

Senate Standing Committee on Economics

ANSWERS TO QUESTIONS ON NOTICE

Department of Industry, Science, Energy and Resources

Inquiry into the Offshore Petroleum (Laminaria and Corallina Decommissioning Cost Recovery Levy) Bill 2021 [Provisions] and Treasury Laws Amendment (Laminaria and Corallina Decommissioning Cost Recovery Levy) Bill 2021 [Provisions]

08 November 2021

AGENCY/DEPARTMENT: DEPARTMENT OF INDUSTRY, SCIENCE, ENERGY AND RESOURCES

TOPIC: The request for proposal sent out to companies

REFERENCE: Question on Notice (Hansard, 08 November 2021, Page 31-32)

QUESTION No.: 6

Senator Patrick: Mr Gaddes, can you please table the request for proposal that went out to a select group of companies, just for us to understand the scope of what was asked of the down-selected participants?

Mr Gaddes: If you wouldn't mind, before I agree to do that, I will take that on notice and seek some advice on whether or not that's appropriate and when it would be appropriate to do that.

Senator PATRICK: Sure. One would think that, if you're prepared to share it with multiple companies and no-one else can participate in the program, that information ought to be made public, but I'm happy for you to take that on notice.

ANSWER

The Northern Endeavour Phase One Request for Proposals (RFP) issued by the Department on 28 September 2021 to shortlisted respondents is attached. There were seven addenda issued during the RFP open period and these addenda are also attached.



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**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 1

Data Room Access

As at 30 September 2021

Question 1. We would also like to clarify, whether in relation to the 5 named people for Data Room access, only the same 5 people would be able to participate in the other engagement activities mentioned under Clause 4 (for example briefings, meetings, feedback and site visits), or whether other personnel (not named within the 5), would be able to partake in these activities?

Answer 1. No, the limit of the five (5) personnel applies only to access the data room. Please add the details of your selected five (5) personnel to the below table and return it to NEProcurement@industry.gov.au.

User Details				
First Name	Last Name	Email	Company Name	Employee, Advisor, External,

End of Addendum 1.



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**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 2

Clarification Question

As at 6 October 2021

- Question 1.** Do any restrictions apply through the RFP process that prevent respondents approaching light well intervention specialist companies to ensure mitigation and optionality is in place in the event that any long lead vessel requirements become problematic.
- Answer 1.** Respondents are not prevented from approaching light well intervention specialist companies. However, Respondents are required to comply with all applicable laws, including those identified in clause 4.2 of the RFP Conditions.

End of Addendum 2.



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**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 3

Questions and Answers

As at 7 October 2021

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
1a	Reference is made to the Scope of Work document, Respondent notes that there is an overlapping scope between the work undertaken by Upstream PS (UPS) under NEDRP and Phase 1 of NEDCOM, particularly in relation to: - Activities in maintaining the certifications, licenses for the facility (Section 3.1(b) vs 4.4 (c)(ii)) - Demucking (Section 3.1 (b)(vi)(B) vs Section 4.3(a)(ix)) Respondent would like to request for clarification on the workscope that is required to be undertaken under Phase 1 of NEDCOM.	Activities under the NEDRP contract as described in clause 3 of the draft Statement of Work (SOW) are ongoing and likely to continue until such time as they can be transitioned to the Contractor under the Decommissioning Agreement (if any). Timing and the degree to which these activities have been completed will depend upon a number of factors, including the schedule and transition-in approach proposed by the successful Respondent. For the purposes of the RFP, Respondents should assume that it will be required to complete the activities described in the SOW, particularly in clauses 4 to 7, and identify in its Proposal any dependencies on which the Proposal, including pricing, is based, and the effect if transition were to occur earlier or later than proposed. The Contractor will be responsible for obtaining and maintaining all certifications, licences and other accreditations required to enable it to deliver the Work under the Contract.

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
1b	Tenderer requests clarification on conflicts between UPS scope under NEDRP (section 3) and tenderer scope under NEDCOM (section 4). See examples below. Commonwealth to clarify tenderers scope of work. Section 3.1 (b) vi states '<i>FPSO tanks and vessels cleaned 'demucked' to required levels to meet receiving shipyard standards with no measurable NORMS</i>' and Section 3.1 (b) xi states '<i>Subsea infrastructure flushed to agreed standards</i>' indicating that Tenderer should assume aforementioned scope is complete. However, Section 4.3 (a) ix includes....'<i>subsea facilities and FPSO topsides flushing and demucking in order to achieve a hydrocarbon free Facility prior to tow, including preservation of systems as required</i>'...and Section 7.8 (d) iv includes studies required for '<i>Facility and Subsea flushing</i>', suggesting Tenderer is to complete same scope.	Answered in Question 1a.

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
2a	Respondent notes varying requirements in the ITT docs in regards to the AIP Plan and Indigenous Participation Plan and as such would like to seek clarifications on the response required for Question C-6(a) and C-7(a) of Attachment C RFP Commercial Response Form. • Attachment C RFP Commercial Response Form, Section C-6(a) states the following: “Draft AIP Plans must be approved by the AIP Authority before they are submitted with your Proposal. The approvals process is set out in clause 1 of Annex C to the draft SOW. Ensure you leave sufficient time for the AIP Authority to review and approve your plan, and for you to make any necessary modifications and resubmit, prior to the RFP Closing Time.” • Annex C Draft Plans, item 1.7(a) states that AIP Plan is not required to be submitted as part of the Proposal. (a) Once the AIP Authority has approved your AIP Plan, you must submit, as part of this RFP process, a copy of: i. the Approved AIP Plan (including the Executive Summary); and ii. the Certificate of Approval. • Annex C Draft Plans, item 1.7(b) states that AIP Plan is not required to be submitted as part of the Proposal. “(b) We have not requested the AIP Plan as part of the Proposal. However, you will be required to work on the document during this RFP Stage and provide a Plan prior to the execution of any Contract.”	i. To reduce Respondents' workload in preparing their Proposal, the Taskforce has delayed the requirement for delivery of the Australian Industry Participation (AIP) Plan and Indigenous Participation Plan (IPP). Respondents are not required to submit these Plans with their Proposal. However, both Plans must be delivered to the Taskforce before any contract can be entered into. Respondents should anticipate having the Plans ready for submission to the Taskforce in early February 2022. Respondents should consider any approvals processes and commence preparation of the Plans in sufficient time meet these requirements. Attachment C RFP Commercial Response Form, Section C-6(a) is amended as follows: “Draft AIP Plans must be approved by the AIP Authority before they are submitted as part of ODIA and/or negotiations. The approvals process is set out in clause 1 of Annex C to the draft SOW. Ensure you leave sufficient time for the AIP Authority to review and approve your plan, and for you to make any necessary modifications and resubmit, prior to the execution of any contract.” ii. No, Respondents are not required to have an approved AIP Plan and Certificate of Approval prior to RFP Closing Time. iii. No, Respondents are not required to submit the draft Indigenous Participation Plan (IPP) with the proposal.

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
	In view of the above, Respondent would like to request the following clarifications: i. Is Respondent required to only commence the process of submitting the AIP Plan to the AIP Authority during the preparation of the proposal and hence is not required to have an approved AIP Plan prior to RFP Closing Time ii. Is Respondent required to have an approved AIP Plan and Certificate of Approval prior to RFP Closing Time and submit both documents with the proposal. iii. If Respondent is required to submit the draft Indigenous Participation Plan with the proposal	

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
2b	Tenderer requests confirmation if our AIP Plan is required to be submitted prior to our RFP submission to gain approval from AIP Authority or can our plan be submitted prior to commencement of a resultant contract This is stated within 04 Attachment C, section C-4: 'Draft AIP Plans must be approved by the AIP Authority before they are submitted with your Proposal....' However, 01 Northern Endeavour Decommissioning Project Phase 1 Request for Proposal, Section 9.2 (c) suggests this may be part of later phase: 'Similarly, some documents that we would ordinarily require as part of your Proposal, such as the Australian Industry Participation (AIP) Plan and Indigenous Participation Plan (IPP), now form part of the ODIA and/or negotiation process.'	Answered in Question 2a.

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
3	Respondent will be subcontracting several packages with an estimated value of over \$4million. The level of engagement during this RFP stage will be limited as Respondent will only be identifying several subcontractors for each of the work packages during this tendering stage, and will not be awarding or finalising the subcontractors for each of these packages. Respondent notes the requirement for Respondent to provide a valid STR for the direct subcontractor with subcontract value above \$4million, however as there is large number of subcontractors for each of these packages and the process of selecting the final subcontractor for the work will only commence upon award this contract to the Respondent, Respondent therefore seek clarification that STR to only be provided upon award of the contract to the subcontractor for each of these packages.	The Black Economy Policy requires that Respondents provide with their Proposal either a satisfactory STR that is valid at RFP Closing Time or a STR receipt demonstrating that a request has been made for a STR. If a receipt is provided, the Respondent has four (4) business days in which to provide the STR or the Proposal cannot be considered. Respondents must provide a satisfactory and valid STR (or receipt) for themselves and, in the case of a partnership, joint venture or consortium, for each member of that partnership, joint venture or consortium. In relation to subcontractors, where the Respondent knows, or is reasonably certain, at RFP Closing Time, that it will engage a particular subcontractor for goods or services with an estimated value of over \$4 million (including GST), the Respondent must hold at RFP Closing Time a copy of a satisfactory and valid STR for that subcontractor. There is no requirement to provide the STR with the Proposal. However, the Respondent must provide copies of any such STRs to the Commonwealth on request at any time throughout the RFP Stage. If first tier subcontractors are engaged subsequent to RFP Closing Time to provide goods or services with an estimated value of over \$4 million (including GST), the Respondent / Contractor must ensure that it obtains and holds satisfactory and valid STRs for each of those subcontractors. The Respondent must provide copies of the STRs to the Commonwealth on request at any time throughout the RFP Stage or over the course of the Contract (if any), as applicable. Respondents should refer to the Black Economy Procurement Connect Policy available at https://treasury.gov.au/publication/p2019-t369466 for further information.

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
4	C-3 essential requirements (mandatory) - question associated with this section is missing. Tenderer requests clarification on the requirements.	For the RFP Stage of this procurement, the Commonwealth has not prescribed any essential requirements as described in clause 5.5 of the RFP Conditions. However, for a Proposal to be considered for evaluation, Respondents must meet the minimum content and format requirements and conditions for participation described in clauses 5.3 and 5.4 of the RFP Conditions and Items C-1 and C-2 of Attachment C (RFP Commercial Response Form).
5	Tender requests clarification if our IPP Plan is required to be submitted prior to our RFP submission to gain approval from AIP Authority or can our plan be submitted prior to commencement of a resultant contract	There is no requirement to submit the IPP to the AIP Authority. Respondents should aim to have the IPP ready to submit to the Commonwealth in early February 2022 to allow sufficient time for review and amendment if required.

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply																
6	Within this Annex Appendix A2 and subsequent pricing sheets mention Mark Up; Appendix G3 mentions Profit Mark Up. Please clarify Client's understanding of difference between Mark Up, Profit Mark Up and Profit, as they do not appear to be defined.	'Profit', 'mark up' and 'profit mark up' are used interchangeably throughout the pricing documents. In all cases, it refers to a mark up % on <u>cost</u>. For example, a 'mark up' percentage of 10% entered in Appendix G3 represents a mark up of \$10 on costs of \$100 – i.e. 10% of Budgeted Total Cost, and NOT 10% of the Budgeted Total Price: <table><tr><th>Budgeted Total Cost excl GST</th><th>Mark-up</th><th></th><th>Budgeted Total Price excl GST</th></tr><tr><th>AUD</th><th>AUD</th><th></th><th>AUD</th></tr><tr><td>\$100</td><td>\$10</td><td>✓</td><td>\$110</td></tr><tr><td>~~\$99~~</td><td>~~\$11~~</td><td></td><td>~~\$110~~</td></tr></table> Further, profit represents the amount over and above the costs incurred by the Contractor. Therefore, it excludes: - overhead and G&A expenditure that the Contractor wishes to recover under the Contract. These are to be detailed at the bottom of Appendix B1, in the table 'Overheads incl G&A'. - risk (management reserve / contingency). MR is calculated at Appendix G5. If a portion of any cost component (such as allocated head office rental expense) is <u>included</u> in the profit mark-up % and not outlined in Appendix B1, it should be clearly identified, to ensure the Commonwealth can clearly understand the build-up of the Respondent's pricing.	Budgeted Total Cost excl GST	Mark-up		Budgeted Total Price excl GST	AUD	AUD		AUD	\$100	\$10	✓	\$110	~~\$99~~	~~\$11~~		~~\$110~~
Budgeted Total Cost excl GST	Mark-up		Budgeted Total Price excl GST															
AUD	AUD		AUD															
\$100	\$10	✓	\$110															
~~\$99~~	~~\$11~~		~~\$110~~															

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Northern Endeavour FPSO Decommissioning Project

Number	Question	Reply
7	Tenderer confirms access to data room. On review of the contents against Annex G-1 Document Library Index, there appears to be three documents missing. Tenderer requests confirmation on whether the documents will be uploaded. Ref 5 - T&V Aug 2021 Update - Northern Endeavour Threats and Vulnerabilities List 2021 (Aug 2021) Ref 20 - 20210805 - Northern Endeavour Well and Subsea Integrity Status Report - Northern Endeavour NE Well and Subsea Integrity Status Report Ref 25 - 2021 T&V Update - Threats & Vulnerabilities 2021 Update = July 2021	Redaction and approvals processes for these three documents are now complete and they have been uploaded to the Data Room.

End of Addendum 3.

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**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 4

Extension to RFP Closing Time

As at 8 October 2021

INSTRUCTIONS FOR RESPONDENTS

This Addendum is issued pursuant to clause 1.2 of the Conditions of the Request for Proposal (RFP) for the Northern Endeavour Decommissioning Project: Phase 1.

A decision has been made to extend the RFP Closing Time by **two (2) weeks**, from 26 October 2021, 14:00 AEDT, to **9 November 2021, 14:00 AEDT**.

The Clarification Closing Time has also been extended by the same period, from 19 October 2021, 17:00 AEDT, to **2 November 2021, 17:00 AEDT**.

Amendments are indicated by **blue** font.

Project Name	Northern Endeavour Decommissioning Project: Phase 1
RFP Number	PRI-00004524
RFP Closing Time	9 November 2021, 14:00 AEDT time
Clarification Closing	2 November 2021, 17:00 AEDT time
ODIA activities	December 2021-January 2022
Anticipated Contract execution date	Early March 2022
Contact details	All enquiries must be directed to: NEProcurement@industry.gov.au .
Lodgement	Proposals must be submitted electronically through AusTender (https://www.tenders.gov.au/).
Proposal Validity Period	9 months after the RFP Closing Time (as extended under clause 4.8 of the Conditions, if applicable)

End of Addendum 4.



Australian Government

**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 5

Clarification Questions and Answers

As at 11 October 2021

Question 1. Respondent notes the conditions set in the RFP Phase Deed Poll, however, would like to request for permission to allow the relevant information to be extracted from the Data Room (i.e. field layout, completion diagrams, reservoir fluid properties) as they are required to be included in the Respondent's proposal document such as the Project Execution Plan and Method Statement.

Answer 1. The Department will grant permission to 2 previously Nominated Personnel to extract information from Data Room materials for Permitted Purposes (as that term is used in the RFP Deed) only. Please provide the names of the 2 previously Nominated Personnel to the Contact Officer at NEProcurement@industry.com.au to allow an appropriate lifting of restrictions.

Question 2. Respondent also require to extract some of the information to be provided to the subcontractors/ vendors to enable them to provide comprehensive information and quotes for the preparation of Respondent's proposal.

Answer 2. The Department cannot provide a Respondent with permission to share Data Room materials with third parties. The Department will, however, provide access to the Data Room and the documents in it to a total of 5 additional individuals from third parties on the same terms as the Respondent's access. Such access will not be granted until the relevant third party has executed a non-disclosure deed in the form provided by the Department.

In order for the Department to arrange access for third parties, please provide to the Contact Officer at NEProcurement@industry.com.au:

- the names of third party entities to whom you require the Department to provide Data Room access; and

- the name, position and contact details for the appropriate representative of the third party so that the Department may make necessary arrangements with them.

The Department will then request the relevant details of the individuals within the nominated third parties to whom access is to be provided, and will provide the non-disclosure deed directly to the third party for execution.

Please note that only 5 additional individuals will be provided access and that no access will be provided until the non-disclosure deed is signed and returned to the Department.

End of Addendum 5.



Australian Government

**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 6

Clarification Question and Answer

As at 25 October 2021

Question 1. Respondent notes within *Annex D3 - Price & Payment Schedule - Appendix G5*, Appendix G5 refers to '*c. perform the Risk Assessment (IAW the guidelines in Appendix F6*'. Please advise where respondent can find Appendix F6.

Answer 1. The reference to Appendix G5 point c is incorrect and should refer to Appendix G4 - Management Reserve Risk Assessment Tools.

End of Addendum 6.



Australian Government

**Department of Industry, Science,
Energy and Resources**

Request for Proposal (RFP) NO. PRI-00004524-1

Northern Endeavour Decommissioning Project: Phase 1

ADDENDUM NUMBER 7

Clarification Question and Answer

As at 2 November 2021

Question 1. In relation to Annex D-3, Price and Payment Schedule, and the associated Pricing Instruction, *Appendix G5 – Costed Risk Register*, requests input of provision for Management Reserve (MR) in relation to each risk item.

Certain of the risks we will be able to cost in such a manner, however others may be unquantifiable at this stage due to limited detail or simply the nature of the risk. Is it acceptable to leave certain cost and MR allocations blank in *Appendix G5* where they are unquantifiable at this stage?

Answer 1. When completing Appendix G5 (Costed Risk Register) of Annex D-3 (Price and Payment Schedule), for each identified risk, Respondents are encouraged to provide a best estimate of the residual cost, after risk mitigation has taken place. Where the Respondent considers that a particular risk cannot be quantified, such as where there is insufficient detail or the nature of the risk is unclear, Respondents are required to provide a narrative detailing the nature of that risk and any assumptions upon which the pricing is based. This narrative will form the basis of discussions for the development of pricing should the Respondent be invited to participate in any subsequent ODIA and/or negotiations, and for any price firming activities undertaken subsequent to contract award.

Respondents are reminded that, in accordance with Part 1, paragraph 10(e) and Part 3, paragraph 12 of the RFP, where a Respondent seeks to vary any aspect of the price as set out in its Proposal, the Respondent must be able to directly link the proposed variation to the risks and assumptions specified in the Price and Payment Schedule or the Commonwealth may not be able to accept the variation.

End of Addendum 7.

Annex A-1 – General Information Format Requirements

1.1. Purpose

- (a). The purpose of this document is to establish the general requirements for all documents and other deliverables (collectively referred to as **documents**) that, unless otherwise stated, are to be delivered as part of a Proposal.
- (b). These requirements will apply equally for versions of documents to be provided as part of the RFP process and for those to be delivered upon, or subsequent to, Contract signature.

1.2. Media

- (a). Subject to paragraph 1.5 below and unless otherwise specified in document-specific instructions, all electronic copies (soft copies) are to have margins consistent with ISO 216:A0-A4 size paper, in one or more of the following file formats:
 - (i). searchable Portable Document Format (PDF) (Acrobat 6 or later);
 - (ii). Microsoft® Word (compatible with Microsoft Office 2013 or later);
 - (iii). Microsoft® Excel (compatible with Microsoft Office 2013 or later);
 - (iv). Microsoft® Project (compatible with Microsoft Office 2013 or later).

1.3. Format instructions

- (a). These format instructions apply to all documents, subject to paragraph 1.5 below and unless otherwise specified in document-specific instructions.
- (b). Each document is to include the following identification information:
 - (i). a document reference number;
 - (ii). the document title and date of issue;
 - (iii). the volume number (where there are multi-volume documents);
 - (iv). the version number / revision indicator;
 - (v). the security markings or other restrictions (these must not contravene RFP / Contract requirements as to the handling of the document);
 - (vi). the RFP / Contract number;
 - (vii). the RFP Information Requirements List reference number;
 - (viii). the Respondent's / Contractor's name; and
 - (ix). the Respondent's / Contractor's address.
- (c). Where a document delivered in PDF or Microsoft® Word format is more than five pages in length, it must contain a table of contents.
- (d). Each page should have a unique page number and display the document number, version, volume and date of issue (as applicable).
- (e). Where a document is revised or updated, where possible, the Respondent / Contractor shall mark all changes made since the previous release to aid review. Where mark ups are not possible, the Respondent / Contractor is to submit a revision list of all such changes.

- (f). Documents delivered in soft copy must be able to be copied and saved by the Commonwealth, and be capable of further manipulation (including searching and printing) in the native document format.

