



Australian Government

Department of Home Affairs

PNG Services Contract

**Commonwealth of Australia as represented by the
Department of Home Affairs**

Paladin Holdings PTE Ltd

CONTENTS

PART 1 – ENGAGEMENT AND TERM		1
1. ENGAGEMENT		1
1.1 Engagement		1
2. TERM		1
2.1 Commencement		1
2.2 Extensions to Term		1
PART 2 – PROVISION OF THE SERVICES		2
3. PROVISION OF THE SERVICES		2
3.1 Overview		2
3.2 The Department Relies on Services Provider’s Expertise		2
3.3 Scope of Services		3
3.4 Service Obligations		3
3.5 Non-Exclusivity of Service Provision		4
3.6 Compliance with Laws and Government Policies		4
3.7 Compliance with Department-specific Policies		4
3.8 Changes to Department Specific Policies		4
3.9 Reserved		5
3.10 Compliance with Local Laws		5
4. HEALTH, SAFETY AND THE ENVIRONMENT		5
4.1 Work Health and Safety		5
4.2 Environmental Protection		6
4.3 Responsibility for Environmental Issues		7
PART 3 - TRANSITION IN ARRANGEMENTS		8
5. TRANSITION IN		8
5.1 Transition In Plan		8
6. Reserved		8
7. Reserved		8
8. AUTHORISATIONS AND PERSONNEL		8
8.1 Authorisations		8
8.2 Problems in Obtaining Authorisations		8

8.3	No Transfer of Department Personnel	8
8.4	Indemnity	8
8.5	No Reduction in Standard of Service	9
9.	Reserved	9
PART 4 – LEGAL AND POLICY FRAMEWORK		9
10.	OBJECTIVES	9
10.1	Objectives of the Contract	9
11.	Reserved	9
12.	COOPERATION	9
12.1	Consultation and Cooperation with the Department	9
12.2	Cooperation with Other Service Providers	10
13.	DUTY OF CARE	10
14.	MEMORANDA OF UNDERSTANDING	11
PART 5 – MANAGEMENT AND GOVERNANCE		11
15.	PROJECT MANAGEMENT	11
16.	PLANS	12
16.1	Plans and approval process	12
16.2	Approved Plan	12
17.	Reserved	13
18.	NATIONAL CONTRACT MANAGEMENT REPRESENTATIVES	13
18.1	The Department's Contract Management Representatives	13
18.2	Services Provider Contract Management Representatives	13
19.	SITE MANAGEMENT PERSONNEL	13
19.1	Department Personnel	13
19.2	Services Provider Personnel	14
20.	REGIONAL MANAGEMENT MODEL	14
20.1	Department Contract Administrator Directions Power	14
20.2	Limits on Directions Power	14
20.3	Procedure for Giving and Recording Directions	14
20.4	Compliance with Directions	14

20.5	Disputes	14
PART 6 - PERSONNEL		15
21.	KEY PERSONNEL	15
21.1	Key Personnel	15
21.2	Retention of Key Personnel	15
21.3	Replacement of Key Personnel	15
21.4	Removal of Key Personnel	15
21.5	Reserved	15
22.	GENERAL OBLIGATIONS IN RELATION TO SERVICES PROVIDER PERSONNEL	15
22.1	Personnel Levels	15
22.2	Services Provider Personnel and Key Personnel	16
22.3	Documents to be Signed by Services Provider Personnel	17
22.4	Behaviour of Services Provider Personnel at Sites	17
22.5	Illegal Workers and Non-citizens	17
22.6	Removal of Services Provider Personnel	17
PART 7 – SUBCONTRACTOR ARRANGEMENTS		18
23.	SUBCONTRACTOR ARRANGEMENTS	18
23.1	Term of Subcontracts	18
23.2	Approval of Major Subcontracts	18
23.3	Initial Approved Subcontractors	18
23.4	Conditions of Subcontracts	19
23.5	Copies of Subcontracts	19
23.6	Services Provider Liability and Obligations	19
23.7	Subcontractor Warranty	19
23.8	Enforcement of Rights Against Subcontractors	20
23.9	Services Provider to be the Department's Sole Point of Contact	20
PART 8 - SITES AND EQUIPMENT		20
24.	LICENCE FOR USE OF SITES, DEPARTMENT EQUIPMENT AND SYSTEMS	20
24.1	Licence	20
24.2	Condition of Sites and Department Assets	21
24.3	Reserved	21
24.4	Services Provider Covenants in Relation to the Sites	21
24.5	Reserved	22
24.6	Damage to Sites, Department Assets and Loose Assets	22

25.	DEPARTMENT ASSETS AND LOOSE ASSETS	22
25.1	Management of Assets	22
26.	SERVICES PROVIDER ASSETS	23
27.	ACCESS TO SITES	23
	PART 9 - PERFORMANCE MANAGEMENT	24
28.	PERFORMANCE MEASURES	24
28.1	Purpose of Performance Measures	24
28.2	Abatements Regime	24
28.3	Process for Measuring Performance Against Performance Measures	25
29.	Reserved	25
29.1	Reserved	25
30.	Reserved	25
	PART 10 – CHANGE MANAGEMENT / CHANGE CONTROL	25
31.	Reserved	25
32.	ADDITIONAL SERVICES	25
32.1	Reserved	25
32.2	Additional Services Required by the Contract Administrator	25
32.3	Reserved	25
32.4	Reserved	25
32.5	Additional Services Become Part of the Services	25
32.6	Original Service Obligations Unaffected	26
33.	CONTRACT CHANGE PROCEDURE	26
33.1	Variations to this Contract	26
33.2	Notification.	26
33.3	Services Provider Obligations	26
33.4	Costs	28
33.5	Acceptance	28
33.6	Implementation	28
33.7	Effect of Variations	29
	PART 11 –SERVICES FEE	29
34.	SERVICES FEE	29
34.1	Obligation to Pay the Services Fee	29

34.2	Reserved	29
34.3	Month to Month Adjustment of Services Fee	29
35.	PAYMENTS TO THE SERVICES PROVIDER	30
35.1	Timing of Payments	30
35.2	How Payments Must be Made	30
35.3	When Payment Deemed to be Made	30
36.	INVOICES	30
36.1	Timing of Invoices	30
36.2	Form of Invoice	30
36.3	Disputes Relating to Invoices	31
36.4	Incorrect Invoices	31
36.5	Late Invoicing	31
37.	RIGHT OF THE DEPARTMENT TO RECOVER MONEY	31
37.1	Deductions	31
37.2	Notice of Deductions	32
38.	TAXES AND DUTIES	32
38.1	Taxes and Duties Generally	32
38.2	GST	32
PART 12 - FINANCIAL MANAGEMENT		33
39.	ACCOUNTS AND RECORDS	33
39.1	Accounting	33
39.2	Open Book Accounting	34
39.3	Reserved	34
39.4	Reserved	34
39.5	Records Regarding Location of Department Assets	34
40.	AUDIT REQUIREMENTS	35
40.1	Subject of Audits	35
40.2	Conduct of Audits	35
41.	ACCESS TO THE SERVICES PROVIDER'S PREMISES AND RECORDS	36
41.1	Grant of Access	36
41.2	Sites and Facilities to be Made Available	36

41.3	Commonwealth and Immigration Ombudsman, Auditor-General, Information Commissioner, Privacy Commissioner, Australian Human Rights Commission and Freedom of Information Requests	36
41.4	Survival of Clause	37
PART 13 – INFORMATION MANAGEMENT		37
42.	INTELLECTUAL PROPERTY	37
42.1	Intellectual Property Rights	37
42.2	Grant of Licences	38
42.3	Moral Rights	38
42.4	Intellectual Property Warranty	38
42.5	Intellectual Property Indemnity	39
42.6	Survival of Clause	39
43.	SERVICES PROVIDER'S CONFIDENTIAL INFORMATION	39
43.1	Protection of Services Provider's Confidential Information	39
44.	DEPARTMENT INFORMATION	40
44.1	Protection of Department Information	40
44.2	Provision of Department Information to Services Provider Personnel and Subcontractors	40
44.3	Reserved	41
44.4	Scope and Survival of Confidentiality Obligations	41
45.	PRIVACY	42
45.1	Definitions	42
45.2	Privacy Obligations	42
45.3	Permitted Disclosures	42
45.4	Permitted Uses	44
45.5	Copies and Other Records	44
45.6	Security	44
45.7	Information Commissioner and the Privacy Commissioner	44
45.8	Return or Destruction of Records	45
45.9	Subcontractors' Compliance	45
45.10	No Release	46
45.11	Indemnity	46
45.12	Survival of Obligations	46
46.	RECORDS MANAGEMENT	46
46.1	Commonwealth Records	46

47.	DATA SECURITY	47
47.1	Acknowledgement	47
47.2	Use of Department Data	47
47.3	Compliance with Security Requirements	48
47.4	Records	48
48.	PROVISION OF INFORMATION	48
48.1	Sharing of Information	48
48.2	Department's Nominated Information Technology System	48
49.	Reserved	49
50.	ARCHIVES ACT	49
51.	PUBLICITY, MEDIA AND EXTERNAL RELATIONSHIP MANAGEMENT	49
51.1	Publicity and Media to be Managed by the Department	49
51.2	Services Provider Not to Make Public Statements	49
	PART 14 - INTERRUPTIONS TO SERVICE DELIVERY	50
52.	FORCE MAJEURE	50
52.1	Time is of the Essence	50
52.2	Force Majeure Notice	50
52.3	Suspension Notice	51
52.4	Management of Force Majeure Event	51
52.5	Meeting Between the Parties	51
52.6	Suspension of Obligations	51
52.7	Termination	52
52.8	Services Provider Must Update Contract Administrator	52
52.9	Alternative Supply and Fee Reduction	52
52.10	Payments, Unconditional Financial Undertaking and Performance Guarantee	53
53.	INCIDENTS	53
53.1	Incident Prevention	53
53.2	Notification of Incidents	53
53.3	Incident Response and Management	53
53.4	Joint Development of Incident Management and Response Policies	54
54.	STEP IN RIGHT	54
54.1	Step-in	54

PART 15 – REPRESENTATIONS AND WARRANTIES	56
55. WARRANTIES	56
55.1 Services Provider Warranties	56
55.2 Repetition of Representations and Warranties	59
55.3 Reliance on Representations and Warranties	59
55.4 No Representations by the Department	59
PART 16 – INDEMNITY AND INSURANCE	59
56. INDEMNITY	59
56.1 Indemnity	59
56.2 Non-exclusive Remedy	60
56.3 Meaning of "the Department" in this Clause	60
56.4 Survival of this Clause	60
57. Limitation of Liability	60
57.1 Limitation of Services Provider liability	60
57.2 Exclusions to Limitation of Liability	61
58. PROPORTIONATE REDUCTION OF LIABILITY	61
58.1 Proportionate Reduction of Services Provider Liability	61
58.2 Proportionate Reduction of Department Liability	61
58.3 Survival of this Clause	61
59. INSURANCE	61
59.1 Services Provider Must Insure	61
59.2 Duration of Insurance	62
59.3 Reputable and Solvent Insurer	62
59.4 Terms of Insurance	62
59.5 Copies of Insurances and Certificates of Currency	63
59.6 Services Provider's Insurance Obligations	63
59.7 Services Provider's Notification Obligations	63
59.8 Subcontractors' Insurance	64
59.9 Services Provider's Liability Not Limited	64
59.10 Reserved	64
59.11 Reserved	64
PART 17 – PERFORMANCE SECURITIES	64
60. UNCONDITIONAL FINANCIAL UNDERTAKING	64
60.1 Provision of Initial Financial Undertaking	64
60.2 Provision of Extended Financial Undertaking	65

60.3	Amounts Covered by Financial Undertaking	65
60.4	Demand on Services Provider	66
60.5	Replacement of Unconditional Financial Undertaking	66
60.6	Monies Paid but Not Demanded	66
60.7	Crystallisation of Unconditional Financial Undertaking	67
60.8	Meaning of Unconditional Financial Undertaking	67
60.9	Consideration	67
61.	PERFORMANCE GUARANTEE	68
61.1	Performance Guarantee	68
	PART 18 – DISPUTE RESOLUTION	68
62.	DISPUTE RESOLUTION	68
62.1	Application	68
62.2	Conditions Precedent to a Dispute Being Dealt With Under This Clause	68
62.3	Negotiation Between Service Authority and the Contract Authority	69
62.4	Negotiation by the Senior Managers	70
62.5	Expert Determination	71
62.6	Expedited Arbitration Procedure	72
62.7	Mediation Procedure	73
62.8	Continuance of Performance	74
62.9	Summary or Urgent Relief	74
62.10	Termination	74
	PART 19 – DEFAULT AND TERMINATION	74
63.	DEFAULT	74
63.1	Notification	74
63.2	Department Rights	74
63.3	Cure	75
63.4	Remedies	75
64.	TERMINATION FOR DEFAULT	76
64.1	Termination by the Department	76
64.2	Termination Events	76
64.3	Insolvency and Other Events	77
64.4	Materiality	78
64.5	Repayment on Termination	78
64.6	Consequences of Termination for Default	78
64.7	Services Provider's Acknowledgement	78
65.	TERMINATION FOR CONVENIENCE	79
65.1	The Department May Terminate for Convenience	79

65.2	Transition Out Obligations	79
65.3	Payment for Services Rendered Prior to Termination	79
65.4	Compensation for Unavoidable Losses	79
65.5	Termination of Subcontracts for Convenience	79
65.6	Unfettered Discretion	80
66.	DEEMED TERMINATION FOR CONVENIENCE	80
67.	Transition Out	80
67.1	Development of Transition Out Plan	80
67.2	Reserved	81
67.3	Reserved	81
67.4	Return of Department Assets	81
67.5	Return of Loose Assets	81
67.6	Reserved	82
67.7	Reserved	82
67.8	Services Provider Must Not Hinder Transition	82
67.9	Survival	82
PART 20 – GENERAL		82
68.	CONFLICT OF INTEREST	82
69.	GENERAL PROVISIONS	83
69.1	Reserved	83
69.2	Negation of Employment, Partnership and Agency	83
69.3	Waiver	83
69.4	Assignment and Novation	83
69.5	Applicable Law	84
69.6	Entire Agreement	84
69.7	Department Representatives	84
69.8	Counterparts	85
69.9	Severability	85
69.10	Further Assurance	85
69.11	Consent	85
69.12	Equal Employment Opportunity	85
69.13	Set-off	85
70.	NOTICES	86
70.1	Address for Notices	86
70.2	Addresses	86
70.3	Delivery of Notices	87
70.4	Receipt of Notices	87

71.	INTERPRETATION	87
71.1	Interpretation	87
71.2	Precedence of documents	89
71.3	Relationship of the parties	89
71.4	Department's executive rights duties and functions	89
71.5	Reasonable endeavours of Department	90

SCHEDULES

1. GLOSSARY
2. STATEMENT OF REQUIREMENT
3. FEES AND PAYMENTS
4. PERFORMANCE MANAGEMENT
5. NOT USED
6. NOT USED
7. KEY PERSONNEL AND APPROVED SUBCONTRACTORS
8. NOT USED
9. PERFORMANCE SECURITIES
10. CONFIDENTIAL INFORMATION
11. CONFIDENTIALITY DEED
12. DEED OF NON-DISCLOSURE OF PERSONAL INFORMATION
13. INSURANCE
14. CHANGE CONTROL
15. NOT USED
16. LEGISLATION AND COMMONWEALTH POLICIES
17. NOT USED
18. NOT USED

CONTRACT

DATE 2018

PARTIES

Commonwealth of Australia acting through and represented by the Department of Home Affairs (ABN 33 380 054 835) of 6 Chan Street Belconnen ACT (**Department**)

Paladin Holdings Pte Ltd of s. 47G(1)(a) [REDACTED]
(**Services Provider**)

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

RECITALS

- A. Having fully informed itself of all aspects of the work to be performed for the provision of the Services, the Services Provider submitted, in response to RFQ 1750034, a proposal to provide the Services.
- B. The Department wishes to engage the Services 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 Services Provider, and the Services 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 a period of eight (8) months ending on 31 October 2018 (**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, in its absolute discretion, extend this Contract by up to two (2) additional periods of up to twelve (12) months each from the applicable End Date (in each case the **Extended Term**) by providing no less than six (6) weeks

written notice (or any other notice period agreed by the Parties in writing) to the Services Provider before the then End Date.

- (b) The Department is not obliged to extend this Contract or to enter any further agreement with the Services Provider on different provisions.

PART 2 – PROVISION OF THE SERVICES

3. PROVISION OF THE SERVICES

3.1 Overview

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

- (a) take full responsibility for the management and provision of Services;
- (b) cooperate with the Department and other service providers to ensure the operation and management of the Sites and delivery of the Services 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 appropriately skilled and qualified provider of services similar to the Services;
- (f) meet or exceed Performance Measures 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 Services Provider's Expertise

Notwithstanding any other provision of this Contract, the Services Provider acknowledges that the Department is relying on the skill and expertise of the Services Provider, including in relation to advice on the scope of the Services to be provided under this Contract.

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 Requirement), and may be increased or reduced in accordance with this Contract.
- (b) The Services Provider must deliver the Services provided in **Schedule 2** (Statement of Requirement) to Residents (refer to definition of Resident in **Schedule 1** (Glossary)).
- (c) Subject to **clause 52**, 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 3** (Fees and Payments).
- (d) Except as specifically provided to the contrary in this Contract, the Services 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.
- (e) The Services 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 Services Provider must:

- (a) have and maintain at all times during the Term all necessary registrations, licences, permits or other approvals required to perform the Services in accordance with this Contract;
- (b) engage or employ sufficient Services Provider Personnel to perform the Services in accordance with this Contract;
- (c) ensure that the Services are made available and delivered to Residents and Recipients 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 Services Provider Personnel to ensure the delivery of the Services in accordance with this Contract;
- (e) collaborate and participate with the Department and other service providers in the development and review of Department policies, including by undertaking research, preparing and analysing reports against Department specified data sets and attending and contributing to committees, workshops and other meetings as reasonably requested by the Department from time to time; and
- (f) promptly advise the Department in writing of any circumstance that materially adversely affects the ability of the Services Provider to perform the Services on the terms set out in this Contract.

3.5 Non-Exclusivity of Service Provision

The Services Provider acknowledges and agrees that 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 (**Third Party Services**). The Services Provider will not be liable for any Loss suffered or Claim incurred by the Department to the extent it arises from the provision of Third Party Services.

3.6 Compliance with Laws and Government Policies

The Services Provider must comply with, and ensure that all Services Provider Personnel comply with:

- (a) all Laws, including but not limited to those listed in **Schedule 16** (Legislation and Policies); and
- (b) all Policies listed in **Schedule 16** (Legislation and Policies) or as notified to it by the Department from time to time.

3.7 Compliance with Department-specific Policies

The Services Provider must comply with, and ensure that all Services Provider Personnel comply with, all Department-specific policies listed in **Schedule 16** (Legislation and Policies) or as notified to it by the Department from time to time.

3.8 Changes to Department Specific Policies

- (a) The Department must give notice to the Services Provider of any change in a Department-specific Policy and the Services Provider must comply with that change (and ensure all Services Provider Personnel do the same) on and from the date specified in the Department's notice (**Compliance Date**), such date to be, unless the change is of an urgent nature, at least 10 Business Days after the date of the Department's notice.
- (b) Prior to notifying the Services Provider of any change in a Department-specific Policy under **clause 3.8(a)**, the Department must, unless the change is of an urgent nature, consult with the Services Provider and seek the Services Provider's views on the potential operational impact of the proposed change on the Services Provider's performance of this Contract. Where consultation has occurred, the Department will consider the Services Provider's view when finalising the terms of the change to the Department-specific Policy.
- (c) Subject to **clause 3.8(e)**, the Services 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 Services Fees.
- (d) If, on receiving notice of a change under **clause 3.8(a)**, the Services Provider considers that the change materially increases or decreases the cost to the Services Provider of providing the Services, the Services Provider must within 10 Business Days of receiving notice of the change provide to the Department a Contract

Change Proposal in accordance with **clause 33.3** as though the notice given under **clause 3.8(a)** was a Contract Change Notice.

- (e) If the Department is satisfied, acting reasonably, 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 Services Fee, the Department may:
- (i) incorporate the Services Provider's suggested amendments or such other amendments as the Parties agree, to the Department-specific Policy; or
 - (ii) agree, acting reasonably and having regard to the Contract Change Proposal submitted by the Services Provider, to amend the 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 policy, the removal of an existing policy, or any variation to the content of an existing policy referred to in **Schedule 16** (Legislation and Policies).

3.9 Reserved

3.10 Compliance with Local Laws

- (a) The Services Provider must comply with, and ensure that all Services Provider Personnel comply with, all Local Laws as updated from time to time
- (b) Where the requirements of a Law, Australian Government Policy, or Local Law impose different requirements or standards on an obligation of the Services Provider in performing its obligations under this Contract, the Services Provider must comply with whichever is the higher standard in performing its obligations under this Contract.
- (c) Subject to clause 53.6, where the requirements of a Law, Australian Government Policy or Local Law are directly inconsistent with one another, the Services Provider must comply with the Local Law in priority to a Law or Australian Government Policy, but only to the minimum extent necessary so as not to contravene that Local Law.

4. HEALTH, SAFETY AND THE ENVIRONMENT

4.1 Work Health and Safety

In providing the Services, the Services Provider must:

- (a) ensure that it and Services Provider Personnel at all times comply with all applicable Laws, codes of practice, policies, procedures and Australian, local and industry standards relating to work health and safety, including in relation to consultation, 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 Requirement) 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;
- (d) take all reasonable safety precautions to prevent injury, illness or loss arising out of, or in relation to, the provision of the Services 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, 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 Services Provider Personnel and Subcontractors involved in the provision of the Services, at all times hold and maintain any applicable work health and safety 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;
- (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 16** (Legislation and Policies) or specified in **Schedule 2** (Statement of Requirement), and generally advise the Department of any matter, fact or circumstance that the Services 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 Services Provider must:

- (a) comply with the environmental requirements in **Schedule 2** (Statement of Requirement) and the Environmental Management System for each Site;

- (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 Services 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 16** (Legislation and Policies) and/or specified in **Schedule 2** (Statement of Requirement); and
- (e) promptly advise the Department of any actual, potential or suspected breach of the Environmental Management System for a Site and generally advise the Department of any matter, fact or circumstance that the Services 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 Services Provider is not liable for any contamination or pollution at a Site, except to the extent that contamination or pollution is:

- (a) brought to a Site or caused by the Services Provider or Services Provider Personnel;
- (b) brought to a Site after the Commencement Date by sources other than the Services Provider or Services Provider Personnel in circumstances where:
 - (i) the Services 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 Site; and
 - (ii) the Services Provider's non-compliance, negligence or failure to comply with the Environment Management System for the Site has caused or contributed to the contamination or pollution at the Site; or
- (c) at a Site prior to the Commencement Date, but from the Handover of the relevant Site, the Services 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 Services Provider must comply with the Transition In Plan and its obligations in accordance with **Schedule 2** (Statement of Requirement) and must cooperate with the Department and any Incumbent Services Provider(s) for the purpose of facilitating the smooth transition of the provision of the Services to the Services Provider in accordance with Schedule 2 (Statement of Requirement).

6. RESERVED

7. RESERVED

8. AUTHORISATIONS AND PERSONNEL

8.1 Authorisations

The Services Provider must obtain all Authorisations as may be necessary to assist the Services Provider to complete its obligations in the Transition In Period and perform the Services. Unless the Department agrees otherwise in writing, the Services Provider must, at its expense, pay any fees (e.g. 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 Services Provider must notify the Department as soon as reasonably practicable of any problems it has in complying with this **clause 8** and provide evidence to the Department of the satisfaction of the Services Provider's obligations under this **clause 8** at least seven (7) days before a relevant Handover Date, or, if an Authorisation is not required prior to the Handover Date, within a reasonable period after the problem comes to the attention of the Services Provider.

8.3 No Transfer of Department Personnel

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

8.4 Indemnity

The Services 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 Services 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. RESERVED

PART 4 – LEGAL AND POLICY FRAMEWORK

10. OBJECTIVES

10.1 Objectives of the Contract

- (a) The objectives of this Contract are to:
- (i) provide an open, accountable and transparent service delivery programme that offers the Department value for money; and
 - (ii) provide Residents a range and standard of services in accordance with **Schedule 2** (Statement of Requirement).

(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. RESERVED

12. COOPERATION

12.1 Consultation and Cooperation with the Department

- (a) The Services Provider must cooperate with the Department to ensure that Services are managed in a holistic way in accordance with the Department's directions.
- (b) The Services 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 Requirement).
- (c) The Services 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 other service providers in order to facilitate the provision of Services by the Services Provider and the performance of the other service providers of their obligations under their contracts.

12.2 Cooperation with Other Service Providers

- (a) The Services Provider must cooperate with any other service providers appointed by the Department (**Department Providers**) to ensure the integrated and efficient carrying on of the operations of each Site and must provide such reasonable assistance to other service providers as the Department may reasonably request, within the Services Fee.
- (b) The Department will take all reasonable steps to include in any contracts with Department Providers an obligation on the Department Provider to comply with relevant plans and procedures developed by the Services Provider under this Contract and to otherwise cooperate with the Services Provider to ensure the integrated and efficient carrying on of the operations of each Site (**Compliance Obligation**). In the event the Services Provider considers that a Department Provider has not complied with a Compliance Obligation and the non-compliance is having a negative impact on the Services Provider's ability to provide the Services in accordance with this Contract, the Services Provider may notify the Department of the non-compliance and its impact as part of the governance framework established under **Schedule 2** [Statement of Requirement]. The Department will consider any matter notified by the Services Provider and may, but will not be obliged to, take reasonable steps to address the non-compliance by the Department Provider.
- (c) The Department acknowledges that provided the Services Provider has otherwise complied with its obligations under this contract, any failure by a Department Provider to comply with a Compliance Obligation will constitute an excusable performance failure for the purposes of **Schedule 4** [Performance Management Framework] to the extent it prevents the Services Provider from achieving any Performance Measures or prevents the Services Provider from providing the Services.

13. DUTY OF CARE

- (a) The Services Provider acknowledges and agrees that it has a duty of care to Residents. The Department acknowledges and agrees that in determining what steps are appropriate to comply with its duty of care, the Services Provider will have regard to the scope of the Services as set out in the Statement of Requirement.
- (b) The Services Provider must meet its duty of care to Residents and any duty of care it has to other persons arising from the performance of its obligations under this Contract.
- (c) The Services Provider must ensure, when providing any Services to Residents, that the best interests of the Resident are the Services Provider's primary consideration, taking into account any special needs arising from the Residents particular age, gender and cultural background.
- (d) For the avoidance of doubt, the Services 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 Services 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.
- (e) The Parties acknowledge that the Services Provider's fulfilment of its duty of care will be measured as part of the Performance Management Framework.
- (f) The parties acknowledge that if at any time it is determined by Law (including by direction or finding of a court) that the Department has any duty of care or other similar obligation towards Residents (**Duty of Care**) then so long as the Services Provider has been provided with reasonable prior notice of the Department's obligations at law in relation to the relevant Duty of Care:
- (i) the Services Provider must take reasonable steps to consider the implications of the Duty of Care for the provision of the Services;
 - (ii) the Services Provider must not do or fail to do anything which causes the Department to breach its obligations at Law in relation to that Duty of Care; and
 - (iii) except as provided in clause 13(f)(i), the Services Provider's obligations under this Contract continue in full force and effect.

14. MEMORANDA OF UNDERSTANDING

- (a) The Department must provide the Services Provider with written notice of any arrangement with a Regional Processing Country which impacts on the provision of Services by the Services Provider, including details of the Department's requirements and obligations under that arrangement.
- (b) The Services Provider must not commit any act or omission that causes the Department to breach its requirements or obligations in regards to any arrangement with a Regional Processing Country that has been disclosed to the Services Provider in accordance with **clause 14(a)**.

PART 5 – MANAGEMENT AND GOVERNANCE

15. PROJECT MANAGEMENT

The Services Provider must provide all administrative and project management services reasonably 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 Requirement);
- (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 and Services, 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 Services Provider Personnel and Subcontractors;
- (g) monitoring and measuring of progress and performance;
- (h) efficient decision-making within the Services 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 as required under this Contract, including **Schedule 4** (Performance Management Framework);
- (j) managing those risks which are the Services Provider's responsibility under this Contract;
- (k) managing and reporting of Incidents to the Department in accordance with **Schedule 2** (Statement of Requirement);
- (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.

The Services Provider shall not be responsible or liable for any failure by the Services Provider to provide the project management services where such failure is caused by the Department.

16. PLANS

16.1 Plans and approval process

- (a) The Services Provider must prepare and submit to the Department for approval the Plans specified in **Schedule 2** (Statement of Requirement).
- (b) The Department may approve or reject a Plan. If the Department rejects a Plan, the Services Provider must revise and resubmit the plan in accordance with a reasonable timeframe specified by the Department.

16.2 Approved Plan

- (a) The Department's approval of a Plan does not;

- (i) release the Services 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 Services Providers 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 Department's approval notice.
 - (c) Any current approved Plan continues to apply pending approval of a subsequent Plan.

17. RESERVED

18. NATIONAL CONTRACT MANAGEMENT REPRESENTATIVES

18.1 The Department's Contract Management Representatives

- (a) The Department must appoint one (1) 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 Services Provider of the appointment of the Contract Authority and Contract Administrator, and any replacement of those appointees.
- (c) The Department may, by providing written notice to the Services Provider, delegate the Contract Administrator's or the Contract Authority's responsibilities under this Contract to any other Department Personnel.

18.2 Services Provider Contract Management Representatives

- (a) The Services Provider must appoint one (1) 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 Services Provider in accordance with this Contract.
- (b) The Services 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.

19. SITE MANAGEMENT PERSONNEL

19.1 Department Personnel

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

19.2 Services Provider Personnel

- (a) The Services Provider must appoint a manager for each Site.
- (b) The Services Provider must give written notice to the Department of the appointment of each person to the roles specified in **clause 19.2(a)**, and any replacement of those appointees.

20. REGIONAL MANAGEMENT MODEL

20.1 Department Contract Administrator Directions Power

The Department Contract Administrator may give a Direction to the Services Provider for the benefit of Residents or operations with respect to the following:

- (a) matters that are to be addressed or taken into account in delivering the Services; or
- (b) requiring Additional Services in accordance with the procedure in **clause 32**.

20.2 Limits on Directions Power

The Contract Administrator must not give a Direction that is inconsistent with the terms and conditions of this Contract. Where the Services Provider considers that a Direction is inconsistent with the conditions of this Contract or otherwise contrary to Law, then the Services Provider is under no obligation to comply with the Direction, but must notify the Contract Administrator in writing.

20.3 Procedure for Giving and Recording Directions

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

20.4 Compliance with Directions

The Services Provider must comply with and implement any Direction (to the extent that the Services Provider is able to comply with such a Direction) within such reasonable period as may be specified by the Direction within the Services Fee. The Services Provider will not be liable to the Department to the extent that the Services Provider has acted or omitted to act in accordance with the requirements of a Direction.

20.5 Disputes

Any Disputes in relation to a Direction pursuant to this **clause 20**, including whether the Direction has been validly issued, will be resolved in accordance with the dispute resolution procedure in **clause 62**.

PART 6 - PERSONNEL

21. KEY PERSONNEL

21.1 Key Personnel

The Services 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 Services 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 Services Provider must notify the Department as soon as reasonably practicable 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 33**.
- (b) If the Services 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 64**, or remove categories of services from the scope of the Services in accordance with **clause 33**.

21.4 Removal of Key Personnel

The Department may, in its absolute discretion, give notice requiring the Services Provider to remove any Key Personnel from work in respect of the Services. The Services 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.

21.5 Reserved

22. GENERAL OBLIGATIONS IN RELATION TO SERVICES PROVIDER PERSONNEL

22.1 Personnel Levels

The Services Provider will ensure that the levels and number of personnel are sufficient to deliver the Services in accordance with this Contract within the Services Fee.

22.2 Services Provider Personnel and Key Personnel

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

- (a) are, and remain, of good character and good conduct, which includes (but is not limited to) the Services Provider having regard to any issues identified in an Australian Federal Police background check or an equivalent criminal background check relevant to its Personnel's normal place of residence in their originating country;
- (b) undergo induction and orientation training in accordance with the requirements of **Schedule 2** (Statement of Requirement) when commencing employment with the Services Provider or starting work in relation to the Services;
- (c) are appropriately skilled, trained and qualified to provide the Services in accordance with the requirements of **Schedule 2** (Statement of Requirement);
- (d) are authorised, registered or licensed in accordance with any regulatory requirements (including any requirements specified in **Schedule 2** (Statement of Requirement)) for the purposes of or incidental to the performance of the Services;
- (e) possess all relevant industry body, supplier, manufacturer and accreditation or scheme memberships and professional association membership specified in **Schedule 2** (Statement of Requirement) 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;
- (f) comply with local child protection laws (as applicable to the provision of the Services);
- (g) prior to commencing work or perform duties under this Contract that involve minors, have provided to the Services Provider:
 - (i) if the personnel is an Australian citizen, evidence that they have obtained a 'working with children' check or certificate from an Australian jurisdiction or equivalent from the Australian Federal Police;
 - (ii) if the personnel is a non-Australian citizen, evidence that they have obtained an equivalent check or certificate in accordance with the relevant child protection laws of the personnel's originating country, such check or certificate to be to the reasonable satisfaction of the Department; or
 - (iii) any other background or personnel check which has been approved in writing by the Department; and

- (h) will comply with any child protection procedure(s) established by the Department, the Services Provider and/or any PNG authorities.

22.3 Documents to be Signed by Services Provider Personnel

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

- (a) Confidentiality Deed Poll in the form of **Schedule 11** (Confidentiality Deed); and
- (b) a Deed of Non-disclosure of Personal Information in the form of **Schedule 12** (Deed of Non-disclosure of Personal Information),

prior to commencing work or performing duties under this Contract.

22.4 Behaviour of Services Provider Personnel at Sites

The Services Provider must ensure that all Services Provider Personnel at a Site carry out their duties and behave in such a way as to maximise the seamless interface between the delivery of the Services and:

- (a) other services provided by other service providers;
- (b) the day-to-day activities of the Department; 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 Services Provider must ensure that its Services Provider Personnel do not include any illegal workers and must notify the Department as soon as reasonably practicable if it becomes aware of any of its Services 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 or PNG;
 - (ii) has lawfully entered Australia or PNG but remains after his or her visa has expired; or
 - (iii) is working in breach of his or her visa conditions.

22.6 Removal of Services Provider Personnel

The Department may, in its absolute discretion, give notice requiring the Services Provider to remove any Services Provider Personnel from work in respect of the Services. The Services Provider must promptly arrange for the removal of such Services 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.

PART 7 – SUBCONTRACTOR ARRANGEMENTS

23. SUBCONTRACTOR ARRANGEMENTS

23.1 Term of Subcontracts

Any subcontract for any part of the Services must contain 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 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;
 - (xii) working with children checks; and
 - (xiii) Transition Out; and
- (b) allow the Services Provider and the Department to publish details of the name of the Subcontractor and the nature of the work subcontracted to it.

23.2 Approval of Major Subcontracts

The Services Provider must not enter into a Major Subcontract without the prior written approval of the Department. Other than to a related body corporate approved by the Department, the Services Provider must not subcontract all of the Services.

23.3 Initial Approved Subcontractors

Initial Approved Subcontractors are specified in **Schedule 7** (Key Personnel and Approved Subcontractors). Subject to the Services Provider complying with clause 23.1(a), the Department is deemed to have provided written approval for the Services Provider to enter

into Major Subcontracts with the Initial Approved Subcontractors in relation to the services described in **Schedule 2 (Statement of Requirement)**.

23.4 Conditions of Subcontracts

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

- (a) ensure that that the Major Subcontract:
 - (i) complies with the requirements in **clause 23.1**; 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.

23.5 Copies of Subcontracts

The Services 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.

23.6 Services Provider Liability and Obligations

- (a) The Department's approval of any Subcontractor does not relieve the Services Provider from any liability or obligation under this Contract.
- (b) The Services 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 Services Provider.
- (c) The Services Provider remains responsible for ensuring that:
 - (i) the work performed by each Subcontractor meets the requirements of this Contract; and
 - (ii) no Subcontractor further subcontracts any work without the prior written approval of the Department.

23.7 Subcontractor Warranty

The Services 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, Local Laws, and standards applicable in PNG and Commonwealth requirements;
- (b) where applicable, meets the requirements of this Contract and Laws; and
- (c) will exercise the standard of skill, care and diligence that would be expected of an appropriately skilled and qualified provider of Services similar to the Services being provided by the Subcontractor.

23.8 Enforcement of Rights Against Subcontractors

The Services Provider will consult with the Department in relation to the enforcement of, or recovery under, the terms of a subcontract that are identified in **clause 23.1**.

23.9 Services Provider to be the Department's Sole Point of Contact

- (a) The Services 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. The Department will inform the Services Provider of such contact, and provide the Services Provider with a copy of any correspondence with the Subcontractor, as soon as reasonably practicable.
- (b) Except as provided in **clause 23.9(a)**, the Services Provider will be the Department's sole point of contact regarding the Services, including with respect to payment.

PART 8 - SITES AND EQUIPMENT

24. LICENCE FOR USE OF SITES, DEPARTMENT EQUIPMENT AND SYSTEMS

24.1 Licence

- (a) The Department grants, and the Services Provider accepts, a fee-free, non-exclusive licence to occupy and use the Sites 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 24**.
- (b) The Services Provider acknowledges and agrees that the licence to occupy and use granted by this clause is personal to the Services Provider and any and all of the rights of the Services Provider rest in contract alone and may not be assigned. The Services Provider agrees that it has no tenancy, estate or leasehold interest in the Sites, Department Assets or Loose Assets. The Services Provider acknowledges that the Sites, Department Assets and Loose Assets remain the property of the Department.
- (c) The Services 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 Sites, 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 Services Provider modify the Sites, Department Assets or Loose Assets to take into account the Department's changing requirements.
- (e) The Department will take all reasonable steps to ensure that the Services Provider can access the benefit of the licence granted under paragraph (a).

24.2 Condition of Sites and Department Assets

- (a) The Services Provider acknowledges having received and understood the Department Asset Register.
- (b) The Sites, Department Assets and Loose Assets are licensed to the Services Provider as is.
- (c) To the extent permitted by Law:
 - (i) the Department provides no warranty as to the actual condition of the Sites, Department Assets and Loose Assets;
 - (ii) the Services 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 Sites, Department Assets and Loose Assets; and
 - (iii) the Department has no liability to the Services 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 Sites, Department Assets or Loose Assets.

24.3 Reserved

24.4 Services Provider Covenants in Relation to the Sites

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

- (a) use the Sites, Department Assets and Loose Assets for the permitted use in **clause 24.1** and for no other use;
- (b) maintain the security of the Sites, Department Assets and Loose Assets and keep them in good order and condition in accordance with the requirements of **Schedule 2** (Statement of Requirement);
- (c) use the Sites, 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 Sites and the health and safety of any person in or adjacent

to the Sites, provided that the Department's instructions and directions are within the scope of Services set out in **Schedule 2** (Statement of Requirement);

- (e) take all reasonable precautions to prevent any damage to any part of the Sites, 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 and the laws of PNG and any orders, directions and demands given by or on behalf of any authority having jurisdiction over the Sites (including but not limited to those in relation to any building requirements, 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 24.1** (including by way of any lien, charge, mortgage or other Security Interest) or allow any other person to use the Sites, 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 Sites, Department Assets or Loose Assets, or to erect any partitions or carry out any building or works whatsoever in or to the Sites without the prior consent of the Department being obtained; and
- (i) allow the Department to affix or cause to be affixed to the Sites such signage or other markings as the Department may think fit indicating that the Site is the property of the Department, and the Services Provider shall not remove or deliberately obliterate, deface or cover such signage or markings.

24.5 Reserved

24.6 Damage to Sites, Department Assets and Loose Assets

- (a) The Services Provider must notify the Department in writing of any loss, destruction, damage to, or defect in, the Sites, Department Assets or Loose Assets (or any part thereof) in accordance with the reporting requirements for **Schedule 2** (Statement of Requirement).
- (b) The Services Provider is responsible for and indemnifies the Department in respect of loss, destruction, damage to the Sites, Department Assets or Loose Assets in accordance with **clause 56**.

25. DEPARTMENT ASSETS AND LOOSE ASSETS

25.1 Management of Assets

- (a) The Services Provider is responsible for the Maintenance, management and disposal of Department Assets and Loose Assets in accordance with **Schedule 2** (Statement of Requirement).
- (b) The Services 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 Services Provider will seek the Department's written approval prior to replacing the relevant asset. If the Services 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 Services 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 Services Provider to purchase the Loose Asset, which cost will be recoverable by the Services Provider as a Pass Through Cost.
- (e) The Services Provider acknowledges that any Department Asset or Loose Asset that is repaired or replaced in accordance with this **clause 25** will remain the property of the Department or will immediately become so upon its replacement, as the case may be.

26. SERVICES PROVIDER ASSETS

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

27. ACCESS TO SITES

- (a) The Services Provider must (as an incorporated component of the Services Fee) at all times, with or without notice, provide access to any part of the Sites to Department Personnel, the Commonwealth and Immigration Ombudsman, the Australian Human Rights Commission, the Auditor-General and the Privacy Commissioner, and any persons that are required for the ongoing operation, maintenance and upkeep of the Sites and welfare of the Residents.
- (b) Subject to their compliance with any applicable security requirements contained in **Schedule 2** (Statement of Requirement), the Services Provider must facilitate access to the Sites 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.

