service Provider will work in collaboration to meet the Department's Incident Management Protocols and provide joint reporting where relevant to the Department.
- (b) The Service Provider has the lead responsibility for the reporting of Incidents including entry into the Department's nominated IT system.
- (c) The Service Provider will notify and provide Incident Reports, with relevant contribution from the DHSP, on all Critical, Major and Minor Incidents (where there is a health component), as required in this Schedule 2 (Statement of Work).

**9.4 Reports to Parliament, Government and Non-Government Bodies**

- (a) Immigration Detention attracts a high level of scrutiny from a range of parliamentary, governmental and non-governmental bodies. The Department is charged with implementing government policy and as such, is held accountable and is required to participate in and respond to reviews, queries and investigations on its activities and those of its Service Provider.
- (b) Reports may be for public dissemination or for internal government use only, and may concern any aspect of the contractual arrangements. Reporting may be on an ad hoc basis and require a time-critical response from both the Department and the Service Provider. Other reporting may coincide with scheduled senate estimates hearings that normally occur three times per year, or other regular reporting as required by government.
- (c) The Service Provider will assist the Department in participating in and responding to requests, as and when directed by the Department.

**9.5 Performance Reporting**

- (a) The Service Provider is required to complete and submit regular performance reports in line with the requirements set out in Schedule 4 (Performance Management Framework).

**9.6 Facilities and Detainee Services Reporting Requirements**

- (a) This section details the Service Provider's reporting requirements. The detailed data and reporting requirements relating to each report, as well as the Service Provider's information and data requirements, are set out in Annexure A of Section 7 (Business Services) of Schedule 2 (Statement of Work).

**9.7 Required Reports**

- (a) The Service Provider will provide the following national Annual reports:
  - (i) an Annual Performance Report; and
  - (ii) an Industry Development Report.
- (b) The Service Provider will provide a national report detailing the training, accreditations and qualifications of all Service Provider Personnel on a Quarterly basis.
- (c) The Service Provider will provide the following Monthly reports:
  - (i) an Immigration Detention Facility Report for each Detention Facility;
  - (ii) a national Work Health and Safety Report;
  - (iii) a Facilities Management Report for each Detention Facility; and
  - (iv) a national Monthly Psychological Support Programme (PSP) Training Report.
- (d) The Service Provider will provide a regular National Finance report when requested by the Department.



**9.8 Additional Reporting**

- (a) The Department may request the Service Provider to provide additional reports in order to more effectively manage a Facility.
- (b) The Service Provider will comply with all requests from the Department for additional reports, including requests from the Department under Annexure A of Section 7 (Business Services) of Schedule 2 (Statement of Work).

**ANNEXURE A:  
SERVICE PROVIDER BUSINESS REPORTING AND INFORMATION MANAGEMENT  
REQUIREMENTS**

**PART 1 - FACILITIES AND DETAINEE SERVICES**

**REQUIRED BUSINESS REPORTS AND INFORMATION MANAGEMENT**

**1. ANNUAL REPORTING**

**1.1 Annual Performance Report**

- (a) The Service Provider will, submit an Annual Report, which addresses each Facility that:
  - (i) summarises key events during the year;
  - (ii) sets out the lessons learned;
  - (iii) establishes targeted goals for the subsequent year; and
  - (iv) details of subcontractor arrangements and performance.
- (b) This Annual Report will include the Business Services Plan, as well as a mechanism for aligning the objectives with the new Key Performance Indicator (KPI) levels for that year.

**1.2 Industry Development Report**

- (a) The Department is committed to sourcing (directly and indirectly) a percentage of the total value of purchases from Small to Medium Enterprises (SMEs).
- (b) The Service Provider will submit an Industry Development Report which sets out:
  - (i) the level of direct or indirect participation of SMEs (expressed as a % of the total annual value of this Contract) in the delivery of the Services for the current calendar year; and
  - (ii) any issues that, in the Service Provider's opinion, are relevant to the maintenance or improvement of the level of participation of SMEs in delivery of the Services for the next calendar year.

**1.3 Financial Reporting**

- (a) The Department may conduct, or engage an agent to conduct, random audits of financial documentation, information or other Material (including computer data and Contract Material) held by the Service Provider, related to the Services, including, but not limited to:
  - (i) assessing the accuracy of the Service Provider's invoices and reports in relation to the provision of the Services and the calculation of costs;
  - (ii) assessing the extent of adherence by the Service Provider to the specified standards and policies, as relevant; and
  - (iii) reviewing compliance or otherwise by the Service Provider with the Terms and Conditions of this Contract.
- (b) The Service Provider will provide a high level of cooperation and reasonable facilities for the duration of the audit at no additional cost to the Department. The Service Provider will make its Personnel available to discuss Service matters with the auditors if required.

- (c) The Department may also request ad hoc financial reports. The Service Provider will be advised of, and comply with, these requests in writing in a timeframe as agreed with the Department.

## **2. QUARTERLY REPORTING**

- (a) The Service Provider must provide a national Quarterly Monthly report detailing and demonstrating the training, qualifications and other necessary accreditations of the Service Provider Personnel required to perform their duties are current and up to date.
- (b) The Service Provider must report to the Department, on a quarterly basis the names of all Service Provider Personnel who no longer require access to the Department's nominated IT systems

## **3. MONTHLY REPORTING**

### **3.1 Immigration Detention Facility Report**

- (a) The Service Provider facility manager will prepare a report in relation to each Facility on a monthly basis (Immigration Detention Facility Report).
- (b) The Service Provider facility manager will submit their Immigration Detention Facility Report to the Department facility manager for comment on the fifth Business Day of the immediately succeeding month, and a final to the Service Provider National Office on the eighth Business Day of the month. Notwithstanding the provisions of clause 3.1(c) below, the Service Provider National Office will provide the Department Contract Administrator with a copy of the collated Immigration Detention Facility Report at the monthly Facilities and Detainee Service Provider Committee.
- (c) The Immigration Detention Facility Report will include a summary of:
  - (i) key issues identified during the month;
  - (ii) contractual management issues that have arisen;
  - (iii) issues in relation to Detainees that have occurred and been resolved;
  - (iv) a brief on high profile or special needs Detainees;
  - (v) a brief summary of significant activities within each Facility for the month;
  - (vi) not used;
  - (vii) a detailed list of Excluded, Controlled and Illegal Items detected each Month;
  - (viii) a Monthly summary of the outcomes of the weekly checking of all entry screening and searching procedures;
  - (ix) a Monthly report on the status and condition of each Contingency Facility and Hot Contingency Facility, and copies of all audits conducted on Contingency Facilities and Hot Contingency Facilities; and
  - (x) a report on the outcomes of each any security exercise undertaken as per the Department approved quarterly exercising schedule, including any proposals for continuous improvement.

### **3.2 National Workplace Health and Safety Report**

- (a) The Service Provider will provide a national monthly report detailing any injury, illness, death or property damage arising in connection with the Services or the condition of the Facilities and action taken to prevent recurrence or minimise their impact.

### **3.3 Facilities Management Report**

- (a) The Service Provider will provide a monthly report detailing:
  - (i) all defaults, faults or damage and subsequent action taken in response to emergency breakdowns and repairs and Reactive Maintenance, in accordance with Part 3 of the Schedule 2 (Schedule 2 (Statement of Work)); and
  - (ii) all cases of damage to Department Assets or Loose Assets by Detainees, including costs of repair or replacement during that month.

### **3.4 Psychological Support Programme (PSP) Training Report**

- (a) The Service Provider will provide a national monthly report detailing the number of Personnel trained in PSP, the type of training delivered and the number of Personnel required to undertake the training.
- (b) The monthly reports outlined above are to be submitted to the Department National Office through the governance arrangements, as agreed between the Department and the Service Provider from time to time.

## **4. ONGOING REPORTING**

### **4.1 Incident Reporting**

- (a) The Service Provider will undertake incident reporting, this includes:
  - (i) an Incident Management Log – This is an accurate and comprehensive record of the date, time and location for all Incidents, the actions taken and instructions given.
  - (ii) an Incident Report – The Service Provider will report any Incident within the timeframes stipulated in Schedule 2 (Statement of Work) for each category of Incident. The Service Provider will submit all Incident Reports electronically to the Department via the Department's nominated IT system; and
  - (iii) a Post Incident Review – Where a Major or Critical Incident has occurred and been resolved, the Service Provider will conduct a post-incident review and report the results to the Department through facility level governance arrangements. The Service Provider is also required to submit the outcomes of Post Incident Reviews through the national governance arrangements, as agreed between the Department and the Service Provider from time to time.
- (b) Although the Department will perform a trend analysis of Incidents, the Service Provider is encouraged to analyse Incident data in order to determine behavioural factors or other activities that have given rise to the Incident.
- (c) In addition, a root cause analysis of trends over time may identify likely catalysts for Incidents.
- (d) The Service Provider must provide any other reports as directed by the Department in writing.

**Table: Immigration Detention Services – Summary of Reports**

Report Type	Frequency	Level
Annual Performance Report	Annually	National
Industry Development Report	Annually	National
Immigration Detention Facility Report	Monthly	Facility and National
Work Health and Safety Report	Monthly	National
Facilities Management Report	Monthly	Facility and National
Psychological Support Programme (PSP) Training Report	Monthly	National
Human Resources	Quarterly	National
Financial Reporting	Ad Hoc	National
Reports to Parliament, Government and Non-Government Bodies		
Incident Reporting	Ongoing	Facility
Education of children report	Ongoing	National

- (e) The Service Provider is required to provide the data and information for other records, registers and catalogues required under Schedule 2 (Statement of Work) when requested from the Department from time to time, including:
- (i) Records, Logs & Catalogues
  - (ii) Escort Operational Order;
  - (iii) Use of Restraints;
  - (iv) Recording Transport and Escort Tasks;
  - (v) Security Intelligence;
  - (vi) Detainees Security Risk Assessment;
  - (vii) Visitor Logs;
  - (viii) Operations Logs;

- (ix) Asset Management Information;
  - (x) Emergency Breakdown Table;
  - (xi) Detainees Records;
  - (xii) Property of Detainees Record;
  - (xiii) Report on Detainee complaints and statuses;
  - (xiv) Refusal or Removal of Visitors Record;
  - (xv) Visitor Conditions of Entry; and
  - (xvi) Programme and Activities Participation Record.
- (f) The Service Provider will maintain a master register of all Plans and other records, registers and catalogues required under Schedule 2 (Statement of Work), (including those listed in this Annexure), which includes details of all relevant information and data sources for each plan, record, register and catalogue.

#### **4.2 Data Entry Department Nominated Information Technology System**

- (a) The Service Provider will; in accordance with the requirements set out in Schedule 2 (Statement of Work), accurately enter into the Department's nominated IT system a variety of data about Detainees, the Detention Facility, and the service environment.
- (b) Six (6) reports will be automatically created from the data entered into the Department's nominated IT system:
- (i) Location Summary: Lists Detainees by Facility, location, nationality and gender and whether adult or minor, at a specified date and time;
  - (ii) Detainee arrivals: Lists new and transferred Detainees arriving at a Facility during the specified period;
  - (iii) Detainees discharges: Lists Detainees released from or transferred out of a Facility during the specified period;
  - (iv) External Detainees: Lists all Detainees who are (or were) external to a Facility at a specified time/date;
  - (v) Incident summary: Lists all Incidents occurring at a Facility during a specified period; and
  - (vi) Room allocations: Lists the total capacity of each room in a Facility together with the Detainees occupying each room.
- (c) The Service Provider will enter into the Department's nominated IT system a variety of data regarding behaviour of Detainee that will impact each Detainee's management.
- (d) The Service Provider will provide all documents in timeframes specified by the Department.



ANNEXURE B: PLANS AND DOCUMENT APPROVAL SCHEDULE						
Plan	Sub plans	Draft document submission date	Final document submission date	Updated document submission date	Submit to	Notes
Transition In Plan	N/A	Draft at Commencement Date	Within 10 Days of Commencement Date	N/A	DIBP National Office	
Transition Out Plan	N/A	Draft within six (6) months of Commencement Date	Within 30 Business Days of DIBP request for amendments	Annually on the anniversary of Commencement Date	DIBP National Office	
				Within one (1) month of the date of Termination Notice		
				At least six (6) months before this Contract expires		
				At least six (6) months before this Contract expires		
Risk Management Plan	N/A	Draft at Commencement Date	Within 30 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	May be separate documents.
Fraud Control Plan						
Work Health and Safety Plan	N/A	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	



Plan	Sub plans	Draft document submission date	Final document submission date	Updated document submission date	Submit to	Notes
Human Resource Management Plan	N/A	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	
Policy and Procedures Manual	N/A	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	
Business Services Plan	Business Continuity and Continuous Improvement Plan Contingency Plans	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	May be separate documents.
Garrison Services Plan	Information Technology (IT) Policies	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	
	Catering Services Plan					
	Food Safety Plan, including HACCP					
	Cleaning Services Plan					
	Environmental and Waste Management Plan					

Plan	Sub plans	Draft document submission date	Final document submission date	Updated document submission date	Submit to	Notes
Facilities Management Plan	Departmental and Loose Assets Register	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	
	National Asset Management Plan	Facilities & Asset Management plans to be delivered in accordance with FM transition program schedule				
	Pest and Vermin Control Plan					
Security Services Plan	Facility Security Services Plan	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	
	Incident Management Protocols					
Transport and Escort Services Plan	Transport and Escort Policies	Within 10 Days of Commencement Date	Within 40 Days of Commencement Date	Annually on the anniversary of Commencement Date	DIBP National Office	
	Fleet Management Protocols					



**ANNEXURE C:  
CODE OF CONDUCT**

**THE CODE OF CONDUCT APPLIES TO ALL FACILITIES AND DETAINEE SERVICES PROVIDER(S) (SERVICE PROVIDER) PERSONNEL**

**1. INTRODUCTION**

- (a) When providing Services to the Department or Detainees, the Service Provider, its Personnel and Subcontractors are to observe and uphold the standards of conduct outlined in this document which are fundamental to the successful performance of the Facilities, this includes applicable Immigration Detention standards and values as advised by the Department from time to time.
- (b) The Code of Conduct is intended to provide an ethical framework to guide the Service Provider, its Personnel and Subcontractors in their decisions, actions and behaviour, and it advocates values that include integrity, honesty and impartiality.
- (c) The Code of Conduct will be a key focus of the initial training course for all Service Provider Personnel and Subcontractors who will have the powers of "officers" under the *Migration Act 1958* (Cth). The Code of Conduct is also integrated into other training and development programmes, particularly leadership development, management and supervisor training.
- (d) Specific reference to the Code of Conduct will be made in all job descriptions and Manager's Performance Agreements, and it will be a key area of focus of Performance Appraisal and Development discussions between Service Provider Personnel, or Subcontractors and their managers.
- (e) A hardcopy of the Code of Conduct is provided to all Service Provider Personnel and pre-approved Subcontractors, and all new Personnel and Subcontractors thereafter, and additional copies are available throughout Facilities.
- (f) Implementation of the Code of Conduct will be regularly and critically evaluated through audits, personnel surveys (including exit interviews) and other appropriate mechanisms; and the results may be taken into account for the purpose of determining whether the Service Provider have met its obligations and any relevant Key Performance Indicators.

**2. STANDARDS OF CONDUCT**

**2.1 An Open and Accountable Organisation**

- (a) In carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:
  - (i) behave honestly and with integrity;
  - (ii) be open and accountable for their decisions, actions and omissions;
  - (iii) disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with their duties;
  - (iv) create and maintain open and honest communications with other detention service providers, with a view to delivering a truly integrated service to Detainees based on shared information, feedback and best practice;
  - (v) not make improper use of information, or its status, power or authority, in order to gain, or to seek to gain, a benefit or advantage for themselves or any other person;

- (vi) at all times behave in a way that upholds the values and integrity and good reputation of the Department;
- (vii) avoid any practice or activity which could be foreseen to bring the Department into disrepute; and
- (viii) report behaviour that breaches the Code of Conduct and all allegations and/or possible incidents of criminal activity, corruption, dishonesty, unlawful conduct and conflicts of interest.