1.4. Content instructions

- (a). Where a preliminary or draft version of a document is to be delivered to the Commonwealth:
 - (i). the preliminary version is to contain information on all of the topics relevant to that document, commensurate with the status of design, development or installation at the time the document is due for delivery, and suitable for its intended purpose; and
 - (ii). unless otherwise specified, the draft version is to be developed to the stage where it reflects the content of the final version of the document, but may be missing low level detail.
- (b). Where the same information is required in more than one document, in the same format and to the same level of detail, the Respondent / Contractor may provide the information in one document only and cross-reference the information in the other document/s.
- (c). The documents must be written in grammatically correct English.
- (d). Subject to paragraph 1.5 below and unless specified otherwise in the relevant annex, documents are to contain sections providing the following information:
 - (i). the name of the Project, system, program, plan, item (as applicable) to which the document applies;
 - (ii). a background that situates the document and states the intended use of the item(s) or information to which the document applies;
 - (iii). an overview of the document;
 - (iv). a list of referenced documents;
 - (v). a list of acronyms and abbreviations; and
 - (vi). a set of definitions.
- (e). For documents delivered ahead of Contract signature, the Respondent is to identify any aspects of the information that it proposes should be treated as IP or Confidential Information. After Contract signature, the information will be treated in accordance with the agreed IP and Confidential Information provisions in the Contract.
- (f). For documents delivered after Contract signature, the Contractor is to identify any aspects of the information that is to be treated as IP or Confidential Information in accordance with the terms of the Contract.

1.5. Use of existing data

- (a). Information required for the RFP or under the Contract may currently exist in a different format or use a different content structure than that specified in this Annex. In such cases, the information may be acceptable, providing that it contains all the specified information and meets the requirement for its intended use. Where the Respondent / Contractor wishes to submit existing information that does not meet the format or content structure requirements contained in this Annex, the Respondent / Contractor must seek approval (from the Contract Officer for RFP documents and from the Commonwealth Representative for Contract documents). You must leave sufficient time for the information to be reformatted or restructured if necessary prior to its delivery date.

Annex B-9 – Declaration by Respondent

Note to Respondents: Respondents are to provide a deed in the following format as part of their Proposal.

This deed poll is made on the (...INSERT DATE...)

BY:

(...INSERT NAME OF RESPONDENT AND A.C.N./A.B.N./A.R.B.N...) (**Respondent**) for the benefit of the Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources (ABN 74 599 608 295) (**Commonwealth**).

1. RECITALS

The Commonwealth has issued a Request for Proposal (**RFP**) in relation to Phase 1 of the project to disconnect, decommission and remediate the FPSO, subsea infrastructure and the wells in the LamCor oil fields.

The Commonwealth requires this deed to be provided by the Respondent with its Proposal.

In this deed, terms not otherwise defined have the meaning given to those terms in the RFP.

2. ACKNOWLEDGEMENTS

The Respondent submits its Proposal to provide the services solicited by the RFP (...INSERT RFP NUMBER...). In preparing its Proposal, the Respondent acknowledges that it is aware of the Australian Consumer Law (as set out in Schedule 2 to the *Competition and Consumer Act 2010*) and Division 137 of the *Criminal Code Act 1995* (Cth) and that its response does not contain any false, misleading or deceptive misrepresentations, claims or statements.

By submitting its Proposal, the Respondent acknowledges and agrees:

- (a). to the Commonwealth's rights as set out in the RFP and this deed poll;
- (b). that it has familiarised itself with the Commonwealth's legislative and policy requirements as set out at Part 3, paragraph 10(b) of the RFP and clause 1 of the Conditions;
- (c). that its Proposal has been prepared in accordance with the RFP and is accurate, complete and not misleading;
- (d). that the Commonwealth can utilise all relevant information about the Respondent's performance on Commonwealth procurement activities;
- (e). that the Respondent has conducted itself in a manner that is consistent with the Commonwealth's obligations to act in accordance with the applicable Commonwealth procurement policies and frameworks;
- (f). that the Commonwealth can rely on the Proposal in accurately assessing compliance with the RFP, risks and risk management options and value for money in accordance with the RFP;
- (g). that representations made in the Proposal, when incorporated in any resultant Contract, will be fully complied with by the Respondent;
- (h). that the Respondent has relied entirely upon its own inquiries and inspection in preparing its Proposal;
- (i). that the Respondent does not have judicial decisions against it (including in overseas jurisdictions but excluding decisions under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid;
- (j). that the Respondent has not relied on any representation, letter, document or arrangement, whether oral or in writing, or other conduct of the Commonwealth, as adding to or amending

- the RFP, except for any addendum issued by the Commonwealth that expressly add to or amend the RFP;
- (k). that the Respondent has relied entirely upon its own inquiries and inspections in respect of the subject of its Proposal;
 - (l). that the Commonwealth may provide any information collected or provided during the course of the RFP process (including regarding breaches of workplace relations law, work health and safety law or worker's compensation law) to other Commonwealth entities, regulatory bodies or in compliance with the processes and/or orders of an Australian court;
 - (m). that the Commonwealth is subject to legislative and administrative accountability and transparency requirements of the Commonwealth, including disclosures to Ministers and other Government representatives, Parliament and its Committees and the publication of information in respect of the RFP process on the successful Respondent and information on any resultant Contract in the AusTender website; and
 - (n). that the Respondent is aware of the impact of the *Auditor-General Act 1997* on its participation in the RFP and on any resultant Contract and any subcontract under a resultant Contract.

The Respondent acknowledges and agrees that:

- (o). the RFP and any communication or dealings of any kind in relation to the RFP (other than this deed poll) between the Commonwealth and the Respondent, or between the Commonwealth and any other person with an interest in the RFP, do not constitute a contract between the Commonwealth and the Respondent;
- (p). to the extent permitted by law, no binding contract (including a process contract) or other understanding on any basis whatsoever will exist between the Commonwealth and the Respondent unless and until a Contract is signed by the Commonwealth and the Respondent; and
- (q). to the extent permitted by law, the Commonwealth has no liability to the Respondent, or any other person, for any compensation on any basis whatsoever in connection with the Respondent's participation in the RFP.

3. STATEMENT OF TAX RECORD

The Respondent represents and warrants that, in accordance with clause 1.7 of the Conditions, it has obtained and holds as at the RFP Closing Time all of the satisfactory and valid STRs required under Item C-4 of Attachment C (or an STR receipt confirming that the STRs required under Item C-4 of Attachment C were requested prior to the RFP Closing Time) of any entity that the Respondent proposes to engage as a direct subcontractor, where the total value of the work under the subcontract is expected to exceed \$4 million (incl GST).

The Respondent declares that:

- (a). it has obtained and holds valid and satisfactory STRs for each Subcontractor that it will engage for the Work under a subcontract with an expected value of over \$4 million (GST inclusive), if known as at the RFP Closing Time;
- (b). if it is the successful Respondent, it will ensure that any Subcontractor that it subsequently engages for the Work under a subcontract with an expected value of over \$4 million (GST inclusive) provides it with a valid and satisfactory STR prior to entering into the relevant subcontract; and
- (c). if any STR provided by it as part of the EOI process in respect of the Project or otherwise as part of the RFP process is or will be no longer valid and satisfactory at the time of the proposed award date of the Contract, the Respondent will, if and within the time required by the Contact Officer, provide the Contact Officer with a copy of each STR as applicable to the Respondent that will be valid and satisfactory on such proposed Contract award.

The Respondent acknowledges and agrees that the Commonwealth:

- (d). will only enter into a contract with a Respondent that, at the time of Contract award, holds and has provided to the Contract Officer copies of all STRs as applicable to the Respondent in accordance with the Black Economy Procurement Connected Policy that will be valid and satisfactory on such Contract award; and
- (e). may (in its absolute discretion) exclude the Respondent from further consideration if the Respondent does not satisfy the requirement under paragraph (d).

4. ACCEPTANCE

- (a). The Proposal submitted by the Respondent in response to the RFP shall remain open for the Proposal Validity Period specified in Table 2 – Summary of Key Details in Part 3 of the RFP (as extended under clause 4.8 of the Conditions, if applicable).
- (b). The Respondent acknowledges and agrees that the Proposal is an unconditional offer and, to the extent reasonably possible, the Respondent will obtain any necessary Authorisations to enable it to enter into any resultant Contract on an unconditional basis.

5. PROBITY ASSURANCE

The Respondent represents and warrants that in preparing its Proposal, the Respondent has fully complied with the probity requirements as detailed in the Conditions in relation to:

- (a). collusive bidding;
- (b). unlawful inducements;
- (c). improper assistance; and
- (d). conflicts of interest.

6. CONFLICT OF INTEREST

Except to the extent identified in response to this clause 6, the Respondent confirms that, at the time of signing this deed poll, no actual, potential or perceived conflict of interest exists between the interests of the Commonwealth and the interests of the Respondent in relation to the RFP process.

The following actual, potential or perceived conflicts of interest currently exist:

(...INSERT ANY ACTUAL, POTENTIAL OR PERCEIVED CONFLICTS OF INTEREST, OR IF NONE EXIST INSERT THE WORDS "NOT APPLICABLE"...)

The Respondent confirms that it will promptly notify the Commonwealth of any conflict of interest that arises over the course of the RFP process.

7. SURVIVAL

This deed poll survives the termination or expiry of the RFP.

8. TERMINATION AND AMENDMENT

This deed poll shall not be unilaterally terminated or amended unless such termination or amendment is reduced to writing and agreed in writing by the Commonwealth.

EXECUTED AS A DEED POLL

SIGNED, SEALED and DELIVERED by:

OFFICIAL

Northern Endeavour FPSO Decommissioning Project

Insert name of Respondent

in accordance with *Section 127 of the Corporations Act 2001*

←

←

Signature of director

Signature of director/company secretary/sole director and sole company secretary

(Please delete as applicable)

Name of director (print)

Name of director/company secretary/sole director and sole company secretary (print)

or

SIGNED, SEALED and DELIVERED for:

Insert name of Respondent

under power of attorney in the presence of:

←

←

Signature of witness

Signature of attorney

Name of witness (print)

Name of attorney (print)

Address of witness (print)

Date of power of attorney (print)

Note to Respondents: These are example execution clauses only. Complete one of the above execution blocks, or insert as appropriate, then delete any execution block not used. The Respondent is to ensure that the deed is complete, accurate, duly executed and valid.

Annex B-10 – Statement of Variation

Requirement

If a Respondent does not fully comply with any clause of the annexes to the RFP (excluding Annex B-9), the draft Contract and attachments, the draft SOW and annexes, it is to state its non-compliances in a Statement of Variation in the format at Table B-10. Respondents are to include details of:

- (a). the extent, justification and impact of non-compliance;
- (b). details of any proposed drafting amendments; and
- (c). the location in the Proposal where further non-compliance details and comments (if any) can be found.

Responses are to be in the order in which the clauses appear and refer to the relevant clause number, annex or attachment.

Respondents are required to complete a separate row in Table B-10 below for each aspect of this RFP document suite with which you do not fully comply or for which you propose amendments you consider will improve the risk allocation or offer better value for money for the Commonwealth.

Note to Respondents: Failure to indicate all non-compliances in this table may constitute false, misleading or deceptive conduct for the purposes of the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010 (Cth)) or Division 137 of the Criminal Code Act 1995 (Cth).

Table B-10: Statement of Variation

RFP Suite Reference	Clause / Part / Item Reference	Variation	Extent, Justification and Impact of Variation	Proposed Drafting Amendments	Location of Details in Proposal
Attachments to the RFP	(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
Annexes to the RFP (excluding Annex D-3)	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
Draft Contract	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)

OFFICIAL

Northern Endeavour FPSO Decommissioning Project

	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
Schedules to the draft Contract (apart from the SOW)	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
Draft SOW	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
Annexes to the draft SOW	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)
	(...Respondent to insert...)		(...Respondent to insert...)	(...Respondent to insert...)	(...Respondent to insert...)

Annex C-12 – Commitment Letter

(INSERT COMPANY LETTERHEAD ETC)

Dear (INSERT NAME),

NORTHERN ENDEAVOUR DECOMMISSIONING PROJECT: PHASE 1 – [INSERT CONTRACT TITLE AND PROPOSED CONTRACT NUMBER]

I refer to the proposed Contract [INSERT CONTRACT TITLE] between (INSERT SHORT NAME OF PARTY) and the Commonwealth of Australia acting by and through the Department of Industry, Science, Energy and Resources for Phase 1 of the Decommissioning of the Northern Endeavour.

As the (INSERT POSITION TITLE OF ADDRESSEE) you are accountable to the Australian Government for delivering this Project and in doing so, you and the Commonwealth are relying on (INSERT SHORT NAME OF PARTY), to deliver the Project on time, on budget, to the required capability, quality and safety and to meet all its obligations under the Contract.

The purpose of this letter is to give the Commonwealth assurance that the senior management of (INSERT SHORT NAME OF PARTY) have carefully considered the company's obligations under the Contract, have exercised care and diligence in making themselves aware of that company's capacity to comply with those obligations for the duration of the Contract and are therefore able to give the undertakings below.

This letter is not signed in my personal capacity and does not create personal liability to the Commonwealth for me.

I provide this letter to you, and execute it on behalf of the company, in my capacity as the (PRESIDENT / CHAIRMAN / MANAGING DIRECTOR / CEO) of (INSERT NAME OF PARTY) and the leader of that organisation. I warrant that I am authorised to bind the company. [OR IF SIGNED BY PARENT COMPANY: I provide this letter to you, and execute it on behalf of the parent company, in my capacity as the (PRESIDENT / CHAIRMAN / MANAGING DIRECTOR / CEO) of the parent company (INSERT NAME OF PARTY) and the leader of that organisation. I warrant that I am authorised to bind the parent company (referred to in this letter as 'the parent company').

On behalf of the (INSERT 'COMPANY' OR 'PARENT COMPANY'), I give you the following undertakings:

- I fully understand the nature and scope of (INSERT SHORT NAME OF PARTY) obligations under the Contract including:
 - the physical resources;
 - intellectual property and information requirements;
 - human resources (including the number of personnel and the requisite levels of skill and training); and
 - financial and project management resources,

necessary to provide the Phase 1 Services in accordance with, and for the duration of, the Contract;

- that, based on diligent inquiries, (INSERT SHORT NAME OF PARTY) has the necessary physical, Intellectual Property, information, financial and human resources to provide the Phase 1 Services in accordance with the Contract;
- that (INSERT SHORT NAME OF PARTY) will ensure that it continues to have the necessary physical, financial, Intellectual Property, information, and human resources throughout the term of the Contract to provide the Phase 1 Services in accordance with the Contract;

Northern Endeavour FPSO Decommissioning Project

- that **(INSERT SHORT NAME OF PARTY)** will ensure that it complies, and continues to comply, with the requirements of the Contract relating to:
 - the engineering design and overall quality integrity of the Phase 1 Services;
- the integrity and safety of the Facility; and
 - the fitness for purpose of the Phase 1 Services;
 - that **(INSERT SHORT NAME OF PARTY)** has appropriate arrangements with Subcontractors and access to Intellectual Property and information to provide the Phase 1 Services in accordance with the Contract, and will continue to do so for the duration of the Contract;
 - that **(INSERT SHORT NAME OF PARTY)** has done a full risk assessment and has made adequate provision for contingency to be able to deliver the Phase 1 Services in accordance with the Contract schedule; and
 - that **(INSERT SHORT NAME OF PARTY)** is financially sound and is not presently subject to any litigation that may affect its performance in accordance with the Contract.

I fully recognise the importance to the Commonwealth of **(INSERT SHORT NAME OF PARTY)** delivering the Phase 1 Services on time, on budget, to the required capability, quality and safety.

Yours sincerely

(INSERT RELEVANT SIGNATORY)

signing on behalf of

(INSERT NAME OF COMPANY OR PARENT COMPANY)

Instructions

- 1. The Commonwealth is seeking pricing for the delivery of the Services in accordance with the SOW.
- 2. This pricing workbook, Annex D-3 to Attachment D ("Price and Delivery Schedule") seeks a range of pricing information for the specified Services including prices, d
- 3. Respondents shall prepare their pricing and related responses:
 - a. IAW the guidance and instructions provided in this Price and Delivery Schedule and the accompanying Pricing Instruction at Schedule 1 to Annex D-3.
 - b. detailing any non-compliance with any requirements within Part 3 par 11 of the RFP, in the Statement of Variation at Annex B10.
 - c. IAW Clause 4.7 (Alternative Approaches) of the Conditions of Proposal, where a Respondent offers an alternative pricing proposal, it must be submitted in a sep
 - d. providing any other information required by the Commonwealth in the form and to the level of detail requested.
- 4. All annual pricing is to be as at the **Base Date of 1 September 2021**
- 5. The Commonwealth has developed a Cost Breakdown Structure (CBS) which is aligned to the Statement of Work (SOW). Respondents should not rely on the CBS
- 6. Respondents are to ensure pricing is included for the full SOW as described in Attachment G to the RFP. Any exclusions should be clearly articulated in this Price ai
- 7. For the avoidance of doubt, all sources of Overhead and G&A are to be included in Appendix B1. Respondents should supply supporting Basis of Estimate which de
- that the method of allocation is clear and transparent.
- 8. All amounts entered should be **exclusive of profit**. Profit is applied by using the profit mark-up rates supplied by the Respondent at Appendix G3.
- 9. All amounts entered should be **exclusive of GST**. GST is added to the total price at Appendices A4 to A9 (pre-populated as 10% of total price, but can be modified

NOTE:
IN ALL OF THE PRICING SPREADSHEETS ATTACHED, INPUT IS TO BE RESTRICTED TO THE CELLS SHADED 'LIGHT YELLOW', LIKE THIS ONE (unless otherwise specified).

Index

Note: For ease of navigation, within each worksheet, the **heading** is a hyperlink back to this table.

Appendix Reference	Appendix Name	Worksheet Name	Hyperlinks	Notes
Index and Pricing Summaries				
	Index and Instructions	Index and Instructions	Link	No input required by Respondent
A1	Appendix A1 - Key Inputs	App A1 - Key Inputs	Link	-
A2	Appendix A2 - Summary Pricing	App A2 - Summary Pricing	Link	No input required by Respondent
A3	Appendix A3 - Total Pricing (CBS)	App A3 - Total Pricing (CBS)	Link	No input required by Respondent
Pricing Sheets by Contractor				
A4	Appendix A4 - Price Schedule Prime	App A4 - Price Sched Prime	Link	No input required by Respondent
A5	Appendix A5 - Price Schedule Sub1	App A5 - Price Sched Sub1	Link	No input required by Respondent
A6	Appendix A6 - Price Schedule Sub2	App A6 - Price Sched Sub2	Link	No input required by Respondent
A7	Appendix A7 - Price Schedule Sub3	App A7 - Price Sched Sub3	Link	No input required by Respondent
A8	Appendix A8 - Price Schedule Sub4	App A8 - Price Sched Sub4	Link	No input required by Respondent
A9	Appendix A9 - Price Schedule Sub5	App A9 - Price Sched Sub5	Link	No input required by Respondent
Work Package F - Project Planning and Management				
B1	Appendix B1 - Project Planning and Management	App B1 - Proj Plan Mgmt	Link	-

B2	Appendix B2 - PPM Labour Rates	App B2 - PPM Labour Rates	Link	-
Work Package A - Engineering Design & Planning				
C1	Appendix C1 - Engineering Design and Planning	App C1 - Eng Design	Link	-
C2	Appendix C2 - Eng Design Labour Rates	App C2 - EngDesign LabRates	Link	-
Work Package B - Operations & Maintenance				
D1	Appendix D1 - Operations & Maintenance	App D1 - O&M Costs	Link	-
D2	Appendix D2 - O&M Labour Rates	App D2 - O&M Labour Rates	Link	-
Work Packages C-E - Disconnection, Towing, Monitoring				
E1	Appendix E1 - Disconnection & Temporary Suspension	App E1 - Disconnection	Link	-
E2	Appendix E2 - Towage	App E2 - Towage	Link	-
E3	Appendix E3 - Monitoring	App E3 - Monitoring	Link	-
E4	Appendix E4 - Field Execution Labour Rates	App E4 - Field Executn LabRates	Link	-
E5	Appendix E5 - Summary Pricing by Well	App E5 - Summ Pricing By Well	Link	-
E6	Appendix E6 - Daily Rates	App E6 - Daily Rates	Link	-
Other				
G1	Appendix G1 - Milestone Payments	App G1 - Milestone Payments	Link	-
G2	Appendix G2 - Specific Prices	App G2 - Specific Prices	Link	-
G3	Appendix G3 - Cost Mark-up %	App G3 - Cost Mark-up %	Link	-
G4	Appendix G4 - MR Risk Assessmentt Tools	App G4 - MR Risk Assess't Tools	Link	No input required by Respondent
G5	Appendix G5 - Costed Risk Register	App G5 - Costed Risk Register	Link	-
G6	Appendix G6 - Cost Breakdown Structure	App G6 - Cost Breakdown Struct.	Link	-
G7	Appendix G7 - Forex Rates	App G7 - Forex	Link	-

Key

Input Cells:

Cells with light yellow highlight are data input cells and are to be filled in by the Respondent.
Where required, light yellow cells have a text field adjacent to them. This is to allow the Respondent to make any comments required to enable the Commonwealth to und
Where input data is referenced in other areas of the RFP response, the Respondent is to provide, in this text cell, a trace to where in their RFP response this data is conta

Output Cells:

Cells with green highlight are data **output** cells, which are calculated fields, from cells on other worksheets.
**Any changes to formulae in these cells (in order for the Respondent to best present their pricing approach) must be documented so that the Commonwealth i
and requirement for, any changes made to the template by the Respondent.**

Cells with grey highlight are data **output** cells, which are calculated fields, from cells on the same worksheet.
**Any changes to formulae in these cells (in order for the Respondent to best present their pricing approach) must be documented so that the Commonwealth i
and requirement for, any changes made to the template by the Respondent.**

Other

Annex D-3 - Price and Payment Schedule

Index and Instructions

Page 2 of 378

Appendix A1 - Key Inputs

Prime and material subcontractors

Note: a material subcontractor represents a workshare value of greater than 10% of the H

ENTITY	ENTITY NAME
Prime:	Prime Contractor
material subcontractor 1:	Mat Sub A
material subcontractor 2:	Mat Sub B
material subcontractor 3:	Mat Sub C
material subcontractor 4:	Mat Sub D
material subcontractor 5:	Mat Sub E

Appendix A2 - Summary Pricing

This Appendix A2 provides a summary of the Respondent's proposed contract price, summarised by work package, as per clause 4.4 of the Scope of Work.