PART 9 - PERFORMANCE MANAGEMENT

28. PERFORMANCE MEASURES

28.1 Purpose of Performance Measures

The Services Provider acknowledges and agrees that:

- (a) the purpose of the Performance Measures in **Schedule 4** (Performance Management Framework) is to:
 - (i) provide the Services 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 Services Provider in the provision of the Services, which, if not achieved, may result in an Abatement of the Services Fee;
- (b) the Performance Measures may be adjusted in accordance with **clause 52.6**;
- (c) except as provided in **clause 52.6** and subject to **clause 12.2**, the Services 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 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 Performance Measures notwithstanding any such delay, disruption, event or circumstance; and
- (d) it must provide Reports on its performance against Performance Measures to the Department at the frequency and in the manner detailed in **Schedule 4** (Performance Management Framework).

28.2 Abatements Regime

- (a) The Services Provider acknowledges and agrees that the Department will suffer loss as a result of the Services Provider's failure to meet Performance Measures. The Services 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. The Services Provider acknowledges and agrees that:
 - (i) Failure to meet the agreed Performance Measures will, to the extent that the failure is not caused or contributed to by the Department, result in Abatements;
 - (ii) the application of any Abatements may result in a reduction of the Services Fee payable to the Services Provider for the Services, in

accordance with **Schedule 4** (Performance Management Framework);
and

- (iii) reduction to the Services Fee will be considered on a monthly basis. The decision to apply an Abatement, and the amount of such Abatement, will, subject to clause 28.4, be determined in accordance with **Schedule 4** (Performance Management Framework).

28.3 Process for Measuring Performance Against Performance Measures

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

29. RESERVED

29.1 Reserved

30. RESERVED

PART 10 – CHANGE MANAGEMENT / CHANGE CONTROL

31. RESERVED

32. ADDITIONAL SERVICES

32.1 Reserved

32.2 Additional Services Required by the Contract Administrator

The Contract Administrator may from time to time give a written notice requiring that the Services Provider provide Additional Services and the Services Provider must, to the extent the Services Provider is able to provide such Additional Services, supply them to the Department from the date specified in the notice (with such date to be agreed between the parties and to be a reasonable period of time after the date of the notice). Additional Fees will be payable for such Additional Services calculated in accordance with **Schedule 3** (Fees and Payments).

32.3 Reserved

32.4 Reserved

32.5 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 Services Fee.

- (b) The Contract Administrator will update the **Schedule 2** (Statement of Requirement) and, where appropriate, **Schedule 3** (Fees and Payments) 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).

32.6 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 Requirement) as at the date of the request for Additional Services or which have been added to the **Schedule 2** (Statement of Requirement) pursuant to **clause 33**, nor anything required to remedy any failure by the Services Provider to perform those Services; and
- (b) unless otherwise agreed by the Parties under this **clause 32**, do not affect the Services Provider's obligations to provide the Services in accordance with this Contract.

33. CONTRACT CHANGE PROCEDURE

33.1 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 32**), the Department must do so under the terms of this **clause 33**. The change when approved under this clause will be a Contract Change.

33.2 Notification.

- (a) If the Department at any time wishes to vary this Contract, the Contract Administrator will notify the Services 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.

33.3 Services Provider Obligations

- (a) As soon as practicable after receipt of the Contract Change Notice, but in any event within 10 Business Days, the Services Provider must provide the Contract Administrator with a written proposal signed by the Services Provider Contract Administrator (the **Contract Change Proposal**), setting out:
- (i) details of the proposed Contract Change and its extent and its impact of 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 Services Provider proposes to implement;
 - (iii) the time within which the Services 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 Services Fee which the Services 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 Services Provider as a result of the Contract Change Proposal certified by an accountant independent of the Services Provider declaring:
 - (A) the Contract Change Proposal and its implementation cannot be accommodated within the existing Services Fee; and
 - (B) the accuracy of the financial information provided to the Department.
 - (vii) details of the review the Services Provider has undertaken to allow the Contract Change Proposal to be accommodated within the existing requirements of this Contract, including the Services Fee;
 - (viii) any reduction to the Services Fee (if any) which the Services Provider proposes as a result of the Contract Change Notice, in order to reflect all cost savings to the Services Provider resulting from any changes to the Services Provider's then current arrangements or operations for the provision of the Services;
 - (ix) the adjustments (if any) to the Performance Measures which the Services 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 65.4**.

- (b) The Contract Change Proposal must contain a full cost breakdown and a warranty from the Services Provider that all costs are reasonable and percentage profit does not exceed that used in the original Services Fee and take account of any savings on other aspects of the Services affected by the Contract Change Proposal. The Services Provider must give the Department's financial representatives full access to the Services Provider's financial records to investigate the reasonableness of proposed changes to the Services Fee. Such information will be treated as strictly confidential.

33.4 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 Services Provider.

33.5 Acceptance

The Department may:

- (a) accept the Contract Change Proposal by having it signed by the Contract Administrator and sending a copy to the Services Provider;
- (b) reject the Contract Change Proposal by notice in writing to the Services 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 62**; or
- (d) withdraw the Contract Change Notice.

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

33.6 Implementation

If:

- (a) the Department accepts the Contract Change Proposal; or
- (b) the Department and the Services 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 62** 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 14** (Change Control);

- (e) the Services 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 62** unless, in the case of the latter, the Contract Change Notice is withdrawn; and
- (f) the 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.

33.7 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 14** (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 –SERVICES FEE

34. SERVICES FEE

34.1 Obligation to Pay the Services Fee

Subject to this Contract, and in consideration of the Services Provider performing its obligations under this Contract, the Department agrees to pay the Services Fee to the Services Provider in accordance with **Schedule 3** (Fees and Payments).

34.2 Reserved

34.3 Month to Month Adjustment of Services Fee

When making payment of the 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 28.2**;
- (b) the withholding by the Department of an invoiced amount which is in dispute, in accordance with **clause 36.3**;
- (c) the off-setting by the Department of an underpayment or overpayment which resulted from the Services Provider providing an incorrect invoice, in accordance with **clause 36.4**;
- (d) adjustments required in accordance with **Schedule 3** (Fees and Payments);

- (e) the suspension of obligations following a Force Majeure Event in accordance with **clause 52.9**;
- (f) any Services which were not provided as a result of an Incident in accordance with **clause 53.3(c)**; and
- (g) any other right allowed to the Department under the terms of this Contract.

35. PAYMENTS TO THE SERVICES PROVIDER

35.1 Timing of Payments

The 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 36**.

35.2 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.

35.3 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.

36. INVOICES

36.1 Timing of Invoices

The Services Provider must invoice the Department monthly in arrears for the Services Fees, Pass Through Costs, Additional Fees and any other amounts payable to the Services Provider under this Contract and deliver the invoices in the manner and at the frequency specified in this **clause 36**.

36.2 Form of Invoice

An invoice must:

- (a) include all of the details referred to in **Schedule 3** (Fees and Payments) and be provided to the Department in accordance with **Schedule 3** (Fees and Payments); and

- (b) be provided to the Department within 10 Business Days of the last day of the month to which the invoice relates.

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

36.4 Incorrect Invoices

If an invoice is found to have been rendered incorrectly, any underpayment or overpayment will be recoverable by or from the Services 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 Services Provider. In such circumstances the Services Provider must provide to the Department a correctly rendered tax adjustment note.

36.5 Late Invoicing

No invoices submitted more than three (3) 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. This **clause 36.5** does not apply to the extent an invoice that has been reissued following the resolution of a dispute under **clause 36.3**.

37. RIGHT OF THE DEPARTMENT TO RECOVER MONEY

37.1 Deductions

Without limiting the Department's rights under any provision of this Contract, any payment or debt owed by the Services Provider to the Department under this Contract that has not already been properly recovered by the Department from the Services Provider 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 Services 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 Services Provider; or
- (b) any security under **clause 60** or a guarantor under a performance guarantee issued under **clause 61**.

For the purposes of **clause 37.1** the Department may only draw upon any security under **clause 60** or a guarantor under a performance guarantee issued under **clause 61** where the amount owing from any claim for the cost of the Services is insufficient to meet the Department's demand.

37.2 Notice of Deductions

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

38. TAXES AND DUTIES

38.1 Taxes and Duties Generally

Subject to **clause 38.2**, all government, local government and semi-governmental taxes, duties and charges imposed or levied in Australia, PNG or overseas in connection with this Contract will be borne by the Services Provider and are included within the Services Fee and other rates and fees specified in **Schedule 3** (Fees and Payments).

38.2 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 Services Fee, Pass Through Costs, Transition Costs, Additional Fees and all other payments and fees specified in **Schedule 3** (Fees and Payments) are exclusive of GST.
- (d) Notwithstanding **clause 38.2(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

39. ACCOUNTS AND RECORDS

39.1 Accounting

- (a) The Services 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 Services 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 Services Fee, Pass Through Costs and Additional Fees. Such accounts and Records must:
 - (i) include the matters specified in **Schedule 2** (Statement of Requirement);
 - (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 39.1(c)**;
 - (vii) in the case of any Services performed on a time and materials or cost plus basis, identify the time spent by Services 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 39** 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.

39.2 Open Book Accounting

The Services Provider must:

- (a) maintain accounts, transaction information and source documents, financial systems and Records, business records and other information and Material of the Services Provider that is held in respect of the Services on an open book and stand-alone basis;
- (b) make the accounts referred to in **clause 39.2(a)** available for inspection at any time by the Department;
- (c) provide all reasonable assistance that the other Party or its agents may reasonably require in respect of access in accordance with this **clause 39.2**, including explanation of systems, policies, procedures or record keeping; and
- (d) 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.

39.3 Reserved

39.4 Reserved

39.5 Records Regarding Location of Department Assets

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

40. AUDIT REQUIREMENTS

40.1 Subject of Audits

An audit of part or all of this Contract under **clause 40.2** may be conducted at any time by the Department or its nominee. These audits may include:

- (a) the Services Provider's operational practices and procedures as they relate to this Contract, including security procedures;
- (b) the efficiency of the Services Provider's operations in relation to the provision of the Services under this Contract;
- (c) the accuracy of the Services Provider's invoices and Reports in relation to the provision of the Services and the calculation and payment of the Services Fee, Pass Through Costs or Additional Fees under this Contract;
- (d) the Services Provider's costs during any ramp-up or ramp-down period following the activation or deactivation of a Site or the provision of any Additional Services;
- (e) the Services Provider's compliance with the applicable Laws, Government Policies, Department-specific policies and Local Laws;
- (f) the Services 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 and compliance with the Contract.

40.2 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 Services 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 Services 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 41.1(b)**, the requirement for, and participation in, audits does not in any way reduce the Services 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 Services 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.

41. ACCESS TO THE SERVICES PROVIDER'S PREMISES AND RECORDS

41.1 Grant of Access

- (a) For the purposes of **clauses 40.2** and **41**, the Services Provider must, and must ensure that its Subcontractors, grant the Department and its nominees access as required by the Department, to:
- (i) the Services Provider's and its Subcontractors' 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 Services 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 41.1(a)**, the Department must use reasonable endeavours not to interfere with the Services Provider's performance under this Contract in any material respect.

41.2 Sites and Facilities to be Made Available

In the case of documents or Records stored on a medium other than in writing, the Services 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.

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

- (a) Subject to **clause 40.2(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 Services Provider;
 - (ii) contact and engage with the Services Provider and Services Provider Personnel;

- (iii) require the provision by the Services Provider and Services Provider Personnel 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 Services Provider's obligations or performance of this Contract, however stored, in the custody or under the control of the Services Provider and Services Provider Personnel.
- (b) The Services Provider must, and must ensure that Services 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.

41.4 Survival of Clause

This **clause 41** applies for the Term and for a period of seven years from the date of its expiration or termination.

PART 13 – INFORMATION MANAGEMENT

42. INTELLECTUAL PROPERTY

42.1 Intellectual Property Rights

- (a) Intellectual Property rights over any Contract Material and Department Material vest immediately upon its creation in the Department.
- (b) The Services 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 Services 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 Services Provider Material does not in any way affect the ownership of any Intellectual Property rights in the Services Provider Material.

42.2 Grant of Licences

- (a) The Services Provider grants to the Department a royalty-free, irrevocable, world-wide, perpetual, non-exclusive licence, including the right to sublicense, to exercise all Intellectual Property rights in any Services Provider Material, including any information technology supplied by the Services Provider, in conjunction with any Contract Material.
- (b) The Services Provider shall obtain from any relevant person, permission to use any and all Intellectual Property which may be required in order for the Services Provider to perform the Services. Such permission to use Intellectual Property shall include all necessary licences and other government approvals.
- (c) The Services Provider must ensure that the Department is granted a licence from any Subcontractor on the same terms as **clause 42.2(a)**.
- (d) The Department grants the Services Provider for the Term a royalty-free, world-wide, non-exclusive licence, including the right to sublicense, to exercise all 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.

42.3 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.

42.4 Intellectual Property Warranty

The Services 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 Services Provider to the Department pursuant to this Contract does not and will not infringe the Intellectual Property rights of any person.

42.5 Intellectual Property Indemnity

- (a) The Services 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 Services Provider of the warranty in **clause 42.4**.
- (b) For the purposes of **clause 42.5(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.

42.6 Survival of Clause

This **clause 42** survives the expiration or termination of this Contract.

43. SERVICES PROVIDER'S CONFIDENTIAL INFORMATION

43.1 Protection of Services Provider's Confidential Information

- (a) The Department will take all reasonable steps to ensure that it does not make public or disclose the Services Provider's Confidential Information listed in **Schedule 10** (Confidential Information).
- (b) This clause does not prevent the Department from disclosing any information provided by the Services 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 Services Provider's Confidential Information is disclosed pursuant to **clause 43.1(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 Services Provider's Confidential Information.

44. DEPARTMENT INFORMATION

44.1 Protection of Department Information

The Services Provider must not, and must ensure that its Services Provider Personnel do 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) this Contract, including the Schedules and Attachments; or
- (d) any Department Confidential Information which is provided pursuant to this Contract,

without the prior written approval of the Contract Administrator.

44.2 Provision of Department Information to Services Provider Personnel and Subcontractors

- (a) The Services Provider must not permit any Services Provider Personnel to have access to the Department's Confidential Information until such time as that Services Provider Personnel 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 Services Provider to provide the original version of any undertaking signed by Services Provider Personnel in accordance with **clause 22.3**.
- (c) The Services 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 Services 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 as soon as reasonably practicable if the Services Provider becomes aware of:
 - (A) any actual, suspected or likely breach by the Services Provider of this **clause 44**; or

- (B) any actual, suspected, likely or threatened theft, loss, damage or unauthorised access, modification, use or disclosure of any Department Confidential Information.

44.3 Reserved

44.4 Scope and Survival of Confidentiality Obligations

- (a) The obligations of the Parties under **clauses 43 and 44** 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 Services 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 44.4(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 44.4(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 43 and 44** continue, notwithstanding the expiry or termination of this Contract.

- (e) For the avoidance of doubt, nothing in **clauses 43 and 44** derogates from any obligation which the Services Provider may have either under the Privacy Act or under this Contract in relation to the protection of Personal Information, as defined in that Act.

45. PRIVACY

45.1 Definitions

The following definitions apply to and are used in this **clause 45**:

- (a) **Permitted Purpose** means a purpose for which the Services Provider may collect, use, disclose, store or handle Personal Information as specified or contemplated in this Contract;
- (b) **Personal Information** means information or an opinion about an identified individual or an individual who is reasonably identifiable: (i) whether true or not, and (ii) whether recorded in a material form or not. Personal Information includes Health Care Records;
- (c) **Privacy Act** means the *Privacy Act 1988* (Cth);
- (d) **Privacy Legislation** means the Privacy Act and any other privacy or records legislation applicable to the performance of this Contract by the Services Provider; and
- (e) **Sensitive Information** has the same meaning as the Privacy Act.

45.2 Privacy Obligations

The Services Provider must:

- (a) comply with the Australian Privacy Principles set out in the Privacy Act with respect to any act done or practice engaged in by the Services 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 Services 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, security, access, alteration, use or disclosure of Personal Information.

45.3 Permitted Disclosures

- (a) The Services Provider must not disclose any Personal Information 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 Services Provider's obligations of confidence do not apply to any Personal Information that the Services 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 45.3(b)**, the Services Provider must:
- (i) as soon as reasonably practicable 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 to the extent legally required;
- (B) use its best endeavours to ensure that any Personal Information is kept confidential; and
- (C) follow any reasonable directions of the Department concerning the disclosure.
- (d) The Services Provider must:
- (i) obtain and maintain all necessary consents from the individuals to whom the Personal Information relates which are necessary for the Services Provider and Department to perform their obligations and comply with Privacy Legislation;
- (ii) provide such notification to the relevant individual as are required under Privacy Legislation to ensure that the individual is aware that his/her Personal Information will be disclosed to the Department, any

Government Agency and contractors of the Department of any Government Agency (including the Successor);

- (iii) ensure all Personal Information provided to the Department is accurate, up-to-date and relevant.

45.4 Permitted Uses

The Services Provider must not use any Personal Information, 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.

45.5 Copies and Other Records

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

45.6 Security

The Services Provider must, at its cost:

- (a) take all reasonable steps to ensure that the Personal Information and all Records of it are kept under the Services 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 as soon as reasonably practicable if the Services Provider becomes aware of:
 - (i) any actual, suspected or likely breach by the Services Provider of this **clause 45** 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.

45.7 Information Commissioner and the Privacy Commissioner

- (a) The Services Provider is to advise the Contract Administrator within two (2) Business Days of it becoming aware of the Information Commissioner or Privacy Commissioner initiating any action under the Privacy Act relevant to the Services 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 Services Provider or a Subcontractor;
 - (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 Services Provider's or a Subcontractors' premises; and
 - (iv) an injunction against the Services Provider or a Subcontractor being sought by the Information Commissioner or Privacy Commissioner.
- (b) The Services Provider must cooperate with any reasonable demands or inquiries made by the Information Commissioner or Privacy Commissioner.
 - (c) The Services 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 Services 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 Services 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 Services Provider's cost, comply with the determination on the Services Provider's behalf.

45.8 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 Services Provider must as soon as practicable, at its cost:

- (d) stop using and disclosing any Personal Information; 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 (whether prepared by or for the Services Provider or the Department or any other person) in the possession, custody or control of the Services Provider or any person to whom it has given access to these Records, whether or not in accordance with this Contract.

45.9 Subcontractors' Compliance

The Services Provider must ensure that its Subcontractors comply with the provisions of clause 46.

45.10 No Release

The Services Provider's compliance with this **clause 45** does not release it from any of its other obligations under this Contract or otherwise.

45.11 Indemnity

The Services 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 45**.

45.12 Survival of Obligations

The provisions of this **clause 45** survive the termination or expiration of this Contract.

46. RECORDS MANAGEMENT

46.1 Commonwealth Records

- (a) The Services 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 Services 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 Services 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 Services 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 Services Provider, the Services 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 Services Provider must comply with any direction given by the Department for the purpose of transferring Commonwealth Records to the Department.
- (g) The Services Provider must adhere to any moratoria or records disposal freezes issued by the Department or the National Archives of Australia.
- (h) The Services Provider must comply with any other directions concerning records management given by the Department.

47. DATA SECURITY

47.1 Acknowledgement

The Services 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.

47.2 Use of Department Data

The Services 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 44**;
- (c) keep any 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 Services Provider in respect of Services 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 Requirement);
 - (B) obligations of confidentiality and security under **clause 44**; and
 - (C) all Laws.

47.3 Compliance with Security Requirements

The Services 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 as soon as reasonably practicable and comply with all directions of the Department if the Services Provider becomes aware of any contravention of Commonwealth or Departmental data security requirements.

47.4 Records

- (a) The Services Provider must keep full and accurate Records of the location of all Department Data and must include in the reports referred to in **clause 39** sufficient information to ensure the Department is kept fully informed about the nature and location of any database containing Department Data.
- (b) The Services Provider must, on request by the Department at any time, provide to the Department any Department Data which relates to Residents, which Data may be used, copied, modified or disclosed for Department purposes.

48. PROVISION OF INFORMATION

48.1 Sharing of Information

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

48.2 Department's Nominated Information Technology System

- (a) The Department may, at any time and in its absolute discretion, provide certain Services 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 Services 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 Services Provider Personnel obtain a higher level of security clearance than that required under **Schedule 2** (Statement of Requirement) prior to providing access to a part of the Department's nominated information technology system. The Services Provider must ensure that Services 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 Services Provider.

- (c) The Services 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.
- (d) 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 Services 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.

49. RESERVED

50. ARCHIVES ACT

- (a) The Services Provider must at all times comply with the requirements of the *Archives Act 1983* (Cth) relating to the Services Provider's dealing with Commonwealth Records (as that phrase is defined in the *Archives Act 1983* (Cth)).
- (b) Without limiting the obligation in **clause 50(a)**, the Services 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.

51. PUBLICITY, MEDIA AND EXTERNAL RELATIONSHIP MANAGEMENT

51.1 Publicity and Media to be Managed by the Department

- (a) The Services 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 Residents, or the relationship or issues between the Services 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.

51.2 Services Provider Not to Make Public Statements

The Services Provider must not, and will ensure that its Personnel and Subcontractors 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 (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 by this Contract or the Law;
- (j) to the minimum extent necessary to fulfil the Services 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

52. FORCE MAJEURE

52.1 Time is of the Essence

The Services Provider acknowledges and agrees that time is of the essence with respect to the provision of Services under this Contract. In the instance of an actual or threatened Force Majeure Event, the Services Provider agrees to take all precautions, measures and actions reasonably within the Service Provider's control to:

- (a) avoid any delay or failure to carry out any obligations under this Contract; and
- (b) remedy the effects of a Force Majeure Event promptly and mitigate any loss suffered as a result of the Services Provider's failure to carry out any obligations under this Contract (including by the expenditure of funds).

52.2 Force Majeure Notice

If the Services 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 Services 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 (or if not possible, as soon as reasonably practicable) of becoming so aware.

52.3 Suspension Notice

In addition to any notice given under **clause 52.1**, the Services 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 the following details to the best of the Service Provider's reasonable knowledge at the time the notice is given:

- (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.

52.4 Management of Force Majeure Event

- (a) The Services Provider must comply with all reasonable directions of the Contract Administrator or Department Regional Manager in relation to the Force Majeure Event, or the effects of the Force Majeure Event so long as such directions are not inconsistent with this Contract. The parties acknowledge that any requirement to take action beyond the scope of the Services under the contract will be Additional Services and **clause 32** will apply.
- (b) Subject to **clause 52.4(a)**, the Services 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 Performance Measures as a result of the Force Majeure Event.

52.5 Meeting Between the Parties

- (a) 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.
- (b) If the Force Majeure Event is an event falling within paragraph (c) of that definition, the Services Provider agrees to cooperate and coordinate with the Department as reasonably necessary to facilitate the carrying out of any necessary expedited evacuation of some or all of the Residents, or any other arrangements which are determined to be reasonably necessary by the Department in the circumstances.

52.6 Suspension of Obligations

- (a) Subject to **clause 52.10**, if the Services 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 Services 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 52.6(a)** the Services 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 Services Provider's performance against any relevant Key Performance Indicator,

providing that the Services Provider has complied fully with the requirements of this **clause 52** 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.

52.7 Termination

The Department may terminate this Contract in accordance with **clause 64.3(i)**.

52.8 Services Provider Must Update Contract Administrator

- (a) The Services 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 Services 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 Services Provider's obligations.
- (b) The Services Provider must give notice to the Contract Administrator as soon as reasonably practicable 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.

52.9 Alternative Supply and Fee Reduction

During the suspension of any obligation, whether due to the occurrence of a Force Majeure Event or due to the exercise by the Department of its Step-in Rights (for whatever reason), 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 Services Provider; and

- (b) reduce the Services Fee to exclude any amount otherwise payable for the suspended obligation.

For the avoidance of any doubt, the Services Provider has no liability for the provision of any Services in relation to which the Department has exercised its Step-in Rights or for which the Contract Administrator has made alternative arrangements for the performance of the Services or in respect of which the obligation to provide the Services has been suspended in accordance with this clause.

52.10 Payments, Unconditional Financial Undertaking and Performance Guarantee

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

53. INCIDENTS

53.1 Incident Prevention

- (a) The Services Provider must take actions reasonably within its control to prevent Incidents from occurring.
- (b) The Services 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 (as far as reasonably possible) 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 (as far as possible) the interests of the Department.

53.2 Notification of Incidents

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

- (a) as soon as reasonably practicable 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.

53.3 Incident Response and Management

- (a) The Services Provider must ensure that all resources and expertise as identified in the Incident Management Protocol in **Schedule 2** will be rapidly marshalled and effectively deployed, coordinated and managed so as to protect the interests of the Department. The Services Provider must ensure that safety, environment protection and security are a priority concern in the Incident response.
- (b) In managing any Incident, the Services 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 Residents and other people located in and around the Site;
 - (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 Site; and
 - (v) minimise damage to the Site.
- (c) During and after an Incident, the Department will continue to pay the Services Fee to the extent the Services continue to be provided by the Services Provider in accordance with this Contract. Except as expressly provided in this Contract, the Services Provider is responsible for all costs of and incidental to the management and operation of the Site including the provision of the Services during and after an Incident.

53.4 Joint Development of Incident Management and Response Policies

The Services 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 Services 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 Services Provider's operations; and
- (e) promptly advise the Department of any matter, fact or circumstance that the Services 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.

54. STEP IN RIGHT

54.1 Step-in

- (a) At any time if:

- (i) a Default occurs (whether or not the Services Provider has notified the Contract Administrator of that Default) in relation to this Contract;
- (ii) the Department is entitled under **clause 64** to terminate this Contract; or
- (iii) 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 Services Provider, arrange for the Department or a third party to perform such suspended service or otherwise intervene in the management of a Site by giving written notice to the Services Provider (**Step-in Right**).

- (b) The Department's Step-in Right will continue until the Department notifies the Services Provider that it no longer wishes to exercise its Step-in Right.
- (c) The exercise by the Department of its Step-in Right (or the cessation of such exercise) will not affect any other right of the Department under this Contract.
- (d) The Services Provider must cooperate with the Department during a period where the Department has exercised its Step-in Right including without limitation:
 - (i) by ensuring compliance by the Services Provider Personnel with all directions given by the Department;
 - (ii) by granting such access rights as are necessary and take all action that is necessarily required by the Department to assist the Department in exercising its rights under this **clause 54.1**;
 - (iii) provide sufficient resources, including personnel to assist the Department in exercising its rights under this **clause 54.1**; and
 - (iv) not do anything to hinder, disrupt or prevent the Department in exercising its rights under this **clause 54.1**.
- (e) Nothing in this **clause 54.1** obliges the Department to exercise the powers given under this **clause 54.1**.
- (f) If the exercise of the Step-in Right was not due to a breach or wrongful act or omission of the Services Provider, the Services Provider will be entitled to payment of any costs necessarily incurred as a result of compliance with its obligations under this **clause 54.1**.
- (g) If the exercise of the Step-in-Right was due to a breach or wrongful act or omission of the Services Provider, the Services Provider:
 - (i) will be not entitled to payment of any costs necessarily incurred as a result of compliance with its obligations under this **clause 54.1**.; and
 - (ii) must pay to the Department on demand the costs of all steps taken by the Department pursuant to its Step-in Right.

- (h) The Department may suspend payment of Services Fees (or part thereof) for the duration that the Services have been suspended pursuant to this **clause 54.1**.
- (i) The Department is not obliged to remedy any breach or to overcome or mitigate any risk or risk consequences, in connection with which the Department has exercised its Step-in Right.
- (j) The Services Provider will not be entitled to make any claim against the Department arising in connection with the exercise by the Department of its Step-in Right except:
- (i) as contemplated by **clause 54.1(f)**;
 - (ii) where the Department has acted fraudulently or in bad faith; or
 - (iii) where in the course of exercising its Step-in Right, the Department has acted negligently.
- (k) If the Department ceases to exercise its Step-in Right in accordance with this **clause 54.1**, then subject to **clause 52**, the Services Provider must as soon as reasonably practicable recommence performing any obligations suspended due to the exercise by the Department of that Step-in Right and the Department must give reasonable assistance to the Services Provider to ensure that this process of transition is effected as smoothly as possible.
- (l) In addition to the rights in this **clause 54.1**, the Department may alternatively exercise its rights in accordance with **clause 67** if:
- (i) a Default occurs (whether or not the Services Provider has notified the Contract Administrator of that Default); or
 - (ii) the Department is entitled under **clause 64** to terminate this Contract.

PART 15 – REPRESENTATIONS AND WARRANTIES

55. WARRANTIES

55.1 Services Provider Warranties

The Services Provider warrants that:

- (a) the Services are fit for their intended purpose;
- (b) the Services Provider's Personnel and subcontractors have the necessary and appropriate registrations, accreditations, qualifications, professional association or scheme memberships, skills, training and experience to provide Services to Residents;
- (c) the Services comply with all representations made to the Department (whether made by the Services Provider before or after the Commencement Date) in relation to the standard, quality or timing of the Services;

-
- (d) the Services Provider procures and retains all necessary registrations, licenses, permissions, approvals and accreditations specified in **Schedule 2** (Statement of Requirement) or that might be reasonably expected of a provider of the Services;
- (e) **(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;
- (f) **(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;
- (g) **(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;
- (h) **(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);
- (i) **(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;
- (j) **(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;

(k) **(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;

(l) **(no unpaid employee entitlements)** the Services Provider and its Subcontractors do not have any unpaid claims in respect of judicial decisions made against the Services Provider or its Subcontractors relating to employee entitlements;

(m) **(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 Services Provider),

as at the Commencement Date or, if given later, when given;

- (n) **(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;
- (o) **(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;
- (p) **(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;
- (q) **(no security interest)** it will not create or permit to exist, and will ensure that none of its subsidiaries creates or permits to exist, any Security Interest over any of its property, other than a Permitted Security Interest;

- (r) **(no trust)** it is not entering into this Contract as trustee of any trust or settlement; and
- (s) **(anti-corruption)** it will comply with Anti-Corruption Laws and any anti-bribery and corruption Department-specific Policies, and will not, whether directly or through its Personnel and Subcontractors, (i) cause the Department to violate them; or (ii) otherwise damage the Department's reputation.

55.2 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.

55.3 Reliance on Representations and Warranties

The Services 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.

55.4 No Representations by the Department

- (a) Subject to paragraph (b), the Services Provider acknowledges that it has not relied and will not rely on any statement made by or on behalf of the Department prior to the execution of this Contract in deciding to enter into this document or to exercise any right or perform any obligation under it.
- (b) The Services Provider is entitled to rely on, and shall rely on as an inducement to enter into this Contract:
 - (i) any written statement made by or on behalf of the Department;
 - (ii) any written acknowledgement by the Department of any written statement of the Services Provider.

PART 16 – INDEMNITY AND INSURANCE

56. INDEMNITY

56.1 Indemnity

The Services Provider indemnifies the Department from and against any Loss arising directly out of, or as a direct consequence of, any of the following:

- (a) death, or bodily injury, disease or illness (including mental illness) of any person, including Residents;
- (b) Loss of or damage to property of the Department (including Sites, Department Assets or Loose Assets); and
- (c) Loss of or damage to property of a third party, including Residents;

to the extent such Loss was caused by:

- (d) any negligent act or omission, Wilful Default, or breach of Law, on the part of the Services Provider, Services Provider Personnel and/or Subcontractors; or
- (e) any breach by the Services Provider of its obligations or warranties under this Contract.

56.2 Non-exclusive Remedy

The right of the Department to be indemnified under **clause 56.1** is in addition to, and not exclusive of, any other right, power or remedy provided by Law, but the Department is not entitled to be compensated in excess of the amount of the relevant cost, liability, loss, damage, or expense or to be compensated more than once in respect of the same matter.

56.3 Meaning of "the Department" in this Clause

The Services Provider acknowledges and agrees that:

- (a) in this **clause 56**, "the Department" includes officers, employees, agents and contractors (other than the Services Provider) of the Department; and
- (b) the Department may enforce the indemnity on behalf of those persons referred to in **clause 56.3(a)**.

56.4 Survival of this Clause

This **clause 56** will survive for the period of seven (7) years following the expiration or termination of this Contract. The expiry of the seven (7) year period will not affect any other right, power or remedy provided by Law to the Department.

57. LIMITATION OF LIABILITY

57.1 Limitation of Services Provider liability

- (a) Notwithstanding any other provision of this Contract but subject to paragraph (b), the Services Provider's total Aggregate Liability to the Department under this Contract is limited to:
 - (i) the amount of insurance proceeds recovered by the Services Provider in respect of the relevant liability that is the subject of a policy of insurance required to be effected pursuant to **clause 59**; and
 - (ii) **s. 47G(1)(a) (Limitation of Liability)**.
- (b) If the Services Provider is liable to the Department for a loss that is the subject of the Limitation of Liability, the Services Provider must promptly make a claim on any applicable insurance policy effected pursuant to **clause 59** and diligently pursue indemnity for the liability from the insurer and compensate the Department by using all amounts paid out by its insurer for the liability and by paying any retention, excess or deductible amount.

- (c) The Limitation of Liability does not limit recourse by the Department against the Services Provider for any loss suffered by the Department to the extent that in the absence of paragraph (a) the Services Provider would be entitled to an indemnity from an insurer under a policy of insurance required by this Contract.

57.2 Exclusions to Limitation of Liability

The Limitation of Liability shall not apply to the extent that:

- (a) the relevant liability arises as a direct consequence of any wilful, reckless, fraudulent or unlawful act or omission of the Services Provider; or
- (b) the Services Provider is not indemnified under any insurance policy required by effected pursuant to **clause 59** due to a failure by the Services Provider to take out or maintain, or any breach by the Services Provider of the terms and conditions of, the relevant insurance policy.

58. PROPORTIONATE REDUCTION OF LIABILITY

58.1 Proportionate Reduction of Services Provider Liability

The Services Provider's liability under any indemnity in this Contract or for any common law or statutory cause of action arising out of the operation of this Contract, other than any liability arising as a result of the performance of any Services reliant on authorisation or delegation under Local Law or any exercise or purported exercise of powers or action taken or purported to have been taken by the Services Provider or Services Provider Personnel under such delegation or authorisation relevant to those Services, will be reduced proportionately to the extent that any breach of this Contract by the Department or any negligent act or omission on the part of the Department or Department Personnel contributed to the relevant Loss.

58.2 Proportionate Reduction of Department Liability

The Department's liability for any common law or statutory cause of action arising out of the operation of this Contract will be reduced proportionately to the extent that any breach of this Contract by the Services Provider or any act or omission on the part of the Services Provider contributed to the relevant Loss.

58.3 Survival of this Clause

This **clause 58** will survive for the period of seven (7) years following the expiration or termination of this Contract. The expiry of the seven (7) year period will not affect any other right, power or remedy provided by Law to the Department.

59. INSURANCE

59.1 Services Provider Must Insure

The Services Provider must effect and maintain, or cause to be effected and maintained, the insurances as specified in **Schedule 13** (Insurance) on reasonable terms (including as to

levels of excess or deductibles) set out in this Contract or otherwise agreed between the parties.

59.2 Duration of Insurance

The Services Provider must ensure that each of the insurances required by **clause 59.1** is maintained from the Commencement Date until the earlier of the performance of all Services or the termination of this Contract, except for professional indemnity insurance which must be maintained for at least seven (7) years following the completion of all Services.

59.3 Reputable and Solvent Insurer

The Services Provider must ensure that each of the insurances required by **clause 59.1** (except statutory insurances) is taken out with reputable solvent insurers licensed, registered and/or approved with Australian Prudential Regulatory Authority (APRA).

59.4 Terms of Insurance

- (a) The Services Provider must ensure that the insurance required by **Section (g) of Schedule 13 (Insurance)** is effected for the benefit of the Services Provider and another party, for their respective rights and interests and includes:
- (i) a non-imputation clause, whereby the insurer agrees that any failure by any insured to observe and fulfil the terms of the policy or to comply with the terms of the policy or to comply with the insured's duty of disclosure does not prejudice the interests of any other insured; and
 - (ii) a clause whereby notice of a claim given to the insurer by any insured will be accepted by the insurer as notice of a claim given by all the insureds.
- (b) The Services Provider must ensure that the insurance required by **Section (a) of Schedule 13 (Insurance)** is effected in the name of the Services Provider and Services Provider Personnel, and the Department and includes:
- (i) a cross liability clause, whereby the insurer agrees that the policy shall be construed as if a separate and distinct policy has been issued to each insured;
 - (ii) a waiver of subrogation clause, whereby the insurer agrees to waive all rights of subrogation, remedies or action to which it might become entitled by subrogation, contribution or assignment, against all or any of the persons comprising the insureds;
 - (iii) a non-imputation clause, whereby the insurer agrees that any failure by any insured to observe and fulfil the terms of the policy or to comply with the terms of the policy or to comply with the insured's duty of disclosure does not prejudice the interests of any other insured; and

- (iv) a clause whereby notice of a claim given to the insurer by any insured will be accepted by the insurer as notice of a claim given by all the insureds.

59.5 Copies of Insurances and Certificates of Currency

The Services Provider must provide to the Contract Administrator a copy of the policy (except for statutory insurances) and a certificate of currency in respect of the insurances referred to in **clause 59.1** evidencing compliance with the requirements of **clause 59** and **Schedule 13** (Insurance):

- (a) on the Commencement Date;
- (b) thereafter upon each policy renewal; and
- (c) on the Contract Administrator's reasonable written request.

59.6 Services Provider's Insurance Obligations

In relation to the insurance required by **clause 59.1**, the Services Provider must:

- (a) give full, true and particular information to the insurer of all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or the payment of all or any benefits under the insurance;
- (b) punctually pay or cause to be paid all premiums when due;
- (c) comply with and abide by all the terms and conditions of the policies;
- (d) not do anything that would entitle the insurers to void, cancel or reduce their liability in respect of any claim;
- (e) not cancel, vary or allow any insurance policy to expire without the prior written consent of the Department;
- (f) reinstate or cause to be reinstated a policy if it lapses; and
- (g) do everything reasonably required to claim and to collect or recover monies due under any policy.

For the avoidance of any doubt, the Services Provider is not responsible for, and will not be deemed to have breached this **clause 59**, in relation to any act or omission of the Department that invalidates or compromises any of the insurances obtained by the Services Provider under this Contract.

59.7 Services Provider's Notification Obligations

The Services Provider must notify the Contract Administrator as soon as reasonably practicable when the Services Provider:

- (a) becomes aware of any actual, threatened or likely claim under any of the insurances which the Services Provider is obliged to effect and maintain under **clause 59.1**, which could materially reduce the available limits or involve the Department and must reinstate any reduced limit if required by the Contract Administrator; or
- (b) receives a notice of cancellation in respect of any of the insurances which the Services Provider is obliged to effect and maintain under **clause 59.1**.
- (c) becomes aware that an insurer is subject to investigation by APRA, has failed to comply with any APRA requirements and/or is de-registered from APRA, and if requested by the Department, seek alternative equivalent insurance to replace the insurance held with such an insurer without unreasonable delay.

59.8 Subcontractors' Insurance

The Services Provider must ensure that any contract appointing a Subcontractor retained by it to perform work in connection with this Contract contains a provision obliging the relevant Subcontractor to be insured as required by **clause 59.1**, as is appropriate given the nature of the work to be performed by each such Subcontractor (including as to limits of indemnity). The Services Provider must take reasonable steps to ensure that the Subcontractor has put such insurance in place, including by procuring that the Subcontractor provides reasonable evidence of the relevant insurance.

59.9 Services Provider's Liability Not Limited

For the avoidance of doubt the provisions of this **clause 59** and **Schedule 13** (Insurance) are not to be read so as to reduce a Party's liability under any other provision of this Contract and compliance by the Services Provider with the provisions of this **clause 59** and **Schedule 13** (Insurance) does not limit the Services Provider's liability under any other provision of this Contract, at common law, or any other applicable statute. Notwithstanding any other provision of this Contract, if the Department has the benefit of any insurance effected by the Services Provider in accordance with this Contract and the Department recovers under that insurance, then the Services Provider's liability to the Department is reduced by the amount that the Department recovers under the relevant insurance policy.

59.10 Reserved

59.11 Reserved

PART 17 – PERFORMANCE SECURITIES

60. UNCONDITIONAL FINANCIAL UNDERTAKING

60.1 Provision of Initial Financial Undertaking

The Services Provider must, at its expense, provide to the Department on or by the Commencement Date security in the form of an unconditional and irrevocable financial undertaking (**Unconditional Financial Undertaking**) which must:

- (a) be executed by a financial institution approved by the Department (acting reasonably) (the **Financial Institution**) and be stamped;

- (b) be substantially in the form of the financial undertaking appearing at **Part A of Schedule 9** (Performance Securities) or such other form as the Department agrees (acting reasonably);
- (c) be for the sum of s. 47G(1)(a); and
- (d) expire no earlier than the expiry of the Initial Term.