## **2.2 Fair and Reasonable Dealings with Detainees**

- (a) In carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:
  - (i) act fairly and reasonably in all of their dealings;
  - (ii) not provide false or misleading information in response to a request for information;
  - (iii) respect privacy and confidentiality and comply with its obligations under any Confidentiality Deed and the Deed of Non-disclosure of Personal Information which they have signed;
  - (iv) ensure Detainees are not subject to discrimination on any ground, including Race, Colour, Gender, Sexual Preference, Religion, Political or other opinion, National Social Origin, Status or Disability; and
  - (v) facilitate access by Detainees to internal and external complaint mechanisms, and process requests promptly and in a fair and equitable manner.

## **2.3 Well Trained and Supported Personnel**

- (a) In carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:
  - (i) comply with all applicable Australian Laws and also any Australian Government Policies notified to them from time to time;
  - (ii) comply with any lawful and reasonable direction given by the Department or someone else who has authority to give the direction;
  - (iii) demonstrate awareness of sensitivity, interest in and public scrutiny of, the Immigration Detention environment, and, with this in mind, conduct themselves in an appropriate manner whenever on or off duty;
  - (iv) use the facilities contained in the Facilities, including equipment and systems in a proper manner; and
  - (v) comply with any other conduct requirement that is prescribed by Regulations, Determinations and/or Directions.

## **2.4 Duty of Care and Case Management**

- (a) In carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:
  - (i) act with care and diligence;
  - (ii) take actions and comply with procedures to maintain a safe working environment;

- (iii) not be under the influence of or displaying the after effects of drug and/or alcohol consumption;
- (iv) ensure the requirements for separation detention are upheld, and that the integrity of the Department's Visa Determination Process is maintained;
- (v) in respect of any Children or Unaccompanied Minors in Facilities, ensure they receive appropriate and individual care; and
- (vi) be alert for Detainees who are or appear to be, traumatised and/or vulnerable to self-harm and by the actions of others, and manage and report on these.

## 2.5 Supportive Culture

- (a) In carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:
  - (i) support and promote a stable and harmonious environment, and seek to resolve situations and tensions peacefully;
  - (ii) treat everyone with respect and courtesy, and without harassment of any kind;
  - (iii) be supportive and helpful to Detainees who wish to seek legal or other external advice in relation to their detention;
  - (iv) conduct all duties, and particularly safety and security procedures, sensitively, enabling Detainees to maintain their dignity, and with due regard for their individual circumstances and backgrounds;
  - (v) share information with other service providers as to the individual needs of Detainees as these needs are identified;
  - (vi) behave in a tolerant, respectful and culturally sensitive manner towards Detainees and their Visitors and avoid perceptions of discrimination and bias;
  - (vii) show understanding, respect and sensitivity for Religious Beliefs and conventions of each Detainees and their particular needs; and
  - (viii) show due regard for the Property of Detainees to ensure that it is not damaged and is treated with appropriate Cultural Sensitivity.

## 2.6 Promoting a Healthy Environment

- (a) In carrying out its duties, the Service Provider, its Personnel and any Subcontractors are to:
  - (i) take actions and comply with procedures to maintain a healthy environment;
  - (ii) support and promote a healthy physical, environmental and psychological environment by seeking to resolve issues peacefully and in a timely manner;
  - (iii) support the provision of a broad spectrum of appropriate and culturally responsive services for Detainees that have a positive effect on their Welfare;
  - (iv) behave in a manner that respects and promotes the Physical and Psychological well-being of Detainees; and
  - (v) respect the natural environment in and surrounding the Facilities.

## **2.7 Providing Appropriate Amenities**

- (a) In carrying out its duties, the Service Provider, their Personnel and any Subcontractors are to:
  - (i) be aware of and monitor Detainees with special needs, including Children, the Elderly and Infirm;
  - (ii) ensure Detainees are treated individually, accorded respect and provided with as much personal privacy as is reasonably possible; and
  - (iii) ensure Detainees receive equitable access to the relevant services.

## **2.8 Complaints About Conduct**

- (a) Copies of the Code of Conduct will be displayed prominently throughout the Facilities at all times.
- (b) The Code of Conduct will be explained to Detainees and copies will be provided to them.
- (c) The Department and the Service Provider are committed to fair, transparent and timely resolution of complaints from Detainees regarding breaches of this Code of Conduct.
- (d) Detainees are to be informed of their rights and are able to comment on or complain without hindrance or fear of reprisal:
  - (i) about any matter relating to the conditions of detention or breach of this Code of Conduct, to the Service Provider, its Personnel and/or Subcontractors, the Department, the Australian Human Rights Commission or the Commonwealth and Immigration Ombudsman;
  - (ii) in the case of a suspected criminal offence, to the police; or
  - (iii) in the case of suspected Child abuse, to the relevant State/Territory Welfare Agency.
- (e) Complaints made by Detainees to the Service Provider, its Personnel and/or Subcontractors that are either expressed to be for the attention of a third party (including those agencies referred to in clause 2.8(d)(i) above) or are deemed by the Department and/or the Service Provider to be more appropriately resolved by a third party, will be forwarded to the relevant agency in a timely fashion and in accordance with Applicable Law.
- (f) Material advising of the right to complain to the Australian Human Rights Commission and the Commonwealth and Immigration Ombudsman is displayed prominently throughout the Facilities at all times and is also available to Detainees on request.
- (g) All complaints to the Service Provider, its Personnel and Subcontractors, or the Department will be investigated and an initial response provided to the complainant within 14 Business Days.
- (h) As part of this process, all relevant information will be considered and interviews may be undertaken by the relevant Service Provider with its Personnel or Subcontractors. All Service Provider' Personnel and Subcontractors will cooperate fully with such interviews and any requests for information.
- (i) Following investigation, if necessary, the Service Provider may take corrective or disciplinary action against Service Provider' Personnel or Subcontractors who have breached the Code of Conduct.
- (j) The IDSP are to notify the Department of any complaint about the conduct of Service Provider Personnel or Subcontractors within 24 hours of the complaint.



**2.9 Inconsistencies with the Code**

- (a) The obligations contained in this Code of Conduct are subject to:
  - (i) any contrary express Contractual Obligations under this Contract; and
  - (ii) any contrary directions given by the Department.





**ANNEXURE D:**  
**FACILITIES AND DETAINEE SERVICE PROVIDER QUALIFICATIONS AND TRAINING REQUIREMENTS**

- 1.1** Prior to the commencement of work in a Facility (or working with Detainees in an external environment, such as Transport, Escort or Removals Tasks) all Service Provider Personnel are required to:
- (a) have undergone an Australian Federal Police Background Check prior to commencement at a Facility (or working with Detainees in Community Detention) ;
  - (b) be trained in the Department's Code of Conduct (See Annexure C);
  - (c) have completed Induction Training which includes instruction in:
    - (i) cultural awareness;
    - (ii) the Department's objectives for Immigration Detention;
    - (iii) conflict de-escalation;
    - (iv) duty of care responsibilities;
    - (v) communication and interaction with Department Personnel, Stakeholders and other service providers;
    - (vi) problem solving and decision-making in the workplace;
    - (vii) self-harm awareness;
    - (viii) mental health policy training in accordance with the departmental policy;
    - (ix) skills on interacting with Detainees; and
    - (x) record keeping procedures consistent with departmental policy.
  - (d) undertake human rights and human interaction training;
  - (e) hold a current Apply First Aid qualification and undertake refresher training at least every three years and annually for Cardio Pulmonary Resuscitation, for all personnel working with detainees;
  - (f) where they will, or may, work with Minors in any capacity comply with relevant State child protection legislation, Personnel must have obtained necessary checks in accordance with State child protection legislation prior to commencing any work with Minors;

- (g) Operational staff likely to engage with detainees be trained in implementing and applying the Department's Psychological Support Programme (PSP) in accordance with the PSP Policy. The PSP training package, developed by the Service Provider is:
    - (i) to be updated to reflect any departmental policy changes;
    - (ii) will be cleared by the Department;
  - (h) The Service Provider must submit reports to the Department on the numbers of staff trained in PSP and the type of training delivered on a monthly basis; and
    - (i) ensure all Service Provider Personnel undertake training in mental health policies as developed by the DHSP;
    - (ii) have completed training and qualifications relevant to specific role (as detailed below); and
    - (iii) complete any other training requirements as detailed in the Schedule 2 ((Statement of Work) as applicable.
- 1.2** The Service Provider must also ensure that there is an on-going training and development program for all Personnel, and submit details to the Department as to the program of training and refresher training to be implemented (as detailed in Schedule 2 (Statement of Work).
- 2. *Qualifications, Skills and Registration Requirement:***
- 2.1** The Service Provider's rostering arrangements are to meet the following minimum requirements:
- (a) a senior manager will be on-site between 0800 to 1800 each day, and able to be contactable by phone 24 hours a day, seven days a week (including public holidays);
  - (b) all Facilities are to have a Religion Liaison Officer, as detailed in Schedule 2 (Statement of Work);
  - (c) all Facilities are to have sufficient welfare officers appropriate to the number of Detainees at that Facility;
  - (d) all Facilities are to have designated compliance and audit managers; and
  - (e) all Facilities are to have designated programme and activity coordinators.
- 3. *Security***
- 3.1** Service Provider Personnel responsible for managing security for each Facility engaged by the Service Provider are to:
- (a) hold at least a Certificate Level IV in Security Operations or Technical Security or equivalent; and
  - (b) have acquired at least five years' experience in managing security.

- 3.2 Service Provider Personnel responsible for the general security and safety for Detainees are to:
- (a) successfully complete classroom training required for at least a Certificate Level II in Security Operations or equivalent prior to commencement, and receive their competency based certificate within 3 months of commencement.
- 3.3 Security accreditation will be provided by a Registered Training Organisation and delivered by a Level IV accredited trainer.
- 3.4 Any Service Provider Personnel undertaking intelligence analyst functions need to be suitably qualified and experienced.
- 3.5 Any Service Provider Personnel using biometric capture equipment must be trained and cleared by the Department.
- 3.6 Duty Managers must have passed a recognised course in “Command of Serious Incidents” (or equivalent) at or within six months of commencement of their employment.
4. *Security Staff, Escorts and Drivers*
- 4.1 All Service Provider Security, Escort and Driver Personnel who in the performance of their duties:
- (a) use force or restraints; or
  - (b) operate surveillance systems,
    - (i) Service Provider Security, Escort and Driver Personnel are required to, prior to undertaking those duties, successfully complete a training course, provided by a Registered Training Organisation and delivered by a Level IV accredited trainer, covering the proper exercise of those duties.
    - (ii) Where required, Security Officers undertaking escort services must have relevant authorisations, including but not limited to: Aviation Security Identification Card; Maritime Security Identification Card; Airside driver’s licence; Control and Restraint certification in accordance with applicable Law.
5. *Exercise of Powers under the Migration Act*
- 5.1 All Service Provider Personnel who, in the performance of their duties, exercise a power identified in the table below are required, prior to undertaking those duties, to successfully complete a training course:
- (a) provided by a Registered Training Organisation and delivered by a level IV accredited trainer, covering the proper exercise of these duties and be issued with a certificate that demonstrates that the person has the competencies required to perform the power.

Section	Power
s 252	<p>Searching a detainee and seizure of certain items</p> <p>The purposes for which an authorised officer may conduct a search under s 252(1) include:</p> <ul style="list-style-type: none"> <li>to find out whether a weapon or thing is hidden on the person;</li> <li>to find out whether there are documents or other things hidden on the person that may be evidence for cancelling their visa.</li> </ul> <p>An authorised officer may take possession of, and retain, items seized under s 252.</p>

Section	Power
s 252AA	Screening detainees An authorised officer may conduct a screening procedure on a detainee.
s 252A and s 252B	Conduct of a Strip Search An authorised officer may conduct a strip search in particular circumstances: s 252A (subject to rules for conducting a strip search in s 252B).
s 252C	Possession and retention of confiscated items Possession and retention of items obtained in a strip-search or screening procedure.
s 252G(4)	Search of Persons entering an Immigration Detention Facility An authorised officer may request a person entering a detention centre undergo inspection of things in their possession, search outer clothing and remove and open items and require items to be left in a specified place.
s 252G(6)	Seizure of Illegal Items An authorised officer may seize items from a person entering a detention centre when possession of those items is unlawful under State, Territory or Commonwealth law, and hand them over to the relevant police.
s 258	Biometrics Collection Where a person is in Immigration Detention, an authorised officer may do all such things as are reasonably necessary for photographing or measuring that person or otherwise recording matters in order to facilitate the person's present or future identification

## 6. *Ongoing security training*

6.1 The Service Provider will submit to the Department a programme of refresher training to be implemented at least every two years or as required to maintain the qualification, including:

- (a) security awareness;
- (b) first aid;
- (c) mental health awareness, including departmental mental health policy awareness (annually);
- (d) suicide awareness;
- (e) conflict de-escalation;
- (f) use of force; and
- (g) use of restraints.

**7. *Support Workers (support workers include but are not limited to roles such as Personal Officer, Welfare Officer, Programme and Activities Officer and Family Liaison Officer)***

**8. *Support Workers (Children)***

**8.1** Unless otherwise approved by the Department, Service Provider Personnel performing the role of Detainee Support Worker (Children) at each Facility, must:

- (a) hold at least Certificate III level qualification in child welfare;
- (b) hold a current first aid certificate; and
- (c) have at least two (2) years' experience in a related community service environment.

**9. *Support Workers (Adults)***

**9.1** Unless otherwise approved by the Department, Service Provider Personnel performing the role of Detainee Support Worker (Adults) at each Facility, must:

- (a) hold at least Certificate III level qualification in sports recreation, learning and development, ethnic affairs or similar;
- (b) hold a current first aid certificate; and
- (c) have at least two (2) years' experience in a related community service environment.

**10. *Programmes and Activities***

**10.1** Service Provider Personnel responsible for managing Programmes and Activities are to:

- (a) be qualified to at least Diploma level in an associated discipline such as Social Work or other Social Science/Human disciplines such as Community Work, sports and recreation or learning and development, with significant staff management experience; and
- (b) have acquired at least two years' experience in planning, managing and conducting structured programmes and activities for adults and children.

**11. *Gymnasium***

**11.1** All Service Provider Personnel who will supervise use of gymnasium facilities by Detainees are to:

- (a) hold at least a Certificate III in gymnasium management or equivalent; and
- (b) be a current member of Fitness Australia or affiliated body.

**12. *Catering***

**12.1** The Service Provider will designate a Service Provider Personnel member at each Facility as a Catering Manager who will:

- (a) hold at least a Certificate III in Hospitality (Kitchen Operations) or equivalent; and
- (b) have acquired at least three years' experience in managing a commercial kitchen.

**12.2** All other catering staff engaged by the Service Provider for the preparation and serving of food and beverages will hold at least Food Safety Handlers certificate before commencement, and obtain a Certificate II in Hospitality (Kitchen Operations) or equivalent within three (3) months of commencement.

**12.3** The Service Provider Personnel must be suitably qualified to ensure that food is obtained, stored, prepared and served in accordance with all applicable Law and in accordance with Australia New Zealand Food Standards Code and the Service Providers Food Safety Plan.

**12.4** The Catering Manager should also be familiar with National Health and Medical Research Council dietary guidelines.

**13. *Dietician***

**13.1** The Dietician engaged by the Service Provider will:

- (a) hold at least a Bachelor Degree of Nutrition and Dietetics or Bachelor of Health Science (Nutrition and Dietetics) or equivalent; and
- (b) have acquired at least two years working in the field of nutrition and dietetics after graduation.

**14. *Cleaning Services***

**14.1** The Service Provider will ensure that the Cleaning Manager and all cleaning staff are suitably qualified and have undergone all minimum requirement training as per item 1) above for all Service Provider Staff. The cleaning manager must also be trained in accordance with all relevant Work Health and Safety Legislation, and Legislation relating to the control of workplace hazardous substances.

**15. *Hairdresser/Barber***

**15.1** The Service Provider is required to ensure that there is a qualified hairdresser/barber available at each Facility for hairdressing/barber services.