Respondent is to indicate in column F, the preferred pricing model for each work package.

If further detail is provided in a separate document, Respondent is to provide a reference to that document in the cells in column F.

Respondents should note that enhancements and alternative proposals in accordance with Clause 9 of the RFP are to be provided in a separate copy of the pricing workbook, or a different workbook.

Respondents are to note that the Commonwealth will not consider an enhanced or alternative approach unless the enhanced or alternative response is submitted **together with** a proposal that addresses the requirements of the RFP (as per Clause 4.7 of the Conditions of the RFP (Part 5 of the RFP)).

All Base Date AUD Equivalent, ex GST

	Base Price (incl MR)	Mark-up	Budgeted Total Price	Proposed Pricing Model (Fixed price, Cost plus fixed fee, etc.)
Engineering Design and Planning (Work Package A)				
Operation and Maintenance (Work Package B)				
FPSO Disconnection (Work Package C)				
FPSO Sail Away (Work Package D)				
Monitor and Maintain (Work Package E)				
Project Planning and Management (Work Package F)				
Commercial (Pass Through Costs)				
PROPOSED PRICE				

↳, as required.

Appendix A3 - Summary of Total Price by CBS

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

No input is required in this sheet. Appendix A3 represents the sum of the values in Appendices A4 - A9.

[illegible]

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

The only input required by the Respondent for this worksheet is the GST at column S. These values are pre-populated as 10% of column R, but can be modified if required.

[illegible]

Appendix A5 - Summary of Total Price by Entity: Mat Sub A

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

The only input required by the Respondent for this worksheet is the GST at column S. These values are pre-populated as 10% of column R, but can be modified if required.

[illegible]

Appendix A6 - Summary of Total Price by Entity: Mat Sub B

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

The only input required by the Respondent for this worksheet is the GST at column S. These values are pre-populated as 10% of column R, but can be modified if required.

[illegible]

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

The only input required by the Respondent for this worksheet is the GST at column S. These values are pre-populated as 10% of column R, but can be modified if required.

[illegible]

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

The only input required by the Respondent for this worksheet is the GST at column S. These values are pre-populated as 10% of column R, but can be modified if required.

[illegible]

Appendix A9 - Summary of Total Price by Entity: Mat Sub E

Phase 1 - Disconnection of the FPSO, isolation of wells and FPSO unmanned tow

The only input required by the Respondent for this worksheet is the GST at column S. These values are pre-populated as 10% of column R, but can be modified if required.

[illegible]

Appendix B1 - Project Planning and Management

In this appendix the Respondent is to provide the breakdown of labour and other costs. The Labour should be mapped against the CBS as accurately as possible and align Labour Categories required are to be entered into Appendix B2 - PPM Labour Rates

NOTE:

All FTEs in this sheet are to be annualised (i.e. 1 FTE = 12 Months).

Respondents are to indicate in column AK the total duration of the Project Planning

E.g. if a service is to be provided for 10 months, a '10' should be entered in column AK

If the Respondent enters 14, the total included in Appendix A3 will be (14/12) = 1.17 FTE

CBS Ref.	CBS Description	Annual FTE
1	Project Planning and Management (Work Package F)	
1.1	Project Management	
1.2	Health, Safety and Environment	
1.3	Onshore Engineering Support	
1.4	Maintenance Planning	
1.5	Integrated Activity Planning	
1.6	Human Resource Management	
1.7	Cost Management	
1.8	Travel Management	
1.9	Emergency Response and Crisis Management Capability	
1.10	Certification, Accreditation, Licence and Permit Management	
1.11	Other (Provide detail of non-labour costs in tables below)	
	Total FTE	
	Total Labour Cost (Excl. Overhead) - AUD EQUIV.	
	Labour Rate Source Currency	
	Annual Cost (Excl. Overhead) - Source Currency	
	Annual Cost (Excl. Overhead) - AUD EQUIV.	

Other Expenses Pertaining to Project Planning and Management

Materials

CBS Line Item	
1.11 Other	

[Add new rows above this row, if required]	
Total Other Direct Costs	

nt

sts required to deliver Project Planning and Management.

ed with the proposed organisational structure for the management of the Services under the Contract. The entered values at Appendix B2 will automatically populate the relevant rows in the Labour

Planning and Management, in months.

col AK. The total that will be included in Appendix A3 Total Pricing, will therefore be (10/12) c

of the annual price for that CBS item, etc.

[illegible]

ment (Work Package F) - Materials, Other Direct Costs, Overheads (incl G

Expense Category / Description	Entity

[illegible]

act.

r table below, in this worksheet.

of the annual price for that CBS item.

[illegible]

&A):

	Currency	Quantity	Unit of Measure (Each, Days, etc.)	Rate/Unit Cost	Total Cost (in Source Currency)

	Currency	Quantity	Unit of Measure (Each, Days, etc.)	Rate/Unit Cost	Total Cost (in Source Currency)

[illegible]

[illegible]

Total Cost (ex GST AUD Equiv.)	Basis of Estimate

- s/be 0

[illegible]

	Assumptions / Drivers

	Assumptions / Drivers

[illegible]

[illegible]

[illegible]

[illegible][illegible]

[illegible]

Assumptions / Basis of Estimate / Comments

[illegible]

Calculations for summary sheets [do not modify]
SUMIF by ENTITY to show on App A3.

[illegible]

[illegible]

[illegible]

CBS Ref.
1.1 Project Manag
1.2 Health, Safety
1.3 Onshore Engin
1.4 Maintenance P
1.5 Integrated Acti
1,6 Human Resou
1.7 Cost Managen
1.8 Travel Manage
1.9 Emergency Re
1.10 Certification,
1.11 Other

Materials (AUD Equiv.)					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Profit (AUD Equiv.)					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

	Other Direct Costs				
CBS Ref.	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D
1.1 Project Manag					
1.2 Health, Safety					
1.3 Onshore Engin					
1.4 Maintenance P					
1.5 Integrated Acti					
1,6 Human Resou					
1.7 Cost Managen					
1.8 Travel Manage					
1.9 Emergency Re					
1.10 Certification,					
1.11 Other					

	Profit (AUD Equiv.)				
Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D

Mat Sub E

	Overheads			
CBS Ref.	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C
1.1 Project Manag				
1.2 Health, Safety				
1.3 Onshore Engin				
1.4 Maintenance P				
1.5 Integrated Acti				
1,6 Human Resou				
1.7 Cost Managen				
1.8 Travel Manage				
1.9 Emergency Re				
1.10 Certification,				
1.11 Other				

		Profit (AUD Equiv.)			
Mat Sub D	Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C

Mat Sub D	Mat Sub E

Appendix B2 - Project Planning and Management Labour Rates

Note to Respondent: The Respondent is to specify the labour rates applicable to the pricing of the Project Planning and Management component, in source currency, which is then converted to AUD equivalent values. The Labour Rates in this worksheet will be applied in the determination of Labour Costs for the relevant Services in this Price and Delivery Schedule. The Labour Rates are NOT to include any overhead or mark ups, other than direct labour on-costs as provided for in the tables below. All Overheads are to be included in Appendix B1, at row 84 onwards, and Profit in App G3.

Contract Labour Rates for Project Planning and Management Excl GST					Source Currency		AUD Equivalent		Describe category of work/type
Labour Category:	Contractor	Source Currency	Hourly Base Labour Rate in Source Currency (see Note 1 below)	Direct Labour On Cost % (see Note 2 below)	Unburdened Contracted Labour Rate (hourly) in Source Currency	Unburdened Contracted Labour Rate (annual) in Source Currency	Unburdened Contracted Labour Rate (hourly) in AUD Equiv	Unburdened Contracted Labour Rate (Annual) (see Note 3 below)	
Lab Cat 1 (please detail)									
Lab Cat 2 (please detail)									
Lab Cat 3 (please detail)									
Lab Cat 4 (please detail)									
Lab Cat 5 (please detail)									
Lab Cat 6 (please detail)									
Lab Cat 7 (please detail)									
Lab Cat 8 (please detail)									
Lab Cat 9 (please detail)									
Lab Cat 10 (please detail)									
Lab Cat 11 (please detail)									
Lab Cat 12 (please detail)									
Lab Cat 13 (please detail)									
Lab Cat 14 (please detail)									
Lab Cat 15 (please detail)									
Lab Cat 16 (please detail)									
Lab Cat 17 (please detail)									
Lab Cat 18 (please detail)									
Lab Cat 19 (please detail)									
Lab Cat 20 (please detail)									
Lab Cat 21 (please detail)									
Lab Cat 22 (please detail)									
Lab Cat 23 (please detail)									
Lab Cat 24 (please detail)									
Lab Cat 25 (please detail)									
Lab Cat 26 (please detail)									
Lab Cat 27 (please detail)									
Lab Cat 28 (please detail)									
Lab Cat 29 (please detail)									
Lab Cat 30 (please detail)									

Notes
 Note 1 - Hourly Base Labour Rate:
 Rates in col E are to be provided in Source Currency and are to exclude Overheads and Profit. Overheads are to be included in Appendix B1, row 84 onwards, and Profit at Appendix G3.

Note 2 - Direct Labour on-cost %
 Contractors are to list the individual components and the relevant percentages comprising the total Direct Labour on-cost % in the table below:

Entity	Total Direct Labour on-cost %	Components making up the Total Direct Labour on-cost %
Prime Contractor		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub A		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub B		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub C		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub D		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]

Note 3 - Full Time Equivalent (FTE) Basis
 Respondents are to provide the total estimated chargeable hours per annum.

Number of Chargeable hours per year (e.g. 1,760)	
Chargeable days per year (Respondent to amend)	220.0
Chargeable hours per day (Respondent to amend)	8.00
Hours per Annum	1,760

Appendix C1 - Engineering Design and Planning Service

In this appendix the Respondent is to provide the breakdown of labour and other costs required to deliver the service. The Labour should be mapped against the descriptions in cells C15 to C36. The items in cells C1 to C14 are Labour Categories required are to be **entered into Appendix C2 - Engineering Design Labour**. The nominated labour categories should be aligned with the proposed organisational structure for the service.

NOTE:

All FTEs in this sheet are to be annualised (i.e. 1 FTE = 12 Months).

Respondents are to indicate in column AK the total duration of the Engineering Design Service in months.

E.g. if a service is to be provided for 10 months, a '10' should be entered in col AK. The total duration should not exceed 14 months.

If the Respondent enters 14, the total included in Appendix A3 will be 14 twelfths of the annual cost.

CBS Ref.	Description	Annual FTE	Lab Cat 1 (please detail)
3.	Engineering Design and Planning (Work Package A)		
	Setup of logistic support		
	Engineering Studies and Designs		
	Fabricate and refurbish specialised tools		
	Finalise subcontractor arrangements		
	Develop procedures		
	Develop contingency plans		
	Prepare and approve regulatory requirements		
	Set up risk and change management process		
	Provide project controls		
	Prepare fully resourced and costed project plan		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	Total FTE		
	Total Labour Cost (Excl. Overhead) - AUD EQUIV.		
	Labour Rate Source Currency		
	Annual Cost (Excl. Overhead) - Source Currency		
	Annual Cost (Excl. Overhead) - AUD EQUIV.		

Other Expenses Pertaining to Engineering Design (Work Package A):

Materials

CBS Line Item	Expense
3. Eng. Design and Planning (Work Package A)	
[Add new rows above this row, if required]	[Add new rows above this row, if required]
Total Materials	

Other Direct Costs

Note: Includes logistic support (vessel hire costs, helicopter hire costs, etc.)
Note: This could also include sub-contractor costs where the materials/labour split is not known, etc.

CBS Line Item	Expense
3. Eng. Design and Planning (Work Package A)	
[Add new rows above this row, if required]	
Total Other Direct Costs	

es

to deliver Engineering Design and Planning Services.

5 to C17 are required. The items in cells C18 to C36 are for the Repsondent to nominate. Any pre

Rates. The entered values at Appendix C2 will automatically populate the relevant rows in the L¹ schedule of rates for the management of Engineering Design Services under the Contract.

Services, in months.

Total that will be included in Appendix A3 Total Pricing, will therefore be (10/12) of the annual

Annual price for that CBS item, etc.

[illegible]

[illegible]

Pre-populated values can be overwritten if required.
 See table below, in this worksheet.

al price for that CBS item.

[illegible]

[illegible]

[illegible]

Basis of Estimate

Basis of Estimate

[illegible]

s/be 0

Calculations for summary sheets [do not modify]

SUMIF by ENTITY to show on App A3.

[illegible]

[illegible]

Materials (AUD Equiv.)					
Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor

Profit (AUD Equiv.)				
Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

CBS Ref.
3. Engineering Des

Other Direct Costs					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Profit (AUD Equiv.)					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Appendix C2 - Engineering Design Labour Rates

Note to Respondent: The Respondent is to specify the labour rates applicable to the pricing of the Engineering Design Service component, in source currency, which is then converted to AUD equivalent values. The Labour Rates in this worksheet will be applied in the determination of Labour Costs for the Engineering Design Services in this Price and Delivery Schedule. The Labour Rates are NOT to include any overhead or mark ups, other than direct labour on-costs as provided for in the tables below. All Overheads are to be included in Appendix B1, at row 84 onwards, and Profit in App G3.

Contract Labour Rates for Engineering Design Services Excl GST					Source Currency		AUD Equivalent		Describe category of work/type
Labour Category:	Contractor	Source Currency	Hourly Base Labour Rate in Source Currency (see Note 1 below)	Direct Labour On Cost % (see Note 2 below)	Unburdened Contracted Labour Rate (hourly) in Source Currency	Unburdened Contracted Labour Rate (Annual) in Source Currency	Unburdened Contracted Labour Rate (hourly) in AUD Equiv	Unburdened Contracted Labour Rate (Annual) (see Note 3 below)	
Lab Cat 1 (please detail)									
Lab Cat 2 (please detail)									
Lab Cat 3 (please detail)									
Lab Cat 4 (please detail)									
Lab Cat 5 (please detail)									
Lab Cat 6 (please detail)									
Lab Cat 7 (please detail)									
Lab Cat 8 (please detail)									
Lab Cat 9 (please detail)									
Lab Cat 10 (please detail)									
Lab Cat 11 (please detail)									
Lab Cat 12 (please detail)									
Lab Cat 13 (please detail)									
Lab Cat 14 (please detail)									
Lab Cat 15 (please detail)									
Lab Cat 16 (please detail)									
Lab Cat 17 (please detail)									
Lab Cat 18 (please detail)									
Lab Cat 19 (please detail)									
Lab Cat 20 (please detail)									
Lab Cat 21 (please detail)									
Lab Cat 22 (please detail)									
Lab Cat 23 (please detail)									
Lab Cat 24 (please detail)									
Lab Cat 25 (please detail)									
Lab Cat 26 (please detail)									
Lab Cat 27 (please detail)									
Lab Cat 28 (please detail)									
Lab Cat 29 (please detail)									
Lab Cat 30 (please detail)									

Notes
Note 1 - Hourly Base Labour Rate:
Rates in col E are to be provided in Source Currency and are to exclude Overheads and Profit. Overheads are to be included in Appendix B1, row 84 onwards, and Profit at Appendix G3.

Note 2 - Direct Labour on-cost %:
Contractors are to list the individual components and the relevant percentages comprising the total Direct Labour on-cost % in the table below:

Entity	Total Direct Labour on-cost %	Components making up the Total Direct Labour on-cost %
Prime Contractor		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub A		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub B		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub C		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub D		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]

Note 3 - Full Time Equivalent (FTE) Basis	
Respondents are to provide the total estimated chargeable hours per annum.	
Number of Chargeable hours per year (e.g. 1,760)	
Chargeable days per year (Respondent to amend)	220.0
Chargeable hours per day (Respondent to amend)	8.00
Hours per Annum	1,760

Appendix D1 - Post-COP Operations & Maintenance

In this appendix the Respondent is to provide the breakdown of labour and other. The Labour should be mapped against the CBS as accurately as possible and all Labour Categories required are to be entered into **Appendix D2 - O&M Labour**

NOTE:

All FTEs in this sheet are to be annualised (i.e. 1 FTE = 12 Months).

Respondents are to indicate in column AK the total duration of the O&M Services

E.g. if a service is to be provided for 10 months, a '10' should be entered in column AK

If the Respondent enters 14, the total included in Appendix A3 will be (14/12)

CBS Ref.	CBS Description	Annual FTE
2.	Post-COP O&M Services (Work Package B)	
2.1	Operational Services	
2.2	Maintenance Services	
2.2.1	Scheduled Maintenance	
2.2.2	Unscheduled Maintenance	
	Total FTE	
	Total Labour Cost (Excl. Overhead) - AUD EQUIV.	
	Labour Rate Source Currency	
	Annual Cost (Excl. Overhead) - Source Currency	
	Annual Cost (Excl. Overhead) - AUD EQUIV.	

Other Expenses Pertaining to Operating and Maintenance Services

Materials

CBS Line Item	

[Add new rows above this row, if required]	
Total Other Direct Costs	

Finance Costs

costs required to deliver ongoing (post-COP) Operating and Maintenance Services.

igned with the proposed organisational structure for the delivery of O&M Services under the Contra
Rates. The entered values at Appendix D2 will automatically populate the relevant rows in the Lal

Services, in months.

in col AK. The total that will be included in Appendix A3 Total Pricing, will therefore be (10/11/2024)

2) of the annual price for that CBS item, etc.

[illegible]

Services (Work Package B):

Expense Category / Description	Entity

[illegible]

ict.

bour table below, in this worksheet.

2) of the annual price for that CBS item.

[illegible]

	Currency	Quantity	Unit of Measure (Each, Days, etc.)	Rate/Unit Cost	Total Cost (in Source Currency)

[illegible]

[illegible]

Total Cost (ex GST AUD Equiv.)	Basis of Estimate

-

s/be 0

[illegible]

	Assumptions / Drivers

[illegible]

[illegible]

[illegible]

Total ANNUALISED Cost (AUD)	Period for which services are to be provided (months)	Total Cost (AUD)
	<i>E.g. 14</i>	

-
s/be 0

Assumptions / Basis of Estimate / Comments

Calculations for summary sheets [do not modify]

SUMIF **by ENTITY** to show on App A3.

Hours						
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor

Budgeted Labour Cost (AUD Equiv.)						
Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor	Mat Sub A

Profit (AUD Equiv.)			
Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

CBS Ref.	Prime Contractor
2.1 Operational	
2.2 Maintenance	
2.2.1 Scheduled	
2.2.2 Unschedule	

Materials (AUD Equiv.)					
Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor

Profit (AUD Equiv.)				
Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

CBS Ref.
2.1 Operational S
2.2 Maintenance
2.2.1 Scheduled
2.2.2 Unschedule

Other Direct Costs					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Profit (AUD Equiv.)					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Appendix D2 - Ongoing Operations & Maintenance Labour Rates

Note to Respondent: The Respondent is to specify the labour rates applicable to the pricing of O&M Services in AUD equivalent values. The Labour Rates in this worksheet will be applied in the determination of Labour Costs for O&M Services in this Price and Delivery Schedule. The Labour Rates are NOT to include any overhead or mark ups, other than direct labour on-costs as provided for in the tables below. All Overheads are to be included in Appendix B1, at row 84 onwards, and Profit in App G3.