60.2 Provision of Extended Financial Undertaking

The Services Provider must, at its expense, provide to the Department at least 10 Business Days prior to the Unconditional Financial Undertaking required under **clause 60.1** expiring, a replacement Unconditional Financial Undertaking which must:

- (a) be executed by a financial institution approved by the Department (the **Financial Institution**) and be stamped;
- (b) be substantially in the form of the financial undertaking appearing at **Part A of Schedule 9** (Performance Securities) or such other form as the Department agrees (acting reasonably);
- (c) be for the sum of s. 47G(1)(a) less any drawings applied to the Unconditional Financial Undertaking required under **clause 60.1**; and
- (d) expire no earlier than two (2) years after the expiry of the Initial Term (or such other period, as agreed in writing by the Department and the Services Provider to reflect an Extended Term, such period not to exceed three years).

60.3 Amounts Covered by Financial Undertaking

The Financial Undertaking is for the purpose of ensuring the due and proper performance of this Contract by the Services Provider and the Department may demand any sum under the Unconditional Financial Undertaking from the Financial Institution in respect of:

- (a) amounts owed to the Department by the Services Provider;
- (b) damages suffered by the Department, its officers, employees, contractors (other than the Services Provider) or any Government Agency as a result of a breach of this Contract by the Services Provider; and/or
- (c) any Loss suffered by the Department, its officers, employees, contractors (other than the Services Provider) or any Government Agency that is the subject of an indemnity under this Contract.

For the avoidance of any doubt, the Department is not entitled to demand any sum under the Unconditional Financial Undertaking to the extent that the Department has mitigated its loss or has already recovered the relevant amounts, damages or Loss under this Contract.

60.4 Demand on Services Provider

The Department will notify the Services Provider it has made any demand for a sum under this clause as soon as practicable after the demand has been made on the Financial Institution.

60.5 Replacement of Unconditional Financial Undertaking

In any of the following events:

- (a) the Unconditional Financial Undertaking expires (or is due to expire within 10 Business Days), except where the expiry is at the end of the Initial Term (in which case **clause 60.2** will apply);
- (b) the Unconditional Financial Undertaking is otherwise terminated;
- (c) the Financial Institution fails to meet a proper demand made by the Department in accordance with its terms; or
- (d) the Department exercises an option to extend the Term of this Contract in circumstances where the Department has previously made a demand under the Unconditional Financial Undertaking,

the following provisions apply:

- (e) the Department may give notice to the Services Provider that it requires a replacement Unconditional Financial Undertaking in which event the Services Provider will, as soon as reasonably practicable, provide to the Department that replacement Unconditional Financial Undertaking in accordance with **clauses 60.1(a) to 60.1(c) and 60.3** that expires no earlier than six months after the expiry of the Extended Term; and
- (f) the Services Provider may (even if the Department has not given it notice to do so) provide a replacement Financial Undertaking in accordance with **clauses 60.1 and 60.3**.

60.6 Monies Paid but Not Demanded

If the Financial Institution pays to the Department any monies not demanded by the Department for the purposes of terminating the Unconditional Financial Undertaking:

- (a) the Department may retain those monies and any interest accrued as substitute security for the matters described in **clause 60.3** and appropriate those monies (and any interest accrued) for itself in execution of that security; and
- (b) the Department will:
 - (i) as soon as reasonably practicable after this Contract is terminated; or
 - (ii) (if earlier) upon receiving the replacement Unconditional Financial Undertaking under **clause 60.4**,

account to the Services Provider for the balance of those monies and interest which has not been appropriated under **clause 60.6**.

The repayment of any monies to the Services Provider under this clause will not be deemed to waive any rights on the part of the Department in respect of any outstanding obligations of, or valid claims against, the Services Provider.

60.7 Crystallisation of Unconditional Financial Undertaking

If the Department receives an amount under the Unconditional Financial Undertaking that is not the subject of a demand by the Department:

- (a) the Department must notify the Services Provider as soon as reasonably practicable after it receives such amount (the **Cash Security Amount**);
- (b) the Department is entitled to hold the Cash Security Amount as cash cover and security for any amount which is or becomes payable or owing by the Services Provider to the Department under or in connection with this Contract;
- (c) the Department may at any time apply all or any part of the Cash Security Amount in and towards satisfaction of any amount which is or becomes payable or owing by the Services Provider to the Department under or in connection with this Contract;
- (d) the Services Provider must, as soon as reasonably practicable after the notice referred to in **clause 60.7(a)**, provide to the Department a replacement unconditional and irrevocable financial undertaking net of any drawings applied in **clause 60.7(c)** that conforms to the requirements set out in **clause 60.1**; and
- (e) if the Services Provider provides a Unconditional Financial Undertaking net of any drawings applied in **clause 60.7(c)** that conforms to the requirements set out in **clause 60.1** and the Department is otherwise satisfied that no event of the type referred to in **clause 60.3** has occurred, the Department must within 21 days repay to the Services Provider the balance of the Cash Security Amount that has not been applied in accordance with **clause 60.7(c)**.

60.8 Meaning of Unconditional Financial Undertaking

For the purpose of this **clause 60**, where appropriate, "Unconditional Financial Undertaking" includes each or any Unconditional Financial Undertaking and any replacement Financial Undertaking provided under **clause 60**.

60.9 Consideration

For the avoidance of doubt, the amount of consideration described in **clause 60.1** is payable once only, and not on the occasion of providing any replacement Financial Undertaking.

61. PERFORMANCE GUARANTEE

61.1 Performance Guarantee

The Services Provider must, at its expense, provide to the Department, within 45 Business Days of the Commencement Date, a performance guarantee executed by a guarantor acceptable to the Department (**Guarantor**), guaranteeing the performance by the Services Provider of its obligations under this Contract, which must be substantially in the form of the performance guarantee appearing at **Part B of Schedule 9** (Performance Securities) and remains in force until the earlier to occur of:

- (a) The date on which the Services Provider no longer has obligations under this Contract; and
- (b) The date that is 2 years after the termination or expiry of the Contract.

PART 18 – DISPUTE RESOLUTION

62. DISPUTE RESOLUTION

62.1 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 62** and the Dispute remains unresolved in accordance with **clause 62.4**;
- (b) the proceedings are brought in accordance with **clause 62.9**; or
- (c) the Dispute relates to proceedings that have been commenced by:
 - (i) a third party against the Services Provider and/or the Department; or
 - (ii) the Services Provider and/or the Department against a third party.

62.2 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 20 Business Days to resolve the Dispute by negotiation.
- (b) If a Dispute is resolved in accordance with **clause 62.2(a)**, the Parties must as soon as reasonably practicable 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 62.2(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 62.2(a)** by either Party, the Department may, at any time prior to the expiration of 40 Business Days, give to the Services Provider an expedition notice requiring a Dispute Notice to be issued in accordance with **clause 62.3(b)**.

62.3 Negotiation Between Service Authority and the Contract Authority

- (a) If a Dispute or part of a Dispute is unresolved in accordance with **clause 62.2(c)**, or if an expedition notice has been given under **clause 62.2(d)**, the Party who gave the Initial Notice must give to the other Party a Dispute Notice in accordance with **clause 62.3(b)**.
- (b) The Dispute Notice must:
- (i) be in writing;
 - (ii) state that it is given pursuant to this **clause 62.3**;
 - (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 62.2(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 62.2(c)** or the date on which an expedition notice has been given under **clause 62.2(d)**.
- (c) Within 10 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 10 Business Days of the giving of the Dispute Notice, the Service Authority and the Contract Authority must as soon as reasonably practicable 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 62.3(e)** in relation to all or part of the Dispute within 10 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.

62.4 Negotiation by the Senior Managers

- (a) If a Dispute or part of a Dispute is unresolved as detailed in **clause 62.3(f)**, the Party who gave the Dispute Notice must give a Second Dispute Notice in accordance with **clause 62.4(b)**.
- (b) The Second Dispute Notice must:
 - (i) be in writing;
 - (ii) state that it is made pursuant to this **clause 62.4**;
 - (iii) annex a copy of the Dispute Notice (and any accompanying documents) given pursuant to **clause 62.3(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 62.2(b)** or **62.3(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 62.3(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 10 Business Days of the giving of the Second Dispute Notice, the Senior Managers must as soon as reasonably practicable 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 62.4(e)** in relation to all or part of the Dispute within 10 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 Services Provider that the Dispute or any part of the Dispute is thereby:
- (i) referred for expert determination in accordance with **clause 62.5**;
 - (ii) referred for expedited arbitration in accordance with **clause 62.6**; or
 - (iii) referred for mediation in accordance with **clause 62.7**.
- (g) If:
- (i) there is no referral under **clause 62.4(f)** within 20 Business Days of the giving of the Second Dispute Notice;
 - (ii) the referral under **clause 62.4(f)** does not deal with part of the Dispute, or
 - (iii) the Parties have fully complied with **clause 62.5, 62.6** and/or **62.7**;
- the Dispute, or that part of the Dispute that is not dealt with, is deemed to be unresolved.

62.5 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 62.4(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 62.5(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 62.4(f)(i)**, failing which the terms of reference will be clarified in accordance with the IAMA Expert Determination Rules; and
 - (ii) each Party will bear 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 62.5** is taken to be Confidential Information for the purposes of **clause 43** and **clause 44**.
- (f) The expert determination will be final and binding on both Parties.
- (g) Nothing in this **clause 62.5** 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 62.5** until the earlier of:
- (i) the conclusion, or termination by agreement, of the expert determination; or
 - (ii) the expiration of 20 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.

62.6 Expedited Arbitration Procedure

- (a) Within 10 Business Days of the referral pursuant to **clause 62.4(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 62.4(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 62.6** is taken to be Confidential Information for the purposes of **clause 43** and **clause 44**.
- (f) The Parties have not fully complied with this **clause 62.6** 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.

62.7 Mediation Procedure

- (a) Within 10 Business Days of the referral pursuant to **clause 62.4(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 62.7(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 62.4(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 62.4(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 62.7** 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.

62.8 Continuance of Performance

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

62.9 Summary or Urgent Relief

Nothing in this **clause 62** 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.

62.10 Termination

This **clause 62** does not apply to an action by the Department to terminate this Contract under **clause 65** or **clause 66**.

PART 19 – DEFAULT AND TERMINATION

63. DEFAULT

63.1 Notification

The Services Provider must notify the Contract Administrator of the occurrence of a Default as soon as reasonably practicable after it becomes aware of the occurrence of the Default.

63.2 Department Rights

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

- (a) give the Services Provider a Default Notice; and
- (b) other than where the Department specifies in the Default Notice that it requires the Services Provider to remedy the Default and the Services Provider complies with **clause 63.3**, issue a certificate and reduce the Services Fee in accordance with **clause 34.3**.

63.3 Cure

- (a) The Department may, in its absolute discretion, specify in the Default Notice that it requires the Services Provider to remedy the Default, in which case, upon receipt of a Default Notice, the Services 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 Services Provider will cure the Default within the Cure Period.
- (b) Where the Department specifies in a Default Notice that it requires the Services Provider to remedy a Default, the Services Provider must remedy the Default, including, to the extent reasonably possible, 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.

63.4 Remedies

- (a) If a Default has occurred and the Services 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) exercise its rights under **clause 63.2(b)**;
 - (ii) deduct money from amounts payable under **clause 34** 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 Losses associated with the exercise of Step-in Rights as a result of the Default, taking into account any moneys to be deducted under **clause 28.2, 34.3** or **63.2(b)**;
 - (iii) sue the Services Provider for compensation arising directly or indirectly out of that Default; or
 - (iv) 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 28.2, clause 34.3 and clause 64.**

64. TERMINATION FOR DEFAULT

64.1 Termination by the Department

Where the Department seeks to terminate this Contract in accordance with this **clause 64**, it must give written notice (**Termination Notice**) to the Services Provider specifying at least:

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

64.2 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 Services Provider, immediately terminate this Contract if:

- (a) the Services Provider commits a breach of this Contract (which breach is capable of remedy) and the Services Provider fails to remedy the breach within the Cure Period specified in a Default Notice;
- (b) the Services Provider commits a material breach of this Contract (which breach is not capable of remedy);
- (c) a termination event specified in **clause 64.3** occurs;
- (d) notwithstanding **clauses 64.2(a)** and **64.2(b)**, the Services Provider commits a breach or breaches of this Contract that at common law entitles the Department to terminate this Contract;
- (e) the Services Provider fails to replace any Key Personnel, in accordance with **clause 21**, with replacements acceptable to the Department;
- (f) the Services Provider commits a breach of **clause 45**, or fails to comply with any of the Department's security requirements in **clause 47** and **Schedule 2** (Statement of Requirement);
- (g) any of the representations or warranties in **clause 55** ceases to be true;
- (h) the Services Provider breaches **clause 68** 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 64.2(a)**; or
- (i) a Continuous Failure occurs for six (6) or more successive months.

64.3 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 64.2(a), 64.2(c)** or otherwise, the following events are termination events for the purposes of **clause 64.2(c)**:

- (a) the Services 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 Services Provider;
- (c) the Services 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 Services Provider, or the Services 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 Services Provider suffers any execution against its assets having adverse effect on its ability to perform this Contract;
- (f) the Services Provider ceases, or threatens to cease, to carry on its business or is unable to pay its debts as and when they fall due;
- (g) the Services Provider assigns its rights otherwise than in accordance with the requirements of this Contract;
- (h) any matter relating to the Services 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 Services 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 Services Provider suffers a change in control or ownership which in the reasonable opinion of the Department, adversely affects the Services Provider's ability to perform the Services or adversely affects the Department's reputation;
- (k) the Services Provider engages in fraud, collusion, dishonest conduct, misleading and deceptive conduct, bribery or corruption in performing its obligations under this Contract;

- (l) the Services Provider fails to effect or maintain insurance in accordance with this Contract; or
- (m) the Services Provider fails to provide, maintain or replace an unconditional undertaking or guarantee in accordance with the requirements of the Contract.

64.4 Materiality

The materiality of any breach, and whether a breach has a material adverse effect, for the purposes of **clauses 64.2 and 64.3** 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 Sites and provision of the Services.

64.5 Repayment on Termination

Where, before termination of this Contract, the Department has made any payment in advance to the Services 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 Services Provider to the Department as soon as reasonably practicable following termination and, if not repaid, is recoverable by the Department from the Services Provider as a Commonwealth debt.

64.6 Consequences of Termination for Default

If this Contract is terminated under this **clause 64**:

- (a) subject to this Contract and in particular **clause 67**, 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 Services Provider to perform Services in accordance with **clause 67**, all licences and authorisations granted to the Services Provider by the Department, terminate immediately despite anything to the contrary contained in the relevant licence or authorisation;
- (c) the Services Provider must comply with **clause 67**; and
- (d) the Department must pay the Services Provider for any Services that were performed in accordance with this Contract prior to the date of termination.

64.7 Services Provider's Acknowledgement

The Services 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 Services 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.

65. TERMINATION FOR CONVENIENCE

65.1 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 Services 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 Services Provider such directions as it thinks fit in relation to subsequent performance of this Contract.

65.2 Transition Out Obligations

Notwithstanding that the Services Provider may have received a notice under **clause 65.1**, the Services Provider must comply with its obligations under **clause 67** and with any directions given by the Contract Administrator.

65.3 Payment for Services Rendered Prior to Termination

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

65.4 Compensation for Unavoidable Losses

- (a) The Department is liable to the Services Provider for any substantiated unavoidable costs and expenses necessarily incurred by the Services 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 65** or removal of any Services from scope in accordance with **clause 33**.
- (b) For the purposes of this **clause 65.4** and **clause 33.3(a)(xi)**, "unavoidable loss":
 - (i) must not include any amount on account of loss of revenue or profits;
 - (ii) subject to **clause 65.5**, includes costs incurred in respect of terminated subcontracts or supply agreements provide those costs are limited in the same manner as this Contract; and
 - (iii) must not exceed the amount that would have been payable if the Department had not terminated the Contract pursuant to **clause 65.1**, or, in the case of **clause 33**, had not removed the Services from scope).

65.5 Termination of Subcontracts for Convenience

The Services Provider must, in each Subcontract or order placed with any subcontractor for the purpose of this Contract, reserve a right of or variation or termination to take account of the Department's right to vary the Contract under **clause 33** and of termination under **clause 65** and the Services 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 65** or variation of the Contract under **clause 33**.

65.6 Unfettered Discretion

For the avoidance of doubt, the Department has an unfettered discretion to terminate this Contract in accordance with this **clause 65**.

66. DEEMED TERMINATION FOR CONVENIENCE

If a purported termination for Default by the Department under **clause 64** 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 65** which termination has effect from the date of the notice of termination.

67. TRANSITION OUT

67.1 Development of Transition Out Plan

- (a) Within six months after the Commencement Date, the Services 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 Services Provider to the Department or its nominee as a result of:
- (i) any deactivation of a Site;
 - (ii) any Services being removed from the scope of this Contract in accordance with **clause 33**;
 - (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 67** and must not be inconsistent with this **clause 67**.
- (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 Services 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 in this **clause**, the Department may, at any time during the Term by notice to the Services Provider, request a copy of the Transition Out Plan applicable as at the date of the notice.
- (e) If the Services Provider receives a notice under **clause 67.1(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 67.1(d)** within thirty (30) Days of the date of that notice; or
- (ii) if the Services Provider does not have a current Transition Out Plan at the date of the notice given under **clause 67.1(d)**;
 - A. develop, in consultation with and for approval by the Department, a Transition Out Plan in accordance with the requirements in this **clause 67**; and
 - B. submit the Transition Out Plan to the Department within thirty (30) days of the date of the notice.

67.2 Reserved

67.3 Reserved

67.4 Return of Department Assets

- (a) Upon the expiration or earlier termination of this Contract, deactivation of a Site or a Contract Change that removes any Services from the scope of this Contract, the Services Provider must return to the Department (or as the Department may direct to a Successor), all relevant Department Assets licensed to the Services Provider by the Department pursuant to **clause 24.1**, or any replacement Department Asset, which is functional and fit for purpose.
- (b) Immediately prior to the expiration or as soon as reasonably practicable following the earlier termination of this Contract or the deactivation of a Site or Contract Change, as the case may be, a stocktake and inspection shall be conducted of the equipment to be returned pursuant to **clause 67.4(a)**. The Contract Administrator will conduct this inspection in conjunction with the Services 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 or condition of the equipment to be returned by the Services Provider pursuant to **clause 67.4(a)** from the value or condition of the Department Assets licensed by the Department to the Services Provider pursuant to **clause 24.1** (allowing for Consumer Price Index adjustment), the Services Provider will, as soon as reasonably practicable, pay that difference to the Department or to a Successor as the Department may direct.

67.5 Return of Loose Assets

- (a) Upon the expiration or earlier termination of this Contract, deactivation of a Site or a Contract Change that removes any Services from the scope of this Contract, the Services Provider must return to the Department (or as the Department may direct to a Successor), all relevant Loose Assets licensed to the Services Provider by the Department pursuant to **clause 24.1**, or equivalent items to the same value as the Loose Assets as verified by the Services Provider which are functional and fit for purpose.

- (b) Immediately prior to the expiration or as soon as reasonably practicable 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 67.5(a)**. The Contract Administrator will conduct this inspection in conjunction with the Services 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 or condition of the equipment to be returned by the Services Provider pursuant to **clause 67.5(a)** from the value or condition of the Loose Assets licensed by the Department to the Services Provider pursuant to **clause 24.1** (allowing for Consumer Price Index adjustment and fair use and reasonable wear and tear), the Services Provider will, as soon as reasonably practicable, pay that difference to the Department or to a Successor as the Department may direct.

67.6 Reserved**67.7 Reserved****67.8 Services Provider Must Not Hinder Transition**

The Services 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 33**.

67.9 Survival

This **clause 67** survives the expiration or termination of this Contract.

PART 20 – GENERAL**68. CONFLICT OF INTEREST**

- (a) The Services 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 Services 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 Services Provider undertakes to notify the Department as soon as reasonably practicable after the conflict or risk of conflict becomes known.
- (c) The Services 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 as soon as reasonably practicable disclose to the Department such activity or interest.

- (d) If the Services 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 64**.

69. GENERAL PROVISIONS

69.1 Reserved

69.2 Negation of Employment, Partnership and Agency

- (a) The Services Provider must not represent itself, and must use reasonable endeavours to ensure that the Services 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 Services Provider is not by virtue of this Contract an officer, employee, partner or agent of the Department, nor does the Services Provider have any power or authority to bind or represent the Department.

69.3 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.

69.4 Assignment and Novation

- (a) Subject to **clause 69.4(c)**, neither party may 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 (in the case of a proposed novation by the Services Provider) or the Services Provider (in the case of a proposed novation by the Department), which approval must not be unreasonably withheld.
- (b) The Services Provider must not consult with any other person for the purposes of entering into an arrangement that will require novation of this Contract without prior written consent from the Contract Authority.
- (c) Subject to paragraph (d), if requested by the Department (acting reasonably), the Services Provider agrees to use reasonable endeavours to negotiate and agree a deed of novation pursuant to which :
- (i) a nominated PNG Government agency will be substituted for the Department as a party to the Contract; and
 - (ii) the rights and obligations of the Department under the Contract will be transferred to the nominated PNG Government agency upon execution of the deed by all of the parties, subject to any amendments to the Contract agreed by the Parties.

- (d) If the Parties are unable to agree a deed of novation within two (2) months of the Department's request under paragraph (b), the Department may by written notice terminate this Contract on a date specified in the notice, such date to be at least three (3) months from the date of the notice. Upon receipt of the notice issued under this clause, the Services Provider must comply with its obligations under **clause 67** and with any directions given by the Contract Administrator.

69.5 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.

69.6 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.

69.7 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 Services Provider acknowledges that Department Representatives do not:
- (i) owe any direct duty to the Services Provider under this Contract (whether to review, accept or reject any Services or any Material submitted by the Services Provider under this Contract or otherwise); or
 - (ii) provide any form of certification, declaration or other representation that the Services or any Services 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 Services Provider Material under this Contract do not relieve the Services Provider from, or alter or affect the Services 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 Services 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 62**; or
 - (ii) issuing a notice of termination under **clause 64**.

69.8 Counterparts

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

69.9 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 69.9(a)** applies to each Schedule and Annexure of or to this Contract.

69.10 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.

69.11 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.

69.12 Equal Employment Opportunity

- (a) The Services Provider must comply with its obligations, if any, under the *Workplace Gender Equality Act 2012 (Cth)* (**WGE Act**).
- (b) The Services 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.

69.13 Set-off

Without limiting or otherwise affecting the Department's rights in accordance with any other provision of this Contract or at Law, the Department may deduct from any moneys due and payable to the Services Provider in accordance with this Contract any:

- (a) moneys which the Services Provider, alone or together with any other person, at any time becomes actually liable to pay the Department (alone or together with any other person) on any account whatsoever under or in relation to this Contract

(including by way of principal or interest, fees, costs, charges, expenses, indemnity or damages) (**Moneys Owing**); or

- (b) claim for Moneys Owing which the Department may make in good faith against the Services Provider whether for damages or otherwise and whether or not the amount is disputed, whether in accordance with or relating to this Contract or otherwise at Law.

70. NOTICES

70.1 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 Services 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 70.2** or as otherwise notified from time to time by the Department; or
- (b) if given by the Department to the Services 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 70.2** or as otherwise notified from time to time by the Services Provider.

70.2 Addresses

- (a) The address for the Department:

Contract Authority – Regional Processing Country Services Contract

Attention: David Nockels, First Assistant Secretary, Detention Services Division
PO Box 25
Belconnen ACT 2616
Email: david.nockels@homeaffairs.gov.au

Contract Administrator – Regional Processing Country Services Contract

Attention: Lee-anne Monterosso, Assistant Secretary, Services Management Branch
PO Box 25
Belconnen ACT 2616
Email: lee-anne.monterosso@homeaffairs.gov.au

Released by Department of Home Affairs
under the Freedom of Information Act 1982

- (b) The address for the Services Provider:

Service Authority – Regional Processing Country Services Contract

Attention: s. 47F(1)

Company Name: Paladin Holdings PTE Ltd

Address: s. 47G(1)(a)

Email s. 47F(1)

70.3 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.

70.4 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 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 received on the next Business Day in that place.

71. INTERPRETATION

71.1 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 33**, 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 Services Provider office includes any person from time to time holding, occupying or performing the duties of that office; and
 - (vii) a Department or the Services 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.

71.2 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 Requirement);
- (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 16** (Legislation and Commonwealth Policies)),

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

71.3 Relationship of the parties

Nothing in this Contract:

- (a) (no additional relationship): creates a partnership, joint venture, fiduciary, employment or agency relationship between the Department and the Services Provider ; or
- (b) (no good faith): imposes any duty of good faith on the Department (unless otherwise expressly provided).

71.4 Department's executive rights duties and functions

- (a) (Department's own interests): Unless otherwise expressly provided in this Contract, nothing in this Contract gives rise to any duty on the part of the Department to consider interests other than its own interests when exercising any of its rights or carrying out any of its obligations in accordance with this Contract.
- (b) (Department's rights): Notwithstanding anything expressly provided or implied in this Contract to the contrary, the parties agree that the Department:
 - (i) is not obliged to exercise any executive or statutory right or duty, or to influence, over-ride, interfere with or direct any other government entity in the proper exercise and performance of any of its executive or statutory rights or duties; and
 - (ii) nothing expressly provided or implied in this Contract has the effect of constraining the Department or placing any fetter on the Department's discretion to exercise or not to exercise any of its executive or statutory rights or duties.

- (c) (No claim): Subject to **clause 71.4(d)**, the Services Provider will not be entitled to make any claim against the Department for any liability relating to any exercise or failure of the Department to exercise its executive or statutory rights or duties.
- (d) (Liability for breach): **Clauses 71.4(a) to 71.4(c)** do not limit any liability which the Department would have had to the Services Provider under this Contract as a result of a breach by the Department of a term of this Contract but for these clauses.

71.5 Reasonable endeavours of Department

Any statement in this Contract providing that the Department, or any officer or agent of the Department, will use or exercise "reasonable endeavours" or "act reasonably" in relation to an outcome, means that the Department, or any officer or agent of the Department:

- (a) (relevant steps): will take steps to bring about the relevant outcome so far as it is reasonably able to do so, having regard to its resources and other responsibilities;
- (b) (no guarantee): cannot guarantee the relevant outcome; and
- (c) (no obligation): is not required to:
 - (i) exercise a right of any government entity, or to influence, over-ride, interfere with or direct any other government entity in the proper exercise and performance of its legal, statutory or executive duties and functions;
 - (ii) exercise a power or discretion in a manner that the Department regards as not in the public interest;
 - (iii) develop or implement new policy;
 - (iv) procure legislation; or
 - (v) act in any way that the Department regards as not in the public interest.

Executed by the Parties as an agreement.

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

By:

s. 47F(1)

Sig

s. 47F(1)

Name of Witness in full

s. 47F(1)

Signature

Date: 28 February 2018

EXECUTED by **Paladin Holdings Pte Ltd**

s. 47F(1)

Signature of Dir

s. 47F(1)

Name

s. 47F(1)

Signature of Director/secretary

s. 47F(1)

Name

Date: 28 February 2018



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 1

GLOSSARY

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

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

Term	Definition
Abatement	means a financial abatement calculated in accordance with section 3 of Schedule 4 (Performance Management Framework)
Additional Fees	means fees for any additional or expanded services provided under clause 32 of the Contract, determined and calculated in accordance with Schedule 3 (Fee and Payments).
Additional Service	Means additional or expanded services provided in accordance with clause 32 of the Contract.
Additional Site	means the site or sites where the Services Provider is delivering optional Services, in accordance with the Department's direction as per Part 6 of the Statement of Requirement.
Aggregate Liability	means the aggregate liability of the Services Provider to the Department under the Contract, including in respect of any Abatement or pursuant to any Performance Guarantee
Asset	means any item of tangible property, leased, created, or otherwise brought into existence either wholly or in part in providing the Services at the Sites or as otherwise directed by the Department.
Australian Accounting Standards	are those adopted by the Australian Accounting Standards Board (AASB) and (where applicable) the Commonwealth of Australia.
Australian Government Policy	is any Australian Government policy listed in the Contract, or as otherwise notified in writing by the Department to the Services Provider as applicable to the Contract.
Australian Privacy Principles	has the same meaning as in the Privacy Act.
Authorisation	means any approval, authorisation, consent, exemption, filing, licence, notarisation, registration or waiver however described and any renewal of or variation to any of them.
Business Day	any day that is not a Saturday, Sunday, bank holiday or public holiday in the place where an act is to be performed or a payment is to be made.
Business Hours	Means between 9:00 and 5:00 on a Business Day.
Commencement Date	the date on which the Contract is signed by both Parties.

Term	Definition
Commonwealth	means the Commonwealth of Australia.
Confidential Information	means Department Confidential Information or Services Provider Confidential Information.
Contract	means the agreement between the Parties for the performance of the Services, comprising the main terms and conditions, and all schedules annexure and attachments that are attached or referred to in the main terms and conditions.
Contract Administrator	the contract administrator appointed by the Secretary and any other persons nominated by that person from time to time to fulfil the role of Contract Administrator.
Contract Authority	the contract authority appointed by the Secretary, and any other persons nominated by that person from time to time to fulfil the role of Contract Authority.
Contract Change Notice	has the meaning given to it in clause 33 of the Contract main terms and conditions.
Contract Change Proposal	a written proposal to effect a variation of the Contract lodged in accordance with clause 33 of the Contract.
Contract Material	any material or information: <ul style="list-style-type: none"> (a) created under the Contract or as a consequence of the Contract; or (b) which is copied or derived from that material.
Data	includes all information stored on magnetic tapes, disks or in written form of any kind.
Default	A failure to perform the Services in accordance with, or other failure to comply with, requirements of the Contract.
Default Notice	a notice issued by the Contract Administrator under clause 63 of the Contract.
Department	the Commonwealth represented by the Department of Home Affairs.
Department Assets	means an Asset owned by the Department.

Term	Definition
Department Confidential Information	any Department Material which is either: (a) listed as Department Confidential Information in Schedule 10 (Confidential Information) of the Contract, (b) is information that is by its nature confidential; or (c) a party knows or ought to know is confidential, but does not include: (d) information which is or becomes public knowledge other than by breach of the Contract or any other confidentiality obligation.
Department Data	has the meaning given to it in Schedule 11 (Confidentiality Deed).
Department Executive	the person(s) the Department notifies the Services Provider from time to time are person(s) with the authority to exercise the power of the “Department Executive” for the purposes of the Contract.
Department Material	any material or information provided by the Department to the Services Provider or its Subcontractors for the purposes of the Contract or which is copied or derived from that material or information.
Department Personnel	the officers, employees, agents, advisers and contractors of the Department (other than the Services Provider and Services Provider Personnel).
Department Representatives	has the meaning given to it by clause 69.7 of the Contract.
Direction	a direction issued to the Services Provider in accordance with clause 20 of the Contract.
Dispute	any dispute or difference between the Department and the Services Provider arising out of or in connection with the Contract or the Services, including any dispute arising out of proceedings brought by: (a) a third party against the Services Provider; or (b) the Department or by the Services Provider or the Department against a third party.
Dispute Notice	the notice referred to in clause 62 of the Contract.

Term	Definition
Emergency	means a serious, unexpected and often dangerous situation requiring immediate action.
Expert Determination	determination by an expert as described in clause 62.5 of the Contract main terms and conditions.
Extended Term	means an extension to the Term under clause 2.2 of the Contract
Financial Indebtedness	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.
Financial Undertaking	the Financial Undertaking in Schedule 9 (Performance Securities).
Financial Year	a period of one year commencing on 1 July and ending on 30 June.
Force Majeure Event	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 such riot is caused within a Site), rebellion, revolution, insurrection, military or usurped power or martial law or confiscation by order of, or decision by, any foreign government (including enactment of law or regulation), or peace-keeping operation, 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 directly attributable to any action of the Services Provider, embargo, or a loss or limitation of essential services such as electricity and water supply.
Government Agency	a State or Australian 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.
GST Law	the same as "GST Law" means in <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth). How does PNG GST apply?
Handover Date	1 March 2018

Term	Definition
Incident	means a happening, event or occurrence, other than an Emergency, that is within the scope of the Services.
Incident Management Protocol	means the Incident Management Protocol developed under clause 4.2.1 of Schedule 2 (Statement of Requirement).
Incident Report	means a report from the Services Provider to the Department (in the form specified in the Procedures Manual) in relation to an Incident at a Site.
Individual Services Provider Report	is the monthly performance report submitted by the Services Provider to the Department. It records the results of the Services Provider's performance against its contractual requirements and the Department's expected outcomes.
Initial Approved Subcontractors	those subcontractors listed in Schedule 7 (Key Personnel and Approved Major Subcontractors) of the Contract.
Initial Notice	the notice referred to in clause 62.2 of the Contract.
Initial Term	has the meaning given in clause 2.1 of the Contract.
Intellectual Property	<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"> (a) all rights in all applications to register these rights; (b) all renewals and extensions of these rights; and (c) all rights in the nature of these rights, excluding moral rights.
Key Performance Indicators	means the service lines that outline the Department's expected outcomes. The Services Provider's performance is assessed against the Contract Responsibilities measured within these Key Performance Indicators.
Key Personnel	is any of the Personnel described in Schedule 7 (Key Personnel and Approved Major Subcontractors) .
Laws	<ul style="list-style-type: none"> (a) the requirements of all applicable Legislation and all regulations and requirements made under such Legislation; (b) the legal requirements of any applicable Commonwealth, State, Territory or Local government department, agency,

Term	Definition
	<p>body, authority or instrumentality, including statutory tribunals or commissions and similar governmental bodies;</p> <p>(c) treaties, conventions, agreements, compacts and similar instruments that have been ratified or adopted by the Australian Government or by a relevant foreign government;</p> <p>(d) court decisions, common law and equity; and</p> <p>(e) guidelines, policies and codes of the Commonwealth, States and Territories,</p> <p>with which the Services Provider or the Department is legally required to comply.</p>
Legislation	includes all Commonwealth, State, Territory or local or other legislation, as the case may be, including regulations, legislative instruments, by-laws and other subordinate legislation.
Local Laws	means all Laws and legal requirements of any applicable national, provincial or local government department, agency, body, authority or instrumentality that apply in Papua New Guinea and Manus Province.
Local Security Standards	<p>means the standard which the Services Provider must comply with in providing security related services under the SOR, being the following:</p> <p>a) The providing entity holding insurance policies for Public Liability and Workers Compensation;</p> <p>b) The providing entity holding a certificate of incorporation from the Investment Promotion Authority (IPA);</p> <p>c) The providing entity holding a Class A Company Security License & Individual Licenses with the Security Industry Authority (SIA);</p> <p>d) The providing entity holding a certificate of Compliance with the Internal Revenue Commission (IRC) including evidence of compliance with employee tax and superannuation payments;</p> <p>e) The use of radio communication licensed equipment;</p> <p>f) The use of a uniform design compliant with the SIA;</p> <p>g) Detailed job descriptions being in place for all Security Personnel; and</p>

Term	Definition
	h) A security training package approved by the National Training Council.
Loose Assets	assets that the Department reasonably considers necessary for the delivery of Services to Residents on Papua New Guinea.
Loss	<p>means any cost (including the costs of any settlement and legal costs and expenses on a solicitor/client basis), liability, loss, expense or damage, whether arising in contract, tort, statute or otherwise and includes:</p> <ul style="list-style-type: none"> <li data-bbox="746 629 1402 797">(a) all reasonable and properly incurred costs incurred by the Department in re-tendering, negotiating with or engaging other service providers to provide services the same or materially similar to the Services; <li data-bbox="746 808 1402 1043">(b) reasonable wages properly incurred by Departmental employees and fees incurred for Departmental contractors, but only if the Contract is terminated in part or whole by the Department and the Department engages other service providers to provide services the same or similar to the Services; and <li data-bbox="746 1055 1402 1088">(c) internal Departmental overheads.
Major Subcontract	a contract between the Services Provider and a subcontractor of the Services Provider for the performance of Services under the Contract, with a total value greater than s. 47G(1)(a)
Major Subcontractor	a person who has entered into a Major Subcontract with the Services Provider.
Material	includes documents, equipment, software, reports, goods, information, plans, charts, drawings, calculations, tables, and data stored by any means including all copies and extracts.
Minister	the Minister for Home Affairs.
Moral Rights	means any right of attribution or authorship, right not to have authorship falsely attributed, or right of integrity of authorship, or other analogous rights arising under any applicable Law.
Non-Disclosure Deed Poll	the form of deed poll set out in Schedule 12 (Deed of Non-Disclosure of Personal Information) .
Party	means a party to this Contract, including any permitted assignees.

Term	Definition
Pass Through Cost	has the meaning given to it in Schedule 3 (Fees and Payments).
Permitted Security Interest	<p>(a) a Security Interest in respect of which full details have been given to the Secretary in writing at least two Business Days before the date of the Contract, or a Security Interest created after the date of the Contract, if:</p> <p>(i) the Secretary has consented (such consent not to be unreasonably withheld having regard to the affect which that Security Interest may have on the ongoing solvency of the Services Provider) to that Security Interest and to a maximum amount which at any time it may secure; and</p> <p>(ii) the amount secured by that Security Interest (other than costs, fees and uncapitalised interest or monies in the nature of interest (such as discounts on bills of exchange)) does not increase beyond the amount in respect of which the Secretary has consented; or</p> <p>(b) a lien or right of set off which arises solely by operation of law in the ordinary course of ordinary business, where the amount secured is not overdue for payment or where the amount secured is not being contested on reasonable grounds in good faith.</p>
Personal Information	has the meaning in clause 45.1 of the Contract.
Personnel	means any Services Provider Personnel (including Subcontractors) or Department Personnel (as appropriate).
Privacy Act	the <i>Privacy Act 1988</i> (Cth).
Protective Security Manual	the Australian Government's Protective Security Manual issued by the Attorney-General's Department, as amended from time to time.
Record	any document, writing or material (including tapes or other electronic matter) including records of Residents, business records, and any other records created, developed or required for the purpose of performing the Services and may include personal identifiers.
Resident	means:

Term	Definition
	<p>a) any person subject to the PNG National Gazette issued by the PNG Minister for Foreign Affairs and Immigration dated 25 December 2014 that resides in a Site; or</p> <p>b) a refugee (as determined and designated in accordance with applicable Laws in PNG) that resides in a Site.</p>
Secretary	the Secretary of the Department.
Security Interest	<p>(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;</p> <p>(b) any lien, profit à 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</p> <p>(c) an agreement to create or give any arrangement referred to in paragraphs (a) or (b) of this definition.</p>
Services	are any or all of the services described in Schedule 2 (Statement of Requirement) and any other obligation that the Services Provider is required to perform under the Contract, as changed from time to time in accordance with the Contract.
Services Provider Confidential Information	the information listed as Services Provider Confidential Information in Schedule 10 (Confidential Information).
Services Provider Material	any material or information provided by the Services Provider to the Department for the purposes of the Contract, or which is copied or derived from that material or information.
Services Provider Personnel	means the officers, employees and agents of the Services Provider, and their respective officers, employees and agents, engaged or involved in performing the Services or other activities associated with performance of the Contract.
Site	means the East Lorengau Refugee Transit Centre and any Additional Sites.
Statement of Requirement	comprises Schedule 2 (Statement of Requirement), as amended from time to time in accordance with the Contract.

Term	Definition
Subcontractor	means any person, other than the Department, that directly or indirectly provides goods or services, for the purposes of the Contract, to the Services Provider; and "Subcontract" has a corresponding meaning.
Tax	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.
Term	means the Initial Term and includes any extension of that period provided for under clause 2 of the Contract.
Termination Notice	the notice referred to in clause 65.1 of the Contract.
Third Party	a person or entity other than the Department or the Services Provider.
Vector Control	means the vector control management referred to in clause 13.6 of Schedule 2 (Statement of Requirements).
Wilful Default	means an intentional Default.