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 3**

**PARTNERING CHARTER**

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## PARTNERING CHARTER

**DATE** *[insert execution date]*

### PARTIES

**Commonwealth of Australia** acting through and represented by the Department of Immigration and Border Protection of 6 Chan Street Belconnen, ACT, ABN 33 380 054 835 (**Department**)

**and**

**Serco Australia Pty Limited** of Level 10, 90 Arthur St, North Sydney NSW 2060, ABN 44 003 677 352

**and**

**International Health and Medical Services Pty Limited** of Level 3, 45 Clarence Street Sydney, NSW 2000, ABN 40 073 811 131

### RECITALS

- A. The Service Providers have each entered into Contracts with the Department.
- B. For each Service Provider to be able to fully and effectively provide the services which it is contracted to perform each Service Provider will require the cooperation of the Parties.
- C. The Parties are committed to delivering focused and quality services to Detainees in a seamless manner which:
  - i. discharges the Parties' respective duty of care;
  - ii. facilitates end to end case management and minimises adverse impacts on Detainees;
  - iii. promotes a healthy environment and supportive culture; and
  - iv. provides appropriate amenities to Detainees within the parameters of each of the Service Providers' Contracts.
- D. The Parties understand that by working together they can solve problems and maximise opportunities.
- E. The Parties recognise the importance of a partnering relationship based on shared values and mutual trust and commitment with an overriding concern for the well-being of Detainees.

### OPERATIVE PROVISIONS

#### 2. Interpretation

##### 2.1 Definitions

In this Partnering Charter:

**Contracts** means each of the contracts entered into by the Service Providers with the Department to provide services to the Detention Services Network and/or People in Detention.

**Department** means the Commonwealth represented by the Department of Immigration and Border Protection.

**Parties** means the Department, Serco Australia Pty Limited and International Health and Medical Services Pty Limited.

**Detainees** means any person(s) who is receiving or having the benefit of services whilst in Immigration Detention.

**Service Providers** or **Service Provider** means the each of the Parties to this Partnering Charter other than the Department.

### **3. Partnering Principles**

#### **3.1 The Parties must:**

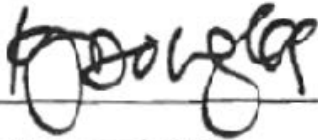
- i. co-operate to the fullest extent practicable to achieve the objectives of the Contracts;
- ii. deliver high quality outcomes by ensuring staff are well-trained and supported;
- iii. respect each other and Detainees and to be fair and reasonable in all dealings;
- iv. be sensitive to Detainees with special needs;
- v. create and maintain an environment of openness and transparency in which information sharing is encouraged and facilitated (subject to any limitations at law or as specified in the Contracts);
- vi. avoid or mitigate conflicts and resolve disputes in a timely and reasonable manner;
- vii. regularly review service delivery, identify areas of improvement and implement processes for change;
- viii. be alert to possible Incidents which may cause harm or damage to any Detainee, staff or the place of detention, and be proactive in sharing such information with other Parties (subject to any limitations at law or as specified in the Contracts); and
- ix. be responsive to feedback and other information provided by the Department, Service Providers, Detainees and Stakeholders.

Released by DIBP under the  
Freedom of Information Act 1982

Executed by the Parties as an agreement on the date set out above.

Signed for and on behalf of  
Commonwealth of Australia

By:



Signature of Witness

KENNETH JAMES DOUGLAS

Name of Witness in full



Signature

EXECUTED by Serco Australia Pty  
Limited:



Signature of director

MARK W IRWIN

Name

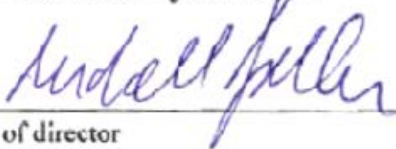


Signature of director/secretary

HUGH FITZSIMMONS

Name

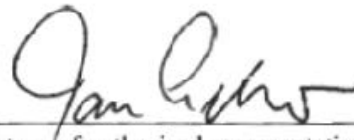
EXECUTED by International Health and  
Medical Services Pty Limited:



Signature of director

MICHAEL GARDNER

Name



Signature of authorised representative

IAN GILBERT

Name



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 4**

**PERFORMANCE MANAGEMENT FRAMEWORK**

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## 1. INTRODUCTION TO THE PERFORMANCE MANAGEMENT FRAMEWORK

### 1.1 Introduction

- (a) The Performance Management Framework (the Framework) describes the performance assessment process and outlines the Key Performance Indicators against which the Service Provider's performance will be assessed. The Framework explains the approach that the Service Provider is required to take in monitoring its performance and assists the Department in evaluating the Service Provider's performance against its contractual requirements and the Department's expected outcomes.
- (b) The Framework requires a collaborative approach between the Department and the Service Provider. The performance assessment process is risk based, and focuses primarily on performance against the responsibilities of the Service Provider as described in the Schedule 2 (Statement of Work). Successful performance by the Service Provider is expected to be achieved through quality service delivery, addressing identified risks and providing the Department with evidence of performance.
- (c) A Performance Reporting Template (Reporting Template) is used to record the results of the Service Provider's performance for each Reporting Month. Instructions on completing the Performance Reporting Template are specified in the Performance Reporting Instruction Manual. The Department will maintain and update this instruction manual in consultation with the Service Provider.
- (d) The format of the Reporting Template and Performance Reporting Instruction Manual will be agreed between the Department and the Service Provider during the Transition-In Period.

### 1.2 Definitions

Terms defined in the Contract have the same meaning when used in this Schedule.

In this Schedule, unless the context indicates otherwise, the following words and expressions shall have the following meanings.

**Abatement Amount** means in respect of a Reporting Month, the sum in dollars of the abatement to the Monthly Service Fee excluding Pass Through Costs (as defined in Schedule 5 (Detention Services Fee)).

**Abatement Cap** means the maximum Abatement Amount payable in the Reporting Month, expressed as a percentage of the Service Provider's Monthly Fee.

**Abatement and Incentive Regime** means the method for calculation of the Abatement Amount and Incentive Credit Points set out in clause 8 of this Schedule.

**Abatement Free Threshold** means the amount of Network Abatement Points that may be earned in a Reporting Month, before an Abatement Amount is applied.

**Action Plan** means the plan submitted by the Service Provider and agreed to by the Department detailing the strategies and actions to be undertaken by the Service Provider to rectify a Performance Failure, and are designed to prevent a Performance Failure from reoccurring.

**Abatement Points** has the meaning given in clause 8.1 of this Schedule.

**Incentive Credit Points** means, in respect of an Incentive Performance Measure, the number of credit points (expressed as a number) assigned to the relevant Incentive Performance Measure as set out in Annexure A to this Schedule.

**Incentive Performance Measure** means a performance measure that incentivises the Service Provider to exceed the Department's benchmark performance for that measure set out in Annexure A to this Schedule.

**Innovation Application** has the meaning given in clause 11 of this Schedule.

**Innovation Bonus** has the meaning given in clause 11 of this Schedule.

**Monthly Performance Report** has the meaning given in clause 13(a) of this Schedule.

**Monthly Fee** in this Schedule refers to the Facility Service Fee in Schedule 5, excluding pass-through costs.

**Network Abatement Points** means the aggregate of the Abatement Points for all Facilities in the Reporting Month.

**Performance Audits** has the meaning described in clause 5 of this Schedule.

**Performance Failure** means failure by the Service Provider to satisfy or comply with a Performance Measure in accordance with, and to the standard specified in, the Statement of Work.

**Performance Improvement Notice** means a notice issued by the Department Contract Authority or Contract Administrator to the Service Provider that requires the Service Provider to take actions to improve its service delivery performance.

**Performance Measure** (also referred to as Key Performance Measures or PMs) means any of the performance measures set out in Annexure A of this Schedule.

**Performance Reporting Template (Reporting Template)** means the Microsoft Excel spreadsheet that is used to record information about the Service Provider's performance against each Performance Measure.

**Quarterly Network Performance Review** means the qualitative evaluation undertaken by the Department National Office of the Service Provider's performance as set out in clause 14.1(b) of this Schedule.

**Rectification Plan** means a plan submitted by the Service Provider and approved by the Department, acting reasonably, that responds to the requirements of any Performance Improvement Notice issued by the Department.

**Reporting Abatement Factor** means the factor (expressed as a percentage) that will be applied to a Performance Measure's Abatement Points if there is a failure by the Service Provider to include an instance of a Performance Failure in the calculation of the Facility Abatement Points which ought to give rise to an abatement (that is, failure to report a Performance Failure).

**Reporting Month** means each period that corresponds with a billing period as defined in Schedule 5 (Detention Services Fee).

**Risk Mitigation Plan** means a plan submitted by the Service Provider and approved by the Department that details the Service Provider's risk mitigation strategies and controls in relation to relevant Performance Measures.

**Risk Rating** has the meaning given in clause 4.1 of this Schedule.

**Significant Failure** has the meaning given in clause 8.3 of this Schedule.

**Withholding Points** have the meaning given in clause 8.5 of this Schedule.

## 2. KEY PRINCIPLES OF THE FRAMEWORK

2.1 The Framework uses a risk (abatement) and reward (incentive) approach to incentivise performance against specific Performance Measures (PMs). The performance management regime has the following key principles:

(a) Risk assessment

The Framework adopts a risk based approach. Risk Ratings for each PM at each Facility will be agreed between the Department and the Service Provider. This approach assists in identifying the areas of highest risk to the Department and in guiding the focus and efforts of the Service Provider.

(b) Financial abatement in relation to Performance Failures

Poor performance against PMs will result in the Service Provider's Monthly Service Fee being reduced by an Abatement Amount. The level of abatement will depend on the Risk Ratings assigned to the PMs and the frequency of occurrence of Performance Failures. s. 47G(1)(a)

(c) Performance incentive

If the Service Provider's performance against specified PMs exceeds the Department's benchmark expectations, the Service Provider will be awarded Incentive Credit Points.

(d) Innovation bonus

If the Service Provider identifies through the Innovation Application process described in clause 11 of this Schedule and implements new or changed processes that have the potential to improve performance and lead to cost savings for the benefit of the Department, the Service Provider will be entitled to receive a s. 47G(1)(a), if the innovation is successfully implemented.

(e) Sustained poor performance

Sustained poor performance against the PMs, and the Service Provider's inability to remedy the Performance Failures within an agreed period of time and in accordance with the requirements of a Performance Improvement Notice and Rectification Plan (as described in clause 12 of this Schedule), may ultimately lead to the Department issuing a Termination Notice in accordance with the termination provisions of the Contract.

## 2.2 Base Period

(a) A Base Period will be provided to allow the Service Provider sufficient time to establish processes and procedures at a Facility before the Abatement and Incentive Regimes take effect.

(b) During the Base Period, the Service Provider must monitor, measure and report on its performance against the PMs in accordance with this Schedule, but will not be subject to any Abatement Amount or receive any Incentive Credit Points.

(c) The Base Period will start on the Handover Date of each Facility and end:

(i) three months after the Handover of a Facility; or

(ii) on 30 June 2015,

whichever is later.



- (d) Following the Base Period, the Service Provider and Department will apply the Abatement and Incentive Regime as described in this Schedule.

### 2.3 Key Performance Indicators

- (a) The Service Provider's performance is assessed against Performance Measures (PMs) which are mapped to Key Performance Indicators (KPIs) that are relevant to its contractual obligations outlined in Schedule 2 (Statement of Work). The KPIs represent the critical areas that frame the Department's key outcomes. Where a KPI is not directly relevant to the Service Provider's provision of Services, the Service Provider will be expected to demonstrate a good working relationship with other service providers and to work collaboratively with the other service providers in the achievement of their KPI outcomes. The KPIs are:
- (i) **KPI 1 Welfare**  
  
The cultural, spiritual, social, mental, physical and emotional wellbeing of each Detainee, and the broader Detainee cohort, is maintained and positively influenced by Service Provider involvement where practical.
  - (ii) **KPI 2 Health, Medical and Counselling**  
  
Detainees are given timely access to health, medical and counselling services that are provided to accepted professional and community standards.
  - (iii) **KPI 3 Security**  
  
The safety and good order of the Facility, its people and its operations are maintained while ensuring the integrity of Immigration Detention at all times.
  - (iv) **KPI 4 Facilities and Assets Management**  
  
The Facility is made a safe, clean, hygienic and presentable environment by proactive work undertaken by Service Providers in the management, cleaning and maintenance of assets and facility amenities.
  - (v) **KPI 5 Transport and Escort (including Transfer and Removal)**  
  
The operation of each Facility and the broader Immigration Detention Network (including Community Detention) are supported by effective, efficient and economical transport arrangements and appropriate Escort Services.
  - (vi) **KPI 6 Administration, Support and Logistics**  
  
The efficient, effective and economical operation of each Facility and the broader Immigration Detention Network is maintained and supported through well designed administrative process, support staff and logistical arrangements.
  - (vii) **KPI 7 Relationships and Collaboration**  
  
The Service Provider takes a collaborative and integrated approach to the provision of Services, will be effective in managing complex stakeholder and governance issues, and builds long term relationships with the Department and other service providers. The Service Provider drives continuous improvements in service delivery for the benefit of Detainees and the Department.



### 3. PERFORMANCE MEASURES

- (a) The Service Provider will assess its performance against the PMs described in Annexure A of this Schedule. For each PM the Annexure includes the definition of the PM, how it will be measured, frequency of reporting and monitoring methods.
- (b) As a general guide, PMs in relation to KPIs 1 through 6 will be quantitatively assessed. PMs in relation to KPI 7 will be qualitatively assessed.
- (c) The Department has identified one or more Incentive Performance Measures (Incentive PMs). If the Service Provider achieves an Incentive PM, Incentive Credit Points will be awarded as set out in clause 8.4 of this Schedule.
- (d) The PMs will be jointly reviewed by the Department (National Office) and the Service Provider annually, as part of the Annual Performance Review Meeting. The purpose of the review will be to examine the effectiveness and practicality of the PMs. If certain PMs are found to be ineffective or are unable to be accurately measured as described in the definition of the PM, the Department and the Service Provider may agree to amend the PMs. The Department may also introduce new PMs if it considers it necessary to broaden the service delivery areas that are subject to performance monitoring, with the agreement of the Service Provider.
- (e) New or significantly changed PMs will be implemented through mutual agreement of both the Department and Service Provider during the Annual Performance Review Meeting and a period will be agreed upon of no longer than one month where the PM will be reported on but not subject to Abatement. The Reporting Template will be updated accordingly by the Department. Where no such agreement exists, PMs detailed at Annexure A will continue to be applied.
- (f) For the avoidance of doubt, this clause is not intended to restrict the Department from agreeing amendments of existing PMs with the Service Provider at other times.

### 4. RISK RATINGS AND MITIGATION PLANS

#### 4.1 Risk Ratings

- (a) During the Base Period, the Department and Service Provider will jointly agree a Risk Rating for each PM and this will be recorded in the Reporting Template for each Facility. The Risk Rating is based on the likelihood of Performance Failure and consequence of Performance Failure in accordance with the Department's Risk Management Framework (see below Diagram 1 – Risk Rating Matrix).

		Consequence Ratings				
		Low	Minor	Moderate	High	Extreme
Likelihood Ratings	Almost Certain	Medium	Medium	High	Extreme	Extreme
	Likely	Minor	Medium	Medium	High	Extreme
	Possible	Minor	Minor	Medium	High	High
	Unlikely	Low	Minor	Minor	Medium	High
	Rare	Low	Low	Minor	Medium	Medium

Diagram 1 – Risk Rating Matrix

- (b) The Risk Rating must reflect any mitigation strategies or controls that have been implemented at a Facility to mitigate the risks of failing to meet the PMs. The Department and Service Provider must record these risk mitigation strategies and controls in the Reporting Template.