Contract Labour Rates for O&M Services Excl GST					Source Currency		AUD Equivalent		Describe category of work/type
Labour Category:	Contractor	Source Currency	Hourly Base Labour Rate in Source Currency (see Note 1 below)	Direct Labour On Cost % (see Note 2 below)	Unburdened Contracted Labour Rate (hourly) in Source Currency	Unburdened Contracted Labour Rate (annual) in Source Currency	Unburdened Contracted Labour Rate (hourly) in AUD Equiv	Unburdened Contracted Labour Rate (Annual) (see Note 3 below)	
Lab Cat 1 (please detail)									
Lab Cat 2 (please detail)									
Lab Cat 3 (please detail)									
Lab Cat 4 (please detail)									
Lab Cat 5 (please detail)									
Lab Cat 6 (please detail)									
Lab Cat 7 (please detail)									
Lab Cat 8 (please detail)									
Lab Cat 9 (please detail)									
Lab Cat 10 (please detail)									
Lab Cat 11 (please detail)									
Lab Cat 12 (please detail)									
Lab Cat 13 (please detail)									
Lab Cat 14 (please detail)									
Lab Cat 15 (please detail)									
Lab Cat 16 (please detail)									
Lab Cat 17 (please detail)									
Lab Cat 18 (please detail)									
Lab Cat 19 (please detail)									
Lab Cat 20 (please detail)									
Lab Cat 21 (please detail)									
Lab Cat 22 (please detail)									
Lab Cat 23 (please detail)									
Lab Cat 24 (please detail)									
Lab Cat 25 (please detail)									
Lab Cat 26 (please detail)									
Lab Cat 27 (please detail)									
Lab Cat 28 (please detail)									
Lab Cat 29 (please detail)									
Lab Cat 30 (please detail)									

Notes
Note 1 - Hourly Base Labour Rate:
Rates in col E are to be provided in Source Currency and are to exclude Overheads and Profit. Overheads are to be included in Appendix B1, row 84 onwards, and Profit at Appendix G3.

Note 2 - Direct Labour on-cost %:
Contractors are to list the individual components and the relevant percentages comprising the total Direct Labour on-cost % in the table below:

Entity	Total Direct Labour on-cost %	Components making up the Total Direct Labour on-cost %
Prime Contractor		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub A		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub B		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub C		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub D		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]

Note 3 - Full Time Equivalent (FTE) Basis	
Respondents are to provide the total estimated chargeable hours per annum.	
Number of Chargeable hours per year (e.g. 1,760)	
Chargeable days per year (Respondent to amend)	220.0
Chargeable hours per day (Respondent to amend)	8.00
Hours per Annum	1,760

Appendix E1 - Disconnection and Temporary Well Suspension

In this appendix the Respondent is to provide the breakdown of labour and other costs required. The Labour should be mapped against the CBS as accurately as possible and aligned with the Labour Categories required are to be **entered into Appendix E4 - Field Execution Labour Breakdown**.

The Labour Rates are **NOT** to include any overhead or mark ups, other than direct labour on-costs.

All FTEs in this sheet are to be annualised (i.e. 1 FTE = 12 Months).

Respondents are to indicate in column AK the total duration of the Services, in months.

E.g. if a service is to be provided for 10 months, a '10' should be entered in col AK. The total duration should not exceed 14 months.

If the Respondent enters 14, the total included in Appendix A3 will be (14/12) of the annualised rate.

			Lab Cat 1 (please detail)
CBS Ref.	CBS Description	Annual FTE	
4	Field Execution - Work Package C (4.1 - 4.4)		
4.1	Well Suspension		
4.2	Facility & SURF Isolation & Cleaning		
4.3	Disconnection of the FPSO		
4.3.1	Disconnection and Laydown of Risers		
4.3.2	Disconnection and Laydown of Moorings		
4.4	Facility Preparation for Removal		
	Total FTE		
	Total Labour Cost (Excl. Overhead) - AUD EQUIV.		
Labour Rate Source Currency			
Annual Cost (Excl. Overhead) - Source Currency			
Annual Cost (Excl. Overhead) - AUD EQUIV.			

Other Expenses Pertaining to Disconnection and Temporary Well Suspension

Materials

CBS Line Item	Expense

[Add new rows above this row, if required]	
Total Other Direct Costs	

suspension Costs

and to deliver the Disconnection services (work package C).

the proposed organisational structure for the provision of the Services under the Contract.

Notes. The entered values at Appendix E4 will automatically populate the relevant rows in the Lak

costs as provided for in the tables below. All Overheads are to be included in Appendix B1.

e total that will be included in Appendix A3 Total Pricing, will therefore be (10/12) of the an

ual price for that CBS item, etc.

[illegible]

suspension (Work Package C):

Expense Category / Description	Entity

[illegible]

your table below, in this worksheet.

annual price for that CBS item.

[illegible]

Currency	Quantity	Unit of Measure (Each, Days, etc.)	Rate/Unit Cost	Total Cost (in Source Currency)	Total Cost (ex GST AUD Equiv.)

-
s/be 0

[illegible]

Basis of Estimate	

[illegible]

[illegible]

Assumptions / Drivers

[illegible]

Period for which services are to be provided (months)	Total Cost (AUD)
<i>E.g. 14</i>	

-

s/be 0

Calculations for summary sheets [do not modify]

SUMIF by ENTITY to show on App A3.

Hours					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Budgeted Labour Cost (AUD Equiv.)					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

Profit (AUD Equiv.)					
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D	Mat Sub E

#DIV/0!#DIV/0!#DIV/0!#DIV/0!#DIV/0!#DIV/0!

	Materials (AUD Equiv.)				
CBS Ref.	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D
4.1 Well Suspensi					
4.2 Facility & SUR					
4.3.1 Disconnectio					
4.3.2 Disconnectio					
4.4 Facility Prepar					

[illegible]

Mat Sub E

Other Direct Cos			
CBS Ref.	Prime Contractor	Mat Sub A	Mat Sub B
4.1 Well Suspensi			
4.2 Facility & SUR			
4.3.1 Disconnectio			
4.3.2 Disconnectio			
4.4 Facility Prepar			

Costs (AUD Equiv.)			Profit (AU\$)		
Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B

D Equiv.)

[illegible]

Appendix E2 - Facility Removal (Towage)

In this appendix the Respondent is to provide the breakdown of labour and other costs required to remove the facility. The Labour should be mapped against the descriptions in cells C15 to C22. The descriptions of the Labour Categories required are to be **entered into Appendix E4 - Field Execution Labour Rates**.

The Labour Rates are **NOT** to include any overhead or mark ups, other than direct labour on-costs.

All FTEs in this sheet are to be annualised (i.e. 1 FTE = 12 Months).

Respondents are to indicate in column AK the total duration of the Services, in months.

E.g. if a service is to be provided for 10 months, a '10' should be entered in col AK. The total duration of the service is to be entered in col AL.

If the Respondent enters 14, the total included in Appendix A3 will be (14/12) of the annual cost.

CBS Ref.	CBS Description	Annual FTE	Lab Cat 1 (please detail)
4.5	Facility Removal - Work Package D		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	Total FTE		
	Total Labour Cost (Excl. Overhead) - AUD EQUIV.		
	Labour Rate Source Currency		
	Annual Cost (Excl. Overhead) - Source Currency		
	Annual Cost (Excl. Overhead) - AUD EQUIV.		

Materials

Expense Category / Description

[Add new rows above this row, if required]
Total Materials

Other Direct Costs

Includes logistic support (vessel hire costs, helicopter hire costs, etc.)

[illegible]

[Add new rows above this row, if required]
Total Other Direct Costs

o deliver Towage (Facility Removal) Services.

he items in these cells are for the Repspondent to nominate.

es. The entered values at Appendix E4 will automatically populate the relevant rows in

ts as provided for in the tables below. All Overheads are to be included in Appendix B:

total that will be included in Appendix A3 Total Pricing, will therefore be (10/12) of

I price for that CBS item, etc.

[illegible]

	Entity

in the Labour table below, in this worksheet.

1.

of the annual price for that CBS item.

[illegible]

Currency	Quantity	Unit of Measure (Each, Days, etc.)	Rate/Unit Cost	Total Cost (in Source Currency)

[illegible]

[illegible]

Total Cost (ex GST AUD Equiv.)	Basis of Estimate

s/be 0

[illegible]

	Assumption

[illegible]

[illegible]

Ins / Drivers

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[illegible]

Period for which services are to be provided (months)	Total Cost (AUD)
<i>E.g. 14</i>	

-
s/be 0

[illegible]

Calculations for summary sheets [do not modify]

SUMIF by ENTITY to show on App A3.

[illegible]

[illegible]

[illegible]

CBS 4.5:

Materials (AUD Equiv.)				
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D

	Profit (AUD Equiv.)				
Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D

Mat Sub E

CBS 4.5:

Other Direct Costs		
Prime Contractor	Mat Sub A	Mat Sub B

sts (AUD Equiv.)			Profit (AU		
Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B

ID Equiv.)		
Mat Sub C	Mat Sub D	Mat Sub E

Appendix E3 - Ongoing Monitoring

In this appendix the Respondent is to provide the breakdown of labour and other costs required to deliver the Services. The Labour should be mapped against the descriptions in cells C15 to C22. The descriptions of the Labour Categories required are to be **entered into Appendix E4 - Field Execution Labour Rates**.

The Labour Rates are **NOT** to include any overhead or mark ups, other than direct labour on-costs.

All FTEs in this sheet are to be annualised (i.e. 1 FTE = 12 Months).

Respondents are to indicate in column AK the total duration of the Services, in months.

E.g. if a service is to be provided for 10 months, a '10' should be entered in col AK. The total duration of the Services should be entered in col AL.

If the Respondent enters 14, the total included in Appendix A3 will be (14/12) of the annual cost.

CBS Ref.	CBS Description	Annual FTE	Lab Cat 1 (please detail)
4.6	Ongoing Monitoring - Work Package E		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	[Respondent to nominate]		
	Total FTE		
	Total Labour Cost (Excl. Overhead) - AUD EQUIV.		
	Labour Rate Source Currency		
	Annual Cost (Excl. Overhead) - Source Currency		
	Annual Cost (Excl. Overhead) - AUD EQUIV.		

Materials

Expense Category / Description

[Add new rows above this row, if required]
Total Materials

Other Direct Costs

Includes logistic support (vessel hire costs, helicopter hire costs, etc.)

[illegible]

[Add new rows above this row, if required]
Total Other Direct Costs

o deliver Ongoing Monitoring Services.

he items in these cells are for the Repspondent to nominate.

es. The entered values at Appendix E4 will automatically populate the relevant rows in

ts as provided for in the tables below. All Overheads are to be included in Appendix B:

total that will be included in Appendix A3 Total Pricing, will therefore be (10/12) of

I price for that CBS item, etc.

[illegible]

	Entity

[illegible]

in the Labour table below, in this worksheet.

1.

of the annual price for that CBS item.

[illegible]

Currency	Quantity	Unit of Measure (Each, Days, etc.)	Rate/Unit Cost	Total Cost (in Source Currency)

[illegible]

[illegible]

Total Cost (ex GST AUD Equiv.)	Basis of Estimate

-

s/be 0

[illegible]

	Assumption

[illegible]

[illegible]

ns / Drivers

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[illegible]

Period for which services are to be provided (months)	Total Cost (AUD)
<i>E.g. 14</i>	

-
s/be 0

[illegible]

Calculations for summary sheets [do not modify]
SUMIF by ENTITY to show on App A3.

[illegible]

[illegible]

[illegible]

CBS 4.6:

Materials (AUD Equiv.)				
Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D

	Profit (AUD Equiv.)				
Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C	Mat Sub D

Mat Sub E

CBS 4.6:

Other Direct Costs		
Prime Contractor	Mat Sub A	Mat Sub B

sts (AUD Equiv.)			Profit (AU		
Mat Sub C	Mat Sub D	Mat Sub E	Prime Contractor	Mat Sub A	Mat Sub B

ID Equiv.)		
Mat Sub C	Mat Sub D	Mat Sub E

Appendix E4 - Field Execution (Disconnection, Towing, Monitoring) - Labour Rates

Note to Respondent: The Respondent is to specify the labour rates applicable to the pricing of Field Execution Service components in AUD equivalent values.
The Labour Rates in this worksheet will be applied in the determination of Labour Costs for the relevant Services in this Price and Delivery Schedule.
The Labour Rates are NOT to include any overhead or mark ups, other than direct labour on-costs as provided for in the tables below. All Overheads are to be included in Appendix B1, at row 84 onwards, and profit in App G3.

Contract Labour Rates for Disconnection & Towing Services Excl GST					Source Currency		AUD Equivalent		Describe category of worktype
Labour Category:	Entity	Source Currency	Hourly Base Labour Rate in Source Currency (see Note 1 below)	Direct Labour On Cost % (see Note 2 below)	Unburdened Contracted Labour Rate (hourly) in Source Currency	Unburdened Contracted Labour Rate (annual) in Source Currency	Unburdened Contracted Labour Rate (hourly) in AUD Equiv	Unburdened Contracted Labour Rate (Annual) (see Note 3 below)	
Lab Cat 1 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 2 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 3 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 4 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 5 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 6 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 7 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 8 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 9 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 10 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 11 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 12 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 13 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 14 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 15 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 16 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 17 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 18 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 19 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 20 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 21 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 22 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 23 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 24 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 25 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 26 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 27 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 28 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 29 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0
Lab Cat 30 (please detail)				0.00%	=0.00	=0	=0	\$0.00	\$0

Notes
Note 1 - Hourly Base Labour Rate:
Rates in col E are to be provided in Source Currency and are to exclude Overheads and Profit. Overheads are to be included in Appendix B1, row 84 onwards, and Profit at Appendix G3.

Note 2 - Direct Labour on-cost %:		
Contractors are to list the individual components and the relevant percentages comprising the total Direct Labour on-cost % in the table below:		
Entity	Total Direct Labour on-cost %	Components making up the Total Direct Labour on-cost %
Prime Contractor		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub A		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub B		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub C		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]
Mat Sub D		[Respondent is to provide a breakdown of on-cost %, e.g. Superannuation, Payroll Tax, Payroll Tax on Superannuation, Long Service Leave, Other (Respondent to Define)]

Note 3 - Full Time Equivalent (FTE) Basis	
Respondents are to provide the total estimated chargeable hours per annum.	
Number of Chargeable hours per year (e.g. 1,760)	220.0
Chargeable days per year (Respondent to amend)	8.00
Hours per Annum	1,760

Appendix E5 - Summary of Field I

Phase 1 - Disconnection of the FPSO, isolation of

In this Appendix E5, the Respondent is to indicate the % of the t
Respondents are also required to identify the wells by updating th

CBS Ref.	CBS Description
4	Field Execution
4.1	Well Suspension
4.2	Facility & SURF Isolation & Cleaning
4.3	Disconnection of the FPSO
4.3.1	Disconnection and Laydown of Risers
4.3.2	Disconnection and Laydown of Moorings
4.4	Facility Preparation for Removal
4.5	Facility Removal
4.6	Post Decommissioning Monitoring

Appendix E6 - Daily Rate

In this appendix the Respondent is to provide the build up (labour and other costs) of This rate will be used to determine the additional cost to deliver services that are exte

Expense Category / Description	

4.1 Well Suspension

[illegible]

4.2 Facility & SURF Isolation & Cleaning

[illegible]

[Add new rows above this row, if required. Copy an existing row, to preserve formulas and formatting]

a **daily rate**, that will apply when delivering an additional day's effort as part of the Field Execution vended beyond what was initially anticipated. Respondent is to provide a detailed BoE and all assumptions.

	Labour	
Cost Type	Labour Resource Note 1: Only available when Col C = "Labour"	Entity

[illegible][illegible]

[illegible]

work (work packages C-E). This is **not** included in the total indicative price in Appendix A3, and is
 tions and drivers of the rate used, as well as providing an indication of the circumstances under

		Non-labour		
Rate	Source Currency	Entity	Source Currency	Rate

[illegible][illegible]

[illegible]

s also **not** included in the Costed Risk Register.
which the additional daily rate will apply.

[illegible][illegible]

TOTAL	\$0	\$0	\$0

Basis of Estimate	

[illegible][illegible]

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.[illegible][illegible]

[illegible]

Assumptions / Drivers

[illegible][illegible]

[illegible][illegible][illegible]

[illegible]

Appendix G1 - Milestone Payments

Build up of fee subject to payment by milestones

The Respondent is to enter the following in the table below:
- The build-up of any Mobilisation Payment, directly in columns E & J respectively in the light yellow input cells.
- The total fee to be paid by milestones, directly into column H.

				Totals as per Appendix A3				
Appendix References	CBS Element	CBS Description	Mobilisation Payment (if required)	Cost	Mark-up	Fee paid by milestones	Percentage (=col H / col G):	Mobilisation BOE
B1	1	Project Planning and Management (Work Package F)		\$0	\$0		0.00%	
D1	2	Post-COP Operations and Maintenance (Work Package B)		\$0	\$0		0.00%	
C1	3	Engineering Design and Preparation (Work Package A)		\$0	\$0		0.00%	
E1	4.1	Well Suspension		\$0	\$0		0.00%	
E1	4.2	Facility & SURF Isolation & Cleaning		\$0	\$0		0.00%	
E1	4.3	Disconnection of the FPSO		\$0	\$0		0.00%	
E1	4.4	Facility Preparation for Removal		\$0	\$0		0.00%	
E2	4.5	Facility Removal		\$0	\$0		0.00%	
E3	4.6	Post Decommissioning Monitoring		\$0	\$0		0.00%	
G2	5	Commercial (Pass Through Costs)		\$0	\$0		0.00%	
			\$0	\$0	\$0	\$0	0.00%	

Milestones (as described in Price Build Up above)

The information provided in the Milestone tables below is indicative only and the Respondent may amend the tables as required.
Where the Respondent has proposed Milestones, the Respondent should also include the relevant exit criteria.
The Commonwealth anticipates 'Delivery of Close Out Report' will be the Final Milestone and has applied a 20% weighting to this Milestone..
The Milestone Payment values will be automatically populated from the "Price Build Up" Table above IAW the weighting nominated by the Respondent for the Milestones table below.
Where the Respondent has proposed a Mobilisation Payment (i.e. a payment at ED), the weighting for that Milestone is automatically calculated based on the total calculated in Cell E20 above.
Respondents are to ensure milestone payments reflect a cashflow neutral position.

					Milestone Payment		
Milestone	Milestone Title	Milestone Exit Criteria	Milestone Date	Weighting (Respondent to nominate in shaded cells)	Milestone Payment \$	GST (AUD)	Payment (AUD Equivalent, GST Inc.)
Milestone 1	Effective Date (ED) - Mobilisation Payment			0.0%	\$0	\$0	\$0
Milestone 2	Operative Date (OD) / Commencement of				\$0	\$0	\$0
Milestone 3	Delivery of Safety Case	NOPSEMA Approval			\$0	\$0	\$0
Milestone 4	Delivery of Environmental Plan	NOPSEMA Approval			\$0	\$0	\$0
Milestone 5	Delivery of WOMP	NOPSEMA Approval			\$0	\$0	\$0
Milestone 6	Sail away				\$0	\$0	\$0
Milestone x					\$0	\$0	\$0
					\$0	\$0	\$0
					\$0	\$0	\$0
					\$0	\$0	\$0
					\$0	\$0	\$0
For additional rows, add rows above this one (copy an existing row)					\$0	\$0	\$0
Complete Milestone	Delivery of Close-out report			20.0%	\$0	\$0	\$0
Total				20.0%	\$0	\$0	\$0

Appendix G2 - Items for Which Specific Prices are R

Items included in the initial Contract Price

CBS 5.1: Travel & Accommodation

*The Commonwealth expects that the cost of insurance will be a Pass Through cost.
Where required, the Respondent should provide the annual cost and type of insuran*

Description	Entity	Source Currency
[Add new rows above this row, if required]		
Total (AUD)		

CBS 5.2: Insurances

*The Commonwealth expects that the cost of insurance will be a Pass Through cost.
Where required, the Respondent should provide the annual cost and type of insuran*

Insurance Type	Entity	Source Currency
[Add new rows above this row, if required]		
Total (AUD)		

CBS 5.3: Financial (Performance) Security

The Commonwealth expects that the cost of this security will be a Pass Through cost and the % cost below:

Term (no of Months)	Term (Years)	Gross Security Value AUD	Charge (%)
Total (AUD)			

CBS 5.4: Government Fees and Charges

Fees and charges	Entity	Total Cost excl. GST
[Add new rows above this row, if required]		
Total (AUD)		\$ -

CBS 5.5: Mobilisation Security

The Commonwealth expects that the cost of this security will be a Pass Through cost and the % cost below:

Term (no of Months)	Term (Years)	Gross Security Value AUD	Charge (%)
Total (AUD)			

Items not included in the initial Contract Price

Commonwealth Supplied (Material, Equipment, Services, Data, etc.)

Additional cost where Commonwealth facilities nominated in Respondent's proposal Respondents are to include in the table below, all items that are assumed to be provided elsewhere in their response. The table below does NOT form part of the total product or service will cost if it is not provided as CSI.