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 2

STATEMENT OF REQUIREMENT

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

TABLE OF CONTENTS

PART 1: GENERAL	6
1. GENERAL	6
1.1. Introduction	6
1.2. Overview of the services	6
1.3. Principles and Objectives	7
PART 2: RESIDENT SERVICES	8
2. RESIDENT ENGAGEMENT	8
2.1. Interaction with Residents	8
2.2. Communication	8
2.3. Translation and interpreter services	8
2.4. Display material	8
2.5. Health of Residents	9
2.6. Complaints management	9
2.7. Resident Records	10
PART 3: SECURITY, INCIDENT AND EMERGENCY MANAGEMENT	11
3. SECURITY SERVICES	11
3.1. General	11
3.2. Identification	11
3.3. Resident Safety	12
3.4. Entry and Egress	12
3.5. Visitor escorts	12
3.6. Visitor Log	13
3.7. Visitor conditions and restrictions	13
3.8. Safety and Security Plan	14
3.9. Security personnel	14
3.10. Safety and security information	14
3.11. Communication of safety and security requirements	14
3.12. Perimeter security	15
3.13. Site security risk assessment	15
3.14. Use of force	15
3.15. Detection of Illegal, Excluded and Controlled Items	16
3.16. Management of Excluded and Controlled Items	17
3.17. Illegal Items	17
3.18. Access to controlled areas	18
3.19. Security Control Centre	18
3.20. Operations logs	18
4. INCIDENT MANAGEMENT	18
4.1. General	18
4.2. Incident Management Protocol	19
4.3. Capability	19
4.4. Command and control	19

4.5.	Command and Control Incident Log	20
4.6.	Incident Reporting	20
4.7.	Post Incident Review	21
5.	MANAGEMENT OF EMERGENCIES	22
5.1.	General	22
5.2.	Emergency Management Plan	22
5.3.	Emergency Control Organisation	23
5.4.	Emergency exercises	23
5.5.	Emergency response in the event of fire	23
5.6.	Contingency Plans and procedures	24
6.	TRANSPORT AND ESCORT	25
6.1.	General	25
6.2.	Shuttle bus Service	25
PART 4: ACCOMMODATION AND FACILITIES MANAGEMENT		26
7.	RECEPTION, INDUCTION AND DEPARTURES	26
7.1.	General	26
7.2.	Processing times	26
7.3.	Prior to Arrival	26
7.4.	Reception	27
7.5.	Induction	27
7.6.	Departure	27
8.	ACCOMMODATION MANAGEMENT	28
8.1.	General	28
8.2.	Placement	29
8.3.	Management of mail	29
8.4.	Consumables and Loose Assets for accommodation	29
8.5.	Stores management	30
9.	RESIDENT PROPERTY	30
9.1.	General	30
9.2.	Recording of Resident property	31
9.3.	Returning Resident property	31
9.4.	Lost, stolen or damaged Resident property	31
10.	CLEANING	32
10.1.	General	32
10.2.	Cleaning Services Plan	32
10.3.	Cleaning equipment and chemicals	32
10.4.	Laundry services	32
10.5.	Non-routine cleaning	33
11.	MANAGEMENT AND MAINTENANCE OF ASSETS AND THE SITE	33
11.1.	General	33
11.2.	Approach	33
11.3.	Asset management	34

11.4. Asset Management and Maintenance Plan	34
11.5. Service Provider and Departmental Assets	35
11.6. Asset Register and Asset Management System	35
11.7. Damage or loss of Assets	36
11.8. Site maintenance	36
11.9. Maintenance standards	37
11.10. Alternative arrangements during maintenance	37
11.11. Emergency and reactive repairs	38
11.12. Security systems	38
11.13. Emergency systems and services	38
11.14. Work practices	39
11.15. Communication about maintenance and modifications	39
11.16. Grounds and infrastructure maintenance	39
11.17. Project management	40
12. ENVIRONMENTAL MANAGEMENT	40
12.1. General	40
12.2. Environmental Management Plan	40
12.3. Energy and water	40
12.4. Waste management	41
12.5. Vermin and pest control	41
12.6. Vector control management	42
PART 5: BUSINESS SERVICES	44
13. BUSINESS SERVICES	44
13.1. General	44
14. CONTRACT AND RELATIONSHIP MANAGEMENT	44
14.1. General	44
14.2. Stakeholders	44
14.3. Cooperation with enquiries and investigations	45
15. GOVERNANCE FRAMEWORK AND BUSINESS REPORTING	45
15.1. Governance Overview	45
15.2. Governance Framework	45
15.3. Performance Management Framework	46
15.4. Business Reporting	46
15.5. Additional Reporting	46
15.6. Plans, Strategies and Procedures	46
15.7. Contract Transition-In Plan	47
15.8. Contract Transition-Out Plan	48
15.9. Training and Recruitment Plan	49
15.10. Risk Management and Fraud Control Plan	49
15.11. Work Health and Safety Plan	51
15.12. Human Resource Management Plan	51
15.13. Meetings	51

16.	HUMAN RESOURCE MANAGEMENT	52
	16.1. Overview	52
	16.2. Human Resource Management Plan	53
	16.3. Specific Qualifications and/or Skills required	53
	16.4. Mandatory Clearances and Checks	54
	16.5. Pre-deployment health checks	55
	16.6. Code of Conduct	55
	16.7. Induction Programme and Ongoing Training	55
	16.8. Mental health training	56
17.	WORK HEALTH AND SAFETY	57
	17.1. Work Health and Safety	57
	17.2. Use of hazardous substances and chemicals	57
18.	INFORMATION TECHNOLOGY REQUIREMENTS	57
	18.1. Information Technology Policies	57
	18.2. Information Technology Data Recovery Plan	58
	18.3. Specific IT System Requirements	58
	18.4. Wi-Fi Requirements	59
	18.5. IT Personnel Requirements	59
	18.6. Software compatibility	59
	18.7. Support and Maintenance Arrangements	59
	18.8. IT Security Controls	59
	18.9. Identity and Access Management	60
	18.10. Training	61
	18.11. Movement of Computers and Storage Media	61
	18.12. Mobile Computing	61
19.	RECORDS MANAGEMENT	61
	19.1. Overview	61
	19.2. Maintaining Resident Privacy	62
20.	FINANCIAL MANAGEMENT SERVICES	63
	20.1. Overview	63
	20.2. Procurement	63
	20.3. Logistics	64
PART 6: OPTIONAL SERVICES / SERVICES AT ADDITIONAL SITE(S)		65
21.	OPTIONAL SERVICES / SERVICES AT ADDITIONAL SITE(S)	65
	21.1. General	65
	21.2. Additional services	65
22.	CATERING (FOOD PACKAGES)	65
	22.1. General	65
	22.2. Food package for Residents	66
23.	Reserved	66
24.	CATERING (FULL-SERVICE)	66
	24.1. General	66
	24.2. Catering services requirements	67

24.3. Catering personnel	68
25. LAUNDRY (FULL SERVICE)	69
25.1. Laundry services	69
26. PERSONNEL ACCOMMODATION	69
26.1. General	69
26.2. Reception	70
26.3. Housekeeping services for personnel accommodation	70
27. COMMUNICATION MANAGEMENT	71
27.1. Access to communication services	71
27.2. Management of access	71
27.3. Access and use of mail services	71
27.4. Television and other media	72
27.5. IT Services for Residents	72
Part 7 – Annexures	73

PART 1: GENERAL

1. GENERAL

1.1. Introduction

- 1.1.1. The East Lorengau Refugee Transit Centre (**ELRTC**) is a purpose built centre with accommodation which has self-catering facilities. Accommodation will be used to accommodate Residents.
- 1.1.2. The Garrison Services Provider (**Service Provider**) will be required to provide services as per this Statement of Requirement (**SOR**) at the ELRTC.
- 1.1.3. The Service Provider, at the direction of the Department, may be requested to provide optional Services at the ELRTC and Services at Additional Site(s) as per Part 6 of this SOR
- 1.1.4. Residents will have access to the following services:
- 1.1.4.1 **Case Management Services**, which the Case Management Service Provider (CMSP) will be responsible for, provides general support for Residents to integrate into the local community;
 - 1.1.4.2 **Health Services** through the PNG health system (with limited health assistance delivered by the Health Service Provider (**HSP**)); and
 - 1.1.4.3 **Facilities Management and Support Services**, for which the Service Provider is responsible, including (without limitation):
 - a) the management and maintenance of Department Assets and Sites; and
 - b) support for Residents including (without limitation):
 - i. the fit-out and preparation of accommodation for occupation;
 - ii. accommodation management;
 - iii. the provision, management and delivery of a starter pack of basic provisions including food, toiletries, linen, kitchenware and cleaning products; and
 - iv. a shuttle bus service.

1.2. Overview of the services

- 1.2.1. Where required by ICSA and approved by the Department, the Service Provider will be responsible for the provision of the following services at the ELRTC as described in this SOR:
- 1.2.1.1 Resident Engagement
 - 1.2.1.2 Security Services;
 - 1.2.1.3 Incident Management;
 - 1.2.1.4 Management of Emergencies;
 - 1.2.1.5 Transport and Escort;
 - 1.2.1.6 Reduction, Induction and Departures
 - 1.2.1.7 Accommodation Management;
 - 1.2.1.8 Catering;
 - 1.2.1.9 Cleaning;

- 1.2.1.10 Management and Maintenance of Assets and the ELRTC;
- 1.2.1.11 environmental management; and
- 1.2.1.12 Business Services.

1.3. Principles and Objectives

- 1.3.1. In providing the Services, the Service Provider must adhere to the following principles:
 - 1.3.1.1 respect Residents and their cultural and religious diversity;
 - 1.3.1.2 assist in providing guidance to protect the wellbeing of Residents;
 - 1.3.1.3 respect Residents' privacy and confidentiality;
 - 1.3.1.4 develop an efficient, accountable, transparent and sustainable service model;
 - 1.3.1.5 recognise that Residents have freedom of movement;
 - 1.3.1.6 ensure that all ELRTC infrastructure is maintained in line with Australian standards; and
 - 1.3.1.7 deliver Services to a standard comparable to local community standards in PNG.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

PART 2: RESIDENT SERVICES

2. RESIDENT ENGAGEMENT

2.1. Interaction with Residents

- 2.1.1. The Service Provider must ensure that all Garrison Services Provider Personnel (**Service Provider Personnel**) treat Residents equitably and fairly, with dignity and respect.
- 2.1.2. The Service Provider must:
- 2.1.2.1 establish processes detailing when and how to engage with local authorities, the Department, the PNG Immigration and Citizenship Services Authority (ICSA) and other Service Providers in the event that Residents are subjected to illegal and anti-social behaviour (consistent with policy and procedural requirements set out by ICSA); and
 - 2.1.2.2 complies with any direction or requirement of ICSA.
- 2.1.3. The Service Provider must ensure that Service Provider Personnel:
- 2.1.3.1 clearly identify themselves when communicating with Residents, other Service Providers and Stakeholders;
 - 2.1.3.2 proactively manage issues relating to Residents as they arise and before they impact on the Resident's wellbeing or that of other people at the ELRTC;
 - 2.1.3.3 meet Incident Reporting requirements; and
 - 2.1.3.4 are aware of policies regarding Resident settlement and that all communications with Residents are consistent with these policies.

2.2. Communication

- 2.2.1. The Service Provider must ensure that information communicated to Residents is conveyed to the Residents in a language they understand, noting the availability of interpreters as per clause 2.3.

2.3. Translation and interpreter services

- 2.3.1. The CMSP is responsible for the provision of interpreters, as required, for the ELRTC which includes scheduling and coordinating the use of interpreters for:
- 2.3.1.1 formal verbal communication with Residents; and
 - 2.3.1.2 the translation of written material (up to 100 words in length).
- 2.3.2. The CMSP will provide the Service Provider with procedures for engaging and working with the interpreters provided by the CMSP. The Service Provider must ensure that Service Provider Personnel receive guidance in effectively working with the interpreters provided by the CMSP.
- 2.3.3. The Service Provider must only engage another Resident or non-qualified interpreter to interpret on behalf of the Service Provider in emergency situations or instances where informal or social communication is intended.

2.4. Display material

- 2.4.1. The Service Provider must identify designated display material areas at the areas within the ELRTC which are regularly accessed by all Residents, and display material which is

current, easily understood by Residents and beneficial to the operations and safety and security of the ELRTC.

- 2.4.2. The Service Provider is responsible for facilitating the translation of Service Provider written material as necessary for the delivery of the Services as described in this SOR. The Service Provider must ensure that the translator is accredited by the National Accreditation Authority for Translators and Interpreters (NAATI).
- 2.4.3. The material must include (without limitation):
- 2.4.3.1 Service Provider Personnel Code of Conduct (as per clause 16.6);
 - 2.4.3.2 Resident rights and responsibilities;
 - 2.4.3.3 Site Rules;
 - 2.4.3.4 information about the process to make a complaint;
 - 2.4.3.5 other material as determined by the Service Provider;
 - 2.4.3.6 other material as provided by the PNG Government; and
 - 2.4.3.7 other material as provided by other service providers and the Department.

2.5. Health of Residents

- 2.5.1. Health Care services are available to Residents through the clinic provided by the HSP at the ELRTC and also the PNG public health system.
- 2.5.2. Where a Resident requests medical attention that is not urgent, the Service Provider must refer the Resident to the CMSP.
- 2.5.3. Where a Resident requires emergency medical attention and the HSP is not available, the Service Provider must:
- 2.5.3.1 ensure the Resident is removed from any immediate danger;
 - 2.5.3.2 seek emergency medical attention from the local health authorities where required and provide transportation to the local hospital where is it not available through local authorities;-
 - 2.5.3.3 provide first aid by suitably qualified Personnel; and
 - 2.5.3.4 inform the CMSP of the Resident's condition as soon as the initial response is complete.
- 2.5.4. The Service Provider must ensure the Department and ICOSA are informed of all Resident health matters that the Service Provider is aware of in accordance with Incident Reporting requirements.

2.6. Complaints management

- 2.6.1. The CMSP is the lead provider for complaints management at the ELRTC.
- 2.6.2. The Service Provider must use all reasonable endeavours to meet the requirements and timeframes of the CMSP's complaints management procedures developed and implemented by the CMSP.
- 2.6.3. The Service Provider must manage complaints through their own internal complaints management system required by the CMSP. The Service Provider must be able to clearly identify and report complaints relevant to the ELRTC.

- 2.6.4. Where a Resident wishes to make a complaint and the issue cannot be resolved through discussion with the Resident, the Service Provider must advise the Resident to follow the CMSP's complaints management procedures.
- 2.6.5. The Service Provider must collaborate with the CMSP to conduct a monthly review of the types and numbers of complaints received in order to identify any trends or systemic issues.
- 2.6.6. Residents must feel free to make a complaint without hindrance or fear of reprisal, or anonymously, so that issues of concern can be resolved effectively, fairly and efficiently.

2.7. Resident Records

- 2.7.1. The CMSP is responsible for the management of Resident Records in respect of case management services.
- 2.7.2. The Service Provider must create and maintain accurate, comprehensive and current Records which sufficiently capture the Services provided to each Resident.
- 2.7.3. The Service Provider must share information with other Service Providers where it relates to the services provided by other Service Providers.
- 2.7.4. The Service Provider must use Resident Records to assist in the development of appropriate and relevant Services, within the policy frameworks for settlement established by the ICSA.
- 2.7.5. The Service Provider must add any new or updated information to the Resident Record within 24 hours of receiving the information or as otherwise agreed by the Department or defined elsewhere in this SOR.
- 2.7.6. The Service Provider acknowledges that all Resident information is accessible by the Department and ICSA at all times, at the request of the Department or PNG Immigration and Citizenship Service Authority (ICSA), as per clause 19 (Records Management).

PART 3: SECURITY, INCIDENT AND EMERGENCY MANAGEMENT

3. SECURITY SERVICES

3.1. General

- 3.1.1. The Service Provider must deliver structured security services at the ELRTC that:
- 3.1.1.1 are delivered 24 hours a day and seven (7) days a week;
 - 3.1.1.2 subject to 3.1.1.3, are in accordance with any operating procedures defined in any Standing Orders issued by an Authorised Officer pertaining to the operation of the ELRTC;
 - 3.1.1.3 are in accordance with Local Security Standards;
 - 3.1.1.4 provide first response to any unforeseen incidents including providing first aid until appropriate emergency assistance can be provided local authorities (Ambulance, Police & Fire services); and
 - 3.1.1.5 refer any criminal matters to the relevant local authorities.

Notwithstanding any other paragraph of this Part 3 or any other provision of this SOR or the Contract, the Service Provider's compliance with the requirements of the Contract and this SOR is to be measured having regard to the requirements of Local Security Standards only.

- 3.1.2. Security services at the ELRTC are required for the security of Assets and the integrity of facilities.
- 3.1.3. The Service Provider will provide a safe and secure environment for Residents, other Service Providers and Personnel at the ELRTC, ensuring that each individual's human rights, privacy, dignity and well-being are preserved.
- 3.1.4. The Department will provide security infrastructure at the ELRTC which may include perimeter fencing, lighting towers and an entry gate.
- 3.1.5. The Service Provider must ensure that the security of the ELRTC is maintained at all times as per the requirements of clause 3 of this SOR.
- 3.1.6. The Service Provider must be vigilant and use all reasonable endeavours to prevent theft, and the unauthorised removal from the ELRTC of plant, equipment, furniture and fittings.
- 3.1.7. The Service Provider must be vigilant and use all reasonable endeavours to prevent vandalism and damage of assets at the ELRTC including (without limitation) buildings, plant, machinery, equipment, furniture and fittings.

3.2. Identification

- 3.2.1. The Service Provider is required to develop and implement a system to identify all people at the ELRTC and provide a visual means of readily identifying all people while they remain at the ELRTC, including:
- 3.2.1.1 confirming access rights and escort requirements for all persons;
 - 3.2.1.2 creating and issuing identification passes; and
 - 3.2.1.3 discreetly monitoring the movement and location of all people on the ELRTC with a view to protecting the security and privacy of Residents and personnel.

3.3. Resident Safety

- 3.3.1. To support safety considerations of Residents the Service Provider must:
- 3.3.1.1 be able to confirm that all Residents are present and safe at the ELRTC through electronic records of entry and egress;
 - 3.3.1.2 notify ICSA as soon as possible where a Resident fails to arrive back at the ELRTC by a time specified by the Department and ICSA, for their consideration of next course of action;
 - 3.3.1.3 ensure that Residents are able to enter the ELRTC at any time;
 - 3.3.1.4 encourage Residents, for their own safety, to stay at the ELRTC once the gates close at 6:00pm; and
 - 3.3.1.5 encourage Residents, for safety reasons, to let the CMSP know if they will be late in returning to the ELRTC.

3.4. Entry and Egress

- 3.4.1. The Service Provider is responsible for managing all entry and egress to the ELRTC for all persons including Residents, Personnel, visitors, ICSA officials, vehicles and goods.
- 3.4.2. The Service Provider must implement an electronic entry and egress system at the ELRTC which has the capability for real time data access and reporting to allow the tracking of all movements at the RTCs.
- 3.4.3. Residents and visitors may enter and exit the ELRTC between the gate opening times at the ELRTC (currently between the hours of 6:00am and 6:00pm). Changes to these times may be varied at the discretion of the Department and ICSA.
- 3.4.4. The entry and egress control procedures aim, to the extent made possible by the security infrastructure, reduce unauthorised access and egress while enabling appropriate privacy for Residents and Personnel.
- 3.4.5. The Service Provider must develop Stakeholder approved entry and egress procedures and implement at the Hand Over of the ELRTC, which may be varied at the request of the Department, and must include (without limitation):
- 3.4.5.1 designated access control points;
 - 3.4.5.2 the efficient operation of entry and egress procedures for Residents within the gate opening hours;
 - 3.4.5.3 process for managing entry and egress overnight outside of the gate opening hours;
 - 3.4.5.4 encouraging Residents to return and remain at the ELRTC overnight;
 - 3.4.5.5 visitor management; and
 - 3.4.5.6 provision of security services at all times at the designated entry and egress control access point.
- 3.4.6. The Service Provider must not provide access to the ELRTC for media visits and external agencies except with the approval of the ICSA and the Department (in accordance with clause 3.7).

3.5. Visitor escorts

- 3.5.1. The Service Provider is responsible for managing all visits to the ELRTC and must develop and implement visitor management procedures prior to the Hand Over of the ELRTC.
- 3.5.2. The Service Provider must ensure that:
- 3.5.2.1 entry to the ELRTC is approved by PNG ICSA or delegate;
 - 3.5.2.2 friends or invited guests of Residents will not be expected to be escorted, however they will be required to leave the premises when the gates close and not enter before the gates open; and
 - 3.5.2.3 other visitors to the ELRTC who are assessed by the Service Provider as requiring a visitor escort are accompanied by Personnel at all times, consistent with ICSA policy.
- 3.5.3. Visitors are not permitted on the ELRTC once the gates have closed between the hours of 6:00pm and 6:00am.

3.6. Visitor Log

- 3.6.1. The Service Provider must create and maintain a Visitor Log to record:
- 3.6.1.1 the name of the visitor;
 - 3.6.1.2 the name of the person at the ELRTC being visited;
 - 3.6.1.3 verification of the visitors identification documents presented;
 - 3.6.1.4 the purpose of the visit;
 - 3.6.1.5 the date and time the visitor entered and departed the ELRTC;
 - 3.6.1.6 any property of the visitor which is kept in possession or securely stored for the duration of the visit;
 - 3.6.1.7 any reasons where the Service Provider cancels, reschedules or terminates a visit;
 - 3.6.1.8 justification offered by the visitor or the person being visited why the visit should not be cancelled, rescheduled or terminated; and
 - 3.6.1.9 any special security actions taken in relation to the visit.

3.7. Visitor conditions and restrictions

- 3.7.1. The Service Provider must treat all visitors with dignity and respect and ensure visitors are advised of any conditions or restrictions placed on their visit prior to their entry into the ELRTC.
- 3.7.2. The Service Provider must refuse access to the ELRTC when:
- 3.7.2.1 the visitor refuses to meet conditions or restrictions of a visit (including refusal of entry by the ICSA representative) or the Service Provider has a reasonable suspicion that the visitor has no intention of meeting the ELRTC entry requirements, including any requirements to undergo screening; or
 - 3.7.2.2 the visitor breaches any condition placed on their visit.
- 3.7.3. Where a visit is terminated, the Service Provider must advise the visitor to leave and, if they refuse, notify ICSA, the Department and relevant local authorities where required.

- 3.7.4. The Service Provider is to inform the person being visited when a visit has been refused and the reason for refusal within 24 hours of the refusal.
- 3.7.5. The Service Provider must facilitate visits to the ELRTC from media and advisory bodies where approved by ICSA (via the ICSA representative) and the Department and in accordance with any conditions or restrictions of the visit.

3.8. Safety and Security Plan

- 3.8.1. The Service Provider must develop a Safety and Security Plan for the ELRTC in accordance with and as part of the requirement outlined under clause 15.6.
- 3.8.2. The Safety and Security Plan must be provided to the Department, for review. The Service Provider is required to incorporate any feedback provided by the Department.
- 3.8.3. The Safety and Security Plan must be implemented prior to the Hand Over of the ELRTC.

3.9. Security personnel

- 3.9.1. The Service Provider must provide appropriately trained Security Personnel to deliver security services and meet all requirements for Security Personnel as described in clause 3.1.

3.10. Safety and security information

- 3.10.1. The Service Provider must:
- 3.10.1.1 unobtrusively gather and record safety and security information to inform the development of the ELRTC security risk assessments and maintain the safety and security of the ELRTC;
 - 3.10.1.2 gather and store safety and security information in accordance with the record keeping requirements (see clause 19);
 - 3.10.1.3 provide a mechanism for all persons at the ELRTC to provide safety and security information at any time to the Service Provider; and
 - 3.10.1.4 provide any safety and security requested information to the Department as directed.
- 3.10.2. Where the Service Provider becomes aware of information that may be relevant to the wellbeing of Residents the Service Provider must advise the CMSP as soon as possible, for their consideration. The type of information that is relevant may include (without limitation):
- 3.10.2.1 unusual occurrences;
 - 3.10.2.2 information received from a Resident;
 - 3.10.2.3 a Resident or group of Residents, acting unusually or out of character;
 - 3.10.2.4 Incident Reports;
 - 3.10.2.5 trends in Incidents;
 - 3.10.2.6 trends in individual or group Resident behaviour; and
 - 3.10.2.7 relevant information received from any source.

3.11. Communication of safety and security requirements

- 3.11.1. The Service Provider must communicate ELRTC safety and security requirements to all persons on arrival to the ELRTC. This communication must:
- 3.11.1.1 contain only information required by the target audience;
 - 3.11.1.2 encourage compliance with the safety rules;
 - 3.11.1.3 advise what items are Illegal, Excluded and Controlled;
 - 3.11.1.4 be in a language and form understood by the target audience and accommodate people with special needs, such as illiteracy or visual impairment; and
 - 3.11.1.5 ensure that Residents and all other persons at the ELRTC are aware of emergency procedures and Contingency Plans for the ELRTC.

3.12. Perimeter security

- 3.12.1. The Service Provider must ensure that the security of the perimeter of the ELRTC is maintained, at all times, in accordance with Department directions as notified by the Department, and using the available infrastructure and facilities provided.
- 3.12.2. The Service Provider must ensure that the internal and external perimeter is checked at a frequency determined by the Service Provider which ensures the safety and security of all persons at the ELRTC.
- 3.12.3. All perimeter security checks must be formally recorded by the Service Provider.
- 3.12.4. Where issues are identified with perimeter security the Service Provider must notify the Department and ICSA, and undertake measures to restore perimeter security as soon as possible after identification of the issue.

3.13. Site security risk assessment

- 3.13.1. The Service Provider must develop a security risk assessment for the ELRTC which accords with standards and compliance requirements under the Security Industry Authority PNG and implement prior to the Hand Over of the ELRTC.
- 3.13.2. In developing the security risk assessment, the Service Provider must consider (without limitation):
- 3.13.2.1 the overall security situation (including any information that might be made available by the Department, ICSA, other government agencies or other sources); and
 - 3.13.2.2 any other factors which may impact the overall safety and security of the ELRTC.
- 3.13.3. The Service Provider must review the ELRTC security risk assessment as requested by the Department or following any significant incident. The Service Provider and the Department will agree on timeframes for periodic review of the assessment.

3.14. Use of force

- 3.14.1. Subject to clause 3.14.2, Service Provider Personnel must only use force within the ELRTC that is reasonable and in the following circumstances:
- 3.14.1.1 to prevent a Resident committing an act of self-harm;
 - 3.14.1.2 to prevent one Resident harming another Resident;

- 3.14.1.3 in self-defence or to prevent a Resident harming other Personnel;
 - 3.14.1.4 to evacuate or move Residents and Personnel at immediate risk of harm; or
 - 3.14.1.5 the use of force is otherwise necessary for the protection of a person or property from harm due to unavoidable or unforeseen circumstances.
- 3.14.2. Neither the Service Provider, nor any Service Provider Personnel shall be required to use force against any Resident except to the extent such use of force is consistent with or permitted under Local Laws.
- 3.14.3. If force is used by Service Provider Personnel in compliance with this clause 3.15 the Service Provider will not be in breach of its obligations under this Contract even if the use of force is in breach of Australian law.
- 3.14.4. The parties acknowledge and agree that neither the Service Provider nor any Service Provider Personnel is required to or can be compelled to use force whatsoever to suppress a riot or protest in any circumstances.
- 3.14.5. The parties acknowledge and agree that the scope of works do not include or require the Service Provider or any Service Provider Personnel to use force to suppress a riot or protest.

3.15. Detection of Illegal, Excluded and Controlled Items

- 3.15.1. To support the safety and security of the ELRTC there may be times when items, whilst considered legal in PNG, will not be permitted to be used or allowed to enter the ELRTC, consistent with its purpose as a transit centre for Residents.
- 3.15.2. The Service Provider is required to work with Stakeholders to identify and review as required a list of Illegal, Excluded and Controlled Items which cannot be taken into the ELRTC, either through the undertaking of a risk assessment or to meet requirements of the Department, ICSA and applicable law.
- 3.15.3. The Service Provider is required to inform Residents of which Items are deemed to be Illegal, Excluded and Controlled, and advise Residents of any changes that may occur from time to time.
- 3.15.4. The list of Illegal, Excluded and Controlled Items must be reviewed Quarterly or more frequently as determined by the Service Provider to ensure the safety and security of the ELRTC.
- 3.15.5. The Service Provider must communicate to all persons accessing the ELRTC any items which are Illegal, Excluded or Controlled.
- 3.15.6. The Service Provider is required to notify and work collaboratively with the CMSP if an Illegal, Excluded or Controlled Item is in the possession of a person at the ELRTC and has not been surrendered.
- 3.15.7. The Service Provider must use all reasonable endeavours to detect Illegal, Excluded and Controlled Items and any other items that may pose a risk to the safety and security of the ELRTC or persons at the ELRTC, including (without limitation) screening by visual inspection of all persons, personal belongings, vehicles and goods entering the ELRTC in accordance with Applicable Laws and the requirements of ICSA and the Department.
- 3.15.8. Where the Service Provider undertakes a screen or search of a person as permitted under clause 3.15.7, the Service Provider must also ensure that:

- 3.15.8.1 the person being screened or searched understands the screen and search process, and that clear explanations of the process are provided;
- 3.15.8.2 screens and searches are conducted with cultural and religious sensitivity; and
- 3.15.8.3 searches are conducted by members of the same sex as the person being searched and that two Personnel of the same sex as the person are present at all times during the search.

3.16. Management of Excluded and Controlled Items

- 3.16.1. Where a person surrenders or is in possession of an Excluded or Controlled Item, the Service Provider, where it is able in accordance with Applicable Laws, must:
 - 3.16.1.1 explain to the person the reason the item must be held and ask that it be surrendered;
 - 3.16.1.2 hold the item in secure storage; and
 - 3.16.1.3 when holding the item:
 - a) record all items; and
 - b) securely store Excluded and Controlled Items in a manner which best preserves the item given the environmental conditions of the ELRTC and secure storage facilities.
- 3.16.2. The Service Provider must return all Excluded and Controlled Items that the person may legally possess to the person immediately prior to their departure from the ELRTC.
- 3.16.3. Where directed by the Department and / or ICOSA, the Service Provider must provide all Excluded and Controlled Items (that a Resident may legally possess) to Personnel who are providing escort services for a Residents departure.
- 3.16.4. Where a person refuses to surrender or the Service Provider is aware that a person is in possession of an Excluded or Controlled Item, the Service Provider must immediately notify the CMSP and the ICOSA representative for their consideration and management.

3.17. Illegal Items

- 3.17.1. Where the Service Provider becomes aware or believes that a person is in possession of an Illegal Item, the Service Provider must immediately notify and discuss the issue with the CMSP and the person and where the person is unwilling to surrender the item, report it to the local authorities.
- 3.17.2. Where a person surrenders Illegal Items, the Service Provider must (without limitation):
 - 3.17.2.1 immediately report the Illegal Items to the local authorities;
 - 3.17.2.2 securely store the Illegal Items in a manner that protects the integrity of any evidence until custody of the Illegal Items can be transferred to the relevant authority;
 - 3.17.2.3 ensure any Illegal Items do not pose an ongoing safety risk to the ELRTC or any persons at the ELRTC;
 - 3.17.2.4 notify the Department and ICOSA in accordance with Incident Reporting requirements; and
 - 3.17.2.5 record all identifying details concerning all Illegal Items.

3.18. Access to controlled areas

3.18.1. The Service Provider must develop and implement systems to manage access of controlled areas within the ELRTC, including implementing a strict control regime for access keys and locks. Controlled areas may include (without limitation):

- 3.18.1.1 secure storage areas;
- 3.18.1.2 administration areas;
- 3.18.1.3 hazardous materials stores;
- 3.18.1.4 medical facilities;
- 3.18.1.5 Security Control Centre;
- 3.18.1.6 tool and vehicle stores;
- 3.18.1.7 plant and equipment;
- 3.18.1.8 staff facilities and accommodation; and
- 3.18.1.9 other areas designated by the Department or the Service Provider as controlled areas.

3.19. Security Control Centre

3.19.1. The Service Provider must:

- 3.19.1.1 staff and maintain a Security Control Centre at the ELRTC to manage all security requirements of the ELRTC; and
- 3.19.1.2 ensure the Security Control Centre is staffed at all times with suitably trained Personnel.

3.20. Operations logs

3.20.1. The Service Provider must:

- 3.20.1.1 maintain operations logs at the ELRTC as needed to record the date, time and location for all security related events and actions taken which will form an official record of activities and events within the ELRTC;
- 3.20.1.2 ensure operations logs provide a comprehensive and accurate account of all ELRTC operations;
- 3.20.1.3 inform the Department and ICSA of the range, intent and scope of operations logs in use, and advise of any changes; and
- 3.20.1.4 provide operations logs as soon as is reasonably practicable to the Department and ICSA upon receiving a written request.

4. INCIDENT MANAGEMENT**4.1. General**

4.1.1. The Service Provider must:

- 4.1.1.1 manage all Incidents in accordance with the Service Providers Incident Management Protocol and procedures (refer clause 4.2) and in a manner which maximises the safety, security and wellbeing of all persons at the Sites; and
- 4.1.1.2 in the event of an Incident, restore safety and security at the Site as quickly as possible.

- 4.1.2. The Service Provider must report to ICSA and the Department in accordance with Incident Reporting requirements any Incidents which are reported to them or observed by them that may have a significant or adverse impact on any person at the ELRTC, or compromise the safety and security of the ELRTC.

4.2. Incident Management Protocol

- 4.2.1. The Service Provider must develop a Department and ICSA approved protocol for the management of Incidents (**Incident Management Protocol**) and procedures in collaboration with all relevant stakeholders and implement this prior to the Handover Date of the ELRTC.
- 4.2.2. The Incident Management Protocol and procedures must detail the Service Provider's approach to managing Incidents at the ELRTC, including (without limitation):
- 4.2.2.1 roles and responsibilities;
 - 4.2.2.2 issues escalation;
 - 4.2.2.3 coordination of operations;
 - 4.2.2.4 collection of security intelligence; and
 - 4.2.2.5 deployment of resources.
- 4.2.3. The Service Provider must submit the Incident Management Protocols and procedures to the Department for review annually or as otherwise agreed.

4.3. Capability

- 4.3.1. The Service Provider must have the capability to provide first response to Incidents (including reasonable scale incidents and for avoidance of doubt do not include significant incidents or emergencies, which would be handled by the PNG Police, Fire & Ambulances services), at the ELRTC in a manner that minimises any adverse consequences to the delivery of Services or the wellbeing of any persons at the ELRTC.
- 4.3.2. The Service Provider must ensure that Service Provider Personnel who are responsible for incident management have the relevant experience, training or qualifications relevant for the command of serious Incidents at the commencement of their employment.
- 4.3.3. The Service Provider must implement, train and maintain an Emergency Response Team (**ERT**) capability, which must be:
- 4.3.3.1 able to provide an ERT presence at the ELRTC and assemble promptly in order to manage any Incident; and
 - 4.3.3.2 comprised of specially trained Service Provider Personnel who undertake regular duties when the ERT is not in operation so as to not reduce business as usual capability in the event of an Incident and the assembling of the ERT.
- 4.3.4. The Service Provider must be able to provide additional ERT capability and other supporting resources (as required) in order to manage large scale Critical incidents, emergencies, short notice contingencies or other designated non-routine high risk operations, or as advised by the Department. The Service Provider must request an Additional Service for the Department's consideration and approval prior to the provision of the additional resources.

4.4. Command and control

- 4.4.1. The command and control space will be used by the Service Provider and the Emergency Control Organisation in the event of an emergency (see clause 5.3 of this SOR).
- 4.4.2. The Service Provider must designate and equip a secure command and control space within the ELRTC which will be used as the central point for communication and command and control in the event of incidents where the Emergency Control Organisation is activated (refer clause 5.3 of this SOR).
- 4.4.3. The Service Provider must liaise with the Department, ICSA and all relevant stakeholders for the management of Major and Critical Incidents and emergencies in accordance with the relevant plans and protocols.
- 4.4.4. The command and control space must have reliable internal and external communications.
- 4.4.5. The command and control space does not need to be in a dedicated area at all times and may be moved offsite during an Incident if necessary.
- 4.4.6. Equipment for the command and control space must be reliable and readily portable for when the command and control space is moved offsite.

4.5. Command and Control Incident Log

- 4.5.1. The Service Provider must:
 - 4.5.1.1 maintain a Command and Control Incident Log in the command and control space for all Incidents where the command and control space is in use;
 - 4.5.1.2 ensure that the Command and Control Incident Log is an accurate and comprehensive record of the date, time and location of all Incidents where the command and control space is in use, the name(s) of persons involved and any witnesses, other agencies, the actions taken and instructions given and where relevant the outcome; and
 - 4.5.1.3 provide the Department and ICSA with a copy of the Command and Control Incident Log at the request of the Department and/or ICSA, within 24 hours, or as otherwise advised by the Department and/or ICSA.

4.6. Incident Reporting

- 4.6.1. The Service Provider must report Incidents in accordance with the Incident Reporting requirements and defined Incident Reporting categories (Minor, Major and Critical) which will be provided by the Department.
- 4.6.2. The Service Provider must verbally report Incidents to the Department immediately on becoming aware of a:
 - 4.6.2.1 Critical Incident (no later than 30 minutes); and
 - 4.6.2.2 Major Incident (no later than 60 minutes).
- 4.6.3. The Service Provider must provide the Department with a written Incident report in an agreed format in accordance with the following timeframes (from the time of becoming aware of the Incident):
 - 4.6.3.1 Critical Incident – within three (3) hours;
 - 4.6.3.2 Major Incident – within six (6) hours; and
 - 4.6.3.3 Minor Incident – within 24 hours.

- 4.6.4. The Service Provider must ensure that the Department is regularly updated on the developments in accordance with the Incident Reporting requirements.
- 4.6.5. The Service Provider must provide the Department with any written Incident reports within 24 hours of any Department request.
- 4.6.6. The Service Provider must have in place data integrity and quality procedures and a reporting quality assurance framework to ensure the timely, consistent and accurate reporting of Incidents.
- 4.6.7. The Service Provider must develop a Department approved Incident report template and implement this prior to the Handover Date of the ELRTC. Incident reports must accurately describe:
- 4.6.7.1 the Incident;
 - 4.6.7.2 the date and time (local and Eastern Standard Time) of the Incident;
 - 4.6.7.3 the background of, and sequence of events leading to the Incident;
 - 4.6.7.4 participants in, and witnesses to, the Incident;
 - 4.6.7.5 the resolution of the Incident;
 - 4.6.7.6 any follow up action that has been undertaken following the Incident; and
 - 4.6.7.7 any other information required to be added as requested or advised by the Department.
- 4.6.8. The Service Provider must work collaboratively with the Department to further develop and refine Incident Reporting requirements, as required.

4.7. Post Incident Review

- 4.7.1. The Service Provider is responsible for leading and conducting Post Incident Reviews to seek continuous improvement regarding the response to Incidents.
- 4.7.2. The Service Provider must complete Post Incident Reviews for all Critical and Major Incidents and any other Incident as directed by the Department.
- 4.7.3. The Service Provider must provide a written report of all Post Incident Reviews to the Department electronically and within one (1) week of the closure of the Incident.
- 4.7.4. The Service Provider's Post-Incident Reviews must:
- 4.7.4.1 determine the causes and contributing factors to the Incident (including relevant security intelligence);
 - 4.7.4.2 analyse and evaluate the actions taken in response to the Incident, including the conduct of Service Provider Personnel;
 - 4.7.4.3 identify any gaps in processes, procedures and training requirements;
 - 4.7.4.4 make any necessary improvements to processes, procedures and training delivered in accordance with standards and compliance requirements under the Security Industry Authority PNG (Quality Management Systems);
 - 4.7.4.5 identify and make recommendations to the Department for any changes requiring Department approval, prior to implementation; and
 - 4.7.4.6 implement all improvements and recommendations in accordance with time frames agreed by the Department.

5. MANAGEMENT OF EMERGENCIES

5.1. General

- 5.1.1. The Service Provider is responsible for the management of emergencies at the ELRTC as part of its requirement to maintain the ELRTC as a safe and secure environment for all persons at the ELRTC, until there is a handover to relevant local authorities (refer to clause 5.3.1.2).
- 5.1.2. The Service Provider must manage emergencies in accordance with Local Laws and the delivered in accordance with standards and compliance requirements under the Security Industry Authority PNG.
- 5.1.3. The Service Provider must ensure that Service Provider:
- 5.1.3.1 are available in sufficient numbers to manage an emergency; and
 - 5.1.3.2 are trained for their role in the event of an emergency.
- 5.1.4. For the avoidance of doubt, the Services Provider is to provide first response, management & technical supervisory roles only, with emergency response services provided by the PNG Police, Fire & Ambulance authorities.

5.2. Emergency Management Plan

- 5.2.1. The Service Provider must develop Department approved Emergency Management Plans and procedures for each Site and implement prior to the Handover Date of the Sites. The plans and procedures must include procedures which apply to a variety of emergency situations and must detail (without limitation):
- 5.2.1.1 process for communicating emergency procedures to all persons at the Sites;
 - 5.2.1.2 roles and responsibilities of all stakeholders;
 - 5.2.1.3 process for issues escalation;
 - 5.2.1.4 coordination of operations with all stakeholders;
 - 5.2.1.5 collection of safety, security and intelligence information
 - 5.2.1.6 handover to relevant local authorities; and
 - 5.2.1.7 deployment of resources.
- 5.2.2. The Service Provider must consult and collaborate with the Department and all relevant stakeholders for the development of the Emergency Management Plan and procedures to ensure that the plans and procedures consider:
- 5.2.2.1 emergencies at the ELRTC that affect all stakeholders;
 - 5.2.2.2 emergencies outside of the ELRTC which may impact the ELRTC and persons at the ELRTC; and
 - 5.2.2.3 any other stakeholder developed plans applicable to emergency management and the Site.
- 5.2.3. The Emergency Management Plan and procedures must be developed in a holistic manner with the Service Provider's:
- 5.2.3.1 Safety and Security Plans and procedures;
 - 5.2.3.2 Incident Management Protocols and procedures; and
 - 5.2.3.3 Contingency Plans and procedures.

5.2.4. The Service Provider must submit the Emergency Management Plan and procedures to the Department for review annually or as otherwise agreed.

5.3. Emergency Control Organisation

5.3.1. The Service Provider must establish and lead an Emergency Control Organisation (ECO), which will be responsible for:

- 5.3.1.1 implementing emergency procedures for each type of emergency as per the Emergency Management Plan and procedures;
- 5.3.1.2 controlling emergency situations until the appropriate local authorities and/or emergency service arrives, at which time the ECO will work in conjunction with that service in accordance with the Emergency Management Plan and agreed handover procedures with local authorities;
- 5.3.1.3 reporting and addressing any matters likely to affect the viability of Emergency Management Plans and procedures; and
- 5.3.1.4 reviewing the effectiveness of emergency systems and equipment.