- (c) At the commencement of each quarter following the Base Period, as part of the Quarterly Performance Review Meeting, the Service Provider and Department will jointly review the Risk Ratings at a Facility level to confirm whether they remain appropriate. Where Risk Ratings are no longer appropriate, they should be varied to reflect the change in risk. The review process will be informed by, for example, historic Performance Failure results, effectiveness of risk mitigation strategies and observations from the Department.
- (d) Once Risk Ratings are agreed at a Facility level, they will be submitted to the Department's National Office for final review and endorsement. Where agreement cannot be reached, the Department's proposed Risk Ratings will be submitted to the Department's National Office and marked 'in-dispute'.
- (e) The Department (National Office) will review the submitted Risk Ratings and either endorse or reject the revised Risk Ratings within three (3) Business Days of receiving the updated Risk Ratings.
- (f) If a dispute occurs, the Risk Ratings that were agreed and recorded in the Reporting Template for the previous quarter will remain in place until the dispute is resolved. In such circumstances, the dispute will be escalated to the Contract Administrator for an ultimate decision to be made. The Risk Rating advised by the Contract Administrator will then be deemed to retrospectively apply from the beginning of the relevant quarter.
- (g) The Contract Administrator may review the Risk Ratings at any time. In the event that the Department seeks to vary the Risk Rating (acting reasonably) as a result of this review, then it will meet with the Service Provider to confirm the variation.

#### **4.2 Risk Mitigation Plans**

- (a) As part of the Quarterly Risk Rating Review process, the Service Provider must develop formalised Risk Mitigation Plans for all High and Extreme risks for the purposes of ensuring that the Service Provider proactively establishes controls and strategies *before* Performance Failures occur.
- (b) Risk Mitigation Plans must detail the risk mitigation strategies that the Service Provider must employ to ensure that risks are managed appropriately.
- (c) Risk Mitigation Plans must be submitted to the Department for approval within seven (7) Business Days following notification of the accepted Risk Ratings.

#### **5. PERFORMANCE AUDITS**

- (a) The Performance Audit process for a Reporting Month is to be agreed in advance between the Department and the Service Provider as part of the Quarterly Risk Review Process. This includes the sampling methodology and sample size.
- (b) During the Base Period, the Department, in consultation with the Service Provider, will develop a suite of audit programs for completion by the Service Provider each month and verified by the Department.
- (c) The Service Provider is primarily responsible for undertaking Performance Audits activities and must work in collaboration with the Department in undertaking Performance Audits at each Facility throughout each month. The Department must be provided assurance that audits have been undertaken appropriately, and represent the actual performance at a Facility.
- (d) The Department will advise the audit methodology and sample size to be used at the beginning of each Reporting Month. The general process for conducting the joint audits will be confirmed during the Base Period. Information to support the audit process will be gathered by the Service Provider throughout the month in accordance with Departmental direction and in collaboration with Department Personnel.

- (e) The following Table reflects the recommended sample sizes for a given audit population. These figures should serve as a starting point for sample size determination. The parties agree that the following sample sizes are an adequate size to extrapolate any audit outcomes to reflect the entirety of the population and are appropriate to use at all Risk Ratings. For Low to Medium Risk measures, the sample size can be reduced if agreed between the Parties.

Population	Sample	Population	Sample	Population	Sample
10	10	360	186	900	269
50	44	400	196	1000	278
100	80	460	210	1100	285
150	108	500	217	1200	291
200	132	600	234	1300	297
250	152	700	248	1400	302
300	169	800	260	1500	308

- (f) The supporting information associated with each Audit Program must be supplied upon request of the Department.

## 6. PERFORMANCE FAILURES

- (a) Failure to perform the Services in accordance with the requirements of the PMs is considered to be a Performance Failure.
- (b) The Service Provider must self-monitor and self-report on Performance Failures. The total number of instances of a Performance Failure for each Performance Measure must be recorded in the Monthly Reporting Template.
- (c) The Department and Service Provider will jointly conduct Performance Audits of the Service Provider's service delivery performance as described in clause 5 of this Schedule.
- (d) If there is a dispute between the Department and the Service Provider as to whether a Performance Failure has occurred, the Department (National Office) will, acting reasonably, make the final determination as to whether a Performance Failure has occurred. In making its determination the Department will take into consideration:
- (i) the extent to which the Service Provider's actions (or failure to act) contributed to the Performance Failure occurring;
  - (ii) whether the occurrence of the Performance Failure was within the reasonable control of the Service Provider;
  - (iii) whether the Service Provider acted in the best interests of achieving the KPI Outcomes described in clause 2.3 of this Schedule.
- (e) If a material issue or dispute exists regarding the outcome, applied methodology or integrity of a Performance Audit (clause 5 of this Schedule) the parties will agree to investigate the cause of the issue or dispute.
- (f) Where the Department and Service Provider agree that the integrity of the Performance Audit remains valid and correctly reflects the actual level of performance, this agreement is to be documented in the Reporting Template prior to its submission to the Department (National Office).
- (g) Where Facility level investigations are unable to resolve the issue or dispute, the issue must be referred to the Department (National Office) immediately with the intent of agreeing strategies to supplement the Performance Audit undertaken and address any potential issues regarding integrity.

## **7. ACTION PLANS**

- (a) In the event of a Performance Failure, the Service Provider is required to develop and implement an 'Action Plan', for measures with a Risk Rating of High or Extreme, or otherwise as requested by the Department.
- (b) The Action Plan must identify the causes of failure (that is, the cause of the first instance of failure and if applicable the cause of each instance of failure thereafter), detail further risk mitigation strategies, and outline the remedial action and activities that the Service Provider must take to address the issues that led to the Performance Failure.
- (c) The Action Plan must include a timeframe for implementation. The format of the Action Plan is to be prepared by the Service Provider for approval by the Department (National Office) during the Base Period.
- (d) Where a Performance Failure has occurred in relation to a Performance Measure with an Extreme or High Risk Rating, an Action Plan must be submitted to the Department within two (2) Business Days of the first instance of Performance Failure being identified. In all other cases, the Action Plan is to be submitted at the same time as the monthly Reporting Template.

## **8. ABATEMENT AND INCENTIVE REGIME**

### **8.1 Abatement Points**

- (a) In circumstances where a Performance Failure occurs, Abatement Points may be accrued.
- (b) Annexure A details the way in which Abatement Points are accrued as a result of a Performance Failure.

### **8.2 Failure to report a Performance Failure**

- (a) Any errors or omissions that are found to be deliberate instances of concealing or omitting to report a Performance Failure in the Reporting Template will attract a Reporting Abatement Factor equal to 200% of the Abatement Points for the respective Performance Measure. This determination must be made by the Contract Administrator.
- (b) In the Reporting Month that a reporting failure is identified (regardless of when or how it is identified) (e.g. either by the Service Provider or by the Department through an Audit for example) the Service Provider must record the correct details regarding the Performance Failure in the Reporting Template.

### **8.3 Significant Failure**

- (a) If the Service Provider fails more than 50% of Performance Measures during a Reporting Month across the network, this will be considered a Significant Failure.
- (b) A Significant Failure will adjust the Abatement Cap.

### **8.4 Incentive Credits**

- (a) Incentive PMs that the Service Provider achieves will attract a predetermined number of Incentive Credit Points. The Incentive Credit Points for relevant PM, as applicable, are specified in Annexure A.
- (b) Incentive Credit Points will offset Abatement Points (refer clause 8.7 of this Schedule) in the same month. Should the number of Incentive Credit Points exceed the number of abatement points, they will carry-over to the following Reporting Month.

## 8.5 Withholding Points

- (a) For Low, Minor and Medium Risk PMs, Performance Failures will result in a number of Withholding Points equal to the number of Abatement Points associated with that PM.
- (b) Withholding Points will be held, pending successful delivery of an Action Plan in accordance with clause 7 of this Schedule.
- (c) When an Action Plan is successfully delivered, the Withholding Points will expire and not become an Abatement Point.
- (d) Where an Action Plan is not successfully delivered, Withholding Points will become Abatement Points in the next Reporting Period.

## 8.6 Tiered approach to Abatement Points

- (a) Based on the Risk Rating assigned to the PM and the frequency of occurrence of the Performance Failure as recorded in the Reporting Template, a 'tiered' approach to determining the application of Abatement Points will be adopted. This 'tiered' approach will identify whether Abatement Points will be applied immediately, whether Abatement Points are withheld and potentially credited back or whether nil Abatement Points are to be applied in the Reporting Month.
- (b) For the purposes of applying this 'tiered' approach, the frequency of occurrence of a Performance Failure is defined as:
  - (i) Subject to 8.5(b)(ii) the first Reporting Month that a Performance Failure occurs at a Facility is referred to as an Initial Failure; the second consecutive Reporting Month the same Performance Failure at the same Facility occurs is referred to as a Second Failure; and the third consecutive Reporting Month the same Performance Failure occurs is referred to as a Third Failure.
  - (ii) For a Performance Failure to become a Second or Third Failure, the same Performance Failure must have occurred in two (2) or three (3) consecutive Reporting Months respectively at the same Facility. For example, if a Performance Failure occurs in July and then again in September, it would not constitute a Second Failure and would be considered an Initial Failure in September.
  - (iii) If a Performance Failure occurs in more than three (3) consecutive Reporting Months, it will be treated as a Third Failure.
- (c) If a PM is amended following a review pursuant to clause 3(d) of this Schedule, the frequency of occurrence will be reset to 'nil'.
- (d) Where a Performance Failure has occurred and the Risk Rating of the Performance Measure is:
  - (i) Extreme or High - Abatement Points will be applied in the current Reporting Month.
  - (ii) Medium - Abatement Points will be withheld (Withholding Points, refer clause 8.5 of this Schedule) until the Department confirms that the Performance Failure has been rectified/addressed, unless the frequency of occurrence is a Second or Third Failure in which case Abatement Points will apply in the current Reporting Month.
  - (iii) Minor or Low - No Abatement Points will apply unless the frequency of occurrence is a Second Failure in which case Withholding Points will be held until the Department confirms that the Performance Failure is rectified/addressed, or a Third Failure in which case Abatement Points will apply in the current Reporting Month.

- (e) Table 1 summarises the tiered approach to applying Abatement Points.

**Table 1 'tiered approach'**

Risk Rating assigned to PM	Frequency of Occurrence of Performance Failure	Abatement Points applied in Reporting Month
<b>Extreme</b>	Nil	No
	Initial Failure	Yes
	Second Failure	Yes
	Third Failure	Yes
<b>High</b>	Nil	No
	Initial Failure	Yes
	Second Failure	Yes
	Third Failure	Yes
<b>Medium</b>	Nil	No
	Initial Failure	*Yes
	Second Failure	Yes
	Third Failure	Yes
<b>Minor</b>	Nil	No
	Initial Failure	No
	Second Failure	*Yes
	Third Failure	Yes
<b>Low</b>	Nil	No
	Initial Failure	No
	Second Failure	No
	Third Failure	**No
* refer to 0		
** refer to 8.6(g)		

- (f) In Table 1 where an asterisk (\*) appears next to 'Yes', the Abatement Points will be managed as Withholding Points in accordance with clause 8.5.
- (g) In Table 1 where \*\* appears next to 'No', the Risk Rating will be increased to at least Minor for the next Reporting Month.

#### 8.7 Calculation of Network Abatement Points

- (a) Each Reporting Month the Service Provider will calculate the Abatement Points resulting from Performance Failures for each Facility and submit this calculation to the Department as part of its Monthly Performance Report. The Abatement Points will determine the Abatement Amount as described in clause 8.10 of this Schedule.



- (b) Once the Monthly Performance Report has been submitted to the Department's National Office, the total Network Abatement Points (NAP) will be calculated in accordance with the following formula:

$$\text{NAP} = \sum \text{Abatement Points} - \sum \text{Withholding Points} - \sum \text{Incentive Credit Points}$$

where:

$\sum \text{Abatement Points} =$  sum of the Abatement Points attributable to each PM across the Network for the Reporting Month.

$\sum \text{Withholding Points} =$  sum of the Withholding Points for the Reporting Month calculated as described in clause 8.5 of this Schedule.


$\sum \text{Incentive Credit Points} =$  sum of the Incentive Credits Points attributable to each Incentive PM across the Network for the Reporting Month

- (c) If the Network Abatement Points for the Reporting Period is less than zero as a result of Incentive Credit Points being applied, the net balance of Incentive Credit Points is to be applied against the Network Abatement Points in the immediately following Reporting Month. If insufficient Network Abatement Points are available to make use of Incentive Credit Points in the immediately following Reporting Month, the Incentive Credit Points may be carried forward for a maximum of three (3) Reporting Months at the end of which they will expire.

#### 8.8 Abatement Cap

- (a) The Abatement Cap represents the maximum financial Abatement Amount in dollars payable by the Service Provider, expressed as a percentage of the Monthly Fee.
- (b) The Abatement Cap will be influenced by the following factors:
- (i) the total Monthly Fee paid to the Service Provider;
  - (ii) the previous Quarterly Network Performance Rating; and
  - (iii) whether a Significant Failure has occurred in the Reporting Month.
- (c) In calculating the Abatement Cap applicable in a given month, the following table should be used:


s. 47E(d), s. 47G(1)(a)



### 8.9 Abatement Free Threshold

- (a) The Abatement Free Threshold represents the number of Network Abatement Points that can be accrued before any financial Abatement Amount will be applied.
- (b) The Abatement Free Threshold is based on the previous Quarterly Network Performance Rating, using the following table:


s. 47E(d), s. 47G(1)(a)



### 8.10 Abatement Amount

- (a) If the Network Abatement Points calculated in clause 8.6 is less than the Abatement Free Threshold calculated in clause 8.8, then no Abatement Amount will apply.
- (b) If the Network Abatement Points exceeds the Abatement Free Threshold, the monthly Abatement Amount will be calculated as follows:

s. 47E(d), s. 47G(1)(a)



- (c) The Department will make the final determination regarding the Abatement Amount for the Reporting Month and formally notify the Service Provider. The Service Provider will raise a credit note for the Abatement Amount within 28 days of this notification.

## 9. KPI 7 QUALITATIVE ASSESSMENT

- (a) Department representatives at each Facility will independently evaluate the Service Provider's performance against KPI 7 (Relationships and Collaboration) for that Facility. In performing this evaluation, the Department will take into account the Service Provider's self-assessment of KPI 7 and evidence in support of the self-assessment.
- (b) The Department's Facility evaluation will focus on the Service Provider's activities which demonstrated a strong collaborative approach with the Department and other service providers, a focus on Detainee outcomes and a focus on continuous improvement.
- (c) The Department's Facility evaluation of KPI 7 will be submitted to the Department National Office for consolidation and independent review and will be used by the Department to assess the Service Provider's performance of KPI 7 across the Network for the quarter (Quarterly Network Performance Assessment).



## 9.2 Quarterly Performance Assessment

- (a) The Department (National Office) will conduct a Quarterly Network Performance Review taking into account the results of the Service Provider's performance of KPI 7 at each Facility for the quarter. This review will determine whether the Service Provider's Network performance Exceeds Expectations, Meets Expectations or Needs Improvement as defined in Table 3 below:

**Table 3 Quarterly Network Performance Rating**

Quarterly Network Performance Rating	Definition
<i>Exceeds Expectations</i>	<p>Performance consistently exceeded expectations in all areas assessed and the overall quality of the work was good or excellent.</p> <p>This will be assessed according to whether in relation to the PMs mapped to KPI 7 the Service Provider has received a qualitative assessment of at least [2] 'Excellent' outcomes for at least [6] Facilities in the quarter.</p>
<i>Meets Expectations</i>	<p>Performance consistently met expectations in all contracted areas of responsibility and the quality of work overall was satisfactory.</p> <p>No Facility receives a Needs Improvement.</p> <p>This will be assessed according to whether in relation to the PMs mapped to KPI 7 the Service Provider has received a qualitative assessment of at least [2] 'Meets Expectations' outcomes for at least [6] Facilities in the quarter.</p>
<i>Needs Improvement</i>	<p>Performance was consistently below expectations in all areas assessed and the overall quality of work was poor.</p> <p>This will be assessed according to whether in relation to the PMs mapped to KPI 7 the Service Provider has received a qualitative assessment of more than [2] 'Unsatisfactory' outcomes for [5 or more] Facilities in the quarter.</p>

- (b) If the Department assesses the Service Provider's Quarterly Network Performance Rating as 'Needs Improvement' for two consecutive quarters then the Department may issue a Performance Improvement Notice to the Service Provider as described in clause 12 of this Schedule.