[illegible]

Required

Price in the table below [these will then show up on A3 - Price Summary]

[illegible]

Price in the table below [these will then show up on A3 - Price Summary]

[illegible]

st. Respondents are to complete the term, Gross Security Value

Cost AUD	Basis of Estimation
\$ -	
\$ -	

[illegible]

st. Respondents are to complete the term, Gross Security Value

Cost AUD	Basis of Estimation
\$ -	
\$ -	

are not available:

vided as Commonwealth Supplied Items (CSI). The values below are the net price reflected in Appendix A3, but provides an indication of how

[illegible]

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nate

should not be
w much a

culations)

[illegible]





[DO NOT MODIFY - CALCS FOR APP A3]

	Prime Contractor	Mat Sub A	Mat Sub B	Mat Sub C
Travel and Accommodation	-	-	-	-
Insurances	-	-	-	-
Securities	-			
Government fees and charges	-	-	-	-
Mobilisation Security (if required)	-			

Mat Sub D	Mat Sub E
-	-
-	-
-	-

Appendix G3 - Profit %

This appendix captures the total Profit % (i.e. excluding overheads & G&A recoverable by the Respondent) to be **applied to all non Pass Through** costs. Overheads and G&A is provided at Appendix B2.

Total Profit % applicable to all Non-Pass Through costs

Entity	Profit Mark-up %
Prime Contractor	
Mat Sub A	
Mat Sub B	
Mat Sub C	
Mat Sub D	
Mat Sub E	

Note: Commercial Costs (i.e. CBS Element 5 and all child-level elements below) are considered to be 'pass through' in nature and no profit is to

iss-Through Costs.

be applied

Appendix G4 - Management Reserve Risk Assessment Tools

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Severe
Almost Certain	Medium	Medium	High	High	Extreme
Likely	Medium	Medium	Medium	High	Extreme
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Medium	Medium

Rating	Qualitative Description				
Description					
Almost Certain	The event is expected to occur under most circumstances				
Likely	The event will probably occur in most circumstances				
Possible	The event could occur at any time under some circumstances				
Unlikely	The event is not expected to occur under normal circumstances				
Rare	The event is conceivable under extraordinary circumstances				

Consequence			
	Security	Environment	WHS (Safety)
Severe	Would cause exceptionally grave damage, security incident involving compromise, loss or unauthorised disclosure of highly classified or sensitive information, equipment, strategy or tactics that affects capability and functionality. Introduce a significant flaw or weakness in critical functions of a materiel system that could be exploited by an adversary	Significant long-term damage to the environment that would be extremely difficult to rectify.	Could result in death or permanent total disability.
Major	Would cause serious damage, security incident possibly involving compromise, loss or unauthorised disclosure of highly classified or sensitive information, equipment, strategy or tactics that affects capability and functionality. Introduce a flaw or weakness in critical functions of a materiel system that could be exploited by an adversary	Would result in significant short-term damage to the environment that would be difficult to rectify.	Could result in permanent partial disability, or temporary total disability in excess of 30 days.

Moderate	Would cause damage, security incident possibly involving compromise, loss or unauthorised disclosure of classified or sensitive information, equipment, strategy or tactics that affects capability and functionality Introduce a flaw or weakness in non-critical functions of a materiel system that could be exploited by an adversary	Would result in short-term damage to the environment that could be readily rectifiable.	Could result in temporary partial disability less than 30 days, hospitalisation, emergency medical treatment, injury or illness eligible for compensation.
Minor	Would cause limited damage, minor Security incident possibly involving compromise, loss or unauthorised disclosure of lower classified or sensitive information, equipment, strategy or tactics that affects capability and functionality. Introduce a flaw or weakness in non-critical functions of a materiel system that could not be readily exploited by an adversary	Would result in short-term damage to the environment requiring no rectification activities.	Could result in first aid or minor supportive medical treatment.
Insignificant	Security incident the occurrence of which will not impact on classified or sensitive information, equipment, strategy or tactics, capability and functionality. (or on Australia's national security, interests, economy, stability or integrity and international relations) but may be noted as requiring attention.	No identifiable damage to the environment.	There could be minor injuries that are treated at the site with no long-term effects.

Activity			
Performance (Fitness for Service)	Supportability (Sustainability)	Cost	Schedule
Total failure of the System (or lower level equivalent), thus preventing it from meeting its primary operational requirements and/or resulting in total failure of, or inability to conduct its missions.	Would cause the delivered capability to be unsupportable under normal peacetime operations due to deficiencies in one or more of the contracted aspects of the following fundamental inputs to capability: System; Supplies; Facilities; or Support. There are no known workarounds.	Would cause the total actual Contract costs to exceed currently approved cost provisions by 5-10%	Would cause Contract signature to be delayed by more than 6 months.
			Would cause the date for full operational capability to be missed by two or more years.
Inability to achieve one or more of the significant requirements of the System (or lower level equivalent), significantly degrading the system's ability to perform primary mission.	Would cause the delivered capability to be unsupportable in low-tempo operations or for short periods of time due to a deficiency in the contracted aspects of one of the following fundamental inputs to capability: System, Supplies, Facilities or Support. There are no known workarounds.	Would cause the total actual Contract costs to exceed currently approved cost provisions by 2.5-5%	Would cause the Contract signature to be delayed by 2-6 months.
			Would cause the date for full operational capability to be missed by between 6 months and two years.

Temporary loss of one or more significant capabilities within the platform, system or equipment, resulting in the delivered capability being functionally fit for all desired missions or tasks, but with some qualification to the level to which it would perform some critical elements. Several such qualifications would exist.	Up to 6 month delays expected in supply and maintenance.	Would cause the total actual Contract costs to exceed currently approved cost provisions by up to 2.5%	Would cause the Contract signature to be missed by up to 2 months.
			Would cause the date for full operational capability to be missed by less than 6 months.
Temporary degradation or loss of one or more capabilities within the platform, system or equipment, resulting in the delivered capability being functionally fit for all desired missions or tasks, but with some qualification to the level to which it would perform non-critical elements of the mission or task.	Some short coming expected in supply and maintenance.	Would cause Contract costs not exceed currently approved cost provisions	Would cause the Contract signature to be achieved but internal priorities may have to be adjusted.
The delivered capability is functionally fit for all desired missions or tasks, but there may be some qualification to the level to which it would perform non-critical elements of the mission or task. Few such qualifications exist.	Support and maintenance can be met by industry.	Would cause Contract costs not exceed currently programmed or approved cost provisions	Would cause some non-critical elements of the Contract to not achieve full capability by Contract signature.

Appendix G5 - Costed Risk Register

Management Reserve (MR) is a fully disclosed Contractor controlled estimate provision, to compensate for risk and uncertainty. The values for MR presented below are a declaration by the Respondent of the value of MR incorporated into its proposed price.

In the Cost Risk Register below, Respondents are required to:

- a. provide the Risk Statement (Identification);
- b. identify the CBS Element the risk relates to;
- c. perform the Risk Assessment (IAW the guidelines in Appendix F6);
- d. provide details of Risk Treatment; and
- e. provide the Estimated Residual Cost.

If additional rows are required, Respondents should copy an existing row in the table and should avoid inserting new blank rows. This will ensure formulas and data validation settings (drop downs) are preserved.

Ref

Risk Statement/Identification					CBS Element Description (Select from Dropdown List)	Risk Assessment			Risk Treatment	
Risk Type (Select from Dropdown List)	Description	Risk/ Uncertainty Identification				Scoring			Risk	
		Cause (Due to ...)	Risk (there is a risk that...)	Effect/Impact (which may result in...)		Likelihood (Select from Dropdown List)	Consequence (Select from Dropdown List)	Risk Score	Controls	Treatment
	</									

Total MR embedded within respective Price Components

\$0

\$0 \$0

		Cost	Profit
1.1	1.1 Project Management	\$0	\$0
1.2	1.2 Health, Safety and Environment	\$0	\$0
1.3	1.3 Onshore Engineering Support	\$0	\$0
1.4	1.4 Maintenance Planning	\$0	\$0
1.5	1.5 Integrated Activity Planning	\$0	\$0
1.6	1.6 Human Resource Management	\$0	\$0
1.7	1.7 Cost Management	\$0	\$0
1.8	1.8 Travel Management	\$0	\$0
1.9	1.9 Emergency Response and Crisis Mgmt Capability	\$0	\$0
1.10	1.10 Certification, Accreditation, Licence and Permit Mgmt	\$0	\$0
1.11	1.11 Other	\$0	\$0
2.1	2.1 Post-COP Operational Services	\$0	\$0
2.2.1	2.2.1 Post-COP Scheduled Maintenance	\$0	\$0
2.2.2	2.2.2 Post-COP Unscheduled Maintenance	\$0	\$0
3	3 Engineering Design and Planning	\$0	\$0
4.1	4.1 Well Suspension	\$0	\$0
4.2	4.2 Facility & SURF Isolation & Cleaning	\$0	\$0
4.3.1	4.3.1 Disconnection and Laydown of Risers	\$0	\$0
4.3.2	4.3.2 Disconnection and Laydown of Moorings	\$0	\$0
4.4	4.4 Facility Preparation for Removal	\$0	\$0
4.5	4.5 Facility Removal	\$0	\$0
4.6	4.6 Post Decommissioning Monitoring	\$0	\$0
5.1	5.1 Travel and Accommodation	\$0	
5.2	5.2 Insurances	\$0	
5.3	5.3 Securities	\$0	
5.4	5.4 Government fees and charges	\$0	
5.5	5.5 Mobilisation Security (if required)	\$0	
		\$0	\$0

Appendix G6 - Cost Breakdown Structure

This appendix provides the Cost Breakdown Structure (CBS) that encapsulates the total scope of activity to be undertaken by the Tenderer. The Tenderer may provide any comments of clarification around their assumptions with regards to the allocation of costs to parts of the project.

CBS	SOW Ref	CBS Description
1		Project Planning and Management (Work Package F)
1.1	4.4g	Project Management
1.2		Health, Safety and Environment
1.3		Onshore Engineering Support
1.4		Maintenance Planning
1.5		Integrated Activity Planning
1.6		Human Resource Management
1.7		Cost Management
1.8		Travel Management
1.9		Emergency Response and Crisis Management Capability
1.10		Certification, Accreditation, Licence and Permit Management
1.11		Other
2		Post-COP Operations and Maintenance (Work Package B)
2.1	4.4c	Operational Services
2.2		Maintenance Services
2.2.1		Scheduled Maintenance
2.2.2		Unscheduled Maintenance
3	4.4b	Engineering Design and Planning (Work Package A)
4		Field Execution
		Work Package C
4.1	4.4d	Well Suspension
4.2		Facility & SURF Isolation & Cleaning
4.3		Disconnection of the FPSO
4.3.1		Disconnection and Laydown of Risers
4.3.2		Disconnection and Laydown of Moorings
4.4		Facility Preparation for Removal
		Work Package D
4.5	4.4e	Facility Removal
		Work Package E
4.6	4.4f	Post Decommissioning Monitoring
5		Commercial (Pass Through Costs)
5.1		Travel and Accommodation
5.2		Insurances
5.3		Securities
5.4		Government fees and charges
5.5		Mobilisation Security (if required)

e Respondent. Where applicable, cross-referencing to relevant Statement of Work clauses has been pro
 clular CBS line items in column J.

[illegible]

vided as a means of describing the scope attributable to the relevant CBS element.

DO NOT DELETE - THIS TABLE IS LINKED TO OTHER WORKSHEETS WITHIN THIS RESPONSE DOCUMENT

CBS Description	
Project Planning and Management (Work Package F)	1
Project Management	1.1
Health, Safety and Environment	1.2
Onshore Engineering Support	1.3
Maintenance Planning	1.4
Integrated Activity Planning	1.5
Human Resource Management	1.6
Cost Management	1.7
Travel Management	1.8
Emergency Response and Crisis Management Capability	1.9
Certification, Accreditation, Licence and Permit Management	1.10
Other	1.11
Post-COP Operations and Maintenance (Work Package B)	2
Operational Services	2.1
Maintenance Services	2.2
Scheduled Maintenance	2.2.1
Unscheduled Maintenance	2.2.2
Engineering Design and Planning (Work Package A)	3
Field Execution	4
Work Package C	
Well Suspension	4.1
Facility & SURF Isolation & Cleaning	4.2
Disconnection of the FPSO	4.3
Disconnection and Laydown of Risers	4.3.1
Disconnection and Laydown of Moorings	4.3.2
Facility Preparation for Removal	4.4
Work Package D	
Facility Removal	4.5
Work Package E	
Post Decommissioning Monitoring	4.6
Commercial (Pass Through Costs)	5
Travel and Accommodation	5.1
Insurances	5.2
Securities	5.3
Government fees and charges	5.4
Mobilisation Security (if required)	5.5

Appendix G7 - Foreign Exchange Rates

FOREIGN EXCHANGE RATES (Direct Quote)

Where costs are nominated in source currency, Respondent is to provide in the table below, the applicable exchange rates. Up to five rates can be nominated.

If the Respondent wishes to nominate a currency not listed, the Respondent is to input the exchange rate.

Forex table used for pricing:

Australian Dollar	United States Dollar	Euro	Great British Pound	Canadian Dollar
AUD	USD	EUR	GBP	CAD
1.00	1.37	1.61	1.88	1.08

Lookup List:

The five rates used in the table above are populated from the lookup table below. Respondent can

	Currency	Code	Rate
Pre-defined rates (as at Base Date):	Canadian Dollar	CAD	1.0823
	Euro	EUR	1.6108
	Great British Pound	GBP	1.8762
	United States Dollar	USD	1.3652
Respondent Nominated (as at Base Date):	Currency 1		
	Currency 2		
	Currency 3		
	Currency 4		
	Currency 5		
	Currency 6		

appropriate rates to convert their cost build up to AUD equivalent.

ge rates listed on the Reserve Bank of Australia website (www.rba.gov.au) as at Base Date (**1 September 2**

nominate additional currencies below.

!021).

Dropdown lists

CBS List for Project Planning and Management dropdown

1.1 Project Management
1.2 Health, Safety and Environment
1.3 Onshore Engineering Support
1.4 Maintenance Planning
1.5 Integrated Activity Planning
1,6 Human Resource Management
1.7 Cost Management
1.8 Travel Management
1.9 Emergency Response and Crisis Management Capability
1.10 Certification, Accreditation, Licence and Permit Management
1.11 Other (Respondent to provide detail in row 31 onwards)

CBS List for Field Execution dropdown

4.1 Well Suspension
4.2 Facility & SURF Isolation & Cleaning
4.3.1 Disconnection and Laydown of Risers
4.3.2 Disconnection and Laydown of Moorings
4.4 Facility Preparation for Removal

CBS list for Costed Risk dropdown

1.1 Project Management
1.2 Health, Safety and Environment
1.3 Onshore Engineering Support
1.4 Maintenance Planning
1.5 Integrated Activity Planning
1.6 Human Resource Management
1.7 Cost Management
1.8 Travel Management
1.9 Emergency Response and Crisis Mgmt Capability
1.10 Certification, Accreditation, Licence and Permit Mgmt
1.11 Other
2.1 Post-COP Operational Services
2.2.1 Post-COP Scheduled Maintenance
2.2.2 Post-COP Unscheduled Maintenance
3 Engineering Design and Planning
4.1 Well Suspension
4.2 Facility & SURF Isolation & Cleaning
4.3.1 Disconnection and Laydown of Risers
4.3.2 Disconnection and Laydown of Moorings
4.4 Facility Preparation for Removal
4.5 Facility Removal
4.6 Post Decommissioning Monitoring
5.1 Travel and Accommodation
5.2 Insurances
5.3 Securities
5.4 Government fees and charges
5.5 Mobilisation Security (if required)

CBS list for O&M dropdown

2.1 Operational Services
2.2.1 Scheduled Maintenance
2.2.2 Unscheduled Maintenance

Resource list for Daily Rate dropdown

01			Lab Cat 1 (please detail)
02			Lab Cat 2 (please detail)
03			Lab Cat 3 (please detail)
04			Lab Cat 4 (please detail)
05			Lab Cat 5 (please detail)
06			Lab Cat 6 (please detail)
07			Lab Cat 7 (please detail)
08			Lab Cat 8 (please detail)
09			Lab Cat 9 (please detail)
10			Lab Cat 10 (please detail)
11			Lab Cat 11 (please detail)
12			Lab Cat 12 (please detail)
13			Lab Cat 13 (please detail)
14			Lab Cat 14 (please detail)
15			Lab Cat 15 (please detail)
16			Lab Cat 16 (please detail)
17			Lab Cat 17 (please detail)
18			Lab Cat 18 (please detail)
19			Lab Cat 19 (please detail)
20			Lab Cat 20 (please detail)
21			Lab Cat 21 (please detail)
22			Lab Cat 22 (please detail)
23			Lab Cat 23 (please detail)
24			Lab Cat 24 (please detail)
25			Lab Cat 25 (please detail)
26			Lab Cat 26 (please detail)
27			Lab Cat 27 (please detail)
28			Lab Cat 28 (please detail)
29			Lab Cat 29 (please detail)
30			Lab Cat 30 (please detail)

Cost Component list for Daily Rate dropdown

Labour
Materials
Other Direct Costs

Annex D-3, Schedule 1 – Pricing Instruction

1. Pricing Instruction

1.1. Introduction and Instruction

- (a). This Pricing Instruction outlines the Commonwealth's requirements and provides guidance for the Respondent in relation to the preparation of its pricing response
- (b). This Pricing Instruction is to be read together with the corresponding Microsoft Excel® format workbook Appendices, in Annex D-3 to Attachment D ("Price and Delivery Schedule").
- (c). Respondents are to submit a pricing response by:
 - (i). completing each of the spreadsheets in the Appendices listed in Table 1 below, in accordance with the requirements of this Pricing Instruction and this Request For Proposal (RFP); and
 - (ii). providing the information sought in this Pricing Instruction in the form and to the level of detail requested by this Pricing Instruction, and in accordance with the instructions in this Pricing Instruction.

Appendix Reference	Appendix Name	Worksheet Name
Index and Pricing Summaries		
	Index and Instructions	Index and Instructions
A1	Appendix A1 - Key Inputs	App A1 - Key Inputs
A2	Appendix A2 - Summary Pricing	App A2 - Summary Pricing
A3	Appendix A3 - Total Pricing (CBS)	App A3 - Total Pricing (CBS)
Pricing Sheets by Contractor		
A4	Appendix A4 - Price Schedule Prime	App A4 - Price Sched Prime
A5	Appendix A5 - Price Schedule Sub1	App A5 - Price Sched Sub1
A6	Appendix A6 - Price Schedule Sub2	App A6 - Price Sched Sub2
A7	Appendix A7 - Price Schedule Sub3	App A7 - Price Sched Sub3
A8	Appendix A8 - Price Schedule Sub4	App A8 - Price Sched Sub4
A9	Appendix A9 - Price Schedule Sub5	App A9 - Price Sched Sub5
Work Package F - Project Planning and Management		
B1	Appendix B1 - Project Planning and Management	App B1 - Proj Plan Mgmt
B2	Appendix B2 - PPM Labour Rates	App B2 - PPM Labour Rates
Work Package A - Engineering Design & Planning		
C1	Appendix C1 - Engineering Design and Planning	App C1 - Eng Design
C2	Appendix C2 - Eng Design Labour Rates	App C2 - EngDesign LabRates
Work Package B - Operations & Maintenance		
D1	Appendix D1 - Operations & Maintenance	App D1 - O&M Costs
D2	Appendix D2 - O&M Labour Rates	App D2 - O&M Labour Rates
Work Packages C-E - Disconnection, Towing, Monitoring		
E1	Appendix E1 - Disconnection & Temporary Suspension	App E1 - Disconnection
E2	Appendix E2 - Towage	App E2 - Towage
E3	Appendix E3 - Monitoring	App E3 - Monitoring
E4	Appendix E4 - Field Execution Labour Rates	App E4 - Field Executn LabRates
E5	Appendix E5 - Summary Pricing by Well	App E5 - Summ Pricing By Well
E6	Appendix E6 - Daily Rates	App E6 - Daily Rates
Other		
G1	Appendix G1 - Milestone Payments	App G1 - Milestone Payments
G2	Appendix G2 - Specific Prices	App G2 - Specific Prices
G3	Appendix G3 - Cost Mark-up %	App G3 - Cost Mark-up %
G4	Appendix G4 - MR Risk Assessment Tools	App G4 - MR Risk Assess't Tools
G5	Appendix G5 - Costed Risk Register	App G5 - Costed Risk Register
G6	Appendix G6 - Cost Breakdown Structure	App G6 - Cost Breakdown Struct.
G7	Appendix G7 - Forex Rates	App G7 - Forex

Table 1 – Summary of Appendices

1.2. Workbook Structure

- (a). The workbook Appendices are structured to provide a sufficient level of detail on the pricing arrangements to contribute to source selection of a preferred Respondent based on the Phase 1 proposal.
- (b). Appendix A1 requires the Respondent to detail key inputs to the Schedule 1 pricing response workbook, including its intended Material Subcontractor(s) to be utilised throughout the pricing response workbook.
- (c). Appendices A2 – A3 present the Respondent's pricing proposal for the Statement of Requirements (Part 2 to Request for Proposal) in various formats.
- (d). Appendix A2 requires the Respondent to provide comments on the pricing model proposed by the Respondent for each Work Package (as outlined in Clause 6 of Part 3 to the RFP). Appendix A3 requires no input from the Respondent.

Note to Respondents: Where the Respondent offers an alternative pricing proposal, it must be submitted in a separate copy of the Price and Delivery Schedule workbook, together with a response that addresses the requirements of the RFP.