5.3.2. The ECO must be comprised of representatives from relevant stakeholders.

5.3.3. The ECO must meet at the following times:

- 5.3.3.1 for the development and review of Emergency Management Plans and procedures;
- 5.3.3.2 immediately in the event of an emergency and for the duration of an emergency to manage the emergency;
- 5.3.3.3 within seven (7) days after any emergency to review the emergency;
- 5.3.3.4 for the duration of all emergency exercises to conduct the exercises; and
- 5.3.3.5 each Quarter.

5.4. Emergency exercises

5.4.1. As the lead of the ECO the Service Provider must conduct emergency exercises as part of and in accordance with the safety and security exercises requirements described below (Safety and security exercises) of this SOR, which includes (without limitation):

- 5.4.1.1 the development and implementation of a Department approved schedule of exercises which includes both live drill exercises and desktop exercises;
- 5.4.1.2 the review of exercises and development of a written report of the outcomes from the exercise, including any proposals for continuous improvement; and
- 5.4.1.3 maintaining Records of each exercise.

5.4.2. The Service Provider must ensure that emergency exercises are conducted at a frequency delivered in accordance with standards and compliance requirements under the Security Industry Authority PNG and/or as directed by the Department.

5.5. Emergency response in the event of fire

5.5.1. The Service Provider must provide first response services (First Response) in the event of fire at the Sites. When providing First Response, the priority is to protect the life of persons at the Sites, utilising Department Assets.

- 5.5.2. The Service Provider must manage and maintain all equipment provided at the Site by the Department to deliver First Response to fire at each Site in accordance with clause 11(Management and maintenance of Assets and the Sites) of this SOR.
- 5.5.3. The Service Provider must ensure that all Personnel are trained for their role in the event of fire, including the use of available equipment.
- 5.5.4. The Service Provider should liaise and work in conjunction with other stakeholders in its First Response planning and execution.

5.6. Contingency Plans and procedures

- 5.6.1. The Service Provider is responsible for the development and implementation of contingency arrangements for the ELRTC and the delivery of Services in the event of:
- 5.6.1.1 an Incident;
 - 5.6.1.2 an emergency; or
 - 5.6.1.3 any other factor which impacts the:
 - a) life, safety and security and wellbeing of all persons at the ELRTC;
 - b) safety and security of the ELRTC; and
 - c) the delivery of Services.
- 5.6.2. The Service Provider must develop Department approved Contingency Plans and procedures applicable for the ELRTC and implement prior to the Handover Date of the ELRTC.
- 5.6.3. The Contingency Plans and procedures must be developed and maintained in accordance with Local Security Standards (to the extent it relates to security) and must address a range of plausible contingencies for each Site.
- 5.6.4. The Contingency Plans and procedures must detail the control arrangements, communications, and other procedures required to maintain the safety and security of all persons at the Site and the delivery of Services, including (without limitation):
- 5.6.4.1 procedures for notifying all stakeholders when a Contingency Plan is in effect;
 - 5.6.4.2 coordination procedures with relevant stakeholders for implementing contingency arrangements;
 - 5.6.4.3 process for communicating contingency arrangements to all persons at the Sites;
 - 5.6.4.4 contingency arrangements which will apply to a variety of emergency situations (to include evacuation where warranted); and
 - 5.6.4.5 suitable evacuation sites for the ELRTC as agreed with the Department.
- 5.6.5. The Service Provider must ensure that any relevant safety, security and intelligence information relating to the possibility of an Incident occurring is considered during the drafting and updating of any Contingency Plan and procedures.
- 5.6.6. The Service Provider must host an annual multi-agency, full day, contingency planning exercise, involving all relevant stakeholders, where the contingency plans for potential serious Incidents and emergencies will be tested.
- 5.6.7. The Contingency Plans and procedures must be developed in a holistic manner with the Service Provider's:

- 5.6.7.1 Safety and Security Plans and procedures;
- 5.6.7.2 Incident Management Protocols and procedures; and
- 5.6.7.3 Emergency Management Plans and procedures.

6. TRANSPORT AND ESCORT

6.1. General

- 6.1.1. The Service Provider must utilise the transport and escort capability required for the delivery of services required under this clause 6 to deliver transport and escort services at the ELRTC, including Service Provider Personnel and vehicles.
- 6.1.2. The transport and escort requirements for the ELRTC include (without limitation):
 - 6.1.2.1 the transport and escort of Residents, their property and relevant documents on departure from the ELRTC where required in accordance with the Department's requests;
 - 6.1.2.2 Shuttle bus service
 - 6.1.2.3 transport for the purpose of emergency medical attention;
 - 6.1.2.4 medical visits and treatments to the local medical facilities where alternative arrangements are not available or appropriate; and
 - 6.1.2.5 the provision of suitably trained escort(s) and driver(s) commensurate with the risks involved in ensuring the safety and security of the person/s being transported and/or escorted.
- 6.1.3. The modes of transport applicable for transport and escort Services may be by air, sea or land.
- 6.1.4. The Service Provider must provide transport and escort Services by air as directed by the Department, which is to be priced separately from the transport and escort requirements which support the operations of the ELRTC, including (without limitation) transport and escort for medical reasons and for the movement of Residents to another country.
- 6.1.5. For all transport and escort services, the Service Provider must:
 - 6.1.5.1 work cooperatively with the HSP to ensure the health and welfare of Residents is maintained during transport and escort services; and
 - 6.1.5.2 confirm the HSP has completed and provided all required assessments of Residents prior to any transport and escort services being carried out.

6.2. Shuttle bus Service

- 6.2.1. The Service Provider will provide and operate a local bus service for Refugees, if required and agreed.
- 6.2.2. If this Service is required, the Service Provider will:
 - 6.2.2.1 maintain the bus/es in accordance with manufacturer's instructions; and
 - 6.2.2.2 Work with the Department and ICSA to develop a timetable covering agreed sites to be serviced by the shuttle bus (including shuttle bus services for both Residents and Personnel); and
 - 6.2.2.3 operate the bus/es in line with the agreed timetable, as amended from time to time.

PART 4: ACCOMMODATION AND FACILITIES MANAGEMENT

7. RECEPTION, INDUCTION AND DEPARTURES

7.1. General

7.1.1. The Service Provider is responsible for the development, implementation and management of all processes relating to the initial arrival and final departure of a Resident to and from the ELRTC. Processes include (without limitation):

- 7.1.1.1 reception;
- 7.1.1.2 induction; and
- 7.1.1.3 departure processes for a Resident's departure from the ELRTC.

7.1.2. The Service Provider must develop in collaboration with the Department, ICSA and Other Service Providers reception, induction and departures procedures, in accordance with requirements detailed in clause 7.5, and implement these prior to the Hand Over of the ELRTC.

7.2. Processing times

7.2.1. The Service Provider must ensure Service Provider Personnel are available to undertake reception, induction and departure activities at any time, and;

- 7.2.1.1 have capacity to undertake these processes simultaneously for individuals and groups of Residents;
- 7.2.1.2 commence the induction processes as soon as reasonably practicable after the Reception process and ensure that it is completed within 24 hours of a Resident arriving at the ELRTC; and
- 7.2.1.3 undertake processes for a Resident's departure from the ELRTC in accordance with timeframes advised by the Department on a case by case basis.

7.3. Prior to Arrival

7.3.1. The Service Provider must:

- 7.3.1.1 manage the allocation of accommodation to Residents (refer to clause 8);
ensure that Resident accommodation and facilities are clean and stocked appropriately with any furnishings and household items, as outlined in Annexure [B]; and
- 7.3.1.2 ensure there is sufficient cleaning equipment and supplies for Residents to self-clean their accommodation (refer Annexure [B]).

7.3.2. If directed by the Department, the Service Provider must:

- 7.3.2.1 ensure that a food package is delivered to the Resident's allocated accommodation on the day of arrival and is of a sufficient quantity to last until the next weekly delivery of food;
- 7.3.2.2 procure an approved mobile phone which has internet connectivity and an initial credit limit as specified by the Department;

7.4. Reception

- 7.4.1. The Service Provider is responsible for and must develop and implement reception processes to receive a Resident into the ELRTC immediately upon arrival (and no later than 2 hours after arrival), which must include (without limitation):
- 7.4.1.1 communication of the safety and security requirements defined in clause 3;
 - 7.4.1.2 meeting all security services requirements including (without limitation) entry and egress procedures;
 - 7.4.1.3 meeting and greeting Residents jointly with other appropriate Service Providers;
 - 7.4.1.4 providing Residents with a key to their accommodation;
 - 7.4.1.5 the issuing of a toiletries starter pack, containing the following items:
 - a) soap, shampoo and conditioner; and
 - b) toothbrush and toothpaste.
 - 7.4.1.6 the following items may be issued at the reception process, if required:
 - a) deodorant, moisturiser and talcum powder;
 - b) razor and shaving cream;
 - c) nail clippers;
 - d) hairbrush or comb; and
 - e) sunscreen and insect repellent.
- 7.4.2. Following the reception at the ELRTC, Residents will be responsible for purchasing items described in clauses 7.4.1.5 and 7.4.1.6, through the use of their Subsistence Allowance.

7.5. Induction

- 7.5.1. The purpose of the induction process is to introduce Residents to the ELRTC and Services available.
- 7.5.2. The Service Provider must complete the induction process within 24 hours of a Resident's arrival at the ELRTC.
- 7.5.3. If directed by the Department, the Service Provider must distribute an approved mobile phone and inform Residents on the use of the mobile phone, advising them that they will be responsible for all future phone calls and data management once the initial phone credit has expired;
- 7.5.4. The Service Provider must inform Residents about emergency and fire evacuation procedures relevant to their accommodation.
- 7.5.5. The Service Provider must inform Residents regarding any water and electricity consumption considerations that may be applicable to the location.
- 7.5.6. The Service Provider must advise Residents of the mechanisms in place for the Resident to discuss any matters in regards to their stay at the ELRTC.

7.6. Departure

- 7.6.1. The Service Provider is responsible for supporting and preparing Residents for their departure from the ELRTC. The Service Provider must (without limitation):
- 7.6.1.1 involve appropriate Service Provider Personnel in the process to assist Residents in preparing for departure;

- 7.6.1.2 confirm the Resident's identification prior to commencing the departure process;
- 7.6.1.3 ensure that any required documentation is complete and properly authorised;
- 7.6.1.4 ensure that all Resident Records are provided to the Department and ICSA (or an escort officer where advised by the Department and / or ICSA) within 24 hours of a Residents departure from the ELRTC and in an agreed format;
- 7.6.1.5 ensure Residents are advised of their departure in accordance with any ICSA directions;
- 7.6.1.6 where Residents are travelling by air, assist the packing and weighing of Resident property and explain to Residents any relevant airline regulations such as baggage restrictions;
- 7.6.1.7 cooperate and work collaboratively with all Stakeholders involved in the process;
- 7.6.1.8 ensure that all departure details are recorded in the Resident's Record within 24 hours of their departure;
- 7.6.1.9 complete an exit checklist consisting of, but not limited to:
 - a) the return of the accommodation key;
 - b) the return of all Department assets (including Loose Assets) used by the Resident; and
 - c) ensure the accommodation is left in an appropriate state to facilitate a deep clean by the Service Provider.
- 7.6.1.10 The Resident's personal effects, which include toiletries and linen (see Annexure [B]) and mobile phone, provided on arrival, are to remain the property of the Resident.

7.6.2. The Service Provider may from time to time be requested by the Department to provide Transport and Escort services for the departure of a Resident from the ELRTC. The Service Provider must utilise their transport and escort capability (required under clause 6) to deliver this service.

8. ACCOMMODATION MANAGEMENT

8.1. General

- 8.1.1. The Service Provider is responsible for the management of accommodation at the ELRTC which includes (without limitation) the development and implementation of:
 - 8.1.1.1 administrative procedures to fulfil any record keeping requirements in regards to all aspects of accommodation at the ELRTC;
 - 8.1.1.2 a booking system to:
 - a) identify all persons requiring accommodation at the ELRTC;
 - b) manage the use and allocation of rooms in a manner which is fair and equitable;
 - c) manage occupancy levels and constraints and communicate related issues to relevant Stakeholders;
 - d) avoid duplication of bookings; and
 - e) manage the check-in and check-out process, including the management of keys and Department Assets.

8.1.1.3 procedures to manage the fit out and preparation of rooms to ensure that accommodation is ready for new occupants, including (without limitation) the provision of approved consumables and Loose Assets (see clause 8.4 of this SOR); and

8.1.1.4 the management of keys including (without limitation):

- a) a key register for the management of all keys;
- b) process for the allocation and return of keys; and
- c) process for the replacement of lost or damaged keys when approved by the Department.

8.1.2. The Service Provider must ensure that spare keys are available for all rooms/properties upon the request of the Department.

8.2. Placement

8.2.1. ICSA is responsible for determining where a Resident will be accommodated while they are at the ELRTC.

8.2.2. Where the Service Provider believes that an existing or proposed placement is inappropriate for a Resident, the Service Provider must notify the Department, ICSA and Other Service Providers, as relevant, and attend a meeting for placement review, to be chaired by ICSA.

8.2.3. The Service Provider must provide any relevant information to ICSA in order to support ICSA to:

8.2.3.1 make or change placement decisions;

8.2.3.2 prepare Residents for a placement; and

8.2.3.3 implement placements in a manner which supports:

- a) the wellbeing of the Resident being placed;
- b) the safety and security of the ELRTC; and
- c) that there are no adverse impacts to any Residents.

8.3. Management of mail

8.3.1. The Service Provider is responsible for arranging and effecting the delivery, management and distribution, of all mail delivered to the ELRTC and any Additional Sites.

8.3.2. The Service Provider must implement procedures to manage the distribution of mail in a manner which ensures that Illegal, Excluded or Controlled items do not enter the ELRTC.

8.3.3. Where mail for a former Resident arrives at the ELRTC the Service Provider must use all reasonable endeavours to forward mail to the Resident or return the mail to the sender. Where the mail is unable to be forwarded the Service Provider may return the mail to sender or to Post PNG where appropriate.

8.4. Consumables and Loose Assets for accommodation

8.4.1. The Service Provider is responsible for the provision and management of Department approved consumables and Loose Assets (refer Annexure [B]) for each accommodation unit including (without limitation) their procurement, storage and distribution.

8.4.2. The Service Provider must ensure that all approved consumables and Loose Assets are supplied within each accommodation unit prior to the arrival of new occupants.

- 8.4.3. The Service Provider is responsible for the replenishment of approved consumables and Loose Assets (as specified in Annexure [B]) for occupants, as required during their stay at the ELRTC and approved by the Department.
- 8.4.4. The Service Provider must develop a Department approved procedure for the replenishment of consumables and Loose Assets (as specified in Annexure [X] and in accordance with clause 7.4.2) for occupants and implement this prior to the Hand Over of the ELRTC. The procedure must:
- 8.4.4.1 provide Residents and Personnel with fair and equitable access to these items; and
 - 8.4.4.2 support the effective procurement and management of these items.
- 8.4.5. The Service Provider is responsible for the replacement of household goods and furnishings for Residents, as required during their stay at the ELRTC and approved by the Department. The Service Provider must replace items in accordance with Department directions.

8.5. Stores management

- 8.5.1. The Service Provider must develop, obtaining Department feedback, a procedure for the allocation of replacement linen and toiletries to Residents and implement this prior to the Handover Date of the Sites. The procedure must:
- 8.5.1.1 provide Residents with fair and equitable access to replacement linen and toiletries as specified in Annexure [B] of this SOR; and
 - 8.5.1.2 if required, support the effective procurement and management of stocks of linen and toiletries.

9. RESIDENT PROPERTY

9.1. General

- 9.1.1. The Service Provider is responsible for the management of Resident property brought on their arrival to the ELRTC which is classified as Excluded or Controlled Items which are not permitted to enter the ELRTC. Resident property management includes:
- 9.1.1.1 the screening of property (where permitted by Local Laws) to ensure that Illegal, Excluded and Controlled Items do not enter the ELRTC;
 - 9.1.1.2 the secure storage of all property provided voluntarily by a Resident for storage; and
 - 9.1.1.3 the secure storage of Illegal, Excluded and Controlled items (as per clause 3.17 and 3.18).
- 9.1.2. The Service Provider must develop procedures for the management of Resident property and implement these prior to the Handover Date of the ELRTC (see clause 3 (Security Services) of this SOR). Procedures must include (without limitation):
- 9.1.2.1 the secure and separate storage of Resident property in a manner which best preserves the item given the environmental conditions of the ELRTC and the secure storage facilities;
 - 9.1.2.2 clearly informing Residents of the procedures for the management of their property;
 - 9.1.2.3 providing Residents with access to their property;

- 9.1.2.4 secure transport of Resident property to a secure storage location, if the secure storage site is situated at a location other than at the ELRTC;
- 9.1.2.5 maintaining a register to record all access to property in secure storage and ensure that all access is monitored; and
- 9.1.2.6 the relevant precautions for Residents to securely store their personal belongings within their accommodation (where appropriate).

9.2. Recording of Resident property

9.2.1. The Service Provider must:

- 9.2.1.1 record all property of Residents while the property is in the Resident's presence;
- 9.2.1.2 record all property held by the Service Provider in secure storage;
- 9.2.1.3 record all Excluded and Controlled Items which have been removed and held in secure storage by the Service Provider; and
- 9.2.1.4 record and store all Illegal Items, as per clause 3.16 (Detection of Illegal, Excluded and Controlled Items) of this SOR.

9.3. Returning Resident property

9.3.1. The Service Provider must:

- 9.3.1.1 return any Resident property held in secure storage upon a Residents departure;
- 9.3.1.2 provide an opportunity for Residents to inspect their property prior to their departure from the ELRTC; and
- 9.3.1.3 provide the opportunity for the Resident to sign a statement indicating their satisfaction or otherwise that property was returned and it's condition.

9.3.2. Where a dispute arises regarding the property returned to a Resident, the Service Provider must ensure that:

- 9.3.2.1 full details on the items are obtained from the Resident and recorded, including the cause for the dispute; and
- 9.3.2.2 all efforts are made to resolve the dispute prior to the Resident leaving the ELRTC.

9.3.3. Where a dispute in relation to returned property is unresolved at the time of departure, the Service Provider must:

- 9.3.3.1 ensure that the Resident is given contact details of the ELRTC; and
- 9.3.3.2 obtain and record the contact details for the Resident.

9.4. Lost, stolen or damaged Resident property

9.4.1. Complaints regarding lost, stolen or damaged property must be investigated by the Service Provider.

9.4.2. Where an investigation confirms that property was not stored by the Service Provider in a manner which best preserves the item (refer clause 9.1.2.1) or the property is lost, stolen or damaged as a result of a negligent act or omission of the Service Provider, the Service

Provider must reimburse, at its own cost, the Resident for the replacement value of the property.

- 9.4.3. Where any lost property is recovered the Service Provider must use all reasonable endeavours to forward the property to the Resident.
- 9.4.4. The Service Provider is not responsible for any property in possession of a Resident that is lost, stolen or damaged.
- 9.4.5. The Service Provider is responsible for costs of property retained by a Resident in the ELRTC that is lost, stolen or damaged where that loss occurred through theft, any act, omission or neglect on the part of the Service Provider or Service Provider Personnel.
- 9.4.6. The Service Provider must use reasonable endeavours to locate the owner of any discarded property. If the Service Provider cannot locate the owner, and the Service Provider wishes to dispose of that property (after reasonable endeavours has failed to identify an owner), the Service Provider may dispose of that property.

10. CLEANING

10.1. General

- 10.1.1. All persons accommodated at the ELRTC will be responsible for day to day cleaning of their accommodation including bathrooms and kitchens. Adequate cleaning products must be provided by the Service Provider.
- 10.1.2. The Service Provider is responsible for:
- 10.1.2.1 the routine cleaning of shared areas (including training rooms, laundries and other common areas), Personnel offices and unoccupied residential accommodation where the ELRTC is operating at less than full capacity, to ensure the safety, hygiene and well-being of people at the ELRTC; and
 - 10.1.2.2 the deep cleaning of accommodation on the final departure of any persons to ensure that accommodation is ready for occupancy.
- 10.1.3. The Service Provider may be required, from time to time, to perform additional cleaning at the ELRTC and must undertake additional cleaning as directed by the Department.

10.2. Cleaning Services Plan

- 10.2.1. The Service Provider must develop a Cleaning Services Plan for the ELRTC and submit to the Department for feedback in accordance with, and as part of, the requirements outlined under clause 15.6 of this SOR.
- 10.2.2. The Cleaning Services Plan must be implemented prior to the Hand Over of the ELRTC.

10.3. Cleaning equipment and chemicals

- 10.3.1. The Service Provider is required to take all reasonable steps to ensure all equipment and chemicals used by the Service Provider Personnel for cleaning are safe, suitable for purpose, environmentally friendly (such as biodegradable) and stored securely when not in use.

10.4. Laundry services

- 10.4.1. Residents are responsible for their own laundry requirements using the laundry facilities at the ELRTC which are for personal use.

10.4.2. The Service Provider is responsible for any procurement of Assets associated with laundry services, as directed and approved by the Department.

10.5. Non-routine cleaning

10.5.1. The Service Provider must ensure there are Service Provider Personnel available at all times to respond to non-routine cleaning requirements, which may be required after:

- 10.5.1.1 accidents;
- 10.5.1.2 equipment malfunction; and
- 10.5.1.3 Incidents.

10.5.2. Where non-routine cleaning of occupied accommodation is required, the Service Provider must gain the consent of the persons occupying the room prior to conducting the cleaning.

10.5.3. The Service Provider must ensure that where an emergency cleaning requirement cannot be met by the available cleaning Service Provider Personnel, contingency plans are enacted to reduce the potential impact on any persons at the ELRTC.

10.5.4. To the extent that any non-routine cleaning requires the intervention of the emergency services, the Service Provider must collaborate with local authorities prior to undertaking any cleaning.

11. MANAGEMENT AND MAINTENANCE OF ASSETS AND THE SITE

11.1. General

11.1.1. The Service Provider must provide operational, financial and strategic management of Department Assets required for the operations of the ELRTC, which includes Department Assets located within and outside the boundaries for the ELRTC.

11.1.2. The Service Provider must employ principles, practices and strategies which ensure value for money, efficiency and longevity in relation to any Department Assets.

11.1.3. When considering the management and maintenance of Department Assets, the Service Provider must have regard to Work Health and Safety Legislation, business continuity, standards relevant to that Department Asset (as defined in the Department Asset Register), environmental management, quality management systems and records management.

11.2. Approach

11.2.1. The Service Provider must ensure that all required technical manuals and information are available for use at the ELRTC and that Service Provider Personnel receive the associated operation, maintenance and safety training, inductions and information.

11.2.2. The Service Provider must ensure that Loose Assets as provided to the Service Provider during the Transition-In period are returned to the Department at the end of the Contract Term, including those in possession and/or used by any other stakeholder.

11.2.3. The Service Provider is responsible for the procurement, maintenance, management, replacement and disposal of Loose Assets in accordance with this SOR and the Contract.

11.2.4. Where the Service Provider believes improvements or innovation that may reduce maintenance costs, or improve the operational efficiency or effectiveness of Department Assets, a business case may be submitted to the Department quantifying the cost and benefits for the Department's consideration.

11.3. Asset management

11.3.1. The Service Provider must:

- 11.3.1.1 manage the maintenance, disposal and replacement of Department Assets in accordance with Asset Management and Maintenance Plans, or as directed by the Department, to ensure that Department Assets meet their expected service life (as indicated in the Department Asset Register) and are always safe to use;
- 11.3.1.2 comply with the manufacturer's or supplier's specifications and instructions, and where applicable the Building Code of Australia and Australian Standards when performing maintenance or modification work on Departmental Assets;
- 11.3.1.3 immediately notify the Department in writing of any loss, destruction, damage to or defect in the ELRTC facilities or Departmental Assets (or any part thereof);
- 11.3.1.4 only dispose of, or write-off, a Department Asset with the prior written approval of the Department; and
- 11.3.1.5 provide, to the Department, a monthly report in a format agreed with the Department detailing the Service Provider compliance with clause 11 (Management and Maintenance of Assets and the Site) of this SOR.

11.3.2. The Service Provider must manage and maintain Department Assets in accordance with the agreed standards in the Department Asset Register and not undertake any major repair, refurbishment or replacement of a Departmental Asset without prior written approval by Department.

11.3.3. Any approved major repair, refurbishment or replacement of a Departmental Asset must be undertaken in accordance with the Commonwealth Procurement Rules (CPRs) and the costs incurred by the Service Provider calculated in accordance with clause 33 of the Contract (Additional Services).

11.3.4. In accordance with Schedule 3 (Fees and Payments) of the Contract, the Services Fee does not include upgrading or modifying the infrastructure (being the existing assets and facilities in Manus and any Department Assets) to meet any applicable Australian, local or international standards (including without limitation the Australian Standards, Building Code of Australia and any other applicable building or construction related standards, codes or requirements) relating to the Services, including any building or maintenance works.

11.4. Asset Management and Maintenance Plan

11.4.1. The Service Provider must develop a Department approved Asset Management and Maintenance Plan (AMMP) applicable for the ELRTC and implement within eight (8) weeks of the Handover Date of this service. The plan is to provide a consolidated approach and a consistent model for the management and maintenance of Department Assets.

11.4.2. The purpose of the AMMPs are for the Service Provider to demonstrate how Department Assets will be maintained, and must include (without limitation):

- 11.4.2.1 a schedule for inspection, regular maintenance of the grounds and infrastructure and testing of Department Assets;
- 11.4.2.2 a schedule of planned maintenance that includes preventative, conditional and corrective maintenance, which takes into account applicable manufacturer's and supplier's specifications and instructions and the local conditions, such as exposure to the sun and proximity to the ocean;
- 11.4.2.3 response times for reactive repair as agreed with the Department; and

11.4.2.4 plans for any Department Assets that are not fit for purpose or may reach the end of their useful life during the Term of the Contract, and may need major repair, refurbishment or replacement.

11.4.3. Any recommendations for major repair, refurbishment or replacement of Department Assets by the Service Provider will be reviewed by the Department with any decisions being at the Department's absolute discretion and in accordance with Commonwealth Procurement Rules (CPRs) and any other applicable Commonwealth legislation and policies.

11.4.4. The Service Provider must conduct and provide to the Department an annual audit of the condition of Department Assets (Asset Condition Audit) relevant for the ELRTC, commencing from the end of the Transition-In Period, which is expected to inform the development of future AMMPs.

11.4.5. The Service Provider must annually submit, to the Department, updated AMMPs relevant for the ELRTC from the Commencement Date of the Contract, corresponding updated annual Asset Condition Audits are to be included.

11.5. Service Provider and Departmental Assets

11.5.1. The Service Provider must label its own assets to enable the parties to distinguish between Service Provider assets and other assets.

11.5.2. The Department will determine the fleet (vehicles) taking into account the ELRTC's population, environment, maintenance and personnel requirements.

11.5.3. Where the Department provides or pays for an asset (including as a Pass-Through Cost), the asset will remain or become the property of the Department.

11.6. Asset Register and Asset Management System

11.6.1. The Department will provide to the Service Provider a Department Assets Register, including Loose Assets and Portable and Attractive Items, relevant for the ELRTC prior to the Contract Commencement Date.

11.6.2. The Service Provider must maintain the currency of the Department Asset Register by recording any change, addition or deletion of a Department Asset within five (5) business days.

11.6.3. The Service Provider must develop prior to the Handover Date of the ELRTC and then implement and use a system to manage Department Assets (Asset Management System) and to capture all Department Asset details in relation to any new, replacement, upgraded and relocated Assets.

11.6.4. The Department Asset Register details include (without limitation):

11.6.4.1 category;

11.6.4.2 name and type;

11.6.4.3 condition (including the applicability of the Building Code of Australia, Australian Standards, Host Country standards, and manufacturer's or supplier's specification and instructions);

11.6.4.4 capital replacement cost;

11.6.4.5 date of installation;

11.6.4.6 locations;

- 11.6.4.7 identifying features (including serial numbers and bar code numbers);
- 11.6.4.8 certificates of compliance;
- 11.6.4.9 warranties; and
- 11.6.4.10 test records.

11.6.5. The Service Provider also must record/maintain/file within the Asset Management System:

- 11.6.5.1 plans, drawings, consultant reports, practical completion certificates, certificates of occupancy, operation manuals, warranties and other site information on-site as required either by legal code or best practice requirements;
- 11.6.5.2 commissioning data for plant and equipment (originals and upgrades) including manufacturer and supplier warranties and maintenance specifications;
- 11.6.5.3 induction records;
- 11.6.5.4 key registers and manage the distribution of keys and electronic access codes;
- 11.6.5.5 contracts register and contact details for all Subcontractors and servicing companies, including critical dates and Subcontractor insurance certificates;
- 11.6.5.6 accurate records and registers for all compliance details;
- 11.6.5.7 details of planning, scheduling of Department Asset maintenance including planned and reactive maintenance and modifications and any additional works as agreed by the Department;
- 11.6.5.8 the status of work orders issued against specific Department Assets; and
- 11.6.5.9 annual Asset Condition Audits and reports.

11.6.6. The Service Provider must provide a monthly report from the Asset Management System, to the Department, which details:

- 11.6.6.1 all new, replacement and written off Department Assets;
- 11.6.6.2 a summary of all maintenance activities performed over that month including scheduled and reactive repairs/ replacements; and
- 11.6.6.3 a forecast for all maintenance activities expected to be performed within the following month.

11.7. Damage or loss of Assets

- 11.7.1. The Service Provider must be vigilant and use all reasonable endeavours (to the extent permitted under Local Laws) to prevent vandalism and damage of Department Assets including (without limitation) buildings, plant, machinery, equipment, furniture and fittings.
- 11.7.2. The Service Provider is responsible for the costs to repair or replace damaged or lost assets where the damage or loss has occurred due to the Service Provider's negligence as detailed in this SOR and Contract.
- 11.7.3. If Department Assets are damaged or lost, the Service Provider must:
 - 11.7.3.1 notify the Department;
 - 11.7.3.2 repair or replace the assets as approved by the Department; and
 - 11.7.3.3 record the cost of repairing or replacing assets as a separate item.

11.8. Site maintenance

- 11.8.1. Maintenance includes the labour, service, and repair, inspection, testing plant, tools, equipment, consumable parts and any licencing, regulatory or statutory requirements associated with maintaining the ELRTC.
- 11.8.2. Planned preventative maintenance includes:
- 11.8.2.1 statutory maintenance;
 - 11.8.2.2 manufacturer's and supplier's recommended maintenance; and
 - 11.8.2.3 replacement of consumable parts.
- 11.8.3. The Service Provider must:
- 11.8.3.1 maintain all Departmental Assets including all buildings, fittings, plant and equipment, engineering services, grounds and infrastructure elements;
 - 11.8.3.2 preserve the functionality and value of the Department Assets, by conducting regular maintenance activities which include all inspection, testing and servicing required to ensure compliance with obligations under all Laws and Local Laws, standards, manufacturers' and supplier's requirements and specifications; and
 - 11.8.3.3 ensure Department Assets achieve their expected service life (as indicated in the Department Asset Register) and the incidence of reactive repairs are minimised.
- 11.8.4. The Service Provider must achieve best possible value from the Department's Assets through the management of all Subcontractors and suppliers, and the close monitoring and management of all building outgoings.
- 11.8.5. The Service Provider must market test the delivery of maintenance services 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 must self-perform some or all of the planned and reactive maintenance Services, subject to Departmental approval.

11.9. Maintenance standards

- 11.9.1. Unless otherwise directed by the Department, the default maintenance standard for all facilities is normal. The maintenance standards are:
- 11.9.1.1 **Normal maintenance standards:** will ensure essential functionality, compliance with statutory health, safety and environmental obligations, and rectifying faults before consequential damage incurs additional cost. The requirement is to preserve the operational capacity of the asset as much as possible;
 - 11.9.1.2 **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; and
 - 11.9.1.3 **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.

11.10. Alternative arrangements during maintenance

- 11.10.1. In the event that an asset is defective and/or must be taken out of service for maintenance, the Service Provider must:
- 11.10.1.1 make reasonable alternative arrangements to maintain security and WHS and environmental standards of the ELRTC until the asset is returned to service; and
 - 11.10.1.2 notify the Department of the alternative arrangements and any impact these arrangements may have on the provision of the Services.

11.11. Emergency and reactive repairs

- 11.11.1. The Service Provider must develop for the ELRTC Department approved reactive repair response times and implement this prior to the Handover Date of the Sites.
- 11.11.2. The Service Provider must:
- 11.11.2.1 complete reactive repairs as soon as possible and within repair response times;
 - 11.11.2.2 record all details of each reactive repair including any defect, fault and/or damage and subsequent action taken;
 - 11.11.2.3 ensure availability and/or reasonable access to critical spare parts; and
 - 11.11.2.4 provide the Department visibility of reactive repair requests and responses as requested by the Department.
- 11.11.3. The Department may request the Service Provider, from time to time, to provide emergency and reactive repairs at locations outside of the ELRTC. Where approved by the Department the Service Provider must:
- 11.11.3.1 complete the repair within agreed timeframes; and
 - 11.11.3.2 record all details of each repair including any defect, fault and/or damage and subsequent action taken; and
 - 11.11.3.3 treat as a Pass Through Cost in accordance with Schedule 4 (Services Fee) of the Contract.

11.12. Security systems

- 11.12.1. Where a security system exists, the Service Provider must maintain and test the security system at the ELRTC to ensure the security system remains functional at all times and is able to achieve the security outcomes specified in this SOR.
- 11.12.2. Security systems may include (without limitation):
- 11.12.2.1 Security Control Centre;
 - 11.12.2.2 surveillance equipment;
 - 11.12.2.3 communications equipment;
 - 11.12.2.4 keys, locks and electronic access control systems;
 - 11.12.2.5 security fencing barriers; and
 - 11.12.2.6 any other security system as advised by the Department.

11.13. Emergency systems and services

- 11.13.1. The Service Provider must maintain and test emergency systems, processes and equipment for the ELRTC in accordance with relevant local laws, emergency services

recommended procedures, manufacturer's instructions and any other requirement notified by the Department.

11.13.2. Emergency systems include:

11.13.2.1 firefighting systems, including suitably qualified Personnel;

11.13.2.2 safety and emergency signage;

11.13.2.3 systems for managing power outages, in particular standby diesel generators and uninterrupted power supplies; and

11.13.2.4 first aid equipment.

11.14. Work practices

11.14.1. The Service Provider must:

11.14.1.1 ensure all maintenance work practices are compatible with the operations of the ELRTC; and

11.14.1.2 where maintenance or modifications are conducted by either the Service Provider Personnel or Subcontractors, the following must occur:

- a) maintain safety and security of the ELRTC;
- b) identify, manage and mitigate all risks within its control and compliance with all relevant legislation, policies and procedures relating to WHS;
- c) organise for maintenance or modifications to be done during Business Hours as far as is reasonably practicable, except where repairs are critical;
- d) tools are controlled at all times and remain inaccessible to Residents;
- e) all Personnel and Subcontractors abide by any conditions of entry to the ELRTC; and
- f) escort and supervise Subcontractors at all times at the ELRTC unless otherwise agreed by the Department.

11.15. Communication about maintenance and modifications

11.15.1. The Service Provider must, as far as is reasonably practicable:

11.15.1.1 ensure all persons affected by any maintenance work or modifications being undertaken at the ELRTC are aware of the nature and extent of the activity; and

11.15.1.2 communicate details of actions required to maintain safety and security, such as:

- a) prevent unauthorised access to areas under maintenance, repair or modification;
- b) erect barriers and signage in accordance with the requirements of all applicable WHS law and standards; and
- c) notify any affected person at the site of any alternative arrangements and the duration that they may be in place.

11.16. Grounds and infrastructure maintenance

11.16.1. The Service Provider must monitor, manage and maintain all grounds which fall within the boundaries of the ELRTC, including built infrastructure such as roads, walkways, outdoor recreational areas and landscaping services, ensuring all amenities at the ELRTC are

maintained in accordance with local community standards and sound environmental management practices.

11.16.2. The AMMP must include a model for grounds and infrastructure maintenance.

11.17. Project management

11.17.1. The Department is responsible for project management of:

11.17.1.1 minor capital works (conducted as part of the Department's Minor Works Programme); or

11.17.1.2 major capital works.

11.17.2. The Department may request the Service Provider to provide request for Additional Service for project management on a case by case basis.

12. ENVIRONMENTAL MANAGEMENT

12.1. General

12.1.1. The Service Provider is responsible for the Environmental Management requirements of the ELRTC and must provide this service in a manner consistent with the requirements in clause 11, including (without limitation) the management of energy consumption, the use of natural resources, waste disposal and vermin and pest control.

12.1.2. The Service Provider must work collaboratively with the Department, ICSA and other relevant Stakeholders relating to Environment Management for the development and implementation of principles, plans and practices.

12.2. Environmental Management Plan

12.2.1. The Service Provider must develop a Department approved Environmental Management Plan specific for the ELRTC and implement prior to the Hand Over of the ELRTC, which includes (without limitation):

12.2.1.1 objectives for Environmental Management;

12.2.1.2 a risk assessment of the environmental impacts of the ELRTC operations;

12.2.1.3 measures to manage energy consumption, the use of natural resources, waste disposal and pest control for the ELRTC;

12.2.1.4 procedures and documentation for the implementation, development, review and continuous improvement of the Environmental Management Plan;

12.2.1.5 a self-assessment programme; and

12.2.1.6 a process for independent annual auditing of the Environmental Management.

12.3. Energy and water

12.3.1. The Service Provider must implement any reasonable and cost-effective measures to minimise energy and water use, including:

12.3.1.1 identifying and correcting any wasteful operation or practices;

12.3.1.2 conducting routine maintenance of systems to achieve peak operational efficiency;

12.3.1.3 promoting the responsible use of energy, natural resources and water to Residents and all Personnel; and

12.3.1.4 complying with any applicable local water restrictions or other water saving measures notified by the Department.

12.3.2. The Service Provider must ensure there are sufficient supplies of water at the ELRTC and must maintain the ELRTC water treatment plant to ensure that there is sufficient water supply and of an acceptable drinking quality as defined in '*National Water Quality Management Strategy – Australian Drinking Water Guidelines 6, 2011, Version 2.0, Updated December 2013*'.

12.3.3. The Service Provider must collaborate with the HSP for the prevention of recreational water illness including educating Residents and all Personnel on water hygiene.

12.4. Waste management

12.4.1. The Service Provider must work with the Department and ICSA to implement cost effective measures to manage, in accordance with all relevant local laws, disposal of (without limitation):

- 12.4.1.1 domestic waste, including kitchen waste;
- 12.4.1.2 general liquid, sanitary and solid waste;
- 12.4.1.3 non-serviceable or unused fixtures, fittings and equipment (such as white goods, mattresses and fluorescent light tubes);
- 12.4.1.4 hazardous materials and waste;
- 12.4.1.5 garden waste;
- 12.4.1.6 industrial waste (e.g. timber, pallets, crates);
- 12.4.1.7 commercial waste (e.g. tyres, batteries);
- 12.4.1.8 organic waste;
- 12.4.1.9 paper and cardboard waste; and
- 12.4.1.10 grease trap waste.

12.4.2. When undertaking disposals, the Service Provider must seek to maximise recycling and, where applicable, composting of waste.

12.4.3. Waste management practices must acknowledge the surroundings and local conditions.

12.5. Vermin and pest control

12.5.1. The Service Provider must develop a Department approved Vermin and Pest Control Plan for the ELRTC and implement prior to the Hand Over of the ELRTC. The plan must (without limitation):

- 12.5.1.1 be based on relevant best practice;
- 12.5.1.2 be compliant with all relevant local laws; and
- 12.5.1.3 include measures that will be required to be taken to prevent or eradicate vermin or pest infestations (including mosquitoes, vector, fleas, bed bugs, poisonous animals such as snakes and spiders, rats, mice and other rodents), 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.

12.5.2. The Service Provider must, to the extent possible having regard to the available infrastructure and facilities, avoid exposing any person to hazards caused by vermin and pest control activities and will be required to minimise disturbance to all persons at the ELRTC caused by vermin and pest control activities by implementing measures, including (without limitation):

12.5.2.1 coordinating vermin and pest control activities with the daily routine of the ELRTC;

12.5.2.2 preventing all persons from accessing areas that are being treated with hazardous chemicals; and

12.5.2.3 consulting with the Department and ICSA before commencing any pest or vermin control activities that will significantly disrupt daily activities of the ELRTC.

12.5.3. The Service Provider must only deliver Vector Control Management Services as directed by the Department and in accordance with clause 12.6 of this SOR.

12.6. Vector control management

12.6.1. If requested by the Department, the Service Provider will develop, implement and maintain a Department approved Integrated Vector Management Programme to manage the risk of vector-borne infection in Residents and Personnel, particularly in relation to Malaria and Dengue Fever at the ELRTC. The term of this programme will be for the duration of the Contract or with an earlier expiration if the Department deems appropriate.

12.6.2. Within one month of the Integrated Vector Management Programme under the terms of the Contract being approved by the Department, the Service Provider will conduct a vector-borne infection risk assessment that will inform a vector-borne infection control programme responsive to the local environment of the Sites.

12.6.3. As a minimum, the Integrated Vector Management Programme will include the following:

12.6.3.1 primary prevention which is the conducting of activities that will focus on reducing vector activity and density as well as vector-human contact, including:

- a) environmental management of vectors;
- b) establishment of a buffer zone;
- c) environmental modifications;
- d) environmental manipulation; and
- e) chemical management of vectors.