## 10. EXCUSABLE PERFORMANCE FAILURE (EPF)

- (a) The Department recognises that circumstances may arise in which it may be reasonable to take into account specific instances or events that have resulted in a Performance Failure by the Service Provider (Excusable Performance Failure or EPF). Instances or events such as these will be excluded for the purpose of determining whether a Performance Failure has been triggered in respect of a Performance Measure and, consequently, whether Abatement Points apply for that measure.
- (b) The categories of events that may constitute EPFs are:
- (i) events beyond the reasonable control of the Service Provider provided that the Service Provider has taken all proper and reasonable steps to minimise the occurrence of impact of such events;
  - (ii) a Force Majeure Event;

- (iii) events caused by other service providers to the Department, through act or omission, that are beyond the reasonable control of the Service Provider provided the Service Provider has taken proactive steps to mitigate the occurrence or impact of such events;
  - (iv) an event directly caused by the interference or action/inaction of the Department, Department Personnel, or other service provider to the Department;
  - (v) major capital works being undertaken at a Facility that impacts on the delivery of the Services, in which case the Department and Service Provider will agree the PMs that are subject to EPF relief while the capital works are in progress.
- (c) An EPF may be requested by the Service Provider to excuse instances where a Performance Failure has occurred. If the Service Provider is seeking EPF relief, the Service Provider must notify the Department within three (3) Business Days of the Performance Failure occurring that the Service Provider considers may qualify for classification as an EPF and subsequently make a formal submission to the Department for consideration within five (5) Business Days of identification of the relevant EPF.
- (d) The Department will (acting reasonably) have the final determination in whether an EPF is accepted. Any dispute at the Facility level will be escalated to the Department National Office for resolution.
- (e) Regardless of whether the EPF is accepted, the Service Provider must take all reasonable endeavours to remove, overcome or minimise the effects of any potential future Performance Failures occurring as quickly as possible and ensure, to the maximum extent possible, that the KPI objectives continue to be met.

## 11. INNOVATION BONUS

- (a) The Department expects that the Service Provider will drive continuous improvements in service delivery and actively put forward innovative, value for money proposals that identify performance improvements and/or cost savings for the benefit of the Department.
- (b) Where the Service Provider proposes to implement a new or changed service or system/procedure which has the effect of leading to cost savings for the benefit of the Department, the Service Provider may submit an Innovation Application to the Department. The format of the Innovation Application should be discussed with the Department prior to submission, and should at a minimum detail the nature of the innovation and incorporate a business case which demonstrates how the innovation will benefit the Department and how the savings will be identified and measured.
- (c) An Innovation Bonus of S. 47G(1)(a) of the Department's cost savings as set out in the Innovation Application will be shared with the Service Provider. The Department and the Service Provider will agree how the Service Provider's share of the Innovation Bonus will be paid to the Service Provider around the time of the Department approving the Innovation Bonus.

## 12. PERFORMANCE IMPROVEMENT NOTICE

- (a) The occurrence of any of the following events may result in the Contract Authority or Contract Administrator issuing a Performance Improvement Notice to the Service Provider:
- (i) The Service Provider has incurred, or is on a trajectory where it is likely to incur, the same Performance Failure of a PM over six consecutive months at a single Facility.
  - (ii) If the Service Provider has incurred a Significant Failure, in any two months over a rolling six month period
  - (iii) If the Service Provider receives a 'Needs Improvement' assessment as a result of the Quarterly Network Performance Assessment.

- (iv) The Service Provider has repeatedly failed over a quarter to perform the Services in a manner that is consistent with the achievement of the KPI outcomes described in clause 2.3 of this Schedule.
- (b) The Performance Improvement Notice issued by the Department to the Service Provider will outline the nature of the improvement being requested, what action or outcome the Department reasonably considers is required in respect of the Services and the time frame for the Service Provider to complete the action or achieve the outcome specified (such time must be reasonable having regard to the nature of the improvements sought).
- (c) The Performance Improvement Notice may also require the Service Provider to:
  - (i) meet with the Department to discuss the reasons for a Performance Improvement Notice being issued and the actions to be taken by the Service Provider to improve performance
  - (ii) submit to the Department within 5 Business Days of receipt of a Performance Improvement Notice a Rectification Plan in a form and substance reasonably acceptable to the Department. The Rectification Plan is to be submitted by the Service Provider's Head Office and is required to contain full details of all steps which the Service Provider proposes to take in order to prevent a reoccurrence of the event(s) that resulted in the Department issuing the Performance Improvement Notice.
- (d) The Rectification Plan will be approved by the Department (National Office). The Service Provider is required to implement the Rectification Plan within the agreed timeframes and diligently comply with the Rectification Plan.
- (e) If the Service Provider fails at any time to comply with the requirements of a Performance Improvement Notice and/or fails to implement a Rectification Plan, then the Department may request a meeting with the Service Provider to discuss the continued Performance Failure and/or the Service Provider's failure to implement the Rectification Plan or comply with the Performance Improvement Notice.
- (f) If the meeting described at clause 12(e) occurs and the Service Provider continues to fail to comply with the requirements of a Performance Improvement Notice and/or fails to fully implement a Rectification Plan then the Department, after expiry of a further 30 day rectification period, may give the Service Provider a Termination Notice in accordance with the Termination Events provisions set out in clause 66.2(i) of the Contract.

### 13. PERFORMANCE FRAMEWORK REPORTING

- (a) The Monthly Performance Reporting process involves the Service Provider submitting the following reports to the Department (collectively referred to as the Monthly Performance Report) for each Facility.
  - (i) A Reporting Template in accordance with the format and content described in the Reporting Template Instruction Manual.
  - (ii) Completed Audit Programmes, supporting the outcomes of the Reporting Template.
  - (iii) Action Plans for Performance Failures (if applicable) as described in clause 5 of this Schedule.
  - (iv) EPF submissions (if applicable) as described in clause 10 of this Schedule.
- (b) The Department and Service Provider will agree on the Service Provider's performance results as set out in the Monthly Performance Report and discuss Performance Failures at the Monthly Performance Review Meeting (as described in clause 14.1(b) of this Schedule).
- (c) The Service Provider must electronically submit the Monthly Performance Report for each Facility to the Department within seven (7) Business Days of the end of the relevant Reporting Month.

- (d) The Department will review the Monthly Performance Report and notify the Service Provider within five (5) Business Days whether it endorses the Monthly Performance Report.
- (e) Once endorsed, the Monthly Performance Report will be forwarded to the Department National Office for final acceptance.
- (f) Each year on the anniversary of the completion of the Base Period the Service Provider must submit an Annual Performance Report to the Department. The Annual Performance Report will be developed by the Service Provider for the purposes of discussion at the Annual Network Performance Review Meeting described in clause 14.2(b) of this Schedule. The Annual Performance Report may be used to inform the review of PMs as pursuant to clause 3(d) of this Schedule.

## **14. MEETINGS AND GOVERNANCE**

### **14.1 Facility Level Meetings**

#### **(a) Weekly Review Meeting**

The purpose of this meeting is to allow local Department and the Service Provider staff to raise operational, facilities management and contractual issues faced at the Facility, assign responsibility and timeframes for actioning those issues and tracking the progress of actions.

#### **(b) Monthly and Quarterly Performance Review Meeting**

- (i) Within the first 5 business days of each calendar month, the Department will meet with the Service Provider at each Facility to discuss its performance against each Performance Measure.
- (ii) At this meeting, the Department and Service Provider will discuss the outcomes of Performance Audits and discuss any Performance Failures that have occurred; and any determinations made by the Contract Administrator or Department relating to Risk Ratings, Performance Failure Disputes, Failure to Report a Performance Failure.
- (iii) Any Facilities receiving a 'Needs Improvement' rating.
- (iv) The required actions are to be included in resulting Action Plans.
- (v) Any EPFs that have been agreed to in advance will be discussed and taken into consideration at this meeting.
- (vi) At the end of each Quarter, this meeting will be used to review the Risk Ratings and controls for each Performance Measure.

## 14.2 National Level Meetings

(a) National Review Meeting

Once all Monthly Performance Reports have been submitted, a meeting will be held between the Department and the Service Provider at a national manager level to discuss the performance of the Network, review and endorse Risk Management Plans, and Action Plans, discuss any potential Abatements and the Quarterly Risk Rating Review (each Quarter).

(b) Annual Network Performance Review Meeting

- (i) At the end of each calendar year, the results for the preceding 12 months will be collated by the Service provider and presented to the Department in the form of an Annual Performance Report covering the entirety of the Network.
- (ii) This report will summarise:
  - (A) the results of the previous 12 months;
  - (B) notable achievements;
  - (C) systemic issues identified or addressed; and
  - (D) a list of priorities for the upcoming year.
- (iii) This report will also provide an analysis of the effectiveness of Performance Measures used over the preceding 12 months and propose changes to better align measures to the Network's environment at the time of review.
- (iv) The Annual Network Performance Review Meeting will be held once this report is collated to discuss the findings and negotiation the measures to be used for the upcoming year pursuant to clause 3(d) of this Schedule.

## ANNEXURE A: Performance Measures

*This Annexure details each of the Performance Measures as defined at Schedule 4, clause 2.3 – Key Performance Indicators.*

### Interpretation Guidance

Guidance for interpretation in this Annexure:

1. Contract Schedule 2 Statement of Work has been abbreviated to 'SoW'.
2. Unless otherwise specified, days are calendar days.
3. Where a timeframe is specified in days, it is due no later than 11:59pm on the due day. For example, a Post Incident Review is due no later than 11:59pm on the 7<sup>th</sup> calendar day after resolution of an incident.
4. Where a timeframe is specified in hours, it is due no later than that time (regardless of business hours or business days).

### Performance Measure Definition

*The following format is used for detailing the definition of the Performance Measure and how it is to be measured:*

Description	
What is measured	<i>Defines the Performance Measures</i>
Contract requirement	<i>References the relevant clause of the Statement of Requirement or other contract schedule containing the requirement being measured by the Performance Measure</i>
Scope/application	<i>Describes the scope of the Services covered by the Performance Measure</i>
Risk Rating	<i>Describes the Department's Risk Rating for each Core Measure (subject to change at quarterly reviews)</i>
Measurement Methodology	
Measurement / Monitoring points	<i>Identifies what is considered to be a Performance Failure where or when the measurement is carried out</i>
Frequency of Performance Measurements	<i>Specifies the frequency at which the FDSP's performance against the Performance Measure is assessed</i>
Performance Failure calculation	<i>Defines the method of calculating the number of instances of Performance Failure</i>
Tolerance	<i>Identifies the tolerance or threshold above which a Performance Failure is deemed to have occurred</i>
Data verification sources/ methods	<i>Identifies the key source(s) of the information used to verify and calculate performance against the Performance Measure. Any other sources of information that are relevant may be used by the FDSP, the Joint Facility Audit Team or the Department</i>
Frequency of Performance Reporting	<i>Details how often the Performance Measure is to be reported to the Department and any special reporting requirements.</i>
Special Requirements	<i>Identifies any special requirements that are considered, or must be done, in the measurement of the FDSP's performance against the Performance Measure</i>

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**Department of Immigration and Border Protection**



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**VOLUME 2**

**Commonwealth of Australia, acting through and represented by the  
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**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 5**

**DETENTION SERVICES FEE**

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**Schedule 5, Annexure B – Service Delivery by Facility**

The Services contained in Schedule 2 Statement of Work are to be delivered by the Service Provider at those Facilities set out below as indicated by a green 'tick'.

	CI NWP	CI CC/PH	PIDC	VIDC	SIRH	MIDC	Wickham	Yongah Hill	BAPOD	BITA	MITA	AITA	PIRH
<b>Garrison Services</b>													
Catering Services	✓	✓	✓	✓	✗	✓	✓	✓	✗	✓	✓	✓	✗
Designated Self-Catering Services	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✓
Cleaning Services	✓	✗	✓	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓
Management of Stores	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Environmental Management	✓	✓	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✓
Work Health and Safety	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Management of Emergencies	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Facilities Management Services</b>													
Management of Assets	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Maintenance of Assets	✓	✗	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✓
Vermin and Pest Control	✓	✗	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✓
Grounds Maintenance	✓	✗	✓	✓	✓	✓	✗	✓	✗	✓	✓	✓	✓
<b>Security Services</b>													
Entry Control	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Facility Security	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Incident Management	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Transport and Escort Services</b>													
Transport and Escort Services	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>Welfare and Engagement Services</b>													
Welfare of Detainees	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Communication Services	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Visitor Management	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Programmes and Activities	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Individual Allowance Program	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Household Allowance Scheme	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✓
Reception, Induction, Transfer, Discharge and Accommodation	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Individual Management	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Complaints Management	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Property Management	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓





**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 6**  
**TRANSITION REQUIREMENTS**

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## 1. TRANSITION IN

### 1.1 Aim of Transition Process

- (a) Transition In has the following key aims:
  - (i) to effect a seamless Transition In to new arrangements for the provision of Services by the Service Provider, in accordance with any policies, procedures, values, standards or principles as specified by the Department to the Service Provider;
  - (ii) to ensure the Service Provider understands, and behaves in a way consistent with the Department's stated requirements for the Immigration Detention environment, including the Service Delivery Framework; and
  - (iii) to achieve best value for money for the Department.
- (b) The Service Provider agrees to cooperate to ensure the handover of responsibility for the provision of Services occurs in a professional, timely and efficient manner consistent with the Contract Main Terms and Conditions and this **Schedule 6** (Transition Requirements). For this purpose, the Department will:
  - (i) facilitate continuity of any relevant existing inter-government relationships and arrangements;
  - (ii) facilitate (as necessary) reasonable access to the Facilities, relevant Departmental Personnel and Department Assets;
  - (iii) provide access to Existing Detainee Records in accordance with the Contract Main Terms and Conditions and **Schedule 6** (Transition Requirements), and any other Department Record that the Department reasonably considers that the Service Provider may require in order to facilitate the effective handover of the Immigration Detention Services Programme; and
  - (iv) keep the Service Provider informed of any material change in Department-specific Policy that the Department reasonably considers would materially impact on the Service Provider's performance of this Contract.

### 1.2 Obligations

- (a) Notwithstanding clause 5.2(a) of the Main Terms and Conditions, each party must comply with and perform its obligations set out in the Transition In Plan on and from the date the Transition In Plan is approved by the Department in accordance with clause 1.4(b) of this **Schedule 6** (Transition Requirements) until the expiry of the Transition In Period.
- (b) The Service Provider must:
  - (i) work collaboratively with all relevant parties, including:
    - (A) other service providers;
    - (B) the Department; and

- (C) the Health Services Provider; and
- (ii) cooperate with the Department in order to transition from the Existing Services to the new Services on the terms of **Schedule 2** (Statement of Work), in accordance with the Transition In Plan.
- (c) The Department must:
- (i) cooperate with the Service Provider in relation to Transition In including by providing relevant information and making prompt decisions where reasonably requested by the Service Provider; and
- (ii) provide the Service Provider with detailed and current Facility descriptions and plans for all Facilities by the end of the Transition In Period.
- (d) Subject to clauses 1.2(e) and 1.2(f) of this **Schedule 6** (Transition Requirements), on and from the Commencement Date until the expiry of the Transition In Period, the Service Provider must provide the Existing Services in accordance with Annexure A (Description of Existing Services) subject to the terms and conditions of the Existing Agreement.
- (e) During the Transition In Period and Base Period, the Service Provider will comply with and perform the interim solution Facilities Management services and develop the Repair Work Limit solution in accordance with Annexure B (Facilities Management Interim Solution and Repair Work Limit Solution).
- (f) The Service Provider and Department will progressively reduce the scope of the Existing Services as they are replaced with new Services during the Transition In Period in accordance with the Transition In Plan and the terms of this **Schedule 9** (Transition Requirements).
- (g) The terms of the Existing Agreement which relate to the Existing Services are hereby incorporated by reference into this **Schedule 6** (Transition Requirements) and, notwithstanding the terms of the Existing Agreement, are deemed to be in effect from the Commencement Date until the expiry of the Transition In Period.
- (h) Notwithstanding clause 1.2(g), the fees under the Existing Agreement do not apply in respect of the provision of the Existing Services and the fees payable by the Department for the provision of the Existing Services are set out in **Schedule 5** (Detention Services Fee). For the avoidance of doubt, the variable rates set out in **Schedule 5** (Detention Services Fee) commence on the Commencement Date in respect of the Existing Services.
- (i) Notwithstanding clause 6.2(b), (c) and (d) of the Main Contract Main Terms and Conditions, and in addition to the fees referred to in clause 1.2(h), the following fees are payable by the Department to the Service Provider for Transition In and the dates they may be invoiced by the Service Provider are as follows:

Transition In fee	Fee (excl GST)	Date Transition In fee may be invoiced
1	s. 47G(1)(a)	Commencement Date
2		11 January 2015
3		11 February 2015

- (j) In the event of any performance failure or breach by the Service Provider in respect of the provision of the Existing Services, the terms of the Existing Agreement (and not this

Contract) shall apply. For the avoidance of doubt, the abatement regime in the Existing Agreement does not apply during the Transition In Period and Base Period.