- (e). Appendices A4 – A9 represent pricing information as it relates to each entity (Prime Contractor and Material Subcontractors), with each worksheet representing a separate entity.
- (f). Appendices A4 – A9 are structured identically to Appendix A3, and the values in Appendix A3 are calculated as the sum of the corresponding cells from Appendices A4 – A9.
- (g). In each of Appendices A4 – A9, the GST in column S is pre-populated at 10% of the Budgeted Total Price, but can be altered by the Respondent if required. No further user input is required for Appendices A4 – A9.
- (h). Appendices A4 – A9 summarise the pricing information captured throughout the workbook, and show pricing detail by:
 - (i). Cost Breakdown Structure (CBS) element – the structure details specific products and activities required under the Contract against which pricing information is to be supplied;

Note to Respondents: Any Respondent-nominated Contract Work Breakdown Structure (CWBS) must be referable to the CBS. In order for the Respondent to ascertain the Commonwealth's intended capture of pricing information against the CBS, a CBS dictionary describing and detailing the scope to be ascribed to each CBS element is supplied within the pricing response workbook.

- (ii). resource type – including by direct costs (direct, materials and other direct costs & consumables) and indirect costs (overheads [including General and Administration (G&A)], Management Reserve and profit);
 - (iii). entity – i.e. by prime contractor and all nominated Material Subcontractor(s); and
 - (iv). in AUD equivalent, as at the Base Date.
- (i). Appendix B1 requires information in relation to the Respondent's proposed Project Planning and Management (**PPM**) activities forming part of Work Package F - Project Planning and Management Services [CBS element 1.0]. Required information includes labour effort and a basis of estimate for materials, other direct costs and overheads and G&A. Respondents are required to reflect all Overheads and G&A included in their price, within the CBS element 1.11.
- (j). Appendix B2 details a schedule of labour rates for use in calculating the initial Contract pricing associated with the provision of Project Planning and Management Services by the prime contractor and Material Subcontractors.
- (k). Appendix C1 requires information in relation to the Respondent's proposed activities to deliver Work Package A - Engineering Design and Planning [CBS element 3.0], including labour effort and a basis of estimate for materials and other direct costs.

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- (l). Appendix C2 details a schedule of labour rates for use in calculating the initial Contract pricing associated with the provision of Engineering Design and Planning by the prime contractor and Material Subcontractors.
- (m). Appendix D1 requires information in relation to the Respondent's proposed Work Package B - Operation & Maintenance activities [CBS element 2.0], including labour effort and a basis of estimate for materials and other direct costs.
- (n). Appendix D2 details a schedule of labour rates for use in calculating the initial Contract pricing associated with the provision of Operation & Maintenance activities by the prime contractor and Material Subcontractors.
- (o). Appendix E1 requires information in relation to the Respondent's proposed Disconnection and Temporary Well Suspension activities, to deliver Work Package C - FPSO Disconnection [CBS elements 4.1 - 4.4]. This includes labour effort as well as a basis of estimate for materials and other direct costs.
- (p). Appendix E2 requires information in relation to the Respondent's proposed Towage / FPSO Sail Away activities, as required to deliver Work Package D - FPSO Sail Away [CBS element 4.5]. This includes labour effort as well as a basis of estimate for materials and other direct costs.
- (q). Appendix E3 requires information in relation to the Respondent's proposed Ongoing Monitoring activities, as required to deliver Work Package E – Monitor and Maintain [CBS element 4.6]. This includes labour effort as well as a basis of estimate for materials and other direct costs.
- (r). Appendix E4 details a schedule of labour rates for use in calculating the initial Contract pricing associated with the provision of Field Execution activities (CBS elements 4.1-4.6, across Work Packages C to E) by the prime contractor and Material Subcontractors.
- (s). Appendix E5 captures the summary pricing of Field Execution activities, broken down by well.
- (t). Appendix E6 captures a daily rate that would apply when work extends beyond the effort included in the price captured in the CBS. The Respondent is to complete Appendix E6 in conjunction with Appendix G5 – Costed Risk Register, in order to clearly delineate between the costs that are included in the Price (as per the CBS) and those activities and events that would attract an additional cost through the daily rates. The Respondent is required to utilise the Basis of Estimate and Assumptions / Drivers columns in Appendix E6 to further clarify the distinction between costs included in the price and those that are additional, through daily rates.
- (u). Appendix G1 details the Respondent's proposed payment schedule, including milestone payments.
- (v). Appendix G2 presents the detailed pricing and supporting bases of estimates that the Commonwealth requires for specific elements of pricing that are either:
 - (i). included in the Contract price – in this case the Commonwealth is seeking additional detail and supporting basis of estimate (BOE) information for specific components of the Contract price; or
 - (ii). not currently included in the Contract price – in this case the Commonwealth is seeking detail from the Respondent regarding the additional cost to be included in the Contract price for cost components that the Respondent currently assumes will be provided as Commonwealth Supplied Items (CSI), in the event that these items are not provided as CSI.
- (w). Appendix G3 details the Respondent's nominated profit mark-up percentages to be applied against the cost information input into in the pricing response workbook. The workbook facilitates separate profit percentages to be provided for different entities.
- (x). Appendix G4 provides Management Reserve (MR) / risk guidance tables to be used in conjunction with the costed risk register at Appendix G5. No input required.
- (y). Appendix G5 details the Respondent's costed risk register in relation to the Contract.

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- (z). Appendix G6 outlines the Cost Breakdown Structure (CBS) against which the Respondent's proposed Contract price is to be allocated. The Respondent is to provide explanatory notes / commentary against the CBS in this worksheet, if required.
- (aa). The broad architecture of and information flows in the workbook appendices is given at Figure 1 below.

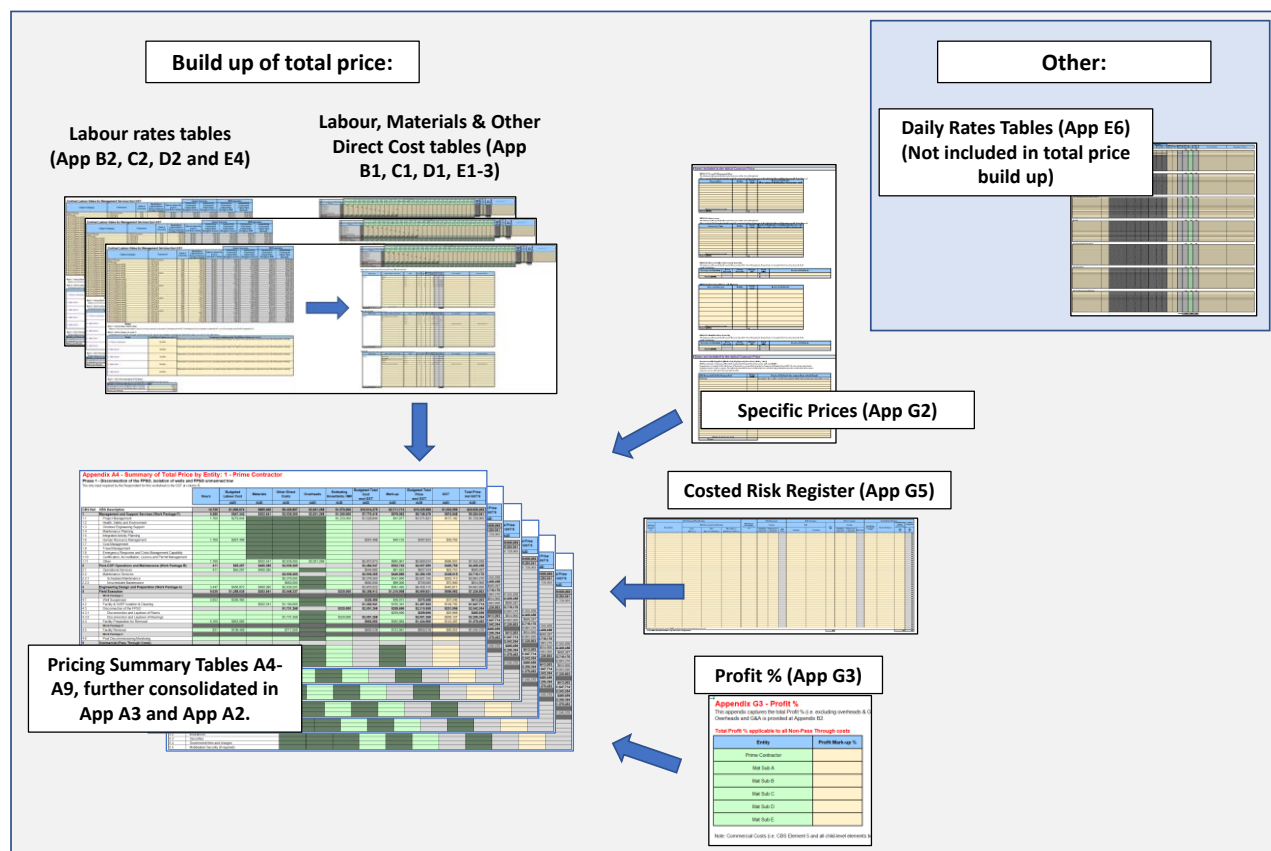


Figure 1 – Pricing Appendices Architecture

1.3. Entering information

- (a). In completing the spread sheets in the appendices listed in Table 1, the Respondent must enter information in the **yellow** coloured cells **only**. Any additional information required is to be in a Microsoft Excel® format compatible with Microsoft Excel 2010®, with all formulas visible.
- (b). **Grey** coloured cells are output cells only and present information that is based on data from within the same worksheet.
- (c). **Green** coloured cells are output cells only and present information that is based on data from one or multiple other worksheets.
- (d). In order to guide the Respondent's navigation of the schedule 1 pricing response workbook, all **yellow** coloured (i.e. input) cells against which pricing information is not required have been 'greyed out'. All **green** coloured (i.e. output) cells against which pricing information will not be generated have also been greyed out. The pricing response workbook has been developed to ensure that any data erroneously entered into a greyed out cell will not impact on the total pricing presented. The cell highlighting convention for 'greyed out' cell is presented in Table 2 below.

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	Data Input Cell	Data Output Cell
Not Greyed Out (pricing information to be entered/ presented as required)		
Greyed Out (no pricing information to be entered/ presented)		

Table 2 - 'Greyed Out' cell highlighting

- (e). The Project CBS is presented in the Pricing response workbook with an accompanying CBS data dictionary. This is presented for information and should be used by the Respondent to guide their pricing proposal submitted in response to this Schedule. The CBS is formatted with parent level elements being presented in coloured highlighting. The highlighting colour used depends on the level of the parent within the CBS. All child-level elements (i.e. elements with no dependent value within the CBS) are not highlighted. The CBS level legend is presented in Table 3 below.

Highlight Colour	CBS Level
	Level 1
	Level 2
	Level 3

Table 3 - CBS Colour highlighting (Parent-level CBS elements only)

- (f). Various appendices within this Schedule refer to the CBS either as a basis of guidance for the input of pricing information, or to preset summary level pricing information outputs. In these Appendices, the additional colours presented in Table 3 are used and indicate that summary level pricing information is being presented.

1.4. GST

- (a). Except as specifically provided, all amounts inserted in the workbooks must be on a **GST - exclusive** basis.
- (b). In appendices A4-A9 at column S, the Respondent is to determine the amount of GST applicable for the Supplies. The Respondent is to provide details of the GST applicability of the Supplies. These columns have been prepopulated at 10%, but can be manually amended by the Respondent.

1.5. Additional information

- (a). The Respondent's pricing proposal is to be supported by:
- (i). bases of estimates for the pricing for all of the Appendixes listed above;
 - (ii). all necessary supporting calculations; and
 - (iii). associated fully justified and costed risk assessments (within Appendix G5), cost per risk element;
- so that the Commonwealth has full information about the financial proposal.
- (b). A BOE may include:
- (i). contracted prices (subject to Commonwealth approval for final source selection);
 - (ii). firm quotes from proposed Subcontractors or consortium members;
 - (iii). bottom-up estimates;
 - (iv). parametric/analogous estimates;
 - (v). identified benchmark estimates; or
 - (vi). other estimates, as approved by the Commonwealth.
- (c). A BOE must:

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- (i). be in detail and in Microsoft Excel® format compatible with Microsoft Excel 2010®, with all formulas visible; and
- (ii). include, for the element of the pricing to which the BOE relates:
 - (A). a statement of the assumptions made for the purpose of the pricing; and
 - (B). details of the components included in that element (including any allowances, including for contingency), and how the proposed pricing was made up; and
- (iii). for all labour pricing presented within appendices B2, C2, D2 and E4, include:
 - (A). details of how the labour rates and labour related costs for relevant officers and employees of the Respondent and Material Subcontractors were calculated, including the components of the rates and costs (such as employee salary on-costs);
 - (B). the base number of hours per year per officer or employee used by the Respondent for costing purposes, how the Respondent calculates paid/available/sellable hours (however described) and how the Respondent applied any of these in deriving the proposed pricing;
 - (C). for relevant officers and employees of each Material Subcontractor — state how the Material Subcontractor calculated the rates used in the Proposal; and
 - (D). for all nominated entities (i.e. the prime contractor and all nominated Material Subcontractors) - the amount (in hours) of the labour component(s) included within a given element of pricing;

Note to Respondents: Any corporate overhead type expenses can ONLY be costed within the Pricing response workbook against the resource type (as defined in clause 1.2(h)(ii) above) 'overheads (including G&A)'.

- (d). The bases of estimates are to be cross-referenced to the corresponding information included in the workbooks provided with the Proposal and described in clause 1.1(c).
- (e). In addition to the risk assessments required by clause 1.5(a)(iii), the Respondent must provide a global risk assessment, identifying the impact of the risks that affect its pricing, taking into account all relevant risk mitigation treatments (such as warranty, liability caps and insurances) and providing details (against each risk element) of how the Respondent accounted for these risks in its pricing, such that the risk assessment must present the after treatment costs.

1.6. Assumptions

- (a). The Respondent is to make the following assumptions in complying with this Pricing Instruction:
 - (i). that the draft Contract comprises the resulting Contract terms and conditions for the Contract (but, for those areas where no provision is made, the Respondent is to state the assumptions it made as to those matters);
 - (ii). the Base Date is as provided in the RFP Glossary, Attachment H to the RFP; and
 - (iii). a Material Subcontractor is defined as having a work share of greater than 10% of the total Contract value.
- (b). A Respondent may identify in Appendix G2 any additional CSI that it has under other arrangements with the Commonwealth, or otherwise, that it proposes to use for this Contract. Any such proposal will be treated as for 'information purposes only'.
- (c). The Respondent is to provide a detailed statement of all assumptions it makes in developing its response to this Pricing Instruction, including:
 - (i). dates;
 - (ii). roles of third parties (including Material Subcontractors and Suppliers);
 - (iii). standards; and
 - (iv). how the Respondent's pricing response addresses the Statement of Requirements (Part 1 to Request for Proposal).

1.7. Requirements

Double counting

- (a). Amounts must not be included in one category of pricing that are included in another category of pricing. For example, the Respondent must not include costs estimated for the management services costs when the same resource may be in overhead.

Conditions of Contract

- (b). In constructing its financial response, the Respondent must comply with the RFP. Respondents should note in particular the requirements of Part 3, paragraph 12 of the RFP. Respondents should note that the Price and Payment Schedule submitted through the RFP will form the basis of Schedule 4 to the Contract. Schedule 4 will be finalised during ODIA and/or contract negotiations prior to execution.

2. Appendix A

2.1. Appendix A1 – KEY INPUTS

- (a). Appendix A1 requires the Respondent to nominate its intended Material Subcontractor(s) by entering the entity names into the yellow coloured cells in the range C8-C13. The Pricing response workbook allows up to five Material Subcontractor(s) to be nominated. Information entered into these cells will populate various named cells throughout the workbook, providing guidance as to which other Appendices a given entity is required to provide information.
- (b). The workbook is designed to accommodate up to six separate entities (i.e. the prime contractor and up to five Material Subcontractor[s]). For the purposes of completing the pricing Appendices summarised in Table 1, a Material Subcontractor is defined as having a work share of greater than 10% of the total Contract value. Pricing information from any entities not meeting the conditions to be classified as a Material Subcontractor is to be contained within the pricing information supplied against the Respondent (i.e. the prime contractor).

2.2. Appendix A2 – SUMMARY PRICING

- (a). Appendix A2 consists of a high level summary of all pricing elements of the Contract and links to Appendix A3 Total Pricing.
- (b). The table at Appendix A2 is broken down by Work Package, as contemplated in Clause 6 of Part 3 to the RFP).
- (c). The Commonwealth's preference is to enter into a fixed price arrangement, where possible, and taking into account value for money requirements.
- (d). The Respondent is required to provide their proposed pricing model for each work package in column F of Appendix A2, and to provide references to any other documents supporting the proposed pricing model, where required.

2.3. Appendix A3 – TOTAL PRICING

- (a). Appendix A3 consists of a summary of all pricing elements of the Contract, against the complete Cost Breakdown Structure (CBS). This Appendix consolidates the total of the values within Appendices A4-A9 (Total Pricing by Entity).
- (b). Costs are presented to a greater level of detail than in Appendix A2, presenting the proposed contract price.
- (c). Column U - The Respondent is to provide in this column any commentary (or references to such commentary found in other documents/appendices), related to BOE details, as well as any assumptions made in relation to the pricing.

2.4. Appendices A4 to A9 – TOTAL PRICING BY ENTITY

- (a). Appendices A4 to A9 represent the pricing information output reflecting the Indicative Contract Price, by entity (Prime Contractor and up to five Material Subcontractors). All pricing information is presented in Australian dollar (AUD) equivalent. The determination of total pricing expressed in AUD equivalent occurs automatically within each appendix.

Note to Respondents: Total pricing presented in these Appendices is derived from information to be provided by the Respondent in other appendices within the Price and Payment Schedule, Annex D-3. This information is displaying in green coloured (i.e. output only) cells and is presented in Appendices A4 to A9 to allow a total amount for each entity to be determined.

- (b). Individual worksheets are presented as separate Appendices (A4 through A9) to reflect the cost attributable to each entity as nominated in Appendix A1. The structure of each appendix is identical to allow for pricing information to be collected for each entity to the same level of breakdown against the CBS. Table 4 below details which price and delivery appendix is to be completed by which nominated entity.

Appendix	Entity to Supply Information
Appendix A4	Prime Contractor
Appendix A5	Material Subcontractor 1
Appendix A6	Material Subcontractor 2
Appendix A7	Material Subcontractor 3
Appendix A8	Material Subcontractor 4
Appendix A9	Material Subcontractor 5

Table 4 – Appendix B Pricing Information by Entity

- (c). No user input is required in these Appendices, except for GST (cells are pre-populated with a formula to calculate GST at 10% of cost, but can be modified by the Respondent).
- (d). Column J: **Hours** – This column calculates the total budgeted labour hours for each entity, using the labour effort (FTE) information supplied in the cost aggregation appendices B1, C1, D1, E1-3 and the hours per year as provided in the labour rates appendices B2, C2, D2 and E4.
- (e). Column K: **Budgeted Labour Cost** – This column calculates the total budgeted labour cost against each CBS element, based on the labour costs supplied in the cost aggregation appendices B1, C1, D1, E1-3 and the hours per year as provided in the labour rates appendices B2, C2, D2 and E4.
- (f). Column L-M: **Materials, Other Direct Costs** – These columns calculate the total materials cost and other direct costs respectively, against each CBS element.
- (i). The Materials type is intended to capture pricing information related to the price of procurement of equipment.
- (ii). ODCs include items such as special tooling and test equipment, computer services; consultant services; royalties; preservation, packaging and packing costs; and preproduction costs. This would also capture sub-contracted work where the labour/materials mix is unknown.
- (g). Column N: **Overheads (Including G&A)** – This column represents the total overhead amount as captured at Appendix B1. Further detail is provided at 3.1(h) below.
- (h). Column O: **Management Reserve** – provisions for Management Reserve (MR) are derived from information to be provided by the Respondent at Appendix G5. Identified risk events are allocated against the CBS and are presented within Appendix A4 (i.e. all MR is attributed to the prime Contractor).

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- (i). Column P: **Budgeted Total Cost excl GST** – For each entity, calculates the total cost excluding profit and excluding GST.
- (j). Column Q: **Mark-up** – Calculates the total profit per entity, using the profit rates supplied by the Respondent at Appendix G3.
- (k). Column R: **Budgeted Total Cost incl GST** – For each entity, calculates the total cost after profit.
- (l). Column S: **Goods and Services Tax (GST)** – any GST payable by the Respondent on any direct costs incurred in Australia are to be captured against the relevant CBS element(s). No profit or mark-up is to be applied to any GST. This column has yellow 'user input' cells, but is pre-populated with a formula calculating GST as 10% of cost. These entries can be manually overwritten by the Respondent.
- (m). Column T: **Total Price Including GST** – This column sums the costs captured at columns K to S.