12.6.3.2 secondary prevention which is the reduction of risk to individuals by using a full range of personal protection and behaviour modification measures, including:

- a) awareness and education;
- b) bite prevention; and
- c) chemoprophylaxis.

12.6.4. The Service Provider must meet the requirements as described under clause 12.5 (Vermin and Pest Control) of this SOR, in relation to the delivery of Vector Control Management Services.

12.6.5. The Service Provider must conduct an annual review (or more frequently as directed by the Department) of the Integrated Vector Management Programme and implement any changes as required.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

PART 5: BUSINESS SERVICES

13. BUSINESS SERVICES

13.1. General

- 13.1.1. Business Services sets out the arrangements for the management and administration of the Services.
- 13.1.2. For the purpose of this Part 5, any reference to Sites is to be construed as including all locations where the Service Provider is required to deliver Services, including the ELRTC and any specified Additional Site(s).
- 13.1.3. The Service Provider must implement and manage its own internal governance arrangements for effective contract management to ensure service delivery is accountable, consistent across all Services. This should be coordinated with the Department and other service providers.
- 13.1.4. The Service Provider must hold all necessary local PNG company registration and accreditation requirements to be able to conduct business in PNG.
- 13.1.5. The Service Provider must understand, and comply with, its obligations under the PNG Government taxation regime.
- 13.1.6. The Service Provider should note that the Australian Government is committed to promoting employment and training opportunities for local PNG people and businesses.
- 13.1.7. The Service Provider is required to identify and provide training and employment opportunities to local people and to demonstrate that best efforts have been undertaken to engage local contractors to the maximum extent possible within the parameters of the Services.
- 13.1.8. Business Services includes:
- 13.1.8.1 contract and relationship management;
 - 13.1.8.2 governance framework and business reporting services;
 - 13.1.8.3 human resource management;
 - 13.1.8.4 financial management; and
 - 13.1.8.5 information technology requirements.

14. CONTRACT AND RELATIONSHIP MANAGEMENT

14.1. General

- 14.1.1. The Service Provider must coordinate its delivery of Services, including any Subcontracting arrangements, with other service providers operating in and outside of the Sites.
- 14.1.2. The Service Provider must work collaboratively with the Department, the PNG Government and other stakeholders for the delivery of the Services.

14.2. Stakeholders

- 14.2.1. The Service Provider will be required to interact with a number of stakeholders directly and indirectly throughout the Term of the Contract. The number of stakeholders and the level of cooperation required may vary according to the specific requirements of the Sites and may be subject to change during the Term of the Contract.

- 14.2.2. The Service Provider must seek to establish good communication with all relevant stakeholders to assist in capacity building and encourage in-country arrangements and operations with support being provided by the Australian government.
- 14.2.3. Stakeholders may include: the PNG Government (including ICOSA), non-governmental organisations, external bodies, scrutiny bodies, emergency services, community groups and other service providers.

14.3. Cooperation with enquiries and investigations

- 14.3.1. The Service Provider must cooperate with any enquiries and/or investigations launched by an advisory body, the Commonwealth, the United Nations Human Rights Commission, relevant authorities or any other investigation as notified by the Department.
- 14.3.2. The Service Provider must use reasonable endeavours to make its Personnel, including Contractors and Subcontractors engaged by the Service Provider, available for any enquiry or investigation if required.
- 14.3.3. The cost of travel, attendance and expenses at an enquiry or investigation is the responsibility of the Service Provider, unless specifically advised otherwise by the Department.

15. GOVERNANCE FRAMEWORK AND BUSINESS REPORTING

15.1. Governance Overview

- 15.1.1. The Service Provider must develop, implement and manage corporate governance arrangements that give effect to, and support the delivery of the Services in accordance with this SOR. These arrangements must be able to demonstrate (without limitation):
- 15.1.1.1 cooperative, coordinated and professional working relationships with the Department, ICOSA, HSP, other service providers and stakeholders; and
 - 15.1.1.2 promoting and supporting effective relationship management arrangements consistent with this SOR and which ensures the coordinated and continuous delivery of the Services at the Sites.

15.2. Governance Framework

- 15.2.1. The Governance Framework provides:
- 15.2.1.1 a formal structure to support the delivery of contractual requirements and outlines the various committees and related matters essential for programme delivery; and
 - 15.2.1.2 a structure for communication and knowledge sharing between the Department and the Service Provider on issues, policies and decisions.
- 15.2.2. The Governance Framework must be developed in collaboration with the Department and will provide an overview of the roles and responsibilities of the Service Provider and the Department by:
- 15.2.2.1 outlining the cooperative approach expected of the Service Provider, the Department, and stakeholders;
 - 15.2.2.2 describing how the Service Provider and the Department will work cooperatively to build a long-term relationship and improve Service delivery; and

15.2.2.3 describing the Contract management structure in place, including the committees and cooperative initiatives that the Service Provider are to participate in.

15.2.3. The Service Provider must comply with the Governance Framework.

15.2.4. The Governance Framework will be made up of three tiers:

15.2.4.1 **Strategic** – focuses on the long-term Government Policy, and the design of Services;

15.2.4.2 **Tactical** – focuses on the procedures and planning associated with the management of Service Provider Services; and

15.2.4.3 **Delivery** – focuses on how resources are used to deliver Services to Residents on a day-to-day basis.

15.2.5. The Governance Framework does not limit or affect the Service Provider's obligations under the Contract.

15.3. Performance Management Framework

15.3.1. The Service Provider's performance and provision of all deliverables under the Contract will be measured using the Performance Management Framework (Schedule 4 of the Contract (Performance Management)).

15.4. Business Reporting

15.4.1. Quality service delivery necessitates an effective, efficient, accurate, and timely information recording and reporting system.

15.4.2. The Service Provider must develop and provide to the Department various reports in relation to the provision of Services in accordance with this SOR.

15.4.3. The Department will formally request any reports through representatives of the Contract Administrator from the Departments National Office.

15.4.4. Reporting includes both qualitative and quantitative analysis at the Strategic, Tactical and Delivery levels.

15.4.5. The Service Provider must extend full cooperation and support to the Department in achieving open and timely sharing of all relevant information (subject to relevant laws).

15.4.6. Proper reporting and supply of timely and accurate performance and Service delivery related information and data is essential to the Department for:

15.4.6.1 monitoring and assessing the contract performance of the Service Provider's performance and, enables informed operational and managerial decisions; and

15.4.6.2 satisfying the Department's accountability and transparency obligations.

15.5. Additional Reporting

15.5.1. The Department may request the Service Provider to provide additional reports in order to effectively manage the Sites.

15.5.2. The Service Provider must comply with all requests from the Department for additional reports.

15.6. Plans, Strategies and Procedures

- 15.6.1. The Service Provider must develop the plans outlined in the Table 1 in clause 15.6.8 in addition to plans, strategies, systems and procedures detailed throughout this SOR.
- 15.6.2. The Service Provider may, where practical, have one main plan with annexures for different sites where the main plan is applicable to multiple sites, if required.
- 15.6.3. The Service Provider must comply with the plans, strategies, systems and procedures detailed throughout this SOR, and their associated documents, for the duration of the Contract.
- 15.6.4. All plans, strategies, systems and procedures detailed throughout this SOR requiring Department approval must be submitted to the Department with sufficient time for the Department to review and provide approval for the Service Provider to meet required implementation dates as specified in this SOR. A minimum of 10 Business Days is required by the Department to provide approval unless otherwise specified in this SOR.
- 15.6.5. All plans, strategies, systems and procedures, detailed throughout this SOR requiring Department comment must be submitted to the Department with sufficient time for the Department to review and provide feedback. All feedback must be acknowledged and if not incorporated, the Department must be notified and agree with the final decision.
- 15.6.6. All plans, strategies, systems and procedures as detailed in this SOR must be reviewed and updated wherever necessary as per this SOR or at minimum annually to ensure they remain appropriate and current at all times. Updated plans, strategies, systems and procedures must be submitted for Department approval where Departmental approval is specified in this SOR prior to their implementation including the reporting of any changes and the reasons for the change.
- 15.6.7. The Service Provider must work in collaboration with the Department, as requested, to implement policy and procedures as necessary and appropriate for the effective and efficient day-to-day operations of the Sites.

15.6.8. Table 1 – Service Provider Plans

Plan Required	Clause reference
Contract Transition-In Plan	15.7
Contract Transition-Out Plan	15.8
Training and Recruitment Plan	15.9
Risk Management and Fraud Control Plan	15.10
Work Health and Safety Plan	15.11
Human Resource Management Plan	15.12

- 15.6.9. The Service Provider must maintain a register of all plans, procedures, manuals, registers and logs as required under this SOR, including (without limitation).

15.7. Contract Transition-In Plan

- 15.7.1. The Service Provider must provide the Department with a final draft Transition-In Plan for Departmental approval at the time of Execution Date.

15.7.2. The Contract Transition-In Plan must ensure that the Service Provider can effectively perform the Services in accordance with the Contract, and must at a minimum:

- 15.7.2.1 describe all the tasks and activities (including outlining all documents, Plans and other deliverables required to be developed or approved in accordance with this SOR) including (without limitation):
- a) staffing arrangements;
 - b) records and information management;
 - c) asset management;
 - d) communications and stakeholder engagement;
 - e) financial records and acquittal; and
 - f) Departmental property.
- 15.7.2.2 describe how the Service Provider will transition all other required Services and service delivery processes, which may include transitioning Services from the incumbent Service Provider, including (without limitation):
- a) the proposed transition team detailing roles, responsibilities, and experience;
 - b) comprehensive staff transition strategy;
 - c) collection, migration and security of data; and
 - d) establishment of systems (if applicable) and compatibility with existing systems.
- 15.7.2.3 identify milestones and timeframes for performing the Contract Transition-In activities and tasks;
- 15.7.2.4 describe how the Service Provider will work with the Department during the Contract Transition-In Period;
- 15.7.2.5 describe how the Service Provider will establish capacity to deliver the Services; and
- 15.7.2.6 details of any risks to the completion of the Transition-In Plan and detailed risk mitigation strategies.

15.7.3. The Service Provider's Transition-In Plan must include the provision of Department's Asset Register and condition assessment of each asset, by the Department to the Service Provider, and take into account for the Parties to agree on the applicable maintenance standards for each Department Asset.

15.8. Contract Transition-Out Plan

15.8.1. The Service Provider must provide the Department with a Transition-Out Plan for approval by the Department, which includes:

- 15.8.1.1 a draft within six (6) months of the Handover Date;
- 15.8.1.2 an updated version incorporating any changes requested by the Department, within 10 Business Days of the request; and
- 15.8.1.3 if applicable, an update annually on the anniversary of the Commencement Date; and
- 15.8.1.4 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.

15.8.2. The Contract Transition-Out Plan must at a minimum:

- 15.8.2.1 describe how the Service Provider will effectively and efficiently transition from the Services upon expiry or termination of the Contract by the end of the Term (or such other date specified by the Department);
- 15.8.2.2 describe all the tasks and activities, relating to the provision of the Services, including (without limitation):
- a) staffing arrangements;
 - b) records and information management;
 - c) asset management;
 - d) communications and stakeholder engagement;
 - e) financial records and acquittal;
 - f) Information and Technology management; and
 - g) Departmental property.
- 15.8.2.3 describe how the Service Provider will manage the secure delivery, transfer or the destruction of Department Material and Contract Material and all other relevant Material (including Resident Records), to the Department or its nominee as specified by the Department;
- 15.8.2.4 describe how the Service Provider will work with the Department and other service providers to ensure service continuity to Residents where there is a handover of Services;
- 15.8.2.5 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 another service provider (as required by the Department);
- 15.8.2.6 meet all other Transition-Out Plan requirements as requested by the Department;
- 15.8.2.7 identify appropriate milestones and timeframes for performing the Contract Transition-Out activities and tasks;
- 15.8.2.8 details of any risks to the achievement of the Transition-Out Plan and any risk mitigation strategies; and
- 15.8.2.9 describe how the Service Provider will work with the Department and other service providers during the Contract Transition-Out Period.

15.9. Training and Recruitment Plan

- 15.9.1. The Service Provider must provide the Department with a Training and Recruitment Plan, for review and comment by the Department.

15.10. Risk Management and Fraud Control Plan

- 15.10.1. The Service Provider must provide a Risk Management and Fraud Control Plan detailing the management of risks effectively and to take a systematic and stringent approach to the prevention and detection of fraud to achieve outcomes. The Service Provider is required to:

- 15.10.1.1 understand the nature of the risks;
- 15.10.1.2 systematically identify, assess, treat, monitor and review those risks; and

- 15.10.1.3 ensure that risk and fraud identification, assessment and prevention are embedded into processes at all levels.
- 15.10.2. The Service Provider must provide the Department with a Risk Management and Fraud Control Plan for review in accordance with the following schedule:
- 15.10.2.1 a draft by the Handover Date;
- 15.10.2.2 an updated version if requested by the Department, within 10 Business Days of the request;
- 15.10.2.3 a final version within twenty (20) Business Days of the receipt of comments from the Department, incorporating any amendments requested by the Department; and
- 15.10.2.4 if applicable, an update annually on the anniversary of the Commencement Date and wherever necessary, to ensure at all times, the Plan identifies current risks and appropriate prevention and mitigation strategies.
- 15.10.3. The Risk Management and Fraud Control Plan must be consistent with the Department's Risk Management strategies as advised by the Department and the Commonwealth Fraud Control Guidelines, and must:
- 15.10.3.1 describe how the Service Provider will identify, seek to prevent and manage risks in relation to the Services;
- 15.10.3.2 conform to recognised standards for risk management (in accordance with standards and compliance requirements under the Security Industry Authority PNG);
- 15.10.3.3 include criteria for identifying and managing risks, including descriptions of likelihood and consequence criteria;
- 15.10.3.4 describe how risks will be categorised and appropriate risk treatment strategies;
- 15.10.3.5 describe how the risks will be reported internally and to the Department;
- 15.10.3.6 describe the thresholds for escalation and management of risks;
- 15.10.3.7 describe how the Service Provider will identify, prevent and manage the risk of fraud in the performance of the Services; and
- 15.10.3.8 describe how any instances of fraud or suspected fraud will be reported internally and to the Department.
- 15.10.4. The Service Provider must:
- 15.10.4.1 comply with and implement the approved Risk Management and Fraud Control Plan during the Contract Term;
- 15.10.4.2 perform its obligations under the Contract in a manner that facilitates identification, control, management and mitigation of risks in connection with the Contract, whether or not a risk is identified in the approved Risk Management and Fraud Control Plan;
- 15.10.4.3 provide the Department with information and documents in relation to the Risk Management and Fraud Control Plan within five (5) Business Days on request by the Department;
- 15.10.4.4 report to the Department on the status of the Risk Management and Fraud Control Plan, and any significant new or changed risks; and

15.10.4.5 regularly update the Risk Management and Fraud Control Plan throughout the term of the Contract, to ensure it is up to date with current risks and appropriate prevention and mitigation strategies at all times.

15.11. Work Health and Safety Plan

15.11.1. The Service Provider must develop and implement, for each Site, a Department approved WHS Plan and implement on Contract Handover Date. The Plan must (without limitation):

- 15.11.1.1 describe how the Service Provider will comply with all applicable Australian WHS law, policy and procedures to ensure the health and safety of all persons at the Sites;
- 15.11.1.2 include procedures to identify, prevent and manage the risk of WHS issues in the delivery of Services;
- 15.11.1.3 be developed and implemented with consultation with all other service providers at the Site and the Department and be compatible with other WHS Plans at each Site;
- 15.11.1.4 is based on AS/NZS 4801:2001 – Occupational Health and Safety Management System; and
- 15.11.1.5 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 the Sites;
 - e) WHS training requirements for Service Provider Personnel working onsite at the Sites;
 - f) emergency and disaster management for Sites, including procedures in the event of cyclones and fires where relevant to risk, in accordance with the Services; and
 - g) Service Provider Personnel support including Post-Incident Management and debrief activities.

15.11.2. The Service Provider must regularly review and update the WHS Plan throughout the Contract Term to ensure it remains appropriate and current at all times.

15.12. Human Resource Management Plan

15.12.1. The Service Provider must provide the Department with a Human Resource Management Plan (as per clause 16.2 of this SOR).

15.13. Meetings

15.13.1. The meetings will mirror the Governance framework:

- 15.13.1.1 **Strategic** – Long-term deliverables;
- 15.13.1.2 **Tactical** – Short to Medium-term deliverables; and
- 15.13.1.3 **Delivery** – Short term and day-to-day

15.13.2. The Service Provider must cooperate with the Department by actively participating in committees and meetings that have been (or will be) established. The Department will notify the Service Provider in writing of any changes to governance arrangements.

- 15.13.3. The Service Provider must cooperate with the Department, other service providers and stakeholders, to meet the needs of Residents and assist the Department to meet its obligations.
- 15.13.4. The Service Provider must attend (without limitation) the following delivery meetings:
- 15.13.4.1 **daily morning meetings** - with the Department and other service providers;
 - 15.13.4.2 **WHS Committee meetings** - with the Department and other service providers to review WHS concerns at a Site;
 - 15.13.4.3 **Weekly Departmental Review meetings** - with the Department and other service providers to review performance and service delivery at a Site;
 - 15.13.4.4 **Site Security Committee meetings** - with the Department and other service providers to review security arrangements; and
 - 15.13.4.5 **monthly Site level board meetings** - with the Department and other service providers to review the effectiveness of governance arrangements, risks and issues affecting the Site.
- 15.13.5. The Service Provider must attend and participate in meetings and forums with the Department as well as multilateral meetings with PNG government officials (including ICOSA), other service providers, Departmental staff and other stakeholders, as required by the Department and any other stakeholder (as applicable).
- 15.13.6. Unless otherwise advised by the Department, delivery meetings will be held on Site.
- 15.13.7. The Service Provider must participate in, and action agreed items in respect of the Services resulting from all meetings, Consultative Committees and forums at the request of the Department.
- 15.13.8. In certain situations, and particularly at delivery, the Service Provider is required to chair and lead the meeting.
- 15.13.9. The Service Provider must provide updates, reports and briefings for meetings, Consultative Committees and forums at the request of the Department. These meetings may be held at the Department's National Office in Canberra and frequency will be agreed between the parties.
- 15.13.10. The Service Provider along with the Department, the PNG Government (including ICOSA) and communities will be required to:
- 15.13.10.1 participate in and contribute to regular meetings with community leaders; and
 - 15.13.10.2 develop and maintain good working relationships with key community members.
- 15.13.11. The Department will take a lead role in the development and implementation of any community consultations or meetings.

16. HUMAN RESOURCE MANAGEMENT

16.1. Overview

- 16.1.1. The Service Provider must demonstrate how it will achieve the requirements contained in this SOR with a workforce that is fully trained in their respective held position, reflects gender balance, adaptable, scalable and flexible. The Service Provider must also demonstrate

how the qualifications, relevant training, registrations and clearances will be obtained, maintained and updated.

16.1.2. The Service Provider must demonstrate how it will engage with and develop a workforce capacity from the PNG local community. The Service Provider must also demonstrate how it is achieving value for money for the Commonwealth.

16.1.3. The Service Provider must:

16.1.3.1 obtain appropriate work permits and visas for Service Provider Personnel;

16.1.3.2 where the relevant local capacity exists, utilise this capacity as far as possible including and (without limitation):

- a) engage with the local community to employ local personnel; and
- b) subcontract local businesses.

16.1.3.3 demonstrate that there is sufficient number and mix, including gender mix, of Service Provider Personnel available at all times to deliver the Services.

16.1.4. The Department retains the right to audit any records relating to training and accreditation registers of Service Provider Personnel.

16.2. Human Resource Management Plan

16.2.1. The Service Provider must provide to the Department a Human Resource Management Plan:

16.2.1.1 a draft within eight (8) weeks post Execution Date;

16.2.1.2 an updated version incorporating any changes requested by the Department, within 10 Business Days of the request; and

16.2.1.3 if applicable, an update annually on the anniversary of the Execution Date.

16.2.2. The Human Resource Management Plan must include:

16.2.2.1 induction and ongoing training programmes for Service Provider Personnel that are sufficiently tailored for the different roles and responsibilities of the Service Provider Personnel;

16.2.2.2 comply with the requirements across the SOR and the Contract and the Code of Conduct;

16.2.2.3 describe the Service Provider's recruitment and retention strategy and how it will ensure it has sufficient Personnel with appropriate skills to deliver the required Services;

16.2.2.4 identify specific Personnel for key positions nominated by the Service Provider and details of their qualifications and experience for key positions;

16.2.2.5 strategies to ensure Personnel meet ongoing qualification, registration and training requirements for their roles;

16.2.2.6 strategies for capacity building and employment opportunities for local communities; and

16.2.2.7 the Service Provider's training strategy.

16.3. Specific Qualifications and/or Skills required

- 16.3.1. Service Provider Personnel responsible for managing security for each Site must hold a Level IV in Security Operations or Technical Security or an equivalent; and have at least five years' experience in managing security.
- 16.3.2. Service Provider Personnel responsible for general security and safety for all persons at the Site must be a minimum of 18 years of age and are to hold at least a Certificate Level II in Security Operations or an equivalent.
- 16.3.3. Security accreditation must be provided by a Nationally Registered Training Organisation and delivered by a Level IV accredited trainer.
- 16.3.4. Any Service Provider Personnel undertaking intelligence analyst functions must be suitably experienced and where possible, qualified.
- 16.3.5. Service Provider Personnel responsible for the day-to-day operations of the Site must have passed a recognised course in "Command of Serious Incidents" (or equivalent) within the six (6) Months prior to the commencement of performing this role.
- 16.3.6. All Service Provider security and, escort and driver Personnel who in the performance of their duties operate surveillance systems or use force or restraints must have, prior to undertaking these activities, successfully complete a training course, provided by a Registered Training Organisation and delivered by a Level IV accredited trainer in security operations.
- 16.3.7. Where required, Service Provider security Personnel undertaking Escort Services must have relevant authorisations, including (without limitation) to:
- 16.3.7.1 Aviation Security Identification Card;
 - 16.3.7.2 Airside driver's licence; and
 - 16.3.7.3 Control and Restraint certification in accordance with Law.

16.4. Mandatory Clearances and Checks

- 16.4.1. Prior to and as a condition of their employment or engagement in connection with the Contract, the Service Provider must confirm that Service Provider Personnel have obtained any required criminal, medical, professional and employment history, clearances and checks as per the Contract and this SOR (Clearance).
- 16.4.2. Where the Department requests confirmation of such a Clearance the Service Provider must provide this within five (5) Business Days of the request.
- 16.4.3. The Service Provider must promptly refer details of any offences or other concerns identified in Clearances to the Department within five (5) business days of any concerns. The Department may refuse to allow any person, on the basis of any such Clearances, access to the Sites, Residents or personnel.
- 16.4.4. 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 or Subcontractors, or following a reasonable request by the Department to do so, the Service Provider must promptly:
- 16.4.4.1 investigate the suitability of that Service Provider Personnel or Subcontractor; and
 - 16.4.4.2 provide the results or findings of such investigations to the Department at the conclusion of the investigation or within five (5) Business Days of any Department request, whichever is the earlier.

16.5. Pre-deployment health checks

- 16.5.1. As a condition of employment, all Service Provider Personnel (including any Subcontractors) must undergo and pass a pre-deployment medical screening consistent with acceptable industry standards, appropriate immunisations for the Sites, and other vaccines as specified by the Department.
- 16.5.2. Any Service Provider Personnel (including Subcontractors) with chronic and/or pre-existing medical conditions must take all reasonable steps to manage their chronic and/or pre-existing health conditions during the course of their deployment to the Sites. All costs relating to the management of any chronic and/or pre-existing medical condition is the responsibility of the Service Provider Personnel (including (without limitation) regular medication).

16.6. Code of Conduct

- 16.6.1. The Service Provider must develop and submit to the Department for review a Code of Conduct for the covering all Service Provider Personnel and subcontractors.
- 16.6.2. The Code of Conduct is intended to provide an ethical framework to guide the Service Provider and Service Provider Personnel (including Subcontractors) in their decisions, actions and behaviour, and it advocates values that include integrity, honesty and impartiality.
- 16.6.3. The Service Provider and Service Provider Personnel (including Subcontractors) must observe and uphold the Code of Conduct.
- 16.6.4. The Code of Conduct must be integrated into the induction training for Service Provider Personnel (including Subcontractors), and included in any other suitable training and development programmes, particularly leadership development, management and supervisor training.

16.7. Induction Programme and Ongoing Training

- 16.7.1. The Service Provider must develop and deliver induction sessions and ongoing training programmes for all Service Provider Personnel (including Subcontractors). The programmes are to be appropriately tailored for the different roles and responsibilities.
- 16.7.2. The Service Provider must provide the Department with copies or details of any training programme (including course materials), within five (5) Business Days of any Department request. If the Department does not consider that a training programme (or course materials) meets the requirements of this clause 16.7.2, the Service Provider must update the programme or materials to take account of the Department's comments.
- 16.7.3. The Service Provider must ensure that all Service Provider Personnel (including Subcontractors):
- 16.7.3.1 complete induction training (including mental health training in accordance with clause 16.8 of this SOR) appropriate for the individual roles prior to commencing any work or delivering Services;
 - 16.7.3.2 Other training courses include (without limitation):
 - a) local and cultural awareness;
 - b) the Department's objectives for regional processing;
 - c) conflict de-escalation;
 - d) duty of care responsibilities;

- e) communication and interaction with Department Personnel, stakeholders and other service providers;
- f) problem solving and decision-making in the workplace;
- g) skills on interacting with Residents; and
- h) record keeping procedures consistent with Departmental policy.

16.7.4. The Service Provider must maintain complete and up to date training records for all Service Provider Personnel (including Subcontractors) showing details of training offered to, and completed by Service Provider Personnel (including Subcontractors). The Service Provider must provide the Department with a copy of the training records, within five (5) Business Days of any Department request.

16.7.5. The Service Provider must provide the Department with a monthly report on the number of Service Provider Personnel trained and the training undertaken within five (5) Business Days following the end of the month.

16.7.6. The Service Provider must deliver to its Personnel and submit to the Department a programme of refresher training, at least annually or as required by the Department, including the following (without limitation):

- 16.7.6.1 mental health refresher training;
- 16.7.6.2 security awareness;
- 16.7.6.3 records management;
- 16.7.6.4 IT Security training;
- 16.7.6.5 first aid;
- 16.7.6.6 self-harm and suicide awareness;
- 16.7.6.7 conflict de-escalation;
- 16.7.6.8 use of force; and
- 16.7.6.9 use of restraints.

16.8. Mental health training

16.8.1. The Service Provider must:

- 16.8.1.1 develop, in collaboration with the Department, an approved mental health training programme for all Service Provider Personnel (including Subcontractors) prior to the commencement of the Contract;
- 16.8.1.2 ensure the training programme addresses the Department's PSP policy and any other mental health and wellbeing policies (as notified by the Department from time to time);
- 16.8.1.3 update the training programme within thirty (30) Business Days of receiving notification from the Department of any changes to mental health related Department-specific Policies. Any changes to the training programme needs to be approved in writing by the Department prior to being delivered; and
- 16.8.1.4 deliver and provide annual refresher mental health training to all Service Provider Personnel (including Subcontractors).

16.8.2. The Service Provider must maintain complete and update records in relation to mental health policy training and submit a report to the Department within five (5) Business Days of any Department request.

16.8.3. The Service Provider must (if directed by the Department) participate in any quality assurance and/or evaluation activity that relates to the Service Provider's mental health policy training.

17. WORK HEALTH AND SAFETY

17.1. Work Health and Safety

- 17.1.1. The Service Provider must comply with all relevant laws for WHS, which includes (without limitation) the *Work Health and Safety Act (Cth)* 2011 and subsidiary regulations
- 17.1.2. The Service Provider must develop and implement WHS Plans in accordance with clause 15.11 of this SOR.
- 17.1.3. The Service Provider must establish and lead a WHS committee at each Site, with representatives from relevant stakeholders, to oversee compliance with WHS requirements.
- 17.1.4. The Service Provider must hold regular WHS committee meetings and distribute minutes in a timely manner.
- 17.1.5. The Service Provider must action preventative measures and take all reasonable steps to ensure all persons within the Sites observe all the WHS requirements for that Site, including (without limitation):
- 17.1.5.1 processes for the prevention and management of Incidents;
 - 17.1.5.2 the storage, transport, and use of materials; and
 - 17.1.5.3 safe work processes and the incorporation of any safety precautions.

17.2. Use of hazardous substances and chemicals

- 17.2.1. The Service Provider must take all reasonable steps and work with other service providers to ensure that:
- 17.2.1.1 all persons at the Sites are not exposed to hazardous substances; and
 - 17.2.1.2 the Safety Data Sheets of all hazardous substances used in the delivery of Services are readily available in case of emergency and must be available within 28 days of the Handover Date of the Contract.
- 17.2.2. For the purposes of this section, a hazardous substance meets the classification criteria specified in the Approved Criteria for Classifying Hazardous Substances [NOHSC: 1008(224)] and/or appears on the Hazardous Substances Information System available on the Safe Work Australia website.

18. INFORMATION TECHNOLOGY REQUIREMENTS

18.1. Information Technology Policies

- 18.1.1. The Service Provider must develop and provide to the Department details of its IT Policies and environment including (without limitation):
- 18.1.1.1 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;
 - 18.1.1.2 a description of the Service Provider's IT security;

- 18.1.1.3 a description of the Service Provider's user access and password management; and
- 18.1.1.4 a description of the Service Provider's process for handling data privacy and information management in accordance with this clause 18 and clause 19 of this SOR;
- 18.1.1.5 in accordance with the following schedule:
 - a) a finalised version for the Departments acceptance at the Handover Date; and
 - b) notification to the Department of any changes to the Service Provider's IT Policies and environment and agreement by the Department for any change prior to any change.

18.2. Information Technology Data Recovery Plan

18.2.1. The Service Provider must provide the Department with a Data Recovery Plan for approval by the Department, which includes:

18.2.1.1 the following (without limitation):

- a) timeframes for data recovery;
- b) data retention time frames; and
- c) time frames for the back-up of data.

18.2.1.2 a finalised version for the Department's acceptance at the Handover Date of the Contract;

18.2.1.3 an updated version incorporating any changes requested by the Department, within 10 Business Days of the request; and

18.2.1.4 notification to the Department of any changes to the Service Provider IT Policies and environment and agreement by the Department for any change prior to any change.

18.2.2. The Service Provider must ensure that any outsourced ICT arrangements for the Service Provider's IT environment supplying services to the Department comply with the requirements of the Department and this SOR.

18.2.3. The Service Provider must retain records for the Term of the Contract, or as otherwise required under the *Archives Act 1983(Cth)*. At expiry or termination of the Contract the Service Provider must transfer all records to the Department and destroy all copies it retains.

18.3. Specific IT System Requirements

18.3.1. The Department will provide assets to enable satellite link data carriage to deliver broadband services.

18.3.2. The Service Provider is responsible for managing any requirements to enable the satellite link data carriage to deliver broadband services.

18.3.3. Information regarding bandwidth and supplied ICT infrastructure will be made available to the Service Provider prior to Contract Execution Date.

18.3.4. If the Service Provider establishes office accommodation at the Site, subject to approval by the Department, the Service Provider must provide and manage the IT infrastructure at the Sites required to support the day to day operations of its Personnel.

18.3.5. Sufficient equipment must be provided by the Service Provider to enable the efficient and effective management and operation of the Services in respect to clause 18.3.4 of this SOR.

18.4. Wi-Fi Requirements

18.4.1. The Service Provider is responsible for the management of the Wi-Fi network at the ELRTC for the use of all personnel, and must (without limitation):

- 18.4.1.1 ensure that adequate bandwidth as directed by the Department is allocated to the Wi-Fi network;
- 18.4.1.2 provide reports to the Department as required, including (without limitation):
 - a) reports on performance levels or service faults;
 - b) usage statistics; and
 - c) providing advice to the Department of any recommendations to improve the service (where possible) or to remediate any issues.
- 18.4.1.3 manage access to the Wi-Fi network to control usage and prevent unauthorised access; and
- 18.4.1.4 undertake any required management and maintenance of the IT infrastructure and Department Assets which support the Wi-Fi network in accordance with clause 11 (Management and Maintenance of Assets and the Sites) of this SOR.

18.5. IT Personnel Requirements

18.5.1. The Service Provider must:

- 18.5.1.1 ensure that trained and experienced information services technical Service Provider Personnel are available for each Site with responsibility for IT service delivery in respect of the Services including procurement, deployment, management, maintenance, support and training;
- 18.5.1.2 have an IT Manager to co-ordinate the on-site technical Service Provider Personnel in meeting operational, business and Department IT needs; and
- 18.5.1.3 ensure a core team of training staff are available to train new Personnel in the Service Provider's IT system using 'train the trainer' methodology, where required.

18.6. Software compatibility

18.6.1. The Service Provider must transfer data to the Department in an agreed format and in accordance with this clause 18 of this SOR.

18.7. Support and Maintenance Arrangements

- 18.7.1. The Service Provider must provide basic IT support and maintenance facilities for the Service Provider, the Department and other service providers at the Sites. For avoidance of doubt, all end user support issues must be managed by each individual Service Providers or stakeholders own internal systems.
- 18.7.2. Where the Service Provider identifies any ICT incident or problem as a Department IT system issue, the Service Provider must advise the Department and further analysis of the incident or problem will be conducted in collaboration with the Department by either the Service Provider or the Department as directed by the Department.

18.8. IT Security Controls

18.8.1. The Service Provider must ensure its IT environment has the necessary IT security systems in place to ensure the continued protection of Departmental and Resident data from threats to confidentiality and integrity. This means measures must be in place to protect data while it is stored with the Service Provider and while it moves over public networks.

18.8.2. The Service Provider's IT systems and environment must adhere to:

- 18.8.2.1 the Department's current ICT Security Instructions;
- 18.8.2.2 the Department's current Protective Security Instructions;
- 18.8.2.3 the Department's current Security Framework; and
- 18.8.2.4 the Privacy Act and the amended Australian Privacy Principles.

18.8.3. The Service Provider must have measures in place to ensure that systems used for information relating to Residents, the Department and the Services are not exposed due to the Service Provider's IT environment, including:

- 18.8.3.1 to develop and maintain appropriate policies and procedures for information management in accordance with:
 - a) the Australian Government's Protective Security Policy Framework; and the
 - b) *Privacy Act 1988 (Cth)* and the Australian Privacy Principles.
- 18.8.3.2 ensure that any Service Provider IT system containing Resident Records or information is protected in a manner that meets the requirements of the Australian Signals Directorate (ASD) Australian Government Information Security Manual (ISM) and to maintain up-to- date:
 - a) software patching;
 - b) anti-virus and anti-spyware software;
 - c) personal/host-based firewall;
 - d) hard disc encryption where there is the possibility of Resident data being stored locally; and
 - e) technical controls to enforce password policies and data protection policies.

18.8.4. The Service Provider must comply with any other Department 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.

18.8.5. 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.

18.8.6. The Service Provider must be able to, on request, demonstrate how it and its Personnel meet the obligations of this clause 18 of this SOR.

18.9. Identity and Access Management

18.9.1. The Service Provider must enforce the need-to know principle, that is, only persons with a specific business need have access to data relating to Residents, the Department and the Services and limit access in accordance with the Department's IT security requirements and broader Commonwealth Guidelines.

18.9.2. The Service Provider must ensure any user gaining access to its IT systems is allocated their own user ID and password for that system.

- 18.9.3. The Department will ensure any Departmental Personnel or nominated stakeholder personnel user gaining access to the Service Provider IT systems is allocated their own user ID and password for that system.
- 18.9.4. The Service Provider must put appropriate procedures and policies 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 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 the Contract.
- 18.9.5. The Service Provider must maintain and control a register of system access privileges and terminate access privileges promptly on separation of Service Provider Personnel.

18.10. Training

- 18.10.1. The Service Provider must ensure that all Service Provider Personnel that will access the Service Provider's systems or any IT environment used to record Resident information or information on the Services, have received relevant training in the use of the Service Provider's system and the relevant IT security policies.

18.11. Movement of Computers and Storage Media

- 18.11.1. 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 Resident Records, or has been accessed by a Resident or any other service provider, is sanitised in accordance with the Australian Signals Directorate (ASD) Australian Government Information Security Manual (ISM) prior to leaving a Site.

18.12. Mobile Computing

- 18.12.1. A mobile computing device (also known as a handheld device, handheld computer or simply handheld) means, but is not limited to:
- 18.12.1.1 tablet computers;
 - 18.12.1.2 laptop computers; and
 - 18.12.1.3 smartphones.
- 18.12.2. The Service Provider must develop and implement a mobile computing policy for Service Provider Personnel, detailing the protocols and safeguards that will ensure the protection of Resident data from unauthorised disclosure or modification.
- 18.12.3. Mobile computing devices must be designed to protect Resident data from unauthorised disclosure or modification. Use of mobile computing devices to access systems containing data relating to Residents, the Department and the Services 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.

19. RECORDS MANAGEMENT

19.1. Overview

- 19.1.1. Without limiting or reducing the Service Provider's obligations under the Contract, the Service Provider must:

- 19.1.1.1 create, maintain, store securely and transfer records to the Department in accordance with the *Archives Act 1983 (Cth)* and the Australian and International

Standard for Records Management, AS ISO 15489 though AS ISO 16175 is preferred by the Department;

- 19.1.1.2 ensure privacy is maintained in accordance with the *Privacy Act 1988* (Privacy Act) and the Australian Privacy Principles;
- 19.1.1.3 produce timely, legible, accurate and comprehensive records of all Services;
- 19.1.1.4 transfer the custody of any hard or soft copy records to the Department within agreed timeframes acceptable to the Department;
- 19.1.1.5 ensure records are safeguarded from unauthorised access or use;
- 19.1.1.6 ensure all hand written records are transferred into an electronic record in the Service Provider's relevant IT system;
- 19.1.1.7 ensure all electronic records have been effectively backed up on a daily basis; and
- 19.1.1.8 ensure that no data, record or report is inappropriately accessed, removed, lost, corrupted or misplaced as a result of any deliberate wrongful act or omission of its Personnel.

19.2. Maintaining Resident Privacy

- 19.2.1. All agencies within the Australian Government and their respective contractors including the Service Provider must comply with the Privacy Act.
- 19.2.2. All personal Resident information, the Service Provider records and transfers to the Department must be managed in accordance with the standards and obligations prescribed by the Privacy Act, and including the National Privacy Principles (and the Australian Privacy Principles). This clause does not limit the Service Provider's obligations under the Contract in respect of Privacy.
- 19.2.3. The Service Provider must provide the Department with information collected for the purpose of recording Service delivery and Resident information as required in the SOR.
- 19.2.4. The Service Provider must ensure that all confidentiality and privacy obligations under the Contract are appropriately administered and complied with by all Personnel, including Subcontractors, and are to ensure that policy and procedures manual's include specific guidance on treatment of personal information and confidential information.
- 19.2.5. The Service Provider must deliver to the Department a Records Management Procedure as part of their Records Management System, as detailed at clause 2.7(Resident Records), which must include specific guidance for Personnel on the treatment of personal information and confidential information.
- 19.2.6. For the avoidance of doubt:
 - 19.2.6.1 when the Service Provider collects, uses, discloses or handles Personal Information of a Resident in order to discharge its obligations under this Contract, the act or practice can be undertaken by the Service Provider absent notification and/or consent requirements as specified in the Australian Privacy Principles (notwithstanding that such notification or consent is otherwise required under the Australian Privacy Principles); and
 - 19.2.6.2 without limiting the exemptions that apply under the Privacy Act or the Australian Privacy Principles, the Service Provider may withhold access to

Personal Information if requested by a Resident where giving access to that information:

- a) would be likely to prejudice one or more enforcement related activities conducted by or on behalf of an enforcement body; or
- b) would reveal evaluative information generated within the entity in connection with a commercially sensitive decision-making process.

20. FINANCIAL MANAGEMENT SERVICES

20.1. Overview

- 20.1.1. The Service Provider must comply with the requirements in the Contract in relation to all fees, costs and payments.
- 20.1.2. The Service Provider must ensure that it has the capacity and sufficient funds, to pay all costs required to be met by the Service Provider in accordance with this SOR.
- 20.1.3. All costs required to be met by the Service Provider which may be reimbursed by the Department (including without limitation Pass Through Costs) and Additional Service requests, must be pre-approved by the Department in writing unless otherwise stated.
- 20.1.4. The Service Provider is responsible for all procurement requirements, as approved by the Department, for the operations of the Sites including for the Department, the PNG Government and other service providers in accordance with CPRs and associated Department procedures, as notified from time to time.

20.2. Procurement

- 20.2.1. The Service Provider must develop and implement a Department approved Procurement Management Plan and procedures, at the commencement of the Contract, that sets out in detail the Service Provider's approach to managing procurement at each Site, including (without limitation):
 - 20.2.1.1 for consumables;
 - 20.2.1.2 Assets (including loose Assets);
 - 20.2.1.3 all logistics; and
 - 20.2.1.4 contingency arrangements for procurement related activities.
- 20.2.2. The Service Provider must collaborate and work cooperatively with the Department, the PNG Government, other service providers and all relevant stakeholders in:
 - 20.2.2.1 the development of the Procurement Management Plan and procedures; and
 - 20.2.2.2 the timely delivery of items.
- 20.2.3. The Service Provider must use best endeavours to employ stock management techniques for all procured items that ensure value for money in accordance with the CPRs, which may include (without limitation):
 - 20.2.3.1 appropriate transport, storage and inventory management procedures at each Site which ensure that damage and wastage of procured items is minimised;
 - 20.2.3.2 the management of shipping containers used for storage including the location and use of containers and inventory management procedures which ensure that damage and wastage of procured items is minimised;

20.2.3.3 the strategic use of storage at the Sites and Australian based warehousing to minimise storage at the Sites; and

20.2.3.4 shipping in a just-in-time or as needed basis.