- (k) To the extent of any inconsistency between this **Schedule 6** (Transition Requirements) (including the annexures) and the Existing Agreement, the terms of this **Schedule 6** (Transition Requirements) (including the annexures) prevail.
- (l) To the extent of any inconsistency between Annexure A and Annexure B of this **Schedule 6** (Transition Requirements), Annexure B prevails.

### 1.3 Transition Steering Committee

- (a) The Transition Steering Committee will have oversight of the Transition In process.
- (b) The Transition Steering Committee will consist of representatives from the:
  - (i) Department;
  - (ii) Service Provider; and
  - (iii) Health Service Provider (as required).
- (c) The Transition Steering Committee will meet at least every fortnight during the Transition In Period, or as otherwise required by the Department or the Service Provider.

### 1.4 The Transition In Plan

- (a) The draft Transition In Plan will be provided to the Department on the Commencement Date.
- (b) The Service Provider must develop a final Transition In Plan based on the draft Transition In Plan and submit it to the Department for its approval within 10 Business Days of the Commencement Date. The Department must notify the Service Provider whether the Transition In Plan is approved within 3 Business Days.
- (c) In addition to any matters set out in the draft Transition In Plan, the Transition In Plan must, at a minimum, address the following:

Section	Subsections
Introduction	<ul style="list-style-type: none"><li>• General Overview</li></ul>
Governance	<ul style="list-style-type: none"><li>• Transition Steering Committee – Establishment of the Serco and Department steering committee</li><li>• Serco Transition Team – Team organisation, roles, experience, and time allocation</li><li>• Communications and Stakeholder Engagement – Meetings and reporting to the Department, and engagement with any other stakeholders</li></ul>

Section	Subsections
	<ul style="list-style-type: none"> <li>• Risk Management – Risks to the achievement of the Transition- In Plan and any mitigation strategies, referring to the Risk Register at Attachment A</li> <li>• Project Planning and Milestones – Milestones and timeframes for the activities, referring to the Project Plan at Attachment B</li> </ul>
Transition	<ul style="list-style-type: none"> <li>• Commercial &amp; Contract Matters – Matters such as finance, insurance and licenses</li> <li>• Contract Deliverables – Development and approval of contractually required plans, manuals and procedures</li> <li>• Staff – Staff resourcing and engagement</li> <li>• Training – Training for staff on the new contract requirements and systems</li> <li>• Records and Information Management – Return of records and information from the previous contract, and establishment of new records management processes</li> <li>• Department Assets and Property – Review, acceptance and management of Department assets and property</li> <li>• Serco Assets and Equipment – Serco assets and equipment to deliver the services</li> <li>• Subcontractors – Engagement of subcontractors, and approval where required</li> <li>• Department Information Systems – Interaction with Department information systems</li> <li>• Serco Information Systems – Implementation of Serco's information systems</li> <li>• Integrated Control Centre – Establishment and operation of Serco's proposed ICC</li> </ul>
Service Delivery	<ul style="list-style-type: none"> <li>• Garrison Services – Overview of activities required</li> <li>• Facilities Management – Overview of activities required</li> <li>• Security and Escort Services – Overview of activities required</li> <li>• Transfers and Removal Services – Overview of activities required</li> <li>• Welfare and Engagement Services – Overview of activities required</li> <li>• Business Services – Overview of activities required</li> </ul>

Section	Subsections
Post-Transition Activities	<ul style="list-style-type: none"> <li>• Verification Process – Verification that Transition In activities have been completed</li> <li>• Achievement of Milestones – Certificates of Attainment</li> </ul>
Attachments	<ul style="list-style-type: none"> <li>• A. Risk Register – Identified transition risks and mitigation strategies</li> <li>• B. Project Plan – Detailed project schedule showing all tasks and responsibilities</li> </ul>

### 1.5 The Transition In Process

- (a) The Service Provider will develop a national Transition In Plan for approval by the Department however the Transition In process will be conducted on a Facility by Facility basis through Facility specific action plans. The Service Provider must comply with the approved Transition In Plan in accordance with its terms and prescribed timeframes.
- (b) Unless otherwise agreed in writing by the parties, the Transition In Period commences on the Commencement Date and continues for three (3) calendar months.
- (c) The Service Provider must assume responsibility for the provision of all Services at all Facilities prior to the end of the Transition In Period. The Service Provider must also ensure that all the activities necessary to effectively enable it to perform the Services in accordance with the Contract are completed prior to the end of the Transition In Period.
- (d) The Department will provide the Service Provider with access to all Facilities on and from the Commencement Date in accordance with the Main Terms and Conditions. The Service Provider is not liable for any failure to perform the Existing Services or Services to the extent it is prevented from doing so due to any failure of the Department to procure the necessary access to the Facilities in accordance with the Main Terms and Conditions.
- (e) The Service Provider must work cooperatively with the Department and any other service provider appointed by the Department, from the Commencement Date to support each other to fully meet their respective Contract obligations.
- (f) The Service Provider must liaise and cooperate with the Department as necessary to ensure the Department's approval of any plans or other actions set out in the Transition In Plan and Section 7 (Business Services) of **Schedule 2** (Statement of Work) is provided, including by fully addressing any requests or concerns communicated by the Department in a prompt and timely manner.
- (g) The Service Provider must notify the Department in writing when it believes it has satisfied the requirements of the Transition In Plan and enable the Department to undertake appropriate assurance exercises to confirm that agreed outcomes have been achieved.

## **1.6 Transition In Milestones**

- (a) As part of the Transition In Plan, the Service Provider must identify activities relating to each Transition In Milestone.
- (b) The Service Provider must use best endeavours to deliver all transition activities attributable to a Milestone at the times specified in the Transition In Plan.
- (c) The Transition In Plan must describe activities for:
  - (i) the provision of all Plans (and relevant supporting documentation), as detailed in Section 7 (Business Services) of **Schedule 2** (Statement of Work), to the Department for acceptance within the prescribed timeframes; and
  - (ii) the delivery of IT enhancements to be agreed by the parties, including comprehensive data storage plans detailing how departmental data is stored, encrypted, removed and managed.
- (d) The Department will certify achievement of a Milestone by issuing a Certificate of Attainment for each Milestone. The Department will issue a Certificate of Attainment once all transition activities associated with the relevant Milestone are completed.
- (e) If the Milestone is not achieved, the Service Provider may be required to re-submit any Deliverables or repeat any tests. Until such time as the Department is satisfied that agreed Milestones are achieved, or on target to be achieved, it may (acting reasonably) withhold a component of the associated Transition In Fee equivalent to the estimated cost associated with those Deliverables not delivered. The foregoing shall not apply to the payment of Transition In Fee 1 which shall be invoiced and payable by the Department in accordance with Clause 1.2(i) above and will not be subject to the delivery of any Milestones by the Service Provider.
- (f) Where a Milestone relates to the Service Provider's ability to provide the Services in an entire Facility, once these Milestones are achieved and unless otherwise agreed by the parties, the Service Provider must only provide the new Services at that Facility on the terms of this Contract (that is, no further Existing Services are to be provided in respect of that Facility).

## **2. ACCEPTANCE**

### **2.1 Base Period**

- (a) [Not Used]
- (b) During the Transition In Period and the Base Period:
  - (i) no Incentives or Abatements will be applied as a result of Performance against the Indicator Metrics set out in **Schedule 4** (Performance Management Framework); and
  - (ii) the abatement regime under the Existing Agreement will not apply in respect of the provision of the Existing Services.

## **2.2 Acceptance Testing**

- (a) The Department will conduct Acceptance Testing of:
  - (i) the Services at each Facility, within the Base Period at each Facility; and/or
  - (ii) a Service Line across all of the Network during the Base Period,as set out in the Transition In Plan or otherwise agreed by the parties in writing.
- (b) If the Service Provider is unable to assume responsibility for provision of all of the Services at a Facility by the Handover Date, the Department reserves the right to conduct Acceptance Testing in relation to those Services for which the Service Provider has received a Certificate of Attainment.
- (c) Acceptance Testing will be the mechanism by which the Department assures itself that the Service Provider is providing the full range of Services in accordance with the Contract.
- (d) The Department will conduct Acceptance Testing for each Service stream, Facility by Facility or by Service Line across the Network, as set out in the Transition In Plan or otherwise agreed by the parties in writing.
- (e) The Department will provide feedback to the Service Provider regarding whether the manner in which the Services are being delivered would enable the Service Provider to meet the Performance Requirements set out in **Schedule 4** (Performance Management Framework) after the Base Period.
- (f) The Department will also conduct Acceptance Testing for Facilities which have Hot Contingency or Contingency status as at the Commencement Date.
- (g) If the Acceptance Tests are passed by the Service Provider, the Department will issue an Acceptance Certificate.
- (h) If the Acceptance Tests are not passed by the Service Provider, the Department may require the Service Provider to take corrective action and repeat any Acceptance Tests.
- (i) Failure to pass any Acceptance Test will not result in an extension of the Base Period and Incentives and Abatements will be applied following the end of the Base Period.

## **3. NOT USED**

## **4. TRANSITION OUT**

### **4.1 Aims of the Transition Out Process**

- (a) The Transition Out process will have the following key aims:
  - (i) to effect a seamless Transition Out to new contract arrangements for the provision of Services at Facilities, without any reduction in service delivery standards for Detainees;
  - (ii) to ensure the incoming Service Provider understands, and behaves in a way consistent with any policies, procedures, values, standards or principles as



specified by the Department to the Service Provider from time to time the Department's objectives for the Immigration Detention environment; and

- (iii) to minimise cost for the Department.

#### **4.2 Transition Out Plan**

- (a) The Service Provider must develop and implement a Transition Out Plan as detailed in Section 7 (Business Services) of **Schedule 2** (Statement of Work) and at a minimum:
  - (i) provide the Department with a draft version of the Transition Out Plan within six (6) months of the Commencement Date;
  - (ii) provide the Department with a final version of the Transition Out Plan if requested by the Department, within 30 Business Days of the receipt of comments from the Department, incorporating any amendments requested by the Department;
  - (iii) provide the Department with an updated version of the Transition Out Plan annually on the anniversary of the Commencement Date; and
  - (iv) provide the Department with an updated version of the Transition Out Plan at the end of Contract:
    - (A) within one (1) month of the date on which a Termination Notice is given by the Department in accordance with the Contract; or
    - (B) at least six (6) months before the Contract expires.
- (b) If clause 4.2(a)(iv)(B) applies, the Transition Out Plan, approved by the Department, will specify the transition activities which are to occur during the six (6) month period before the Contract expires.
- (c) The Service Provider must commence disengaging from the Services in accordance with the Transition Out Plan within the final six (6) month timeframe before the end of the Term, or at termination (or such other date agreed by the Department).

For the avoidance of doubt, there must be no reduction in the Services delivered by the Service Provider within the final six (6) month timeframe before the end of the Term, or at termination (or such other date agreed by the Department).
- (d) The Transition Out Plan must meet the following requirements:
  - (i) contain an outline the core activities and functions that must be completed to facilitate the effective Transition Out of the Contract. This will include detailing how all key milestones, deliverables, tasks and activities that must be completed to effectively disengage from the Contract;
  - (ii) contain all relevant actions and requirements, including timeframes for such actions and requirements;
  - (iii) describe the responsibilities of the Parties during the Contract Transition Out period;

- (iv) describe how the Service Provider will hand over the Services to the Department or the Department's nominee (or any other arrangement or alternative service provider);
- (v) describe how the Service Provider will deliver to the Department (or an alternative service provide) information and Material in an orderly manner, including but not limited to:
  - (A) complete Commonwealth Records and any other Department property including Departmental Materials;
  - (B) all Department Confidential Information;
  - (C) all information about Detainees contained in any database or file;
  - (D) any statistical data or information contained in any table or schedule prepared in the performance of the Services;
  - (E) a detailed statement of resources setting out information on equipment, technology, Service Provider Personnel, Facilities and Subcontractors used by the Service Provider to perform the Services; and
  - (F) business process flow charts, procedures manuals, plans, reports, pro-forma documentation, activity schedules, work product examples, organisational charts, skills details for Service Provider Personnel and any other documents of a similar nature necessary for an alternative service provider to assume responsibility for providing the Services;
- (vi) describe how the Service Provider will manage the secure delivery, transfer or destruction of Department Material and Contract Material, and all other relevant Material (including Detainee records), to the Department or its nominee as agreed with the Department including:
  - (A) the removal of the Department's information relating to the Services from the Service Provider's computer and other electronic file storage systems;
  - (B) transferring, destroying or providing access to all information stored by whatever means held by the Service Provider or under the control of the Service Provider in connection with this Contract to the Department or its nominee as required;
  - (C) specify a set timeframe for the performance of each of the above tasks; and
  - (D) describe how the Service Provider will work with the Department and other nominated service providers to ensure continuity of Service to Detainees where there is a handover of the Services;
- (vii) describe how the Service Provider will ensure all Services commenced under the Contract are completed in accordance with the Contract or are appropriately transferred to the Department or an alternative service provider (as required by the Department);

- (viii) describe how the Service Provider will ensure appropriate management and transfer or disposal of Assets and other property as agreed by the Department;
  - (ix) describe how the Service Provider will transfer or share information with the Department and any nominee (including providing all applicable registers);
  - (x) describe how the Service Provider will complete any outstanding part of the Services in accordance with the Contract;
  - (xi) describe how the Service Provider will ensure that the Service Provider's Personnel are available to the Department or a new provider for discussions; and
  - (xii) meet all other Transition-Out Plan requirements as detailed by the Department.
- (e) The Service Provider must liaise and cooperate with the Department as necessary to ensure the Department's approval of the Transition Out Plan.
  - (f) The Service Provider must ensure that it delivers all Material to the Department in accordance with the timeframes or by the milestones set out in the Transition Out Plan and the Contract.

#### **4.3 Expectations**

- (a) At the conclusion of the Term, the Service Provider must work collaboratively with all relevant parties (including future service providers and the Department) to affect a seamless Transition Out of Services to any new contractual arrangements, or to effect a well ordered Contract termination.
- (b) The Service Provider is required to conduct the Transition Out process in accordance with the Transition Out Plan.
- (c) The Service Provider is required to provide all information and Material required by the Department to affect a smooth Transition Out.
- (d) During the Transition Out period, the Service Provider is required to provide full access to the Facilities for Department Personnel and any successor service provider personnel to enable them to conduct Transition Out tasks.