3. APPENDIX B

3.1. Appendix B1 – PROJECT PLANNING AND MANAGEMENT (PPM)

- (a). Appendix B1 is a “cost aggregation” worksheet, collecting the build-up of the cost of Project Planning and Management, across the cost components of labour, materials, other direct costs and overheads (all overheads are collected in Appendix B1 only).
- (b). The Appendices listed in Table 4 below are all cost aggregation worksheets. This section outlines the build-up of Appendix B1, but this instruction also applies to the other appendices listed below:

Appendix	Entity to Supply Information
Appendix B1	Project Planning and Management (PPM)
Appendix C1	Engineering Design and Planning
Appendix D1	Operation and Maintenance
Appendix E1	Disconnection & Temporary Well Suspension
Appendix E2	Towage (FPSO Sail Away)
Appendix E3	Ongoing Monitoring

Table 5 – Cost Aggregation Appendices

- (c). The table in rows 12-31 of Appendix B1 captures a build-up of the labour cost of delivering PPM Services for one (1) year. The Respondent is to populate the table with the Full-Time Equivalent (FTE) labour effort that would be required to deliver the PPM Services for 12 months.
- (d). The multiplier in column AK is then used to adjust the annual cost for each CBS element as appropriate, to reflect the expected duration of each activity. E.g. if a service is to be provided for 10 months, a '10' should be entered in col AK. The total labour cost that will be included in Appendices A4-A9 Summary Pricing, will therefore be (10/12) of the annual price (in column AI) for that CBS item. If the Respondent enters 14, the total included in Appendices A4-A9 will be (14/12) of the annual price for that CBS item, etc.
- (e). The tables located below row 31 of appendix B1 capture the following non-labour costs:
 - (i). Materials (also found in Appendices C1, D1 and E1-3);
 - (ii). Other Direct Costs (ODCs) (also found in Appendices C1, D1 and E1-3); and
 - (iii). Overheads incl G&A (**Appendix B1 only**).
- (f). The table in rows 36-56 of Appendix B1 captures the cost of **Materials**. This resource type is intended to capture pricing information related to the price of the procurement of equipment.

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- (g). The table in rows 59-80 of Appendix B1 captures the cost of **Other Direct Costs** (ODCs). The Respondent is required to input the cost attributable to all ODCs and consumables against each CBS element. ODCs include items such as special tooling and test equipment, computer services; consultant services; travel; royalties; preservation, packaging and packing costs; and preproduction costs.

Note to Respondents: For Materials and Other Direct Costs, the Respondent has the flexibility of providing a variable level of detail, e.g. a consolidated cost can be supplied by entering a quantity of 1 and a UoM of "each" in column N), or a detailed breakdown, by supplying the quantity and rate. Respondents are encouraged to provide a detailed basis of estimate, as far as practicable.

- (h). For Appendix B1 only, an additional table is provided in rows 84-105, which captures the cost of **Overheads (including G&A)**. The Respondent is required to input the cost attributable to all Overheads to be recovered under this Contract.
- (i). Overheads may include: general & administrative (G&A) charges, other corporate charges, mark-ups or margins applied by the Respondent as an overhead to direct labour and/or materials costs, costs associated with physical site security, ICT security and/or obtaining security clearances required for entity staff, etc.
- (j). All overheads are captured in this table in Appendix B1 and are applied to CBS element 1.11.
- (k). A total cost for PPM, inclusive of all labour and non-labour costs is presented against the relevant CBS elements within appendices A4-A9 and then consolidated in Appendix A3 in order to determine a total Budgetary Estimate for the Contract.

3.2. Appendix B2 – PPM LABOUR RATES

- (a). Appendix B2 is to capture labour rate information for the pricing of PPM labour effort under the Contract. Schedule B2 has been designed to support Respondent compliance for the BOE requirements specific to labour-based costs detailed at clause 1.5(c)(iii) above.
- (b). The schedule of labour rates completed at appendix B2 will be available within appendix B1 of the pricing workbook to be utilised in the development of the pricing of labour for PPM Services by the Respondent.
- (c). The schedule of labour rates completed at Appendix B2 is to detail the build-up of labour rates (including base salary and all relevant salary on-costs) as specific to the prime Contractor and all nominated Material Subcontractors. The labour rates are to be stated in source currency. The Pricing response workbook automatically converts labour rates for all nominated entities into an AUD equivalent value.
- (d). This instruction provides guidance for completing the schedule of labour rates specific for PPM labour (i.e. for use in Appendix B2). The schedules of labour rates for the other services (at Appendices C2, D2 and E4) are structurally identical. The Respondent is required to complete the following fields within the schedule of labour rates:
- (i). A description of each labour category is to be input at column B;
 - (ii). The relevant entity is to be selected from a pre-defined list at column C;
 - (iii). The source currency applicable to the base labour rate is to be input at column D;

Note to Respondents: If a currency selected for a given entity is not one of the (up to) three source currencies nominated at Appendix G7, the cell colour will change to red, indicating that the selection is invalid. This can occur when the available currencies are amended in Appendix G7 after cells have already been populated here in column D of Appendix B2.

- (iv). The base hourly labour rate (in source currency) is to be input at column E;
- (v). A Direct Labour On Cost % to be applied to the base labour rate will be automatically applied at column F, based on the input table in rows 46-51.

- (vi). Hourly and annual unburdened labour rates are expressed in source currency at column G and H respectively. I.e. including the direct on-costs but without any overheads or profit.
 - (vii). Contracted hourly and annual labour rates (expressed in AUD Equivalent) will be automatically calculated at columns I and J respectively.
 - (viii). The annual rate in column J is the rate that will be applied to the labour estimates detailed by the Respondent at Appendix B1. Similarly, the rates at Appendix C2 are applied to the labour estimates at Appendix C1, the rates at D2 are applied in D1 and the rates at E4 are applied in Appendices E1 to E3.
 - (ix). For Appendix E4 only, the hourly rate is applied to the labour component in Appendix E6 Daily Rates; and
 - (x). Any descriptive information relevant to the specified labour category is to be provided by the Respondent at column K.
- (e). For the direct labour on costs to be developed for each entity, any burdening factors applied must be exclusive of any corporate overheads/G&A charges and should be captured in Appendix B1 in accordance with paragraph 3.1(h).

4. APPENDIX C

4.1. Appendix C1 – ENGINEERING DESIGN AND PLANNING

- (a). Appendix C1 is a “cost aggregation” worksheet, collecting the build-up of the cost of Engineering Design and Planning Services, across the cost components of labour, materials and other direct costs.
- (b). The structure of this worksheet is identical to that of Appendix B1 (except there is no Overheads table in Appendix C1).
- (c). The Respondent should refer to 3.1 above, for guidance on completing this Appendix.

4.2. Appendix C2 – ENGINEERING DESIGN AND PLANNING LABOUR RATES

- (a). Appendix C2 is to capture labour rate information for the pricing of Engineering Design and Planning labour effort under the Contract.
- (b). The structure of this worksheet is identical to that of Appendix B2. The Respondent should refer to 3.2 above, for guidance on completing this Appendix.
- (c). A total cost for Engineering Design and Planning, inclusive of all labour and non-labour costs is presented against the relevant CBS elements within appendices A4-A9 and then consolidated in Appendix A3 in order to determine a total Budgetary Estimate for the Contract.

5. APPENDIX D

5.1. Appendix D1 – OPERATION AND MAINTENANCE (O&M)

- (a). Appendix D1 is a “cost aggregation” worksheet, collecting the build-up of the cost of the ongoing O&M Services, across the cost components of labour, materials and other direct costs.
- (b). The structure of this worksheet is identical to that of Appendix B1 (except there is no Overheads table in Appendix D1).
- (c). The Respondent should refer to 3.1 above, for guidance on completing this Appendix.

5.2. Appendix D2 – O&M LABOUR RATES

- (a). Appendix D2 is to capture labour rate information for the pricing of O&M labour effort under the Contract.
- (b). The structure of this worksheet is identical to that of Appendix B2. The Respondent should refer to 3.2 above, for guidance on completing this Appendix.

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- (c). A total cost for O&M, inclusive of all labour and non-labour costs is presented against the relevant CBS elements within appendices A4-A9 and then consolidated in Appendix A3 in order to determine a total Budgetary Estimate for the Contract.

6. APPENDIX E

6.1. Appendix E1-3 – “FIELD EXECUTION”

- (a). Appendices E1 to E3 are “cost aggregation” worksheets, collecting the build-up of the cost of the following “Field Execution” Services:

Appendix	“Field Execution” Work Packages
Appendix E1	Work Package C: Disconnection & Temporary Well Suspension
Appendix E2	Work Package D: Towage (FPSO Sail Away)
Appendix E3	Work Package E: Ongoing Monitoring

Table 6 – “Field Execution” Appendices

- (b). These appendices capture the cost of providing Disconnection, Towage and Ongoing Monitoring Services, identified as Work Packages C, D and E respectively in the Statement of Work (Attachment G to the RFP). Costs are to be entered across the cost components of labour, materials and other direct costs.
- (c). The structure of these worksheets are identical to that of Appendix B1 (except there is no Overheads table in Appendices E1-E3).
- (d). The Respondent should refer to 3.1 above, for guidance on completing these Appendices.

6.2. Appendix E4 – FIELD EXECUTION LABOUR RATES

- (a). Appendix E4 is to capture labour rate information for the pricing of Field Execution labour effort (as described in **Table 6** above), under the Contract.
- (b). The structure of this worksheet is identical to that of Appendix B2. The Respondent should refer to 3.2 above, for guidance on completing this Appendix.
- (c). A total cost for each Field Execution work package, inclusive of all labour and non-labour costs, is presented against the relevant CBS elements within appendices A4-A9 and then consolidated in Appendix A3 in order to determine a total Budgetary Estimate for the Contract.

6.3. Appendix E5 – SUMMARY PRICING BY WELL

- (a). Appendix E6 allocates the Budgeted Total Cost (i.e. from column P in Appendix A3), across the various wells. Respondents are to provide a best estimate of the way the cost is distributed across the wells that are to be suspended.
- (b). Well names/identifiers are to be entered in row 9.
- (c). The Respondent is to provide the percentage of the total cost to be allocated to each well (by CBS element) in rows 12 to 19.

6.4. Appendix E6 – DAILY RATES

- (a). In this Appendix E6 the Respondent is to provide the build up (labour and other costs) of a daily rate, that will apply when delivering an additional day's effort as part of the Field Execution work (work packages C-E). This is not included in the total indicative price in Appendix A3, and is also not included in the Costed Risk Register.
- (b). The application of these daily rates will be further discussed with shortlisted Respondents during the ODIA and/or Negotiation phases of the evaluation process.

7. APPENDIX F – NOT USED

8.1. Appendix G1 – Milestone Payments

	A	B	C	D	E	F	G	H	I
4		Build up of fee subject to payment by milestones							
5		The Respondent is to enter the following in the table below:							
6		- The build-up of any Mobilisation Payment, directly in column E & J respectively in the light yellow input cells.							
7		- The total fee to be paid by milestones, directly into column H.							
8									
9		Totals as per Appendix A3							
10		Appendix Reference	CBS Element	CBS Description	Mobilisation Payment (if required)	Cost	Mark-up	Fee paid by milestones	Percentage (=col H / col G)
11		B1	1	Project Planning and Management (Work Package F)	\$0	\$0	\$0	0.00%	
12		D1	2	Post-COP Operations and Maintenance (Work Package B)	\$0	\$0	\$0	0.00%	
13		C1	3	Engineering Design and Preparation (Work Package A)	\$0	\$0	\$0	0.00%	
14		E1	4.1	Well Suspension	\$0	\$0	\$0	0.00%	
15		E1	4.2	Facility & SURF Isolation & Cleaning	\$0	\$0	\$0	0.00%	
16		E1	4.3	Disconnection of the FPSO	\$0	\$0	\$0	0.00%	
17		E1	4.4	Facility Preparation for Removal	\$0	\$0	\$0	0.00%	
18		E2	4.5	Facility Removal	\$0	\$0	\$0	0.00%	
19		E3	4.6	Post Decommissioning Monitoring	\$0	\$0	\$0	0.00%	
20		G2	5	Commercial (Pass Through Costs)	\$0	\$0	\$0	0.00%	
21					\$0	\$0	\$0	0.00%	
22		Milestones (as described in Price Build Up above)							
23		The information provided in the Milestone tables below is indicative only and the Respondent may amend the tables as required.							
24		Where the Respondent has proposed Milestones, the Respondent should also include the relevant exit criteria.							
25		The Commonwealth anticipates 'Delivery of Close Out Report' will be the Final Milestone and has applied a 20% weighting to this Milestone.							
26		The Milestone Payment values will be automatically populated from the "Price Build Up" Table above IAW the weighting nominated by the Respondent for the Milestones table below.							
27		Where the Respondent has proposed a Mobilisation Payment (i.e. a payment at ED), the weighting for that Milestone is automatically calculated based on the total calculated in Cell E20 above.							
28		Respondents are to ensure milestone payments reflect a cashflow neutral position.							
29									
30		Milestone Payment							
31		Milestone	Milestone Title	Milestone Exit Criteria	Milestone Date	Weighting (Respondent to nominate in shaded cells)	Milestone Payment \$	GST (AUD)	Payment (AUD Equivalent, GST Inc.)
32		Milestone 1	Effective Date (ED) - Mobilisation Payment			0.0%	\$0	\$0	\$
33		Milestone 2	Operative Date (OD) / Commencement of				\$0	\$0	\$
34		Milestone 3	Delivery of Safety Case	NORSEMA Approval			\$0	\$0	\$
35		Milestone 4	Delivery of Environmental Plan	NORSEMA Approval			\$0	\$0	\$
36		Milestone 5	Delivery of WOMP	NORSEMA Approval			\$0	\$0	\$
37		Milestone 6	Sail away				\$0	\$0	\$
38		Milestone x					\$0	\$0	\$
39							\$0	\$0	\$
40							\$0	\$0	\$
41							\$0	\$0	\$
42							\$0	\$0	\$
43		For additional rows, add rows above this one (copy & paste down)					\$0	\$0	\$
44		Complete Milestone	Delivery of Close-out report			20.0%	\$0	\$0	\$
45		Total				20.0%	\$0	\$0	\$*

- (b). The Respondent is to indicate the total fee to be paid by milestones, in cells H10 to H19, with the total calculated in cell H20.
- (c). The Respondent should note that the total to be paid in milestones is then picked up by the Milestones table in rows 30-44, in cell G44.
- (d). The mobilisation payment, as percentage of the total to be paid in milestones, is then calculated and presented in cell F31.
- (e). The remainder of the total to be paid in milestones is spread across the milestones nominated by the Respondent in the range B32 to F43. The relevant weighting of each milestone is provided by the Respondent in cells F32 to F43.
- (f). Cell F43 has been populated with the Commonwealth's preferred final milestone payment of 20% of profit, but is a yellow input cell and can be modified by the Respondent if required.

8.2. Appendix G2 – Specific Prices

- (a). Appendix G2 is to capture pricing information for 'Items for which specific prices are required'. This Appendix is broken into two types of specific prices:
- (i). **Items included in the initial Contract price** – These items require the Respondent to provide pricing information contained within the initial Contract price proposed by the Respondent at Annex D-3 to Attachment D to the RFP (and as completed in the Pricing response workbook in accordance with this Pricing Instruction). The Respondent is required to provide pricing information by completing the light yellow coloured cells only, for the following items:
- (A). Travel – This information is required by the Respondent to provide pricing/BOE information related to the Proposed price for CBS element 5.1. The travel is to be characterised and described by the Respondent at column C. The travel type, entity undertaking travel and currency are to be completed by the Respondent based on pre-defined lists. Total travel costs by year are to be input by the Respondent for each cost element, in source currency.
 - (B). Annual premiums for insurance – This information is required by the Respondent to provide pricing/BOE information related to the Proposed price for CBS element 5.2. The price for any required insurances is to be input in source currency. The Commonwealth expects that the cost of insurances will incur no profit or mark-up;
 - (C). Financial (performance) security – This information is required by the Respondent to provide pricing/BOE information related to the Proposed price for CBS element 5.3. The Respondent is required to complete the security term (in months), gross security value and the charge % in order to determine the price in AUD;
 - (D). Mobilisation security (if required) – This information is required by the Respondent to provide pricing/BOE information related to the Proposed price for CBS element 5.5. The Respondent is required to complete the security term (in months), gross security value and the charge % in order to determine the price in AUD;
- (ii). **Items not included in the initial Contract price** – These items require the Respondent to provide pricing information that is not contained within the initial Contract price. Pricing information supplied against these items may form the subject of further negotiation between the Respondent and the Commonwealth for inclusion into the initial Contract price. The Respondent is required to provide pricing information by completing the yellow coloured cells only for the following items:
- (A). **Commonwealth Supplied Items (CSI)** – Should any of the mandated CSI proposed by the Respondent not be supplied by the Commonwealth, the Respondent is required to provide prices for those items that would be required for the Respondent to fulfil the Contract.

9. Appendix G3 – Profit Mark-Up Percentage

- (a). Appendix G3 captures the profit mark-up percentages to be applied to the pricing information entered by the Respondent in other appendices within the pricing response workbook. Appendix G3 allows for different profit percentages to be determined based on the entity undertaking the work.
- (b). Separate profit mark-up percentages are to be nominated for each entity (i.e. the prime contractor and each nominated Material Subcontractor).
- (c). At the table within Appendix G3, the Respondent is to nominate a profit mark-up percentage by entering a percentage (%) value in the yellow coloured cells in column C against each entity identified in column B.

10. Appendix G4 – MR and Risk Assessment Tools

- (a). Appendix G4 provides the risk matrix and explanatory tables, to be used when completing the Costed Risk Register at Appendix G5.

11. Appendix G5 – Costed Risk Register

- (a). Appendix G5 provides the risk matrix and explanatory tables, to be used when completing the Costed Risk Register at Appendix G5.
- (b). Within this costed risk register, in a costed risk register the Respondent should develop a provision for Management Reserve (MR), to compensate for the risk and uncertainty in delivering the Contract, that identifies those risks/contingencies individually (or as a risk type).
- (c). MR is a fully disclosed Contractor controlled estimate provision, to compensate for risk and uncertainty. The values for MR presented below are a declaration by the Respondent of the value of MR incorporated into its proposed price.
- (d). In the Cost Risk Register, Respondents are required to:
 - (i). provide the Risk Statement (Identification);
 - (ii). identify the CBS Element the risk relates to;
 - (iii). perform the Risk Assessment (IAW the guidelines in Appendix F6);
 - (iv). provide details of Risk Treatment; and
 - (v). provide the Estimated Residual Cost.
- (e). If additional rows are required, Respondents should copy an existing row in the table and should avoid inserting new blank rows. This will ensure formulas and data validation settings (drop downs) are preserved.

12. Appendix G6 – COST BREAKDOWN STRUCTURE

- (a). This appendix provides the Cost Breakdown Structure (CBS) that encapsulates the total scope of activity to be undertaken by the Respondent. Where applicable, cross-referencing to relevant Statement of Work clauses has been provided as a means of describing the scope attributable to the relevant CBS element.
- (b). The Tenderer may provide any comments of clarification around their assumptions with regards to the allocation of costs to particular CBS line items in column J.

13. Appendix G7 – FOREIGN EXCHANGE RATES

- (a). Key information requested in this section includes foreign currency exchange rates. Up to four currencies (AUD and up to three foreign currencies) may be nominated by the Respondent.
- (b). The Respondent is to select up to four foreign currency exchange rates from those provided in the table at the cell range B18-F27. Should the Respondent wish to nominate a currency not listed, the Respondent is to source the relevant exchange rate from the Reserve Bank of Australia (RBA) website (www.rba.gov.au). The exchange rates to be used are those as published on the RBA website as at Base Date.

Annex E-5 – Phase 1 Implementation Plan

Description

Respondents must provide the Commonwealth with a draft Phase 1 Implementation Plan (draft IMP), including a Contract Master Schedule (CMS) for the delivery of the Work, which the Commonwealth will use to evaluate the Respondent's:

- (a). approach to meeting the Commonwealth's objectives and requirements of the draft SOW;
- (b). approach to managing the Commonwealth's objectives and scope of the draft SOW; and
- (c). capability and capacity to deliver the requirements.

Respondents will be required to deliver to the Commonwealth a final, detailed version of the IMP should a contract be entered into. Details of the requirement are in clause 6 of the draft SOW.

Format and Content

The draft IMP is to be presented in the Respondent's own format.

It should be as complete as you are able to make it on the information available and cover all of the elements of the final IMP identified in clause 6 of the draft SOW. However, given the compressed timeframe in which to deliver your Proposal, we have set out the key areas on which you should focus should time become an issue for you.

For the purposes of the RFP, the following elements of the IMP are to be delivered separately:

- Contract Master Schedule (CMS) (refer to Item E-6 of Attachment E);
- Work Breakdown Structure (WBS) and Dictionary (refer to Item E-7 of Attachment E); and
- Transition-In Plan (refer to Item E-8 of Attachment E).

There is no page limit for the draft IMP.

Proposed Approach to the Work

The draft SOW sets out the key activities and Deliverables the Commonwealth anticipates will be required to achieve the Phase 1 objectives. However, Respondents are asked to apply your own expertise and knowledge to the information provided and propose the approach you would implement to deliver the required services and achieve the objectives.