20.2.4. The Service Provider must procure and manage the supply of all consumables in a manner which ensures there are sufficient consumables available to meet the ongoing needs of the operations of the Sites.

20.2.5. The Service Provider is required to conduct an initial analysis prior to the commencement of the Contract to develop the stock holding requirements for consumables at each Site and:

20.2.5.1 implement a stock control system at each Site to record and manage all stock; and

20.2.5.2 ensure that stock holding, control and management of logistics are completed in a timely manner and take into account the infrastructure (including storage) at each Site.

20.3. Logistics

20.3.1. The Service Provider is responsible for all logistics requirements for the operations of the Sites including for the Department and Service Providers and must collaborate with relevant stakeholders for the delivery of this Service.

20.3.2. The Service Provider must use the broader logistics capability in place to support the delivery of Services in delivering the specific logistics requirements in accordance with clause 20.2 of this SOR.

20.3.3. The Service Provider must assist the HSP with logistical support for the delivery of procured items (such as medical consumables and equipment). For avoidance of doubt any freight charges and import duties required for this service are considered a Pass Through Cost.

PART 6: OPTIONAL SERVICES / SERVICES AT ADDITIONAL SITE(S)**21. OPTIONAL SERVICES / SERVICES AT ADDITIONAL SITE(S)****21.1. General**

21.1.1. From time to time, at the direction of the Department, the Service Provider may be requested to deliver any of the following services at Additional Site(s), as previously defined in Parts 1-4 of this SOR:

Service	Clause
Resident Engagement	2
Security Services	3
Incident Management	4
Management of Emergencies	5
Transport and Escort	6
Reception, Induction and Departures	7
Accommodation Management	8
Resident Property	9
Cleaning	10
Management and Maintenance of Assets and the Site	11
Environmental Management	12

21.1.2. For the avoidance of doubt, the addition or removal of sources and / or Additional Sites (other than the core services at the ELRTC delivered in accordance with Parts 1-4 of this SOR) will not trigger Clause 65 in the Contract.

21.2. Additional services

21.2.1. In addition to the services noted in clause 21.1, the following services may be requested at the either the ELRTC and / or Additional Site(s) at the direction of the Department:

- 21.2.1.1 Catering (Food Packages, clause 22)
- 21.2.1.2 Reserved
- 21.2.1.3 Catering (Full Service, clause 24)
- 21.2.1.4 Laundry (Full Service, clause 25)
- 21.2.1.5 Personnel accommodation (clause 26)
- 21.2.1.6 Communications (IT Services) (clause 27)

22. CATERING (FOOD PACKAGES)**22.1. General**

22.1.1. The catering service for Residents at the Site is the provision of a weekly food package for Residents which will enable them to self-cater using the facilities provided in their accommodation.

22.2. Food package for Residents

- 22.2.1. The Service Provider is responsible for the provision, management and delivery of food packages for Residents to enable Residents to prepare their own meals.
- 22.2.2. The food package is intended to only include items which are staple for the preparation of meals. Other items can be purchased by Residents through the use of their own financial means.
- 22.2.3. The Service Provider is required to seek an initial approval from the Department for the contents of the food package prior to implementing this service.
- 22.2.4. The Service Provider must determine the contents of the food package which must (without limitation):
- 22.2.4.1 only contain staple items for the preparation of meals including (without limitation) fruit and vegetables, meat/fish, dairy, grains and pulses;
 - 22.2.4.2 be culturally appropriate and tailored to the Resident receiving the package;
 - 22.2.4.3 be comprised of at least 50 per cent locally sourced fresh produce;
 - 22.2.4.4 be delivered on a weekly basis; and
 - 22.2.4.5 not contain alcohol or cigarettes.
- 22.2.5. The Service Provider must monitor the appropriateness of the food package, in consultation with Residents, and seek Department approval prior to modifying.
- 22.2.6. The Service Provider is responsible for managing all procurement and bulk storage (dry and cold) associated with the food packages and must meet all applicable Australia and New Zealand food safety standards.

23. Reserved

24. CATERING (FULL-SERVICE)

24.1. General

- 24.1.1. The Service Provider is responsible for all catering requirements of the Sites including for Residents, personnel and any other persons as advised by the Department.
- 24.1.2. The catering service must ensure that Residents have adequate access to a variety of healthy and nutritious food which satisfies religious, cultural and dietary requirements (including medical and allergen requirements).
- 24.1.3. The catering service includes (without limitation):
- 24.1.3.1 catering provided in meal areas at the Sites which are accessible by Residents and personnel for:
 - a) **Breakfast** which must consist of a buffet styled meal including:
 - i. a selection of four (4) hot items;
 - ii. assorted breads and condiments; and
 - iii. assorted fruit, yogurt and cereals.
 - b) **Lunch** which must consist of a buffet styled meal including:

- i. two (2) main options plus one (1) vegetarian main option and a supplementary choice where required for religious or cultural needs;
- ii. a selection of three (3) vegetable options;
- iii. assorted breads and condiments;
- iv. a selection of desert and fruit; and
- v. sandwich and salad options.

c) **Dinner** which must consist of a buffet styled meal including:

- i. two (2) main options plus one (1) vegetarian main option and a supplementary choice where required for religious or cultural needs;
- ii. a selection of four (4) vegetables;
- iii. assorted breads and condiments;
- iv. a selection of desert and fruit; and
- v. salad options.

24.1.3.2 **self-service snacks and refreshments**, provided in secured designated areas accessible at all times (including meal times) by Residents and personnel which must include (without limitation):

- a) a selection of hot and cold beverages; and
- b) portion controlled packaged snacks.

24.1.3.3 **tailored meals** for:

- a) medical and allergen purposes, with process developed for the identification and approval of requirements of Residents and personnel;
- b) functions with Department approval, where the Service Provider must provide function menus to accommodate barbeques (standard one (1)), informal (standard two (2)) and formal functions (standard three (3)) that are priced in accordance with Schedule 4 (Fees and Payments) of the Contract;
- c) transport and escort services (where required);
- d) Residents and personnel at the ELRTC who are unable to access designated dining areas as advised by the Department and/ or HSP, whom will be provided with a take-away style meal;
- e) Residents and Refugees accommodated offsite, which the Department may request from time-to-time, in the form of a take-away style meal which the Service Provider is responsible for delivering; and
- f) agreed specific religious and cultural events.

24.2. Catering services requirements

24.2.1. The Service Provider must:

- 24.2.1.1 provide food and beverages in quantities which are at minimum in accordance with the Australian Dietary Guidelines published by the National Health and Medical Research Council;
- 24.2.1.2 engage the services of an appropriately experienced Australian registered and practicing clinical Dietician, to advise on and develop for the Service Provider, a

cyclic meal plan for the Sites which must be in accordance with the principals of the Australian Dietary Guidelines which may be requested by the Department for approval;

24.2.1.3 ensure that food and beverage transportation, storage, preparation, cooking, service, dining, waste storage areas and all associated equipment are clean, hygienic and well maintained in accordance with:

- a) all Laws and Local Laws;
- b) food safety standards in Australia and New Zealand;
- c) any applicable manufacturer's or supplier's specifications for equipment used for catering services; and
- d) this SOR including clause 11 (Management and Maintenance of Assets and the Sites) and clause 10 (Cleaning).

24.2.2. The Service Provider must develop an approved Food Safety Programme encompassing Hazard Analysis and Critical Control Point (HACCP) principles and procedures and implement prior to the Hand Over of the Sites.

24.2.3. The Food Safety Programme must:

24.2.3.1 meet, as far as reasonably practicable, within the available infrastructure at the Sites, the HACCP requirements in food preparation areas and self-catering areas;

24.2.3.2 include procedures for the display of instructions related to the hygiene, cleaning and safety for food preparation and catering practices; and

24.2.3.3 include periodic inspections conducted by the Service Provider of the catering service to ensure the relevant standards are maintained.

24.2.4. The Service Provider must manage environmental issues associated with provision of catering services including the management and disposal of kitchen waste in accordance with clause 12 (Environmental Management).

24.2.5. The Service Provider must produce and display signage at food service areas to indicate the contents of each dish, including (without limitation) which are vegetarian, halal, healthy options, which type of meat is used and any other dietary restrictions which the Service Provider has been advised. Signage must be understood by Residents either through translation into relevant languages or use of clear pictograms.

24.3. Catering personnel

24.3.1. The Service Provider must ensure that:

24.3.1.1 Service Provider Personnel responsible for managing catering at the Site hold a Certificate III in Catering Operations or equivalent (at minimum) and have at least three (3) years' experience in managing a commercial kitchen;

24.3.1.2 Service Provider Personnel responsible for the preparation of food and beverages must hold or be in the process of obtaining a Certificate II in Kitchen Operations or equivalent (at minimum). Service Provider Personnel will be supervised by a suitably qualified person until certification is gained; and

24.3.1.3 Service Provider Personnel responsible for the serving of food and beverages must be supervised by a person holding a Certificate II in Hospitality.

25. LAUNDRY (FULL SERVICE)

25.1. Laundry services

- 25.1.1. The Service Provider must provide, on a regular basis and as required, the laundering of:
- 25.1.1.1 Resident linen and clothing (clothing as provided by Resident to the Service Provider); and
 - 25.1.1.2 personnel linen (where personnel are accommodated at the Additional Site(s) as per clause 26).
- 25.1.2. The Service Provider must ensure Resident and personnel accommodated (as per clause 26) at the Additional Site(s) are aware of:
- 25.1.2.1 the frequency of the laundry service;
 - 25.1.2.2 where and how to access the laundry service; and
 - 25.1.2.3 the availability of self-laundering facilities.
- 25.1.3. The Service Provider must make arrangements for laundry services at accommodation sites used by personnel (personnel accommodation sites) for all linen including the collection, transportation and laundering of linen, subject to Department approval.
- 25.1.4. The Service Provider must ensure Residents and personnel accommodated at the Additional Site(s) and personnel accommodation sites have access to clean linen.
- 25.1.5. The Service Provider may from time to time discuss with the Department alternative ways and means of delivering the laundry services. The Service Provider must advise any proposed changes to the Department and the Department will, in its sole discretion, determine the changes to the delivery of those Services.
- 25.1.6. The Service Provider is responsible for the procurement of all Department Assets associated with laundry services, as directed by the Department.

26. PERSONNEL ACCOMMODATION

26.1. General

- 26.1.1. This clause 26 only relates to sites for personnel accommodation which have been designated by the Department as personnel accommodation sites to receive Services under this SOR.
- 26.1.2. The Department may request the Service Provider to provide Services at accommodation sites for personnel, to vary existing capacity to sites and/ or the Services delivered there in accordance with an Executive Direction.
- 26.1.3. Where a service is required the Service Provider must deliver services in accordance with the relevant clauses within clause 26 of this SOR.
- 26.1.4. Where the Department wishes to add a new site for personnel accommodation to the Contract it must provide fourteen (14) days' notice in writing. The Service Provider must provide Services in the timeframe specified by the Department subject to the provision of a satisfactory site inspection report by the Service Provider of the new accommodation site.
- 26.1.5. Where the Department requests the addition of a new site for personnel accommodation, the service requirements, fees and payments associated with the new accommodation site will be agreed between the parties in accordance with Schedule 4 of the Contract (Services Fee) and taking into account the existing capability under this SOR in place to deliver the Services.

26.2. Reception

26.2.1. Where required, the Service Provider must provide all reception and administration services associated with the personnel accommodation sites. Reception and administration services include (without limitation) the development and implementation of a booking system to:

- 26.2.1.1 manage the use and allocation of rooms within personnel accommodation sites in a manner which is fair and equitable;
- 26.2.1.2 manage occupancy levels and constraints of personnel accommodation sites and communicate to relevant stakeholders;
- 26.2.1.3 confirm and advise whether personnel are able to be accommodated on the dates requested;
- 26.2.1.4 identify all personnel seeking access to personnel accommodation sites;
- 26.2.1.5 fulfil record keeping requirements in regards to all aspects of the personnel accommodation sites;
- 26.2.1.6 manage the check-in and out process, including the management of keys and Department Assets; and
- 26.2.1.7 avoid duplication of bookings.

26.3. Housekeeping services for personnel accommodation

26.3.1. Where required, the Service Provider is responsible for providing housekeeping services specifically for personnel accommodation sites and must provide the following services including (without limitation):

- 26.3.1.1 cleaning rooms, including ablutions and toilets;
- 26.3.1.2 replacing linen;
- 26.3.1.3 ensuring adequate linen and consumables are provided and re-stocked where required; and
- 26.3.1.4 emptying of waste bins.

26.3.2. The Service Provider is responsible for ensuring that there is an appropriate supply of linen and consumables at all times at personnel accommodation sites and must re-stock and service rooms:

- 26.3.2.1 on a weekly basis whilst occupied;
- 26.3.2.2 after personnel have vacated the accommodation/room; and
- 26.3.2.3 after an Incident or accident.

26.3.3. Linen for each room must include at a minimum:

- 26.3.3.1 2 x pillows and pillow cases per bed;
- 26.3.3.2 2 x sheets per bed;
- 26.3.3.3 2 x towels per bed;
- 26.3.3.4 1 x bath mat per bathroom;
- 26.3.3.5 1 x coverlet per bed; and
- 26.3.3.6 1 x mattress cover per bed.

27. COMMUNICATION MANAGEMENT

27.1. Access to communication services

27.1.1. The Service Provider must ensure Residents have access to communication services, unless advised by the Department, including:

- 27.1.1.1 access and use of telephones;
- 27.1.1.2 mail services;
- 27.1.1.3 television and other media;
- 27.1.1.4 computers and printers - for Residents to perform functions such as word processing, spread sheets, internet and email for their private use and for the preparation of documents related to their refugee status determination process; and
- 27.1.1.5 internet services - ensuring appropriate filtering software and other measures are in place, in accordance with Departmental requirements, to control and limit access at the Site by Residents to:
 - a) pornographic and other prohibited websites, containing or promoting illegal acts;
 - b) personal software;
 - c) file transfer protocol websites, software or data; and
 - d) prohibited websites in foreign languages.

27.1.2. The Department will provide the infrastructure associated with Resident access to communication services (including computers, printers, telephones, television sets, media players, cabling, ports and satellite dishes where required). Notwithstanding that the Department will provide this required infrastructure at the Handover Date, the Service Provider must manage and maintain these Assets in accordance with clause 11 (Management and Maintenance of Assets) of this SOR.

27.2. Management of access

27.2.1. The Service Provider must provide management and supervision of Residents access to and use of the communication Services, including (where required) the implementation of a fair and equitable booking system.

27.2.2. The Service Provider must inform Residents that their access to communication services may be recorded and/or monitored for security purposes.

27.3. Access and use of mail services

27.3.1. The Service Provider must:

- 27.3.1.1 register all received mail addressed to Residents;
- 27.3.1.2 screen, and where necessary and permitted by the Local Law and approved by the Department remove any detected Illegal, Excluded or Controlled items from mail; and
- 27.3.1.3 manage the distribution of mail to Residents.

27.3.2. Where mail for a former Resident arrives at a Site the Service Provider must use all reasonable endeavours to forward mail to the Resident. Where the mail is unable to be forwarded the Service Provider may return the mail to sender or to Post PNG where appropriate.

27.4. Television and other media

27.4.1. The Service Provider must provide and facilitate access, unless otherwise directed by the Department, of:

27.4.1.1 free-to-air television and other broadcast services, covering news, current affairs and other content that the Service Provider or other service providers may recommend to promote the wellbeing of Residents; and

27.4.1.2 library services suitable to the current demographic and occupancy levels of Residents, including:

- a) English and foreign language videos/ DVDs/ video games;
- b) a selection of local, national and foreign language books/ periodicals; and
- c) foreign language – English translation dictionaries.

27.4.2. The Service Provider must:

27.4.2.1 ensure that the resources offered through the library service meet the cultural, educational and recreational needs of the Resident cohorts at the Sites; and

27.4.2.2 the quantity of resources available is adequate for the Resident population at the Site.

27.4.3. Television and other media must be appropriate for the viewing audience.

27.4.4. The Service Provider must ensure that Residents who access media and entertainment facilities are aware of the requirements set out in the Resident rights and responsibilities and Site Rules as provided during the induction process.

27.4.5. The Service Provider must have the capability to restrict access or monitor communication services, when approved by the Department, in the interest of maintaining the safety and security of the Sites and the wellbeing of Residents.

27.5. IT Services for Residents

27.5.1. The Service Provider must maintain computers at a Site for the use of Residents as described in this clause 27 of this SOR.

PART 7 – ANNEXURES

Annexure A

Site and Service allocation as at 9 October 2017. The required Service provisions and/or Sites may be subject to change through a Direction by the Department.

SITE & SERVICE ALLOCATION

SoR Service Line	ELRTC	Camp 300 - West Lorengau Haus	Hillside Haus - Camp (70&9)	MRPC	Granville	Shady Rest & Lodge 10	Logistics Hub	Harbourside	Staff Hub
Resident Engagement	x	x	x		x	x	x		
Resident Property	x	x	x				x		
Security Services;	x	x	x		x	x	x	Internal	x
Closed Facility (Future)			x		x				
Incident Management;	x	x	x		x	x	x	x	x
Management of Emergencies;	x	x	x		x	x	x	x	x
Transport and Escort;	x	x	x		x	x	x	x	x
Reception, Induction and Departures	x	x	x		x	x			
Accommodation Management;	x	x	x		x	x			x
Catering;	Staff	Staff	Staff		Staff	Staff	Staff		x
Cleaning;	x	TBC	TBC				x		
Management and Maintenance of Assets and the ELRTC;	x	NKW	NKW				x		
Environmental management	HSP - Vector	HSP / Site management	HSP / Site management				x		
Business Services.	x	x	x		x	x	x		
Laundry (Full Service)							x		
Communications (IT Services)	x				x	x	x		

*Staff catering covers Service Provider Personnel, HSPP, Departmental Staff and others, at the direction of the Department.

The following Annexures will be confirmed or updated at the time of requirement.

Annexure B

Linen One set per person	1 x Mattress protector
	1 x Pillow and pillow case
	1 x Blanket
	2 x Sheet set
	2 x Towels
	2 x Face washer
	1 x Bath mat
	1 x mosquito net
Kitchenware One set per household	Food storage set (up to 15 pieces)
	6 x Tea towel
	2 x Oven mitt
	4 x Dish cloth
	1 x Electric kettle
	1 x Toaster
	Pots and pans (suitable amount for size of household)
	1 x Sharp knife set
	Dinnerware (cutlery and crockery setting for size of household)
	2 x Chopping board
	ovenware/baking items (up to four pieces)
	1 x the following kitchen utensils: Scissors, Can Opener, Tongs, Vegetable Peeler, Vegetable masher, Grater, Wooden Spoon, Ladle, Egg Flip, Slotted Spoon, Colander, Salad Bowl, Measuring Spoons, Measuring Cups, Canister Storage set, Salt and Pepper Shakers.
Cleaning products One set per household	1 x Dustpan and brush
	1 x Mop and bucket
	1 x Broom
	1 x Clothes pegs
	Toilet brush (one per toilet)
	1 x Indoor rubbish bin
	1 x Laundry basket
	1 x Cleaning bucket
Assorted sponges, scourers, detergent and cleaning solutions (suitable amount for size of household)	

Annexure C

SAMPLE WEEKLY FOOD PACKAGE	
Qty (per person)	Product Description
2kg	Rice
2kg	Lentils
2kg	Chickpeas
600ml	Cooking Oil
	Salt and pepper
	Tea and Coffee
	Sugar
2 bottle (1lt)	Milk (long-life)
	Tomato Paste
	Cordial/ Juice
	Toilet paper
	Washing powder/ detergent
2 portions	Lamb diced*
2 portions	Steak*
2 portions	Sausages*
½ dozen	Eggs*
	Assorted fruit and vegetables (for example cauliflower, celery, tomato, eggplant, potato, onion, apples, oranges, apricots, dates)
	Loaf of bread
	Flat Bread
*Vegetarians to receive one (1) dozen eggs instead of meat and eggs above.	



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 3

FEES AND PAYMENTS

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

COMMERCIAL IN CONFIDENCE

1. Fees and Payments

1.1. Introduction

1.1.1. Terms defined in the Contract have the same meaning when used in this Schedule 3.

1.2. Overview of fees payable under this Agreement

1.2.1. The Department will pay the Garrison Services Provider (Services Provider) a Services Fee for the provision of the Services in accordance with the following formula:

1.2.2. Services Fee =

$$\text{GSF} + \text{SSF} + \text{OF} + \text{TC} + \text{PTC} + \text{AF} + \text{ASF} - \text{AA}$$

Where:

GSF = the Garrison Services Fee calculated in accordance with clause 2.

SSF = the Security Services Fee calculated in accordance with clause 3.

OF = the Overhead Fee calculated in accordance with clause 4.

TC = Transition costs calculated in accordance with clause 5.

PTC = Pass-Through Costs calculated in accordance with clause 6.

AF = Activity Fees calculated in accordance with clause 7.

ASF = Additional Services Fees calculated in accordance with clause 8.

AA = Abatement Amount calculated in accordance with clause 9.

1.2.3. The Services Fee, excluding ASF, will be calculated using the Monthly Reporting Template (Reporting Template) and the respective fee tables, included as Attachment A to this Schedule 3.

1.2.4. The Department may extend this Contract in accordance with clause 2.2 of the Contract. Three (3) months prior to the contract end date, the Service Provider must submit to the Department a proposal to adjust the relevant fees within the Services Fee. This adjustment will be based upon the following principles:

- a) the fees identified within the Services Fee (including Service Provider Personnel Rates) as being payable in Australian Dollars (AUD) will be adjusted by the annual change in Australian All Groups Consumer Price Index (CPI) to the most recent quarter available (as per the Australian Bureau of Statistics) three (3) months prior to the anniversary of the Contract;
- b) the fees identified within the Services Fee (including Service Provider Personnel Rates) as being payable in Papua New Guinean Kina (PGK) will be adjusted by the annual change in the CPI quarter available (as per the National Statistical Office) three (3) months prior to the anniversary of the Contract; and
- c) the proposal should include any potential reductions in the Services Fee due to efficiencies identified by the Department and / or the Service Provider.

1.2.5. If the Department exercises its right to extend the Contract, the Department and the Services Provider will negotiate and finalise (in good faith) the adjustment to the relevant fees prior to the commencement date of the extension of the Term.

1.2.6. All prices in this schedule are stated GST exclusive. Unless otherwise expressly stated in this schedule, all prices and financial figures are exclusive of GST.

2. Garrison Services Fee

2.1. Garrison Services Fee

2.1.1. The GSF is the aggregate of each individual GSF site_{a-n} where:

2.1.1.1. Site_a is the ELRTC;

2.1.1.2. Sites_{b-n} are additional sites that may be added in accordance with Clause 10.

2.1.2. Unless covered by an alternative fee as described in this Schedule 3, the GSF represents the fee for providing all Garrison Services in respect of the relevant site:

2.1.2.1. For Site_a the relevant services are as described in Parts 2 and 4 of Schedule 2 of the Contract (Statement of Requirement); and,

2.1.2.2. Where additional sites are added in accordance with Clause 10, the relevant Garrison Services provided at that site will be agreed between the Department and the Services Provider, and the GSF for the additional site will represent the fee for providing the Services.

2.1.3. The GSF is a fixed banded monthly fee, payable monthly in arrears, and calculated in accordance with the following principles:

2.1.3.1. The relevant band for the month will be determined by the number of Residents at Site_a and additional sites (if required) as communicated by the Department in the month prior to the reporting period.

2.1.3.2. The GSF will be calculated using the Reporting Template, which will be adjusted in the event of a Department initiated change in service levels or addition of a new Site as determined in accordance with principles outlined in clause 10.

2.1.3.3. The GSF will be the fixed monthly fee calculated using the Reporting Template, divided by the number of days in the relevant month (e.g. 31 for December) and then multiplied by the actual number of days the Services were provided in the month.

2.1.4. The GSF fees for each site will be calculated in accordance with the following tables:

2.1.4.1. ELRTC

GSF: ELRTC		
Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month
s. 47G(1)(a)		

GSF: ELRTC

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

2.1.4.2. West Lorengau Haus

GSF: West Lorengau Haus

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

2.1.4.3. Hillside Haus

GSF: Hillside Haus

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

Released by Department of Home Affairs
under the Freedom of Information Act 1982

2.1.4.1. Port Moresby (all sites)

GSF: Port Moresby (all sites)		
Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month
s. 47G(1)(a)		

2.1.4.1. Logistics Hub

GSF: Logistics Hub		
Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month
s. 47G(1)(a)		

2.1.4.1. Staff Hub

GSF: Staff Hub		
Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month
s. 47G(1)(a)		

3. Security Services Fee

3.1. Security Services Fee

3.1.1. The SSF is the aggregate of each individual SSF site_{a-n} where:

3.1.1.1. Site_a is the ELRTC;

3.1.1.2. Sites_{b-n} are additional sites that may be added in accordance with Clause 10.

3.1.2. Unless covered by an alternative fee as described in this Schedule 3, the SSF represents the fee for providing all Security Services in respect of the relevant site:

- 3.1.2.1. For Site_a the relevant services are as described in Part 3 of Schedule 2 of the Contract (Statement of Requirement)
- 3.1.2.2. Where additional sites are added in accordance with Clause 10, the relevant Security Services provided at that site will be agreed between the Department and the Services Provider, and the SSF for the additional site will represent the fee for providing the Services.

3.1.3. The SSF is a fixed banded monthly fee, payable monthly in arrears, and calculated in accordance with the following principles:

- 3.1.3.1. The relevant band for the month will be determined by the number of Residents at Site_a and additional sites (if required) as communicated by the Department in the month prior to the reporting period.
- 3.1.3.2. The SSF will be calculated using the Reporting Template, which will be adjusted in the event of a Department initiated change in service levels or addition of a new Site as determined in accordance with principles outlined in clause 10.
- 3.1.3.3. The SSF will be the fixed monthly fee calculated using the Reporting Template, divided by the number of days in the relevant month (e.g. 31 for December) and then multiplied by the actual number of days the Services were provided in the month.

3.1.4. The SSF fees for each site will be calculated in accordance with the following tables:

3.1.4.1. ELRTC

SSF: ELRTC		
Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)



3.1.4.2. West Lorengau Haus

Released by Department of Home Affairs under the Freedom of Information Act 1982

SSF: West Lorengau Haus

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)



3.1.4.3. Hillside Haus

SSF: Hillside Haus

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)



3.1.4.4. Port Moresby (all sites)

SSF: Port Moresby (all sites)

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)



Released by Department of Home Affairs under the Freedom of Information Act 1982

SSF: Port Moresby (all sites)

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

3.1.4.5. Logistics Hub

SSF: Logistics Hub

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

3.1.4.6. Staff Hub

SSF: Staff Hub

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

3.1.4.1. Harbourside

SSF: Harbourside

Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

4. Overhead Fee

4.1. Overhead Fee

4.1.1. Unless covered by an alternative fee as described in this Schedule 3 the OF represents the fee for providing all Business Services as specified in Part 5 of Schedule 2 of the Contract (Statement of Requirement).

4.1.2. The OF is a fixed banded monthly fee, payable monthly in arrears, and calculated in accordance with the following principles:

- 4.1.2.1. The OF will be based on the total number of Residents under management by the Services Provider at all sites.
- 4.1.2.2. The relevant band for the month will be determined by the total number of Residents under management by the Services Provider at all sites, as communicated by the Department in the month prior to the reporting.
- 4.1.2.3. The OF will be calculated using the Reporting Template, which will be adjusted in the event of a Department initiated change in service levels or addition of a new Site as determined in accordance with principles outlined in clause 10.
- 4.1.2.4. The OF will be the fixed monthly fee calculated using the Reporting Template, divided by the number of days in the relevant month (e.g. 31 for December) and then multiplied by the actual number of days the Services were provided in the month.

4.1.3. The OH fee will be calculated in accordance with the following table:

Overhead fee		
Band	Respondent fixed price per month, excluding all applicable taxes	
	AUD component / month	PGK component / month

s. 47G(1)(a)

5. Transition Costs

5.1. Transition-In Costs

- 5.1.1. On completion of transition-in activities, the Department will reimburse, without mark-up, reasonable substantiated costs (Transition-In Costs) associated with transition-in activities in accordance with Clause 16.7 of Schedule 2 of the Contract (Statement of Requirement) and in accordance with the Department approved Transition-In Plan.
- 5.1.2. The Department will not reimburse the Services Provider for the cost of any transition-in item unless pre-approval has been provided and the relevant invoice claiming payment is accompanied by appropriate and sufficient supporting documentation. The Department reserves the right to seek additional documentation as required.
- 5.1.3. Reimbursement of transition-in cost must be claimed by the Services Provider within two (2) months after the date on which the relevant goods or services were purchased by the Service Provider.

5.2. Transition-Out Costs

- 5.2.1. On completion of transition-out activities, the Department will reimburse, without mark-up, reasonable substantiated costs (Transition-Out Costs) associated with transition-out activities in accordance with Clause 16.8 of Schedule 2 of the Contract (Statement of Requirement) and in accordance with the Department approved Transition-Out Plan.

- 5.2.2. The Department will not reimburse the Services Provider for the cost of any transition-out item unless pre-approval has been provided and the relevant invoice claiming payment is accompanied by appropriate and sufficient supporting documentation. The Department reserves the right to seek additional documentation as required.
- 5.2.3. For the avoidance of doubt, the Services Provider will not be entitled to costs associated with any redundancy costs at the time of transition-out.
- 5.2.4. Reimbursement of transition-out costs must be claimed by the Services Provider within two (2) months after the date on which the relevant goods or services were purchased by the Service Provider, with no transition-out costs able to be claimed more than two (2) months after the expiration or termination of the Contract.

6. Pass Through Costs

6.1. Pass Through Cost Categories

- 6.1.1. The Department will reimburse, with an additional s. 47G(1)(a), reasonable substantiated costs (Pass-Through Costs) incurred by the Services Provider that are not covered by the elements of the Services Fee set out in clauses 2, 3, 4 and 7 of this Schedule 3 and in accordance with clause 6.
- 6.1.2. The Department will provide the Service Provider with monthly preapproval limits for each of the various Pass Through Cost categories listed in clause 6.1.3 below, including any other Pass Through Costs deemed necessary by the Department (clause 6.1.3(14)).
- 6.1.3. Subject to clause 6.1.1 of this Schedule 3 the Services Provider will be reimbursed for the following Pass-Through Costs:
- 1) costs pre-approved by the Department for travel associated with Transport and Escort;
 - 2) canteen supplies;
 - 3) lease costs for existing equipment;
 - 4) FIFO work permits;
 - 5) freight charges;
 - 6) import duties;
 - 7) material and equipment for emergency maintenance and/or repairs of Department assets;
 - 8) office furniture, equipment and consumables;
 - 9) telecommunications;
 - 10) vehicle and generator fuel (including lubricants);
 - 11) costs for public utilities charged by local governmental authority;
 - 12) Scheduled replacement of Department Assets, as per the Maintenance Management Plan;
 - 13) agreed equipment and supplies that are required in connection with the Services and are not supplied by the Department; and,

- 14) provision of other equipment, supplies or services approved by the Department, provided they are not already covered in the Service Fees or Overhead Fee.

6.1.4. The Department will reimburse any requirement to replace Resident property or compensate a Resident for loss or damage to a Resident's property other than where the loss or damage was caused or contributed to by an act or omission of the Service Provider. No mark-up is to be applied to reimbursement of these costs.

6.2. Reimbursement of Pass-Through Costs

6.2.1. The parties will develop a joint procedure for the management, approval and reporting of procurement and Pass-Through Costs that are subject to approval by the Department within the scope of the Contract. All Pass-Through Costs subject to Departmental approval must:

6.2.1.1. be approved by the Department in advance in writing; and

6.2.1.2. be claimed within three (3) months of the date on which the relevant goods or services are provided to the Services Provider, with no Pass-Through Costs able to be claimed more than 90 days after the expiration or earlier termination of the Contract.

6.2.2. The Department will not reimburse the Services Provider for the cost of any Pass-Through Cost item unless the relevant invoice claiming payment for the amount is accompanied by sufficient supporting documentation (to the Department's satisfaction).

7. Activity Fees

7.1. Transport and Escort Fee

7.1.1. The Transport and Escort Fee covers all elements of Clause 6 of Schedule 2 of the Contract (Statement of Requirement).

7.1.2. The Transport and Escort Fee payable for an escort, at the request of the Department or ICOSA, will be calculated by applying the applicable hourly fees set out in Annexure A of this Schedule 3 for each hour of support provided by the Services Provider Personnel to support the escort.

7.1.3. Where Transport and Escort services are required, the Services Provider must submit to the Department the proposed Transport and Escort plan, resourcing and costs associated with the Transport and Escort activity to the Department for approval prior to the activity taking place (including specifying any Pass-Through Costs).

8. Additional Services

8.1. Additional Services Fees

8.1.1. The Department may (from time to time) request, in writing, that the Service Provider to provide additional or out-of-scope services (i.e. services not currently specified in the Statement of Requirement).

8.1.2. The Additional Services Fees payable for the delivery of those out-of-scope services will be priced in accordance with the Daily and Hourly rates for labour for the Service Provider Personnel specified in Annexure A.

8.1.3. Fees payable for Additional Services should be invoiced separately from the other components of the Service Fee.

9. Abatement Amount

9.1. Abatement Amount

9.1.1. The Abatement Amount will be determined in accordance with Schedule 4 of the Contract (Performance Management).

10. Change in services and / or addition of new site

10.1. Adjustment to fees due to change in services and / or addition of new site

10.1.1. Should the Department initiate, in writing, a change in service levels or addition of a new Site accordance with Part 6 of Schedule 2 of the Contract (Statement of Requirement) (Change Request), the parties will seek to update any impacted fee components with the following steps:

- 1) Upon receipt of the Change Request, The Department and the Services Provider will meet to agree the change in service levels or addition of a new Site;
- 2) The Services Provider will propose the fee categories that are impacted by the change agreed in step 1) for the Department to review and approve;
- 3) Within 10 Business Days of receiving the Department's agreement to the impact on fee categories of the Change Request, the Services Provider will submit updated fee tables (including new volume bands if required for new sites) for the relevant services categories (as agreed in step 2) that will reflect the agreed change in service levels or services at the new Site. The fees will be calculated on an open book basis and be supported by relevant information to the satisfaction of the Department.
- 4) Within 5 Business Days of receiving the updated fee tables and, if relevant, proposed new bandings (and supporting information), the Department will confirm to the Services Provider that the updated fee/s is/are acceptable to the Department or will require further amendments if the Department does not consider (acting reasonably) that the updated fee/s reflect/s the agreed change in service levels. Should this occur the Services Provider will have 2 Business Days to amend the updated fee tables. This step will repeat until the Department confirms that the updated fee tables are acceptable to the Department; and
- 5) Subject to the Department approving, in writing, the updated fee tables, the parties will then agree the month for which the change in service levels should commence and the updated fee tables will apply from that month.

11. Payment Arrangements

11.1. Invoices

11.1.1. Reserved

11.1.2. An invoice must:

- (a) meet Australian Taxation Office requirements of a tax invoice as required by GST Law;
- (b) be accurate;

- (c) contain sufficient information to enable the Department to justify making the relevant payment to the Service Provider consistently with the requirements and duties of the *Public Governance, Performance and Accountability Act 2013* and any relevant subordinate or delegated legislation;
- (d) provide disclosure of the basis of all components of the Service Fees charged to the Department (including relevant calculations);
- (e) provide full substantiation for any Transition Costs claimed by the Services Provider and include confirmation that the Transition Costs are properly recoverable (including compliance with Clause 5 in this Schedule 3; and
- (f) provide full substantiation for any Pass-Through Costs claimed by the Services Provider and include confirmation that the Pass-Through Costs are properly recoverable (including compliance with clause 6 in this Schedule 3).

11.2. Reserved**11.3. Reserved****11.4. Payment arrangements**

11.4.1. Unless otherwise agreed, any payments under this Contract will be made by electronic transfer directly to a nominated business bank account. Payments will be net of payment reductions for abatement for which the Services Provider is liable under the Agreement.

11.5. Currencies and exchange rates

11.5.1. All payments made under the Contract (including this Schedule 3) will be made in Australian Dollars. As a result, all invoices must be provided in Australian Dollars.

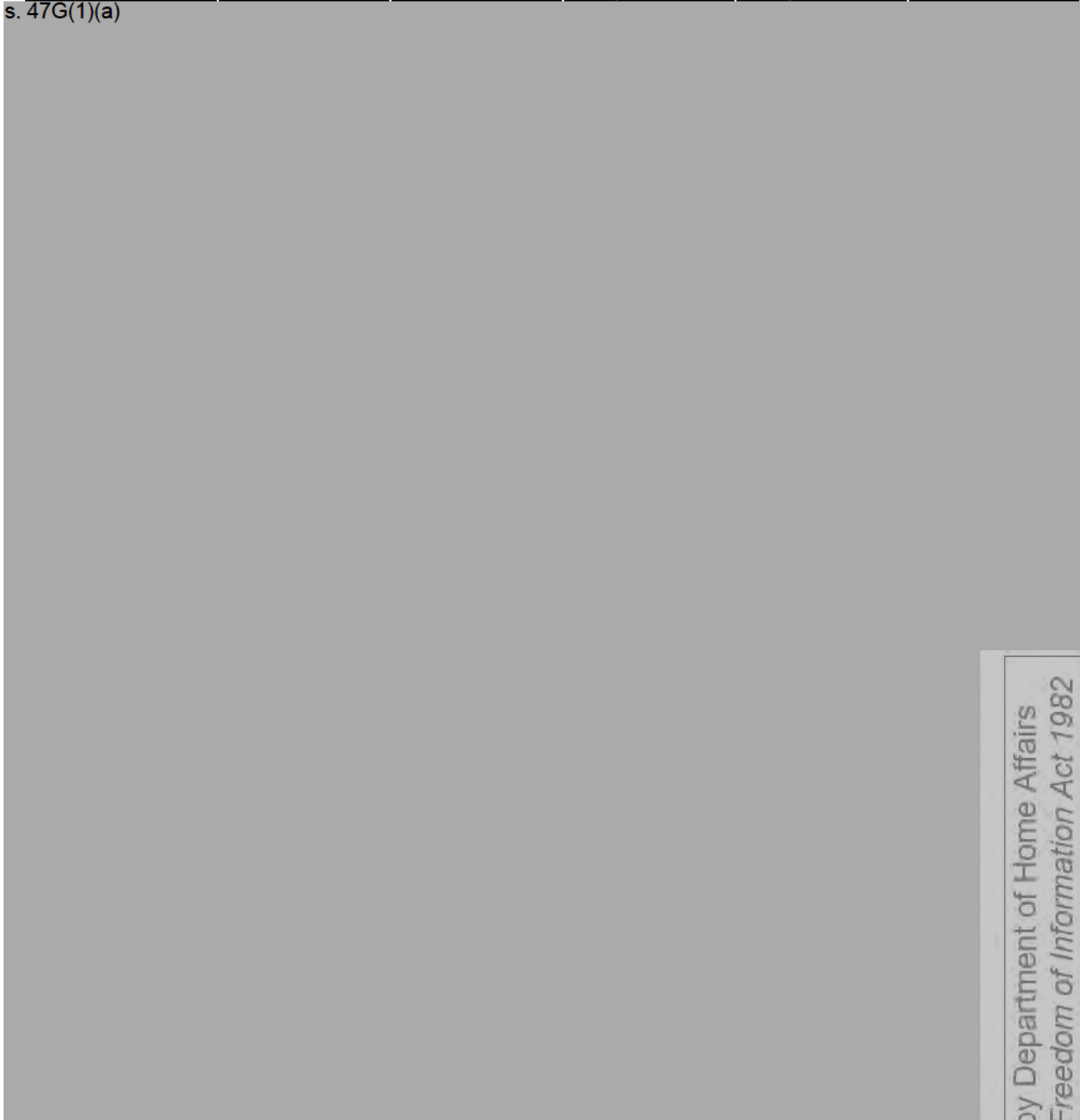
11.5.2. The foreign exchange component of the Services Fee (including Pass Through Costs and Additional Services Fees) will be converted into Australian Dollars utilising the rate reported by the Reserve Bank of Australia on the last business day of the month preceding the invoicing month.