**ANNEXURE A – DESCRIPTION OF EXISTING SERVICES**

**The Statement of Work as defined in the Existing Agreement is hereby incorporated into this Annexure A.**

**ANNEXURE B – FACILITIES MANAGEMENT INTERIM SOLUTION AND  
REPAIR WORK LIMIT SOLUTION**

1. The Department and the Service Provider have agreed that the Repair Work Limit model is the most appropriate longer term Facilities Management delivery model to meet the Department's stated requirements for Facilities Management under the new Contract, for the following reasons:
  - it establishes a management and pricing mechanism which provides the Service Provider with a high degree of autonomy in its management of consumables (including replacement);
  - it reduces administrative burden for all parties through preauthorised financial thresholds; and
  - it delivers a value for money solution including:
    - transparency of work completed;
    - Service delivery meets Contract requirements;
    - appropriate apportionment of risk; and
    - Departmental Assets achieve their design life.
2. The Department and Service Provider have agreed to deliver Facilities Management services under an interim solution during the period from the Commencement Date to 30 June 2015, as documented within Section 3 of **Schedule 2** (Statement of Work), whilst the proposed Repair Work Limit model is being developed, costed and implemented. The interim solution includes the following Facilities Management services:
  - Management of Assets;
  - Maintenance of Assets including Preventative and Reactive Maintenance (PM and RM);
  - Pest and Vermin Services; and
  - Grounds Maintenance,as more particularly described in Section 3 of **Schedule 2** (Statement of Work).
3. The fees payable by the Department for the provision of the interim solution Facilities Management Services are set out in **Schedule 5** (Detention Services Fee).
4. During the Transition In Period, the Department and Service Provider will establish a dedicated "Facilities Management Working Group" to formally manage the process of developing the Repair Work Limit model solution and ensure that the following are clearly defined and agreed:
  - level of Preventive Maintenance required;
  - tasks and frequencies for Preventive Maintenance for each Asset class;
  - exact Service requirements are clearly defined;
  - base line Assets are agreed;

- specific exclusions from Repair Work Limit solution;
  - capital replacement responsibilities;
  - Repair Work Limit financial threshold; and
  - processes for additions and deletions to the relevant Asset registers.
5. The Service Provider will develop a Repair Work Limit solution during the Transition In Period and the Base Period in accordance with the following timeline and activities:
- Department and Service Provider to establish a “Facilities Management Working Group” – on or before the Commencement Date;
  - key Facilities management requirements to be agreed for inclusion in subcontractor tenders – 12 December 2014;
  - Service Provider to commence procurement of agreed subcontracted services – 15 December 2014;
  - subcontractors submit tender responses – 7 February 2015;
  - tender evaluation complete – 28 February 2015;
  - Service Provider to submit Repair Work Limit proposal for the Department’s consideration – 31 March 2015;
  - Department agree or reject Repair Work Limit proposal and pricing – within ten (10) business days of receipt;
  - if the Repair Work Limit proposal and pricing is agreed by the parties:
    - the parties will implement a Contract Change Proposal to incorporate the agreed Repair Work Limit solution as part of **Schedule 2** (Scope of Work) which will replace the interim Facilities Management solution and become effective on 1 July 2015 (unless otherwise agreed in the Contract Change Proposal);
    - unless otherwise agreed in the Contract Change Proposal, the Service Provider will engage subcontracted services for the Repair Work Limit solution in mid April to 30 Jun 2015; and
    - unless otherwise agreed in the Contract Change Proposal, Service delivery under new Repair Work Limit model will commence on 1 July 2015.
6. If the Department does not agree to the Contract Change Proposal to implement the proposed Repair Work Limit solution, the Service Provider must continue providing the interim solution Services set out in Section 3 of **Schedule 2** (Statement of Work) until 30 June 2015 unless otherwise agreed by the parties in writing.





**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 7**

**KEY PERSONNEL AND APPROVED  
SUBCONTRACTORS**

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**Key Personnel**

1.1 Key Personnel and Key Positions of the FDSP are set out in the table below:

Key Personnel	Key Position
S. 47F(1)	Managing Director (Service Authority)
	Finance Director (Service Administrator)
	Operations Director
	Transition Director

**2. Approved Major Subcontractors**

2.1 The initial Approved Major Subcontractors are as follows:

Nil



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 8**

**PERFORMANCE SECURITIES**  
**Part A – Unconditional Financial Undertaking**

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**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 9**

**CONFIDENTIAL INFORMATION**

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The Service Provider's Confidential Information is limited to the information set out in Table 1.

**Table 1 –Services Provider Confidential Information**

<b>Provider Confidential Information</b>	<b>Period of Confidentiality</b>
Employee work rosters, lists of employees and contractors, job descriptions and organisation charts.	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.
Personal Information and Sensitive Information of employees, contractors and other persons.	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality. The foregoing does not limit or restrict the Department from using and disclosing any such information where permitted to do so under Privacy Laws and other laws.
Service Provider's documents containing Intellectual Property and specific documents marked "Commercial in Confidence", "in confidence" or "confidential" (or similar notation).	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.
Information regarding Service Provider's finances, internal costs and margins, business plans, IT systems and business processes, including as disclosed in connection with pricing discussions during the tender process and pursuant to tender submissions.	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.
Details of pricing in Schedule 5 (including clauses 9, 14 and 18 and Annexure A in its entirety) and otherwise as submitted during the tender process.	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.
Details of original insurance policies and certificates of currency, including clause 61 (main contract) and Schedule 12.	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.

Provider Confidential Information	Period of Confidentiality
The quantum of the unconditional financial undertaking, the insurance amounts, the limits of liability and any other form of security given by the Service Provider (or its related companies) in favour of the Department under the Contract (including details of clauses 58, 59, 61, 62, 63 and corresponding definitions, Schedules 8 and 12).	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.
Information about the operations of the Service Provider as contained in any service delivery plans where disclosure of that information would be detrimental to the provision of the Services under the Contract, including security information, crisis management procedures, and those specific documents required to be provided as part of Transition In and under Schedule 2 (Statement of Work) relating to security, business continuity, crisis management and internal procedures.	In perpetuity unless it becomes generally available in the public domain other than through a breach of confidentiality.





**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 10**

**CONFIDENTIALITY DEED**

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**SCHEDULE 10 – CONFIDENTIALITY DEED**

**THIS DEED POLL** is made the \_\_\_\_\_ day of \_\_\_\_\_ 201

in favour of the **COMMONWEALTH OF AUSTRALIA** represented by the Department of Immigration and Border Protection (**the Department**)

BY [*Insert name and address of Confidant*] (**the Confidant**)

**RECITALS**

- A The Department and Serco Australia Pty Limited (**Service Provider**) have entered into a contract under which the Service Provider will provide the Services to the Department.
- B. The performance of the Services requires access to information confidential to the Department.
- C. The Confidant will be performing Services.

**THE CONFIDANT DECLARES AS FOLLOWS:**

**1. INTERPRETATION**

- 1.1 All terms used in this Deed have the same meaning as is given to them in the Contract, and in particular, the following terms have the following meaning:

**Contract** means the Contract between the Department and the Service Provider for the provision of Services dated [INSERT DATE].

**Department Confidential Information** means information that is disclosed to or accessible by the Confidant in connection with the Contract that:

- a) is by its nature confidential;
- b) is designated by the Department or any law as confidential; or
- c) the Confidant knows or ought to know is confidential;

and includes to the extent that it is confidential:

- d) information comprised in or relating to any Intellectual Property of the Department;
- e) information relating to contractors or suppliers to the Department; and
- f) information relating to Department Data,

but does not include information which:

- g) is or becomes public knowledge other than by breach of the Contract or any other confidentiality obligation; or
- h) has been independently developed or acquired by the Confidant as established by written evidence.

**Department Data** means all data and information relating to the Department, and its operations, facilities, customers, clients, constituents, personnel, assets and programs in whatever form that information may exist and whether entered into, stored in, generated by or processed through the Services by or on behalf of the Department and any other data in relation to which the Services are provided.

**Intellectual Property** or **IP** includes business names, copyrights, and all rights in relation to inventions, patents, registered and unregistered trade marks (including service marks), registered designs, and semi-conductor and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

**Services** means the Services specified in the Contract.

## **2. NON DISCLOSURE**

- 2.1. Subject to **clause 3** hereof, the Confidant must not copy, reproduce or disclose any Department Confidential Information without the prior written consent of the Department, which consent the Department may grant or withhold in its absolute discretion.

## **3. RESTRICTION ON USE**

- 3.1. The Confidant must use Department Confidential Information only for the purpose of performing the Services. In particular the Confidant must not access, use, modify, disclose or retain any Personal Information the Confidant has acquired through the performance of the Services except for the purpose of performing the Services.
- 3.2. The obligations under clauses 2 and 3.1 will not be taken to have been breached to the extent that the relevant Department Confidential Information:
- (a) is disclosed by the Confidant to its personnel solely in order to comply with obligations or to exercise rights under the Contract and provided those personnel have signed undertakings equivalent to those in this Deed Poll;
  - (b) is authorised or required to be disclosed by law or by an order of any court or tribunal of competent jurisdiction; or
  - (c) is required to be disclosed to a government agency, stock exchange or other regulatory body having the legal right to require the disclosure.

## **4. CRIMES ACT**

- 4.1. The Confidant acknowledges that section 3(1) of the Crimes Act 1914 states that the term "Commonwealth officer" includes a person who "performs services for or on behalf of the Commonwealth".
- 4.2. The Confidant acknowledges that:
- (a) any unauthorised and intentional access, destruction, alteration, addition or impediment to access or usefulness of Personal Information stored in any computer in the course of performing, a contract with the Commonwealth is an offence under Part VIA of the *Crimes Act 1914* to which may attract a substantial penalty, including imprisonment; and
  - (b) the publication or communication by the Confidant of any fact or document which has come to their knowledge or into their possession or custody by virtue of the performance of the Contract (other than to a person to whom the Confidant is authorised to publish or disclose the fact or document) may be an offence under section 70 of the *Crimes Act 1914*, the punishment for which may be a maximum of two years (section 70) or seven years (section 79) imprisonment.



**5. DELIVERY UP OF DOCUMENTS**

- 5.1. The Department may, at any time and without notice, demand, either orally or in writing, the delivery to the Department of those documents required by the Department that are in the possession or control of the Confidant which contain Department Confidential Information.

**6. CONFLICT OF INTEREST**

- 6.1. The Confidant warrants that no conflict of interest exists or is likely to arise in the performance of the Services.
- 6.2. The Confidant warrants that it will not permit any situation to arise or engage in any activity during the performance of the Services which may result in a conflict of interest.

**7. SURVIVAL OF OBLIGATIONS**

- 7.1. The obligations in this Deed are perpetual.

**8. INDEMNITY**

**Note:** *This clause can be deleted where the Confidant is an individual.*

- 8.1. The Confidant indemnifies the Department and its officers, employees and agents against any claim, loss, liability or expense incurred by them which is caused or contributed to by:
- a) the Confidant's failure to comply with this Deed; or
  - b) the act or omission of the Confidant's employees, agents or subcontractors in relation to Department Confidential Information.
- 8.2. The Services Provider agrees that the Department may enforce the indemnity in clause 8.1 in favour of any Department officers, employees or agents.

**Executed as a Deed**

**Drafting Note:** *Signature block appropriate to the nature of the Confidant to be used.*

**SIGNED, SEALED and DELIVERED** by  
[*Confidant*] in the presence of:

\_\_\_\_\_  
Signature of Confidant

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

**THE COMMON SEAL** of [*Confidant*], the fixing  
of which was witnessed by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name





**Australian Government**

**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract  
Immigration Detention Services**

**SCHEDULE 11**

**DEED OF NON-DISCLOSURE OF  
PERSONAL INFORMATION**

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## SCHEDULE 11 – DEED OF NON-DISCLOSURE OF PERSONAL INFORMATION

**THIS DEED POLL** is made the \_\_\_\_\_ day of \_\_\_\_\_ 2014  
in favour of the COMMONWEALTH OF AUSTRALIA represented by the Department of Immigration and Border Protection (**the Department**)

BY [*Insert name and address of Recipient*] (the **Confidant**)

1. The Confidant understands that in the course of performing duties in relation to a Contract between the Department and [INSERT NAME] (**Service Provider**) dated [INSERT DATE] (**Contract**) for the Services, the Confidant may have access to personal information, being information or an opinion about an identified individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not (**Personal Information**).
2. The Confidant acknowledges and agrees that it may not collect access, use, disclose, publish, communicate or retain, or otherwise deal with in any way, Personal Information except in the course of, and for the purpose of, performing its duties in relation to the Contract.
3. The Confidant agrees, with respect to all Personal Information to which it has access in the course of performing duties in relation to the Contract, to:
  - (a) not do any act, or engage in any practice that would breach:
    - (i) the Services Provider's obligations under the Contract to protect Personal Information if done or engaged in by the Service Provider; or
    - (ii) the Australian Privacy Principles set out in the *Privacy Act 1988* (Cth) (**Privacy Act**) if done or engaged in by the Department;
  - (b) implement all reasonable measures to assist the Department in meeting the obligations under the Privacy Act concerning the collection security, use and disclosure of information to which the Department is subject in respect of that Personal Information;
  - (c) co-operate with any reasonable demands or enquiries made by the Commonwealth Privacy Commissioner;
  - (d) not disclose such Personal Information without the written authority of the Department except in the course of, and for the purpose of, performing the Contract, and it will immediately notify the Department where it becomes aware that a disclosure of such information may be required by law;
  - (e) ensure that any person who has an access level which would enable that person to obtain access to any information in respect of which the Department has obligations under the Privacy Act is made aware of, and undertakes in writing, to observe the provisions of this Deed;
  - (f) take all reasonable measures to ensure that Personal Information is protected against loss and against unauthorised access, use, modification, disclosure or other misuse and that only Service Provider Personnel have access to it. For the avoidance of doubt, Personal Information must not be used for, or in any way relating to, any direct marketing purpose;
  - (g) not transfer such Personal Information outside Australia, or allow parties outside Australia to have access to it, without the prior approval of the Department;
  - (h) inform any person, on his or her request, in writing of the content of any provision of the Contract that is inconsistent with an approved privacy code binding the Service Provider or a Australian Privacy Principle as set out in the Privacy Act, in accordance with the Service Provider's obligations under section 95C of the Privacy Act;
  - (i) immediately to notify the Department when the Confidant becomes aware of a breach, or any potential breach, of any obligation concerning security, use and disclosure of such Personal Information relating by itself or any representative, employee or officer;

- (j) notify the Department of, and co-operate with the Department in the resolution of, any complaint alleging an interference with privacy;
  - (k) upon written notice from the Department give to any person, on his or her request, having taken reasonable steps to satisfy itself of that person's identity, access to that person's Personal Information held by the Service Provider, except to the extent that the Service Provider is required or authorised by law to refuse to provide the person with access to that Personal Information;
  - (l) upon written notice from the Department if requested to correct or update such Personal Information by a person to whom the Personal Information relates, take reasonable steps to correct or update the Personal Information;
  - (m) upon written notice from the Department, destroy or permanently de-identify any Personal Information as soon as practicable after it is no longer required for the purpose for which it was originally collected;
  - (n) not adopt as its own identifier of a person an identifier that has been assigned by the Department, or use or disclose any such identifier except for the purpose of fulfilling its obligations under the Contract, or where required or authorised by law; and
  - (o) if the Personal Information is sensitive information or health information, as those terms are defined in the Privacy Act, not collect, use or disclose such information without the consent of the person to whom that information relates, subject to any exception provided for by law. For the avoidance of doubt, this does not apply to the giving of sensitive information to the Department.
4. The Confidant agrees that its obligations under this Deed and to perform duties in relation to the Contract:
- (a) to the extent of any inconsistency with the Australian Privacy Principles in the *Privacy Act 1988* (Cth) or any privacy codes or privacy principles contained in, authorised by or registered under any law, take priority to the fullest extent permitted by applicable law; and
  - (b) to the extent not so inconsistent, are in addition to any obligations the Confidant may have under the *Privacy Act 1988* (Cth) or any privacy codes or privacy principles contained in, authorised by or registered under any law.
5. The Confidant acknowledges that failure by it to comply with the obligations under the Privacy Act in accordance with **paragraph 3** may result in the Service Provider or the Department taking action against the Confidant (including, without limitation, disciplinary action).
6. The Confidant acknowledges that any unauthorised access, alteration, removal, addition, possession, control, supply or impediment to the access, reliability, security or operation of data held in any computer (or, in some cases, any storage device) in the course of performing a contract with the Commonwealth may be an offence under Part 10.7 of the *Criminal Code 1995* (Cth) for which there are a range of penalties, including imprisonment.
7. The Confidant acknowledges that:
- (a) section 3(1) of the *Crimes Act 1914* (Cth) states that the term "Commonwealth officer" includes a person who "performs services for or on behalf of the Commonwealth";
  - (b) the publication or communication by the Confidant of any fact or document which has come to its knowledge or into its possession or custody by virtue of the performance of the Contract (other than to a person to whom the Confidant is authorised to publish or disclose the fact or document) may be an offence under section 70 or 79 of the *Crimes Act 1914* (Cth), punishment for which may be a maximum of two years (section 70) to seven years (section 79) imprisonment and if the Confidant is not an employee of the Service Provider, the Confidant agrees to act in accordance with the obligations in section 79 of the *Crimes Act 1914* (Cth) as if it was bound by that provision; and
  - (c) it is an offence under Division 137 of the *Criminal Code 1995* (Cth) to give false and misleading information to the Commonwealth or its officers or agents.
8. The Confidant agrees to treat all Personal Information with the utmost care and to protect that information at all times in accordance with all security and privacy requirements imposed by the Contract on persons performing duties in relation to the Contract.
9. The Confidant acknowledges and agrees that this Deed survives the termination or expiry of any contract providing for the performance of services by it (whether directly or indirectly) in relation to the Contract.