11.5.3. Any foreign exchange rates must be clearly stated on each invoice where currency has been converted.

Annexure A – Additional Services Rates

Personnel Pricing Table					
Labour Category	Standard Weekday Hourly Rate (SAUD GST Exc)	Overtime Weekday Hourly Rate (SAUD GST Exc)	Standard Saturday & Overtime Hourly Rate (SAUD GST Exc)	Standard Sunday & Overtime Hourly Rate (SAUD GST Exc)	Public Holiday Hourly Rate (SAUD GST Exc)

s. 47G(1)(a)



Released by Department of Home Affairs
under the Freedom of Information Act 1982

Personnel Pricing Table

Labour Category	Standard Weekday Hourly Rate (SAUD GST Exc)	Overtime Weekday Hourly Rate (SAUD GST Exc)	Standard Saturday & Overtime Hourly Rate (SAUD GST Exc)	Standard Sunday & Overtime Hourly Rate (SAUD GST Exc)	Public Holiday Hourly Rate (SAUD GST Exc)
------------------------	--	--	--	--	--

s. 47G(1)(a)



Released by Department of Home Affairs under the Freedom of Information Act 1982



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 4

**PERFORMANCE MANAGEMENT FRAMEWORK and
PERFORMANCE MEASURES**

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

COMMERCIAL IN CONFIDENCE

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 Performance Measures (PMs) against which the Garrison Services Provider (GSP)’s performance will be assessed.
- (b) The Framework explains the approach that the GSP is required to take in monitoring its performance and assists the Department in evaluating the GSP’s performance against its contractual requirements and the Department’s expected outcomes.
- (c) The Framework requires a collaborative approach between the Department and the GSP.
- (d) A Monthly Performance Report Template (Reporting Template) is used to record the results of the GSP’s performance for each Reporting Month.

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 the level of abatement for the relevant month calculated in accordance with the Monthly Reporting Template (Attachment A of Schedule 3 of the Contract (Fees and Payments))

Action Plan means the plan submitted by the Service Provider to the Department detailing the strategies and actions to be undertaken by the Service Provider to address a Performance Failure, and are designed to prevent a Performance Failure from reoccurring.

Fee at Risk is the maximum value of abatement in a month as determined by clause 3(d) of this Schedule.

Monthly Performance Template (Reporting Template) means the Microsoft Excel spreadsheet (Attachment A of Schedule 3 of the Contract (Fees and Payments)) that is used to record information about the Service Provider’s performance against each Performance Measure.

Performance Deduction means the amount of Abatement applicable to a Performance Failure

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 clause 6.

Performance Improvement Notice (PIN) means a notice issued by the Department to the Service Provider that requires the Service Provider to take actions to improve its service delivery performance.

Performance Measure (PMs) means any of the performance measures set out in clause 6 of this Schedule.

Released by Department of Home Affairs under the Freedom of Information Act 1982

Rectification Plan means a plan submitted by the Service Provider and approved by the Department that responds to the requirements of any Performance Improvement Notice issued by the Department.

Reporting Month means each period that corresponds with a billing period as defined in Schedule 1 to the Contract.

2. PERFORMANCE MEASURES

- (a) The GSP's performance of its contractual requirements is measured against the Performance Measures (PMs) specified in clause 6 of this Schedule.
- (b) The Service Provider will assess its performance against the PMs described in clause 6 of this Schedule. For each PM, the Annexure includes the definition of the PM, how it will be measured, and frequency of reporting.
- (c) Proposed changes to PMs, including the Fee at Risk, by either the GSP or the Department are to be addressed in writing to the other party no later than seven (7) days before the next fortnightly contract meeting for discussion at that meeting.
- (d) The Department may also introduce new PMs, if the Department considers it necessary to broaden the service delivery areas that are subject to performance monitoring, including in respect of any additional services or variations that are requested.
- (e) The Department will review the PMs on an annual basis, if required.

3. FINANCIAL ABATEMENT

- (a) Poor performance against PMs will result in the Services Fee being reduced by the Abatement Amount.
- (b) The Abatement Amount for the reporting month is calculated in accordance with the Reporting Template.
- (c) The Performance Deduction for each PM is specified in Clause 6 to this Schedule.
- (d) The Abatement Amount as calculated in accordance with the Reporting Template will not exceed 15% of the total monthly Services Fee excluding Pass Through Costs (PTCs) in accordance with Schedule 3 of the Contract (Fees and Payments).

4. ACTION PLANS

- (a) In the event of a Performance Failure, the GSP is required to develop and implement an 'Action Plan'.
- (b) The Action Plan is required to 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 will take to address the issues that led to the Performance Failure. The Action Plan will include a timeframe for implementation. The format of the Action Plan is to be prepared by the Service Provider and approved by the Department.

- (c) The Department is not required to approve the Action Plan. The Department may, but is not required to, provide comment for consideration by the Service Provider within 48 hours of submission.

5. PERFORMANCE FRAMEWORK REPORTING

- (a) The Service Provider is required to self-monitor and self-report on performance against the agreed Performance Measures.
- (b) The monthly performance reporting process involves the GSP submitting the following reports to the Department (collectively referred to as the 'Monthly Performance Reports'):
 - (i) The Reporting Template in accordance with the agreed format and content;
 - (ii) Agreed Evidence Packs; and
 - (iii) Action Plans for Performance Failures (if applicable).
- (c) The Service Provider is required to submit the Monthly Performance Reports to the Department by close of business on the 10th Business Day of the following Reporting Month.
- (d) The Department will review the Monthly Performance Reports and notify the GSP within five (5) Business Days whether it accepts or disputes the Monthly Performance Reports.

6. PERFORMANCE MEASURES FOR GSP

Performance Measures for GSP

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
1	Resident Reception, Induction Processes	Clause 7	Completion of Reception, and Induction processes for Residents within 24 hours of the Resident arriving at the Site.	<ul style="list-style-type: none"> Reception and induction: Time 1 = Time Resident arrives at the Site. Time 2 = Time reception and induction process is completed. A Performance Failure occurs when Time 2 minus Time 1 exceeds 24 hours. A further Performance Failure occurs when Time 2 minus Time 1 exceeds 48 hours. 	s. 47G(1)(a)

2	Timeliness of Maintenance Tasks	Clause 11	<ul style="list-style-type: none"> Timely completion of Planned Maintenance tasks in accordance with the approved Maintenance Plan Completion of Reactive Maintenance tasks in accordance with agreed times. 	<ul style="list-style-type: none"> Planned Maintenance: Time 1 (Due) = Last calendar day of the week in which the job is scheduled for completion in the Service Provider's Maintenance Plan. Time 2 (Completion) = Time the job is completed. A Performance Failure occurs when Time 2 is after Time 1. Reactive Maintenance: Time 1 (Start) = Time the job is logged with the Service Provider's management call centre by phone or email. Time 2 (Response) = Time the job is recorded in the Service Provider's system, allocated and scheduled to be completed (according to priority and Department approved reactive repair response times), and the requester advised (either verbally at time of call or via email), of expected completion timeframe and a job reference number. Time 3 (Rectification) = Time the Asset is restored to working order/function within normal operating parameters or the Asset is made safe and in accordance with Department agreed time frames as per the Service Provider's Maintenance Plan. (An example of where an Asset is made safe and not completely restored is where the Service Provider is awaiting parts and parts arrival is out of the Service Provider's control). A Performance Failure occurs when Time 3 minus Time 2 minus Time 1 exceeds the agreed time framework. 	s. 47G(1)(a)
3	Completeness of Asset Register and Condition Audit	Clause 11.6	<ul style="list-style-type: none"> Updating of the Department Asset Register. Annual updating of the Asset Condition Audit. 	<ul style="list-style-type: none"> Updating of Asset Register: Time 1 (Start) = Time an Asset is brought into service, retired or updated. Time 2 (Completion) = Time the Asset Register is updated accordingly. 	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
				<p>A Performance Failure occurs when Time 2 is more than five (5) business days after Time 1.</p> <ul style="list-style-type: none"> Updating of Asset Condition Audit: Time 1 (Due) = Time the Asset Condition Audit is scheduled to be updated. Time 2 (Completion) = Time the Asset Condition Audit is updated. <p>A Performance Failure occurs when Time 2 is more than five (5) business days after Time 1.</p>	
4	Delivery of Cleaning Services	Clause 10.2	Completion of cleaning tasks in accordance with the approved Cleaning Services Plan	<ul style="list-style-type: none"> Cleaning: Time 1 (Scheduled) = Day/time a task is scheduled for completion. Time 2 (Completion) = Day/time the task is completed (as defined by the approved Cleaning Services Plan - refer clause 19.2). <p>A Performance Failure occurs when the Services Provider fails to deliver in accordance with the approved Cleaning Services Plan.</p>	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
5	Timely Delivery of Transport Services	Clause 6	<ul style="list-style-type: none"> Scheduled transport and escort tasks according to set schedules (e.g. shuttle bus service) Transport and escort requests in accordance with agreed timeframes (e.g. Transfer and Removal or Return, medical appointments). 	<ul style="list-style-type: none"> Scheduled transport and escort tasks: For scheduled bus services a Performance Failure occurs when more than 10% of scheduled services in a given month run more than 20 minutes late or more than 10% of scheduled services are cancelled without prior notice. Transport and Escort Requests: For transfer and removal or return a Performance Failure occurs when an escort tasks is not completed due to service provider failure. For medical transport tasks a Performance Failure occurs when any medical emergency task cannot be completed due to service provider failure. 	s. 47G(1)(a)
6	Key Control Processes	Clause 8.1	Implementation of security processes for keys at all controlled areas.	Each month the Services Provider must undertake an audit of the controlled areas key register ensuring that processes are effective and being followed. A Performance Failure occurs when keys are lost or the register isn't kept to date.	s. 47G(1)(a)
7	Mandatory Training and Qualifications	Clause 16.3	Compliance with the relevant personnel requirements under the Contract.	Each month the Services Provider must provide a report identifying the number of Services Provider Personnel that do not hold the necessary training, qualifications and checks as required under the Contract. A Performance Failure occurs when the individual assigned to a task does not meet the experience or qualifications required, or is not in the process of obtaining these based on a reasonable timeframe; or the report isn't provided.	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
8	Governance and Reporting Requirements	Clause 15	<ul style="list-style-type: none"> Provision of required reports. Attendance and active participation in required governance meetings. 	<ul style="list-style-type: none"> Provision of required reports. A Performance Failure occurs when a report is not provided within an agreed timeframe. Attendance and active participation is required governance meetings. A Performance Failure occurs when the Services Provider fails to attend or actively participate in a required governance meeting. 	s. 47G(1)(a)
9	Financial Management Services and Procurement	Clause 20	Ensure additional service requests are complied with.	A Performance Failure occurs when inadequate and untimely information is provided to support the Department's assessment requirements.	s. 47G(1)(a)
10	Timely and accurate completion of incident reports	Clause 4.6	<ul style="list-style-type: none"> Provision of Critical Incident reports: <ul style="list-style-type: none"> (a) Verbally within 30 minutes of becoming aware of the incident. (b) In writing within 1 hour of becoming aware of the incident. Provision of Other Incident reports: <ul style="list-style-type: none"> (c) In writing within 24 hours of becoming aware of the incident. 	<ul style="list-style-type: none"> Reports of Critical Incidents: <ul style="list-style-type: none"> (a) A Performance Failure occurs when the verbal report of such an incident is not provided within 40 minutes of the Services Provider becoming aware of the incident. (b) A Performance Failure occurs when the written report of such incident is not provided within 1.5 hours of the Services Provider becoming aware of the incident. Reports of Other Incidents: <ul style="list-style-type: none"> (c) A Performance Failure occurs when the written report of such incident is not provided within 28 hours of the Services Provider becoming aware of the incident. 	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
11	Compliance with Performance Improvement Notice		Compliance with requirements of Performance Improvement Notices, including the implementation of any Rectification Plans	A Performance Failure occurs when the Services Provider fails to comply with the requirements of a Performance Improvement Notice.	s. 47G(1)(a)
12	Work health and Safety	Clause 9	Maintenance of physical environments of Sites in a manner that promotes a safe and healthy environment.	A Performance Failure occurs when the Services Provider does not address matters previously identified from the WHS risk register or a hazmat audit within agreed timeframes.	s. 47G(1)(a)
13	Security and Emergency Exercises	Clause 17	Provision of written reports to the Department of security and emergency exercises undertaken and any outcomes.	Each month the Services Provider is required to provide a report on the actual or simulated exercise undertaken in the previous month including the outcomes and any relevant proposal for continuous improvement. A Performance Failure occurs when such an exercise does not occur or the report of such an exercise is inadequate or not submitted.	s. 47G(1)(a)
14	Incident Reporting Quality and Completeness	Clause 4.6	All Major/Critical Incident Reports, in addition to meeting the timeframes associated with Performance Measure 4.7, should to the best of the information available at the time of reporting completely and accurately describe the following details:	A Performance Failure occurs when the Services Provider does not provide a complete and accurate report based on the best information available to it at the time.	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
			<ul style="list-style-type: none"> • Participants and witnesses; • Date/time; • Location; • Detailed Description of Events; • Incident Category (in line with Incident Reporting categories provided by the department) • Actions taken; and • Stakeholders & Agencies notified 		
17	Post Incident Review Timeliness	Clause 4.7	Post Incident Reviews (PIRs) have been completed and provided to the Department within 7 Calendar days of resolution of the Incident (Approved Time).	<ul style="list-style-type: none"> • Time 1 = Time Incident is resolved Time 2 = Time Service Provider provides PIR to the Department (Time 2 – Time 1) > 7 days = Outside Approved Time Outside Approved Time % = number of outside Approved Time instances/Total number of PIRs • A Performance Failure occurs when the Service Provider does not comply with the PIR framework and when the PIR is not completed and provided to the Department within seven (7) calendar days of the resolution of the Incident. 	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of Fee (Abatement Amount) per Performance Failure (AUD)
18	Implementation of Recommendations from Post Incident Review	Clause 4.7	Measures the successful implementation of recommendations arising from Post Incident Reviews within the timeframes agreed with the Department and in respect of the Services (Approved Time).	<ul style="list-style-type: none"> Time 1 = Agreed timeframe for implementing recommendations that are part of the Services arising from Post Incident Reviews. Time 2 = Actual time recommendations successfully implemented. A Performance Failure occurs when Time 2 > Time 1. 	s. 47G(1)(a)

Performance measures related to services in accordance with Clause 6

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
19	Provision of Meals to Meal Plan	Clause 22 and 24	The Service Provider must provide food in accordance with the approved Service Provider developed meal plan at Schedule 2 (Statement of Requirement).	A Performance Failure occurs when the requirements of the approved meal plan or its agreed substitute are not met.	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
20	Quality of Food	Clause 22 and 24	Quality and appropriateness of the food served by the Service Provider is suitable as measured by the number of complaints received within the month.	A Performance Failure occurs when the number of complaints against number of meals exceeds 5%.	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
21	Medical Meals	Clause 22 and 24	<p>The Services Provider must make available medical meals for specific people in accordance with Schedule 2 (Statement of Requirement). This is relevant for Personnel where the Service Provider provides meals.</p> <p>The Services Provider is to take direction as follows: the Department is to advise where a suitable certificate is provided by the HSP or a medical practitioner (i.e. Personnel's home doctor) within the agreed timeframes and in advance of the meal service.</p> <p>For the avoidance of doubt, the medical meals registers, which are to be maintained by the Services Provider for catering requirements, are the true record.</p>	<ul style="list-style-type: none"> Each medical meal must be served in accordance with the medical meals register as issued to the Catering Manager. Notification must be provided in accordance with the SOR requirements and must be in advance of the meal service time and received by the agreed timeframes (that is at least 24 hours advance through the formal electronic notification process). A Performance Failure occurs when a person requiring a medical meal, who the Services Provider is required to provide a meal to and the Department has complied with its prior notice requirements, is not served in accordance with their medical requirement. 	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
22	Compliance with food safety audits	Clause 22 and 24	The Service Provider must deliver catering services in accordance with the Food and Safety Programme based on Hazard Analysis and Critical Control Point (HACCP), ensuring that any resulting Correct and Preventative Action Requests (CPARs) identified in relation to the provision of Services are managed and closed out.	<ul style="list-style-type: none"> Catering services must be delivered in accordance with the approved food safety programme and actions identified during audits must be managed and closed out. Where catering audit CPARs are raised, CPARs must be managed within Service Providers Services and the infrastructure provided by the Department (which may not itself meet HACCP standards). A Performance Failure occurs when the Services Provider fails to comply with an action item identified in the audit. 	s. 47G(1)(a)

Performance measures related to Security Services

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
23	Entry and Egress Processes		That the entry and egress processes implemented at all relevant locations by the Service Provider are effective, including that they:	<ul style="list-style-type: none"> The Services Provider will monitor and include in incident reports the number of entry and egress breaches known to it. For the purpose of this measure, an entry and egress breach is where an entry or egress is not logged. A Performance Failure occurs when an entry or egress is not logged. 	s. 47G(1)(a)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
			<ul style="list-style-type: none"> a) prohibit unauthorised access to a site within the relevant local Laws; b) enable the Services Provider to determine whether or not Residents and personnel are in or outside of the site in the event of an emergency; c) reasonably ensure that Illegal, Excluded and Controlled Items are detected and do not enter the site as permitted by the relevant legislation; and d) maintain a record of all visitors and visit details to the site. 	<ul style="list-style-type: none"> • A further Performance Failure occurs if an unlogged entry or egress that is known to the Services Provider is not included in an incident report. • A Performance Failure occurs if illegal, excluded or controlled items are detected on site which the Service Provider knows about but hasn't been reported in accordance with the Contract. 	
24	Perimeter Security		That the Services Provider has undertaken perimeter	<ul style="list-style-type: none"> • Each month the Services Provider will ensure that the appropriate number of perimeter security patrols are 	s. 47G(1)

Ref.	Service	SoR Ref	Description of requirement	Measure of Performance Failure	Reduction of fee (Abatement Amount) per Performance Failure (AUD)
			security patrols in accordance with the frequency agreed in the Site Security Plan.	undertaken in accordance with the patrols matrix and that each has been formally recorded. <ul style="list-style-type: none"> • A Performance Failure occurs when such a patrol is not conducted or a patrol is not formally recorded. 	

7. EXCUSABLE PERFORMANCE FAILURE (EPF)

- (a) The Department recognises that circumstances may arise in which it may be reasonable to take into account specific circumstances or events that have resulted in a Performance Failure by the Service Provider (Excusable Performance Failure or EPF). Circumstances or events such as these will be excluded for the purpose of determining whether a Performance Failure has been triggered in respect of a PM and, consequently, whether a Performance Deduction applies for that measure.
- (b) The categories of events that may constitute EPFs are:
 - (i) events that the Department recognises as being beyond the reasonable control of the Service Provider provided that the Service Provider has taken all proper and reasonable steps to minimise the occurrence and impact of such events;
 - (ii) a Force Majeure Event;
 - (iii) events caused by other Service Providers, 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; and
 - (iv) an event directly caused by the interference or action, inaction, negligence or Direction of the Department, Department Personnel, or another Service Provider to the Department.
- (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 is required to notify the Department within three (3) Business Days of the EPF event 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's Regional Manager will (acting reasonably) determine whether an event qualifies for exclusion under this clause. In the event that the Department's Regional Manager does not support the EPF, the matter is to be referred to the Department's Contract Authority for discussion with the Service Provider.
- (e) The Department's Contract Authority will make the final determination regarding whether an event constitutes an EPF. In doing so, the Department's Contract Authority will act reasonably and take into consideration:
 - (i) The extent to which the Service Provider's actions (or failure to act) contributed to the Performance Failure occurring; and
 - (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 PM Outcomes.

- (f) If an EPF event occurs, the Service Provider is required to develop processes that will be implemented in order to remove, overcome or minimise the effects of that EPF event as quickly as possible and ensure, to the maximum extent possible that the PM objectives continue to be met during the EPF period.
- (g) During a period covered by an EPF, some of the PM may be suspended. However, the Service Provider's performance against the remaining PM will continue to be assessed.

8. PERFORMANCE IMPROVEMENT NOTICES

- (a) The occurrence of any of the following events may result in the Department issuing a Performance Improvement Notice (PIN) to the GSP:
 - (i) The Department considers that the GSP has repeatedly failed, or is likely to repeatedly fail, to perform the Services in a manner that is consistent with the Contract; or
 - (ii) The Service Provider has incurred, or is likely to incur, the same Performance Failure of a PM over three consecutive months.
- (b) The Performance Improvement Notice issued by the Department to the GSP 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 timeframe for the Service Provider to complete the action or achieve the outcome specified.
- (c) The Performance Improvement Notice may also require the GSP 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 GSP to improve performance; and / or
 - (ii) submit to the Department, within agreed timeframes, a Rectification Plan in a form reasonably specified by the Department and including a level of detail acceptable to the Department. The Rectification Plan must contain details of all steps which the GSP 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 or rejected by the Department within 5 days of submission. The GSP is required to implement the Rectification Plan within the agreed timeframes and diligently comply with the Rectification Plan.



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 7

**KEY PERSONNEL AND APPROVED
SUBCONTRACTORS**

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL-IN-CONFIDENCE

Released by Department of Home Affairs
under the Freedom of Information Act 1982

1. Key Personnel

(a) The Services Provider's Key Personnel and their positions are set out in Table 1.

Table 1 – Services Provider Key Personnel

Key Personnel	Key Position	The part of the Services that the Key Personnel will provide
s. 47F(1)	Director Operations Support	Management of all services associated with supporting delivery of operations
s. 47F(1)	Director Contracts and Compliance	Administering contracts and ensuring contract compliance
s. 47F(1)	Operations Director	Day to day management of PNG operations
s. 47F(1)	Operations Director	Day to day management of PNG operations

2. Approved Major Subcontractors

(a) The Services Provider's approved Major Subcontractors are set out in Table 2.

Table 2 – Major Subcontractors

Subcontractor's full legal name	The part of the Services that the Subcontractor will provide
s. 47G(1)(a)	Provision of Services in PNG.
s. 47G(1)(a)	Provision of corporate and support functions in Australia.
s. 47G(1)(a)	Camp and facilities management labour
s. 47G(1)(a)	Plant equipment hire and asset maintenance
s. 47G(1)(a)	Local national security labour

(b) Major Subcontractor Personnel and their positions are set out in Table 3.

Table 3 – Major Subcontractor Key Personnel

Key Personnel	Key Position
s. 47F(1)	Director Operations Support
s. 47F(1)	Operations Director
s. 47F(1)	Operations Director



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 9

PERFORMANCE SECURITIES

Part A – Unconditional Financial Undertaking

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

SCHEDULE 9 – PERFORMANCE SECURITIES

PART A - UNCONDITIONAL FINANCIAL UNDERTAKING

THIS DEED is made on the [] day of [] 2018 in favour of the Commonwealth of Australia, represented by the Department of Home Affairs (the Department) by s. 47G(1)(a) [] s. 47G(1)(a) []

RECITALS

- A. The Department and Paladin Holdings Pte Ltd (Service Provider) have entered into an agreement for the supply to the Department of certain services.
B. The Service Provider is required by the agreement to secure the due performance of its contractual obligations under the agreement by obtaining, among other things, this deed for the benefit of the Department.

OPERATIVE PROVISIONS

- 1. The Financial Security Provider unconditionally and irrevocably undertakes and covenants, for the benefit of the Department, to pay to the Department, on demand, without reference to the Service Provider and notwithstanding any notice given by the Service Provider, any sum or sums which may from time to time be demanded in writing by the Department to a maximum aggregate sum of \$[INSERT AMOUNT] (Maximum Amount).
2. To make a demand under clause 1, the Department must give the Financial Security Provider a written notice setting out the amount demanded and the details of the account to which it is to be paid. The form of the demand is to be in or to the effect of Attachment A. A demand is given if it is addressed to the Financial Security Provider at the following address, marked as set out as follows and delivered to that address or sent by pre-paid mail to that address.

A demand is regarded as given and received:

- (a) if it is delivered on a Working Day — at 5.00 pm (local time in the place of receipt) on that day; or
(b) if it is delivered after 5.00 pm or on a day that is not a Working Day — at 9.00 am (Canberra time) on the next Working Day; or
(c) if it is sent by pre-paid mail — in three Working Days.

The Financial Security Provider’s address and fax number are set out below, or as notified to the Commonwealth in accordance with this clause 2:

Address: [INSERT]
Fax number: [INSERT]
Attention: [INSERT]

Working Day means a day other than a Saturday or Sunday or a public holiday in the Australian Capital Territory.

Released by Department of Home Affairs under the Freedom of Information Act 1982

3. The Financial Security Provider must make payments to the Department under this deed:
 - (a) in Australian dollars by direct transfer of cleared funds to the credit of the account specified in the relevant demand;
 - (b) by no later than 4:00pm (Canberra time) on the next Working Day (as defined in clause 2) after the demand is given to the Financial Security Provider; and
 - (c) without any set off or counterclaim and (to the extent permitted by law) free and clear of, and without deduction or withholding for or on account of, any taxes.
4. The Financial Security Provider must not make any inquiry in relation to a demand and must pay amounts demanded by the Commonwealth in accordance with this deed.
5. The Financial Security Provider's liability under this deed is a continuing liability and continues until:
 - (a) payment is made under this deed of the Maximum Amount;
 - (b) the Department notifies the Financial Security Provider that this undertaking is no longer required;
 - (c) the Department returns this deed to the Financial Security Provider; or
 - (d) [INSERT DATE],whichever is earlier.
6. The undertaking and covenant in clause 1 cannot be varied or waived in any circumstances. The obligations of the Financial Security Provider under this deed are not affected by anything that, but for this provision, might operate to exonerate it from that liability in whole or in part. In particular:
 - (a) this deed may be enforced against the Financial Security Provider without the Department's being required to exhaust any remedy it may have against the Service Provider; and
 - (b) the Financial Security Provider agrees that it is not discharged or released from this undertaking by any arrangement between the Service Provider and the Department.
7. The Financial Security Provider acknowledges that it has received valuable consideration for entering into this deed.
8. If a law requires the Financial Security Provider to withhold or deduct an amount from a payment so that the Department would not actually receive the full amount provided for under this deed, then:
 - (a) the amount payable is increased so that, after that deduction and deductions applicable to additional amounts payable, that the Department receives the amount it would have received if no deduction had been required;
 - (b) the Financial Security Provider must make the deduction; and
 - (c) the Financial Security Provider must pay the full amount deducted to the relevant authority in accordance with applicable law.

9. This undertaking is governed by, and is to be construed in accordance with, the laws for the time being of the Australian Capital Territory. The Financial Security Provider agrees that the courts of that Territory will have jurisdiction to entertain any action in respect of, or arising out of, this deed and hereby submits itself to the jurisdiction of those courts.
10. Despite anything in this deed, the Financial Security Provider has the right at any time to pay the Department the Maximum Amount, or the balance of the Maximum Amount outstanding after any part payment or payments made by the Financial Security Provider under this deed. If the Financial Security Provider makes a payment under this **clause 10**, its liability under this deed will be discharged to the extent of that payment.
11. A person who executes this deed on behalf of the Financial Security Provider under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.
12. In this deed, unless the contrary intention appears:
 - (a) a reference to an agreement, or a provision of an agreement, is to that agreement or provision as amended, supplemented, replaced or novated;
 - (b) a reference to a clause or provision numbered or otherwise identified is a reference to the clause or provision so numbered or identified in this deed;
 - (c) a singular word includes the plural, and vice versa; and
 - (d) if a word is defined, another part of speech of that word has a corresponding meaning.

ATTACHMENT A — FORM OF DEMAND

To: **[INSERT NAME OF]**
[INSERT ADDRESS FROM CLAUSE 2]
Attention: [INSERT FROM CLAUSE 2]
Date: [INSERT DATE]

Financial Security Deed given by Paladin Holdings Pte Ltd in favour of the Department of Home Affairs and dated [INSERT DATE]

In accordance with clause 1 of the Financial Security Deed referred to above, the Department hereby makes a demand for \$[INSERT AMOUNT].

Payment is to be made by direct transfer of cleared funds to the credit of the following account: [INSERT ACCOUNT DETAILS].

SIGNED by

Signature

Name

in his or her capacity as

on behalf of the Commonwealth of Australia in the presence of:

Signature of witness

Name of witness

EXECUTED as a deed:

[INSERT EXECUTION BLOCK]

Released by Department of Home Affairs
under the Freedom of Information Act 1982



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 10

CONFIDENTIAL INFORMATION

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL IN CONFIDENCE

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

Services Provider Confidential Information

Service Provider Confidential Information	Reason for classification	Period of Confidentiality
Key Personnel (Schedule 7)	Personal information and potential safety issue for listed individuals.	Perpetual
Fees and Payments (Schedule 3) pricing information but not the total contract price.	Contains Commercial-in-confidence information which if released, jeopardise Service Providers business.	5 years post Contract term.
Limitation of Liability amount under the Contract, but not the existence of one.	Contains details about insurance and liability regimes that are commercially sensitive.	5 years post Contract term.
Insurance – amounts of insurance under Schedule 13 and Contract but not the existence of certain insurances.	Contains details about insurance and liability regimes that are commercially sensitive.	5 years post Contract term.
Details of the Performance Management Framework	Commercial-in-confidence. Could prejudice competitive advantage with other service providers.	5 years post Contract term.
Cooperation with third party (clause 12.2 of the Contract)	Commercial-in-confidence. Could prejudice competitive advantage with other contractors.	5 years post Contract term.
Letter of Intent dated 21 September 2017 (LOI 1) – details of components of payment amounts to Paladin.	Contains commercially sensitive information.	5 years post Contract term.
Letter of Intent dated 8 November 2017 (LOI 2) – details of components of payment amounts to Paladin.	Contains commercially sensitive information.	5 years post Contract term.
Letter of Intent dated 30 November	Contains commercially sensitive information.	5 years post Contract term.

s. 47G(1)(a)





Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 11

CONFIDENTIALITY DEED

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL IN CONFIDENCE

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

THIS DEED POLL is made the day of 2018

in favour of the **COMMONWEALTH OF AUSTRALIA** represented by the Department of Home Affairs (**the Department**)

BY (the **Confidant**)

RECITALS

A The Department and Paladin Holdings Pte Ltd (**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 involved in 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 at the East Lorengau Refugee Transit Centre in Papua New Guinea.

Department Confidential Information means information 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** of this Deed, 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.

4. CRIMES ACT

4.1. The Confidant acknowledges that 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".

4.2. The Confidant acknowledges that 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 the *Crimes Act 1914*, punishment for which may include 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 all documents 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 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

Released by Department of Home Affairs
under the Freedom of Information Act 1982



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 12

**DEED OF NON-DISCLOSURE OF
PERSONAL INFORMATION**

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL IN CONFIDENCE

Released by Department of Home Affairs
under the Freedom of Information Act 1982

SCHEDULE 12 – DEED OF NON-DISCLOSURE OF PERSONAL INFORMATION

THIS DEED POLL is made the _____ day of _____ 2018
in favour of the **COMMONWEALTH OF AUSTRALIA** as represented by the Department of Home Affairs (**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 Paladin Holdings Pte Ltd (**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 obligations as specified or contemplated in the Contract.
3. Subject to the Garrison Service Provider's obligations as specified or contemplated in the Contract (pursuant to Section 6A(2) of the *Privacy Act 1988* (Cth) (**Privacy Act**)), 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 Garrison Service Provider; or
 - (ii) the Australian Privacy Principles set out in the 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 Garrison 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 relevant Regional Processing Country, or allow parties to have access to it (except the Department), without the prior approval of the Department (except as required or authorised by law or the Contract);
 - (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 Garrison Service Provider or a Australian Privacy Principle as set out in the Privacy Act, in accordance with the Garrison 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 Garrison Service Provider, except to the extent that the Garrison 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 *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 Garrison 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 Garrison 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 Home Affairs

PNG Services Contract

SCHEDULE 13

INSURANCE

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL IN CONFIDENCE

Released by Department of Home Affairs
under the Freedom of Information Act 1982

SCHEDULE 13 – INSURANCE

The Services Provider must effect and maintain or cause to be effected and maintained under one or more policies of insurance (without requiring any risk to be double insured):

- (a) public insurance, written on an occurrence basis, with a limit of indemnity of no less than s. 47G(1)(a) in respect of each and every occurrence, and s. 47G(1)(a) in respect of products liability only also in the aggregate for all occurrences arising during any one 12 month policy period, and which covers:
- (i) the Services Provider's liability and the liability of its employees (including to the Department); and
 - (ii) the Department's vicarious liability for the acts or omissions of the Services Provider and its employees;
- in respect of:
- (iii) loss of, damage to, or loss of use of any real or personal property (including the Sites, Department Assets, Loose Assets, Department Material and other Department or Client property in the care, custody or control of the Services Provider); and
 - (iv) the bodily injury of, disease or illness (including mental illness) to, or death of, any person (except employees of the Services Provider);
- arising out of or in connection with the Services Provider's negligent performance of any Services or this Contract;
- (b) workers' compensation insurance which insures any injury, damage, expense, loss or liability suffered or incurred by any person engaged in work by the Services Provider under this Contract (but excluding Subcontractors):
- (i) giving rise to a claim under any statute relating to workers' or accident compensation to the level, and as required by the relevant state or territory law;
 - (ii) where common law claims are possible outside of the statutory scheme referred to at **section (i)** above, for employer's liability at common law with a limit of indemnity of not less than s. 47G(1)(a) for any one event and in the aggregate for any 12 month policy period;
 - (iii) in each State or Territory where the Services Provider's employees normally reside or where their contract of employment was made; and
 - (iv) where possible under the relevant law or scheme governing workers compensation insurance and in respect of all employers' liability policies, extending to indemnify the Department for its liability as principal;
- (c) professional indemnity insurance:

- (i) which covers the liability the Services Provider and its employees or consultants arising from a breach of duty owed in a professional capacity, or an error or omission in judgment;
 - (ii) which insures the Department for its liability as principal for the acts or omissions of the Services Provider and its employees engaged in performing the Services;
 - (iii) extending to include cover for unintentional breaches of Intellectual Property rights; and
 - (iv) with a limit of indemnity of at least s. 47G(1)(a) in respect of each claim and in the aggregate for all claims in any one 12 month policy period, and with one automatic right of reinstatement.
- (d) fidelity guarantee insurance with a limit of not less than s. 47G(1)(a) in the aggregate for all claims during the policy period;
- (e) except to the extent insured under the public liability policy effected, or caused to be effected, by the Services Provider in compliance with this Contract, comprehensive motor vehicle insurance which includes:
- (i) third party property damage to no less than s. 47G(1)(a) for each and every occurrence arising from the use of any plant and equipment or vehicles (registered or unregistered) used in respect of the performance of the Services pursuant to this Contract; and
 - (ii) the personal injury of, disease or illness (including mental illness) to, or death of, any person arising from the use of any unregistered plant and equipment or vehicles used in respect of the performance of the Services pursuant to this Contract;
- (f) compulsory third party motor vehicle insurance in respect of all registered vehicles owned or provided by the Services Provider and used in the performance of any Services or this Contract as required by Law; and
- (g) industrial special risks insurance covering all Services Provider assets, loose assets, and any other property of the Services Provider which is material to the Services Provider's ability to perform its obligations under this Contract, against the risks of loss, damage or destruction caused by all insurable risks (including theft, malicious damage, fire, lightning, storm, flood and tempest) for their full reinstatement or replacement value and business interruption insurance for an indemnity period of not less than 12 months. For the avoidance of doubt, the Services Provider is not obliged to obtain such insurance for any assets, loose assets or any other property of the Department or any third party.



Australian Government

Department of Home Affairs

PNG Services Contract

SCHEDULE 14

CHANGE CONTROL

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL IN CONFIDENCE

Released by Department of Home Affairs
under the Freedom of Information Act 1982

PART A – CONTRACT CHANGE PROPOSAL

Parties:	THE COMMONWEALTH OF AUSTRALIA (the Department)
	[...] (the Services Provider)
Contract Details:	Contract for services between the Department and the Services Provider
Date:	<i>[insert date of this Contract Change Proposal]</i>
Contract Change Proposal No:	<i>[insert sequential Contract Change Proposal No.]</i>
Proposal Title:	
Operative provisions:	<p>This <i>Change Proposal</i> is given pursuant to clause 34 (Contract Change Procedure) 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>
Enquiries:	Any questions in relation to this notice should be directed to the officer issuing this notice as specified below:
Issuing Officer:	<p>.....</p> <p><i>[Insert details of person authorised to give the Notice]</i></p>
Contract Details:	<p>.....</p> <p><i>[Insert contact details of Issuing Officer]</i></p>
Party proposing change	<i>[The Department] or [the Services Provider]</i>

Released by Department of Home Affairs
under the Freedom of Information Act 1982

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 Services Provider proposes to implement;
- (c) the time within which the Services 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 Services Fee which the Services 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 Services Provider as a result of the Contract Change Proposal certified by an accountant independent of the Services Provider declaring:
 - (i) the Contract Change Proposal and its implementation cannot be accommodated within the existing Services Fee; and
 - (ii) the accuracy of the financial information provided to the Department;
- (g) details of the review the Services Provider has undertaken to allow the Contract Change Proposal to be accommodated within the existing requirements of this Contract, including the Services Fee;
- (h) any reduction to the Services Fee (if any) which the Services Provider proposes as a result of the Contract Change Notice, in order to reflect all cost savings to the Services Provider resulting from any changes to the Services 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 Services 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 66.4** of the Contract.

THE DATE OF EFFECT OF THE CONTRACT CHANGE IS PROPOSED TO BE

[Insert Date]

IN SIGNING THIS CONTRACT CHANGE PROPOSAL, THE SERVICES PROVIDER WARRANTS THAT ALL COSTS ARE REASONABLE AND PROFIT DOES NOT EXCEED THAT USED IN THE ORIGINAL SERVICES FEE AND TAKE ACCOUNT OF ANY SAVINGS ON OTHER ASPECTS OF THE SERVICES AFFECTED BY THE CHANGE PROPOSAL.

Released by Department of Home Affairs
under the Freedom of Information Act 1982

Additional Information

2. ADDITIONAL INFORMATION IS PROVIDED AS FOLLOWS:

<p>Services Provider Certification <i>(Certification that the Services Provider and any Subcontractor costs are reasonable)</i></p>	
<p>Comments from the Service Administrator</p>	
<p>Comments from the Contract Administrator</p>	
<p>Other relevant documentation <i>(Other information relevant to the proposal is attached, including a financial statement of the change in financial cost to the Services Provider)</i></p>	

SIGNED for and on behalf of **the Services Provider** by:

.....

Name:

Title

Released by Department of Home Affairs
 under the Freedom of Information Act 1982

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 [...]

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 Home Affairs,
ABN 68 706 814 312 (**the Department**)

and

[...] (**the Services Provider**)

RECITALS:

- A The Department has entered into a contract with the Services 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 Services 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 Home Affairs

PNG Services Contract

SCHEDULE 16

**LEGISLATION AND COMMONWEALTH
POLICIES**

© Commonwealth of Australia 2018. This work is copyright. Apart from any use as permitted under the *Copyright Act 1968*, no part may be reproduced by any process without prior written permission from the Commonwealth. Requests and inquiries concerning reproduction and rights should be addressed to the Department of Home Affairs, PO Box 25, Belconnen 2616.

COMMERCIAL IN CONFIDENCE

Released by Department of Home Affairs
under the *Freedom of Information Act 1982*

1. General Legislation and Legislative Instruments

The Services Provider must, in carrying out the Services under this Contract, comply with all legislation, subordinate legislation and legislative instruments of PNG, the Commonwealth, State, Territory or local authority (as applicable to the Services) in force from time to time, including to the extent they apply:

- (a) *Migration Act 1958*
- (b) *Immigration (Guardianship of Children) Act 1946;*
- (c) *Fisheries Management Act 1991;*
- (d) *Torres Strait Fisheries Act 1984;*
- (e) *Ombudsman Act 1976;*
- (f) *Administrative Decisions (Judicial Review) Act 1977;*
- (g) *Freedom of Information Act 1982;*
- (h) *Crimes Act 1914;*
- (i) *Archives Act 1983;*
- (j) *Human Rights and Equal Opportunity Commission Act 1986;*
- (k) *Privacy Act 1988;*
- (l) *Safety, Rehabilitation and Compensation Act 1988;*
- (m) *Auditor-General Act 1997;*
- (n) *Public Governance, Performance and Accountability Act 2013;*
- (o) *Public Service Act 1999;*
- (p) *Criminal Code Act 1995;*
- (q) *Australian Human Rights Commission Act 1986;* and
- (r) any requirements for licenses or permits for the exercise of a profession or trade.

2. General Australian Government Policies

The Services Provider must, in carrying out the Services under this Contract, comply with all applicable Australian Government Policies in force and as amended from time to time, including:

Australian Government Policies	Published by
---------------------------------------	---------------------

Australian Government Information Security Manual	Australian Signals Directorate
Commonwealth Fraud Control Guidelines 2011	Attorney-General's Department
Protective Security Policy Framework	Attorney General's Department

3. Department Specific Policies

The Services Provider must, in delivering the Services in accordance with this Contract, comply with the following Department policies as they exist as at the Commencement Date, and as notified to the Services 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 Services Provider.

4. International Treaties, Charters, Covenants and Agreements

The Services Provider:

- (a) acknowledges the commitment of the Commonwealth of Australia and PNG to ratified or adopted international instruments (subject to the respective country), which may include the following:
 - (i) International Covenant on Civil and Political Rights;
 - (ii) Convention Relating to the Status of Refugees;
 - (iii) Convention on the Rights of the Child;
 - (iv) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
 - (v) Convention on the Elimination of all Forms of Racial Discrimination;
 - (vi) Convention on the Elimination of All Forms of Discrimination against Women;

- (vii) Convention on Offences and Certain other Acts Committed on Board Aircraft (Tokyo Convention and Chicago Convention);
 - (viii) Convention on the Rights of Persons with Disabilities; and
 - (ix) Universal Declaration of Human Rights.
- (b) is committed, in delivering the Services in accordance with this Contract, to supporting the respective country in upholding the values and ideals of its ratified or adopted international instruments (as above).