10. This Deed will be governed by, and construed in all respects in accordance with, the law of the Australian Capital Territory and the Confidant agrees to submit to the applicable jurisdiction of the Courts of that Territory in respect of all matters arising under, or in relation to, this Deed.
11. Without limiting the rights of the Department to enforce this Deed, the Department may also enforce this Deed against the Confidant.

**Executed as a Deed**

*[Drafting Note: Use appropriate signature block.]*

**SIGNED, SEALED and DELIVERED** by  
[Confidant] in the presence of:

\_\_\_\_\_  
Signature of Recipient

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

**THE COMMON SEAL** of [Confidant], the fixing  
of which was witnessed by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name



**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 12**

**INSURANCE**

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**Australian Government**

**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract  
Immigration Detention Services**

**SCHEDULE 13**

**CHANGE CONTROL**

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## PART A – CONTRACT CHANGE PROPOSAL

<b>Parties:</b>	THE COMMONWEALTH OF AUSTRALIA (the Department)
	SERCO AUSTRALIA PTY LIMITED (the Service Provider)
<b>Contract Details:</b>	Contract for services between the Department and the Service Provider
<b>Date:</b>	<i>[insert date of this Contract Change Proposal]</i>
<b>Contract Change Proposal No:</b>	<i>[insert sequential Contract Change Proposal No.]</i>
<b>Proposal Title:</b>	
<b>Operative provisions:</b>	<p>This <i>Change Proposal</i> is given pursuant to <b>clause 35 (Contract Change Procedure)</b> of the Contract.</p> <p>The Party proposing this change proposes the variations to the Contract specified in the schedule to this Change Proposal.</p>
<b>Enquiries:</b>	Any questions in relation to this notice should be directed to the officer issuing this notice as specified below:
<b>Issuing Officer:</b>	..... <i>[Insert details of person authorised to give the Notice]</i>
<b>Contract Details:</b>	..... <i>[Insert contact details of Issuing Officer]</i>
<b>Party proposing change</b>	<i>[The Department]</i> or <i>[the Service Provider]</i>

## Schedule to Change Proposal

### 1. THE VARIATIONS PROPOSED ARE AS FOLLOWS:

*[Insert details of the proposed variation(s) to the Contract including:*

- (a) details of the proposed Contract Change and its extent and its impact on the Contract (nature, scope, scale and technology employed);
- (b) the steps required to implement the Contract Change Proposal, including where the proposed Contract Change involves the removal of any Services the aspect of the Transition Out Plan the Service Provider proposes to implement;
- (c) the time within which the Service Provider proposes to implement the Contract Change;
- (d) the impact of the Contract Change Proposal on the delivery of Services under this Contract, including any necessary amendments to this Contract, Schedules, Plans and/or procedures in the format of old clause and marked up new clause;
- (e) the changes to the Detention Services Fee which the Service Provider proposes to apply to the Contract Change supported by reasons for the price change and relevant measurements or documents which support or validate the change;
- (f) a financial statement of the change in financial cost to the Service Provider as a result of the Contract Change Proposal certified by an accountant independent of the Service Provider declaring:
  - (i) the Contract Change Proposal and its implementation cannot be accommodated within the existing Detention Services Fee; and
  - (ii) the accuracy of the financial information provided to the Department;
- (g) details of the review the Service Provider has undertaken to allow the Contract Change Proposal to be accommodated within the existing requirements of this Contract, including the Detention Services Fee;
- (h) any reduction to the Detention Services Fee (if any) which the Service Provider proposes as a result of the Contract Change Notice, in order to reflect all cost savings to the Service Provider resulting from any changes to the Service Provider's then current arrangements or operations for the provision of the Services;
- (i) the adjustments (if any) to the Key Performance Measures and Key Performance Indicators which the Service Provider proposes as a result of the Contract Change Notice, and reasons for the adjustments;
- (j) any risks associated with the Contract Change Proposal and any recommendations for minimising those risks; and
- (k) where the proposed Contract Change involves the removal of any Services from the scope of the Contract, details of any unavoidable loss as defined in clause 67.4 of the Contract.

**2. THE DATE OF EFFECT OF THE CONTRACT CHANGE IS PROPOSED TO BE**

*[Insert Date]*

IN SIGNING THIS CONTRACT CHANGE PROPOSAL, THE SERVICE PROVIDER WARRANTS THAT ALL COSTS ARE REASONABLE AND PROFIT DOES NOT EXCEED THAT USED IN THE ORIGINAL DETENTION SERVICES FEE AND TAKE ACCOUNT OF ANY SAVINGS ON OTHER ASPECTS OF THE SERVICES AFFECTED BY THE CHANGE PROPOSAL.

## Additional Information

3. ADDITIONAL INFORMATION IS PROVIDED AS FOLLOWS:

<b>Service Provider Certification</b> <i>(Certification that the Service Provider and any Subcontractor costs are reasonable)</i>	
<b>Comments from the Service Administrator</b>	
<b>Comments from the Contract Administrator</b>	
<b>Other relevant documentation</b> <i>(Other information relevant to the proposal is attached, including a financial statement of the change in financial cost to the Service Provider)</i>	

**SIGNED** for and on behalf of the **Service Provider** by:

.....

Name: .....

Title .....



## PART B – VARIATION NOTICE

**Contract Change Proposal No:**

**Contract No:**

The Contract Change Proposal referred to above is agreed in the form attached to this Variation Notice.

**Signed** for and on behalf of **Commonwealth of Australia**

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

**Signed** for and on behalf of **Serco Australia Pty Limited**

By:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Name of Witness in full

## PART C – DEED

### CONTRACT NUMBER:

This Deed is made on *[insert date]*

Between

**THE COMMONWEALTH OF AUSTRALIA**, represented by the Department of Immigration and Border Protection, ABN 68 706 814 312 (**the Department**)

and

**SERCO AUSTRALIA PTY LIMITED**, ABN 44 003 677 352 (**the Service Provider**)

### RECITALS:

- A The Department has entered into a contract with the Service Provider dated *[insert date]* (**the Contract**) for the provision of Services.
- B The Contract provides that Variations must be effected by way of a formal amendment.
- C The Department and the Service Provider propose to vary the Contract in accordance with the provisions of this Deed.

### OPERATIVE PROVISIONS

#### 1. INTERPRETATION

Terms defined in the Contract have the same meaning when used in this Deed.

#### 2. CONSIDERATION

Each Party acknowledges that it has received valuable consideration for entering into this Deed.

#### 3. AMENDMENT

- (a) The Contract is amended with effect on and from [specify the date of this Deed or another date specified in the Contract Change Proposal] (the Variation Date) as follows:

*[insert details of variation – ie clause # is deleted and replaced with #]*

- (b) **Clause 3(a)** does not affect any right or obligation that arises before the Variation Date.





**Australian Government**  
**Department of Immigration and Border Protection**

**Facilities and Detainee Services Contract**  
**Immigration Detention Services**

**SCHEDULE 14**

**LEGISLATION AND COMMONWEALTH  
POLICIES**

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**1. General Legislation and Legislative Instruments**

The Facilities and Detainee Service Provider must, in carrying out the Services under this Contract, comply with all legislation, subordinate legislation and legislative instruments of the Commonwealth or State or Territory or local authority in force from time to time, including:

- (a) *Migration Act 1958*
- (b) *Immigration (Guardianship of Children) Act 1946;*
- (c) *Fisheries Management Act 1991;*
- (d) *Torres Strait Fisheries Act 1984;*
- (e) *Environment Protection and Biodiversity Conservation Act 1999;*
- (f) *Christmas Island Act 1958;*
- (g) *Commonwealth Places (Application of Laws) Act 1970;*
- (h) *Ombudsman Act 1976;*
- (i) *Administrative Decisions (Judicial Review) Act 1977;*
- (j) *Freedom of Information Act 1982;*
- (k) *Crimes Act 1914;*
- (l) *Archives Act 1983;*
- (m) *Copyright Act 1968;*
- (n) *Human Rights and Equal Opportunity Commission Act 1986;*
- (o) *Racial Discrimination Act 1975;*
- (p) *Sex Discrimination Act 1984;*
- (q) *Disability Discrimination Act 1992;*
- (r) *Workplace Gender Equality Act 2012;*
- (s) *Fair Work Act 2009;*
- (t) *Privacy Act 1988;*
- (u) *Aviation Transport Security Act 2004;*
- (v) *Aviation Transport Security Regulations 2005 and the Convention on Offences and Certain other Acts Committed on Board Aircraft (Tokyo Convention and Chicago Convention)*
- (w) *Work Health and Safety Act 2011;*
- (x) *Safety, Rehabilitation and Compensation Act 1988;*

- (y) *Auditor-General Act 1997*;
- (z) *Public Governance, Performance and Accountability Act 2013*;
- (aa) *Public Service Act 1999*;
- (bb) *Criminal Code Act 1995*;
- (cc) *Australian Human Rights Commission Act 1986*;
- (dd) any requirements for licenses or permits for the exercise of a profession or trade; and
- (ee) relevant criminal and child protection legislation, including as set out in Table 1 below.

**Table 1**

Jurisdiction	Legislation	Type of program
<b>ACT</b>	<i>Children and Young People Act 2008 (ACT)</i>	This legislation sets out the requirements for the wellbeing, care and protection of young people, taking into account the responsibilities of the community and the whole of government for them.
	<i>Working with Vulnerable People (Background Checking) Act 2011 (ACT)</i>	The legislation imposes a background checking and registration requirement for people who work with vulnerable people (including children), and for other purposes.
<b>NSW</b>	<i>Commission for Children and Young People Act 1998 (NSW)</i>	The NSW Working With Children Check is an employer driven "point-in-time" system entailing background checks of employees and the exclusion of prohibited persons from child-related occupations.
<b>NT</b>	<i>Care and Protection of Children Act 2007 (NT)</i>	Individuals are required to apply for a Working With Children Check, known as a "Clearance Notice" in the Northern Territory. A Clearance Notice is valid for two years, and applies to employers and volunteers in child-related employment settings.
<b>QLD</b>	<i>Commission for Children and Young People and Child Guardian Act 2000 (QLD)</i>	Individuals are required to apply for a Working With Children Check, known as a "Blue Card" in Queensland. Valid for two years, Blue Cards entitle individuals to engage in child-related occupations/volunteering.
<b>SA</b>	<i>Children's Protection Act 1993 (SA)</i>	The South Australian system is an employer driven "point-in-time" system requiring employers and responsible authorities to obtain criminal history checks for those engaging in child-related occupations/volunteering.
<b>TAS</b>	No relevant legislation	No formal legislation or screening program, however, individual employers may require police checks at their discretion.

<b>VIC</b>	<i>Working With Children Act 2005 (VIC)</i>	Individuals are required to apply for a Working With Children Check. Valid for five years, the Check entitles individuals to engage in child-related occupations/volunteering.
<b>WA</b>	<i>Working with Children (Criminal Record Checking) Act 2004 (WA)</i>	Individuals are required to apply for a Working With Children Check. Valid for three years, the Check entitles individuals to engage in child-related occupations/volunteering.

## 2. General Australian Government Policies

The Facilities and Detainee Service Provider must, in carrying out the Services under this Contract, to comply with all Australian Government Policies in force and as amended from time to time, including:

<b>Australian Government Policies</b>	<b>Published by</b>
APS Code of Conduct and Values	Australian Public Service Commission
Australian Government Information, Communications and Information Systems Security Manual	Defence Signals Directorate
National Disability Strategy 2010 - 2020	Department of Social Services
Commonwealth Fraud Control Guidelines 2011	Attorney-General's Department
Commonwealth Procurement Rules	Department of Finance
Indigenous Opportunity Policy	Department of Prime Minister and Cabinet
Protective Security Policy Framework	Attorney General's Department
Building Code 2013 – Supporting Guidelines for Commonwealth Funding Entities	Department of Employment
National Waste Policy	Department of Environment
Digital Transition Policy	National Archives of Australia

**3. Department Specific Policies**

The Facilities and Detainee Service Provider must comply with the following Department policies as they exist as at the Commencement Date, and as notified to the Facilities and Detainee Service Provider by the Department during the Term of the Contract in accordance with **clause 3.7** of the Contract, including:

- (a) Guardianship Policy and Principles;
- (b) Custodian Guidelines;
- (c) Fraud Control Framework;
- (d) Risk Management Framework; and
- (e) other policies, principles, procedures and templates relating to the Services, Notified to the Facilities and Detainee Services Provider.

**4. International Treaties, Charters, Covenants and Agreements**

The Facilities and Detainee Service Provider must comply with all of Australia's obligations under any international treaties, charters, covenants and agreements including:

- (f) International Covenant on Civil and Political Rights;
- (g) Convention Relating to the Status of Refugees;
- (h) Convention on the Rights of the Child;
- (i) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (j) Convention on the Elimination of all Forms of Racial Discrimination;
- (k) Convention on the Elimination of All Forms of Discrimination against Women;
- (l) Convention on the Rights of Persons with Disabilities; and
- (m) Universal Declaration of Human Rights.





**Australian Government**  
**Department of Immigration and Border Protection**

**Immigration Detention Facilities and Detainee Services  
Contract**

**DEED OF VARIATION NO. 1**

**Commonwealth of Australia, acting through and represented by the  
Department of Immigration and Border Protection**

**Serco Australia Pty Ltd  
(ABN 44 003 677 352)**

Released by DIBP under the  
Freedom of Information Act 1982

# DEED OF VARIATION

## CONTRACT NUMBER:

This Deed is made on *[insert date]*

Between

**THE COMMONWEALTH OF AUSTRALIA**, represented by the Department of Immigration and Border Protection, ABN 68 706 814 312 (**the Department**)

and

**SERCO AUSTRALIA PTY LTD**, ABN 44 003 677 352 (**the Service Provider**)

## RECITALS:

- A The Department has entered into a contract with the Service Provider dated **10 December 2014 (the Contract)** for the provision of Facilities and Detainee Services.
- B The Contract provides that Variations must be effected by way of a formal amendment.
- C The Department and the Service Provider propose to vary the Contract in accordance with the provisions of this Deed.

## OPERATIVE PROVISIONS

### 1. INTERPRETATION

Terms defined in the Contract have the same meaning when used in this Deed.

### 2. CONSIDERATION

Each Party acknowledges that it has received valuable consideration for entering into this Deed.

### 3. AMENDMENT

- 3.1 The Contract is amended with effect on and from 10 December 2014 (the Variation Date) as follows:

s. 45(1), s. 47G(1)(a)

- 3.2 Clause 3.1 of Schedule 14 (Change Control) does not affect any right or obligation that arises before the Variation Date.

**Executed by the Parties as a Deed**

**Executed for and on behalf of  
Commonwealth of Australia acting through  
and represented by the Department of  
Immigration and Border Protection by its  
duly authorised delegate:**

s. 22(1)(a)(ii)

Signature of Witness

s. 22(1)(a)(ii)

Name of Witness in full

Date:

3/6/15



Signature

**Executed as a Deed by**

**Serco Australia Pty Ltd** (ABN 44 003 677 352) acting by the following persons or, if the seal is affixed, witnessed by the following persons in accordance with s127 of the *Corporations Act 2001*:



Authorised Signatory

Designation: DIRECTOR



Name



Authorised Signatory

Designation:

Rosemary Townsend  
Company Secretary

Name

Date:

30 April 2015