Your proposed approach should enable you to deliver the services and achieve the objectives safely, consistent with good oilfield practice, cost efficiently, in accordance with the relevant legislative and regulatory framework, and in as short a timeframe as possible.

Where your proposed approach deviates from that set out in the draft SOW or this RFP, you should identify it as a variation in Annex B-10 to Attachment B and describe the way/s in which the variation will achieve greater efficiencies for, or otherwise benefit, the Commonwealth.

Project Management

Respondents are to describe the systems and processes for effective project management and appropriate governance under any resultant Contract, as applicable, including:

- (a). an outline of the processes used to assure the quality of your work, including any design, development, manufacture, integration, testing, packaging, and transportation, and to ensure compliance with the requirements of any resultant Contract;

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- (b). a description of how your work health and safety (WHS) policies, processes and procedures (including safety risk assessment procedures) would be applied to the scope of work, and how these would be managed and communicated throughout the organisation, such as by use of a WHS management system; and
- (c). a description of how your environmental management policies, processes and procedures would be applied to the scope of work, and how these would be managed and communicated throughout the organisation.

Plans and other Deliverables

The draft IMP is to list a complete suite of plans to be delivered under the Contract, whether for project management, commercial, technical or some other purpose, showing the hierarchical relationship (if any) of the plans.

Respondents **must** complete, to the extent possible, Annex A of the SOW (Contract Deliverables List) by inserting:

- (a). the names of any plans or Deliverables not already included in column (b);
- (b). the anticipated date of delivery (Commencement Date (CD) + number of Business Days / calendar days) in column (e); and
- (c). any relevant notes, such as frequency of updates, dependencies, and so on, in column (h).

Engineering Program

The draft IMP is to provide an indicative overview of the engineering program for the SOW, referring to the engineering plan(s) as appropriate.

Respondents are required to list all engineering studies required to support technical decision making, including those specified in clause 7.8 of the draft SOW, with a brief description of the purpose and anticipated outcomes of each study.

The report of each study is to be added to Annex A of the SOW (Contract Deliverables List) along with the same details as for Plans and other Deliverables above.

Quality Management

The draft IMP is to describe the quality management program for the Contract and the way in which quality will be assured over the life of the Contract.

The description should touch on all elements required by clause 6.8 of the SOW.

Risk Management

The draft IMP is to provide describe the risk management processes of the Respondent and how they are used to identify and address risks in connection with the Project.

The description should touch on all elements required by clause 6.9 of the SOW.

Resource Management

The draft IMP is to demonstrate that sufficient company resources are or will be available to meet the requirements under the draft SOW. In particular, the IMP should address:

- (a). the Respondent's obligations with regard to current and future project / work;
- (b). the Respondent's use of resources, such as:
 - (i). human capital in relation to current and envisaged projects;
 - (ii). financial resources;

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- (iii). physical resources;
- (iv). other organisational resources; and
- (v). Subcontractor relationships and other supply arrangements;
- (c). arrangements for reprioritising resources across the Respondent's span of obligations, including the criteria used to determine when reprioritisation is required; and
- (d). the way in which you will engage and manage Subcontractors.

Annex E-6 – Contract Master Schedule

Overview

Respondents are to provide a draft Contract Master Schedule (CMS), in soft copy, in accordance with this Annex and with sufficient detail to meet the requirements of the SOW, in the form of a Gantt Chart in Microsoft® Project or other agreed scheduling software.

The draft CMS is to contain as much detail as necessary to demonstrate an understanding of the work effort and schedule control required to successfully complete any resultant Contract, including:

- (a). all proposed Milestones; and
- (b). other major events that the Respondent proposes as representing the accomplishment of critical technical and managerial steps towards completion of the Contract.

The draft CMS is to include a description of each Milestone, identification of the organisation primarily responsible for its accomplishment (Contractor, Subcontractor or Commonwealth), and a scheduled date for its accomplishment.

Purpose of the CMS

The purpose of the CMS is to enable the Commonwealth to:

- (a). understand the Respondent's time-based sequence of activities, as defined in the Phase 1 Implementation (IMP) and Work breakdown Structure (WBS);
- (b). assess the level of schedule risk associated with the Respondent's proposal (including in relation to proposed Subcontractors);
- (c). ensure that time estimates and dependencies are realistic and consistent with the tasks defined in the WBS Dictionary set out at Annex E-7 to Attachment E; and
- (d). ensure that the proposed Subcontractor's time-based sequence of activities are realistic and consistent with the CMS.

Description and intended use

The CMS describes the Contractor's planned sequence of activities, Milestones and decision points to enable the objectives of the Contract to be met. It also defines the current Contract schedule status, and allows a comparison between the current schedule and the contracted schedule and any baseline schedule.

The Contractor uses the CMS, including or supplemented by subordinate schedules, to:

- (a). plan the activities and sequencing of those activities to achieve the requirements of the Contract; and
- (b). provide schedule direction and status to the management team responsible for the conduct of the work.

The Commonwealth uses the CMS to:

- (a). achieve assurance that the Contractor can meet its contractual obligations;

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- (b). gain visibility into the Contractor's planning;
- (c). understand and evaluate the Contractor's approach to meeting the requirements of the Contract;
- (d). assist with monitoring the progress of the Contractor in meeting the requirements of the Contract; and
- (e). provide input into the Commonwealth's planning.

The CMS inter-relates with the IMP and WBS.

Content

Unless otherwise stated in this annex, the CMS must comply with the General Information Format Requirements in Annex A-1.

The CMS is the primary schedule for the Contract. All other schedules will be subordinate.

The CMS is to be capable of being displayed in a variety of formats, including:

- (a). a Gantt chart;
- (b). a list of all tasks, together with their planned and actual start and completion dates; and
- (c). a list of Milestones (including Milestones in the Contract), together with their original, rescheduled, forecast and actual completion dates.

The CMS is to be delivered as a soft copy of the CMS database using Microsoft Project, Open Plan Professional or other scheduling software package approved by the Commonwealth Representative. The CMS database is to include all database elements used by the Contractor to develop, manage and update the CMS (eg, filter definitions, resources and notes). Any non-database elements of the CMS are to be delivered in accordance with Annex A-1 to Attachment A.

Data to be included

The CMS is to graphically depict the Contract schedule and progress at the activity level.

It is to graphically present, or otherwise identify:

- (a). activities and their estimated durations;
- (b). Milestones, including proposed Milestones;
- (c). the relationships and dependencies between activities and Milestones to be accomplished by, or for, the Contractor in the performance of its obligations under the Contract;
- (d). earliest and latest start and finish dates for all activities and Milestones;
- (e). critical and non-critical paths;
- (f). floats available on all activities and Milestones;
- (g). allocated resources for each activity; and
- (h). notes on the use of the CMS, including a glossary of terms and symbols used.

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The CMS is to include:

- (a). all other schedules required under the Contract (if any);
- (b). Subcontractor schedules, to a level of detail that is consistent with the level of detail for the Contractor's own schedule;
- (c). Milestones and other proposed major events;
- (d). Commonwealth Representative tasks, where such tasks interface with, and may affect, Contractor tasks; and
- (e). significant reviews.

Each submission of the CMS is to provide visibility to the Commonwealth of progress against the schedule baseline as agreed ahead of Contract execution.

Forecast Milestone completion dates are to reflect anticipated actual performance that differs from the original Milestone completion dates (or rescheduled dates approved by the Commonwealth).

The CMS must be traceable to the WBS and proposed Milestones.

Narrative analysis

Subsequent submissions of the CMS are to contain an explanation of the cause of any proposed rescheduling of a forecast date that is later than that previously agreed. It need only address changes from previously reported dates.

The narrative analysis for the CMS is to address the possible impact of rescheduling on other Milestones and activities, and is to describe work-around plans to minimise the impact.

Annex E-7 – Work Breakdown Structure

Overview

Respondents are to provide a draft Work Breakdown Structure (WBS), in soft copy, in accordance with this Annex and with sufficient detail to meet the requirements of the SOW.

The Commonwealth needs to understand how Respondents plan to undertake the activities defined in the draft SOW and to ensure that:

- (a). Respondents have sound technical, cost and schedule control mechanisms in place;
- (b). technical control is integrated with cost and schedule control via the WBS; and
- (c). Subcontractors' work activities are consistent with, and integrated into, the WBS.

Respondents are to provide a draft WBS in accordance with the instructions below. It is to contain as much detail as is necessary to demonstrate an understanding of the work effort required to successfully achieve the end objective of any resultant Contract and that technical control is integrated with cost and schedule control.

The draft WBS is to be prepared and provided in a tool such that it can be reviewed at any level of expansion.

The WBS Dictionary is to be keyed to the WBS index and is to define the scope of each WBS element.

Description and intended use

The WBS forms the framework for Contract planning, management and status reporting, and for estimating costs, schedule and technical achievements at completion.

The Contractor uses the WBS to:

- (a). define the work effort necessary to successfully achieve the end-objective of the Contract;
- (b). assist with estimating the cost, schedule and resource requirements for the Contract;
- (c). ensure there is a clean structure for the organisation and management of the Project and that there are clear accountabilities for Project outcomes; and
- (d). achieve integrated costs, schedule and technical control.

The Commonwealth uses the WBS to:

- (a). gain visibility into the Contractor's planning and understand the time-based sequence of activities;
- (b). understand and evaluate the Contractor's approach to meeting the requirements of the Contract;
- (c). ensure that time estimates and dependencies are realistic and consistent with the tasks defined in the WBS Dictionary;
- (d). ensure that the proposed Subcontractors' time-based sequence of activities are realistic and consistent with the Contract Master Schedule (CMS);
- (e). assist with monitoring progress of the Contractor in meeting the requirements of the Contract;
- (f). assess the level of schedule risk; and
- (g). as a source of input to planning performed by the Commonwealth Representative.

The WBS is related to, and must be consistent with, the Contract Master Schedule (CMS).

Content

Unless otherwise stated in this annex, the WBS must comply with the General Information Format Requirements in Annex A-1.

The WBS is to comprise:

- (a). a Work Breakdown Structure (WBS) index;
- (b). a WBS graphic (optional); and
- (c). a WBS dictionary.

WBS Index

The WBS Index is an indentured list of WBS elements and sub-elements, starting with a single level 1 element (the Contract), incorporating the high-level WBS element structure which is invoked contractually, and the lower-level elements of the Contractor's WBS necessary to provide an appropriate framework throughout the Project for product and service definition and control.

The WBS is to include a WBS index delivered in a tool that has an Outline Mode (such as Microsoft Word), such that it can be reviewed at any level of expansion.

The WBS Index is to be derived from the WBS dictionary and each record in the WBS index shall include:

- (a). WBS element number;
- (b). WBS element title;
- (c). WBS element revision date and revision number;
- (d). task agency; and
- (e). cross-references to the Contract and SOW.

WBS Graphic

The WBS may include a WBS graphic that contains the same information as the WBS index, but shown in graphical form, usually a tree structure.

WBS Dictionary

The WBS is to include a dictionary to ensure key terms are clearly understood. The format used should be identical to that of the Glossary at Attachment H, as set out below.

WBS Dictionary

Acronyms and Abbreviations

ABBREVIATION	DESCRIPTION
(...Respondent to insert...)	(...Respondent to insert...)
(...Respondent to insert...)	(...Respondent to insert...)
(...Respondent to insert...)	(...Respondent to insert...)
...	...

Definitions

TERM	DEFINITION
(...Respondent to insert...)	(...Respondent to insert...)
(...Respondent to insert...)	(...Respondent to insert...)
(...Respondent to insert...)	(...Respondent to insert...)
...	...

Annex E-8 – Draft Transition-In Plan

Overview

Respondents are to provide a draft Transition-In Plan (TIP), in soft copy, in accordance with this Annex and with sufficient detail to meet the requirements of the SOW, in the form of a Gantt Chart in Microsoft Project or other agreed scheduling software, supported by narrative.

Purpose of the TIP

The Commonwealth needs to understand the Respondent's plans, methodologies and processes for the assuming of responsibility for the care and control of the Facility and the commencement of the requisite Works.

The draft Transition-In Plan (TIP) establishes the ground rules for the transfer of management responsibilities from the current operator, including any responsibilities that will be passed to Subcontractors. Its main objectives are to:

- (a). ensure the efficient commencement of the Contract and incoming Contractor and, where relevant, the orderly winding up of the contract governing the current operator and exit of that operator;
- (b). ensure a smooth transition and continuation of necessary services;
- (c). minimise the risk of any misunderstanding, misinterpretation or miscommunication;
- (d). minimise the impact on stakeholders;
- (e). schedule and/or complete the transfer or return of records, information, equipment, and/or assets; and
- (f). establish the relationships, systems and procedures that will be used for the ongoing management of the Contract.

Description and intended use

The Contractor uses the TIP to:

- (a). define, manage and monitor the Contractor's transition-in program;
- (b). ensure that parties (including Subcontractors) who are undertaking transition activities understand their respective responsibilities, the processes to be used and the timeframes involved;
- (c). plan for and coordinate transition activities;
- (d). define and establish points of engagement with the Commonwealth to permit appropriate levels of oversight and monitoring by the Commonwealth; and
- (e). support a seamless transition in assuming responsibilities currently held by other entities.

The Commonwealth uses the TIP to:

- (a). understand and evaluate the Contractor's approach to meeting the transition requirements of the Contract;
- (b). define and establish the Commonwealth's involvement in the Contractor's transition program, including the monitoring of the Contractor's program;
- (c). enable the timely provision of information to Subcontractors, the Commonwealth, the current operator, and any other relevant parties; and

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- (d). provide input into the Commonwealth's reporting requirements.

The TIP is subordinate to the Phase 1 Implementation Plan (IMP), and feeds in to the Contract Master Schedule (CMS) and the Risk Register.

Content

The TIP is to provide an overview of either:

- (a). the Contractor's program of activities for transitioning responsibility for the care and control of the Facility from the current operator to the new Contractor; or
- (b). in the event that such transition is unnecessary, such as where the incumbent operator is to remain in situ, for transitioning the Contractor's current activities to the broader scope of requirements under this Contract.

For the Proposal, it is to include, at a minimum:

- (a). a description of the **purpose** of the TIP;
- (b). a description of the **objectives** of the TIP;
- (c). **key risks and issues** relating to transition and an appropriate strategy to manage them (these are to feed into the Risk Register);
- (d). **assumptions** associated with transition activities;
- (e). the **expectations** of the Contractor with respect to the Commonwealth;
- (f). the Contractor's proposed methodology for ensuring that the activities of the Contractor and the Commonwealth are coordinated, including proposed planning and coordination meetings; and
- (g). a draft schematic of the TIP in the format of a Gantt chart or similar.

A more complete version of the TIP may be required as part of any ODIA, negotiations or updated Proposal process, and a final version will be required shortly after Commencement Date.

In addition to the above, the final version is to include the following information:

- (a). details of the **person or team** overseeing and responsible for transition;
- (b). an overview of the **transition tasks, activities, resources, and schedule**, including details of the expected allocation of responsibilities between the Contractor and Subcontractors;
- (c). a **communication strategy** that identifies the lines of authority between all involved parties;
- (d). details of what items of **property** (including equipment, records, assets, warranties, etc) and **knowledge or information** (including instruction manuals, documentation, training materials, etc) will likely be required to be transferred from the current operator and/or Commonwealth;
- (e). details of any proposed criteria and/or format required for **handover and/or acceptance** of the transition.

Annex E-12 – Commonwealth Supplied Items (CSI)

Note to Respondents: ‘Commonwealth Supplied Items’ (CSI) means all plant, materials or other items which are supplied by the Commonwealth to the Contractor to use in the performance of the Work or incorporate in the Work Product.

The Respondent is required to complete Table E-12 below with details of all items it proposes should be supplied by the Commonwealth for the purposes of Phase 1 activities. However, you should not assume that the Commonwealth can or will provide the nominated CSI. Consequently, you must identify additional cost elements in Attachment D, Annex D-3 (Price and Delivery Schedule) in the event that any or all of the proposed CSI is not made available.

This table will form a basis for better understanding your Proposal and for any future negotiations and/or price firming activities.

The Items to be supplied will be settled during ODIA and/or negotiations and will be specified in the Contract in Schedule 1 (Contract Particulars).

Requirement

Respondents are to complete Table E-12 below with details of anything it proposes that the Commonwealth should supply for the purposes of the completion of Phase 1 activities, including plant, materials, facilities, and information.

In particular, Respondents should consider the list of items set out in the document titled ‘210819-TIMOSEA01-Stock on Hand – IH’, available in the Data Room. The Commonwealth has been advised that the items on this list are being held in onshore storage facilities in Perth or Darwin. The Commonwealth does not hold title to these items (**Onshore Assets**) but it is likely that they can be made available to the Contractor for collection. We cannot advise as to the condition of any of these items. We will advise you as we find out more. For your Proposal, please identify any items on the list you believe would be required or useful to you in the delivery of the Work under the Disconnection Agreement.

This table will form the basis of any future negotiations and/or price firming activities. Note that the Commonwealth may not be able to provide any or all of the items proposed.

Table E-12: CSI RFP Response Format

Item Description	Reference / Part Number	Quantity	Delivery Date and Location	Return Date and Location	Time Period for Inspection	IP Ownership in CSI Specify proposed owner and reason	Comments / Intended purpose
a	b	c	d	e	f	h	j
Onshore Assets							
Plant							

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Materials							
Facilities							
Information / Data							
Other items							

Notes for Table E-12:

- (a) **Item Description:** A description of the item of CSI.
- (b) **Reference / Part Number:** A reference, part number, document number, or other identifier that clearly identifies the item of CSI.
- (c) **Quantity:** The quantity of the item of CSI to be delivered (or made available) by the Commonwealth.
- (d) **Delivery Date and Location:** The date on and location at which the item of CSI is to be delivered by the Commonwealth (if applicable).
- (e) **Return Date and Location:** The date on and location at which the item of CSI is to be returned to the Commonwealth (if applicable).

- (f) Time Period for Inspection:** *The period within which the Contractor, under any resultant Contract, is required to inspect the item of CSI and notify the Commonwealth in accordance with clause 7.5 of the draft Contract and clause 6.16 of the SOW. Note that clause 7.5 specifies a maximum period of 10 Business Days from the date that the Commonwealth notifies the Contractor that the item is available for collection.*
- (g) IP Ownership in CSI:** *Identify any party to which you propose IP created under any resultant Contract (or Subcontract) in an item of CSI is to be owned pursuant to clause 15 of the Contract (if applicable). You must justify any such proposed ownership.*
- (h) Comments / Intended Purpose:** *The purpose for which the item of CSI is provided to the Contractor, under any resultant Contract, and any comments that are supplementary to the information provided in columns (a) to (i).*

Annex G-1 – Document Library Index

Purpose

This Document Library Index sets out a list of documents that are provided in the Data Room in accordance with Part 1, paragraph 9.3 of the RFP and clause 2.3 of the Conditions.

Ref	Document Library Title	Document Name
1	W6504DU105.0002_D_W6504DU105.0002 - Laminara & Corallina Field Layout Schematic Sht 2-2 (Coabis Nomenclature)	Laminaria & Corallina Field Layout Schematic Sheet 2 of 2 (COABIS NOMENCLATURE)
2	Vertech Ref VER-51929-NE-RS-001 Hull IWS	FPSO Northern Endeavour In-Water Survey
3	UPS Northern Endeavour Planning Premise - Jan 21-Dec 21	Northern Endeavour Planning Premise Jan 2021 - Dec 2021
4	UPS200601 NORM Testing Site Visit Report Rev0	Site Visit Report - Upstream Production Solutions
5	T&V Aug 2021 Update	Northern Endeavour Threats and Vulnerabilities List 2021 (Aug 2021)
6	Submission - WOMP Revision - Technical Document (A570619)	Laminaria & Corallina Well Operations Management Plan 01-OPS-PL01
7	Submission - Environment Plan - Northern Endeavour FPSO A518223	NE FPSO Operations Environment Plan 01-HSE-PL03
8	Northern Endeavour Safety Case (Accepted 30 May 2019)	Northern Endeavour NOGA Facility Safety Case 26RSKRIMPL001
9	M9700RG0000003_2 - New Agreed Cover Page Current State of FPSO and Equip	Laminaria Corallina Field Decommissioning - Report on the Current State of the FPSO, Subsea Infrastructure, Wells and Onshore Equipment
10	M9700AR0000001_1 - New Agreed Cover Page Process Equip Flushing Philosophy	Lam Cor Field Decommissioning - FPSO & Subsea Process Equipment Flushing Philosophy
11	M3870UV0000001_Latest_0 - New Agreed Cover Page Class Requirements	Northern Endeavour Class Requirements
12	M3870MV0000001_1 - New Agreed Cover Page Temporary Mooring Philosophy	Northern Endeavour Temporary Mooring Philosophy
13	M3870AV0000002_1 - New Agreed Cover Page Tow Philosophy	Northern Endeavour Tow Philosophy
14	M2010RG0000001 - New Agreed Cover Page Isolation Plan using LWIV	Laminaria Corallina Field Decommissioning - Downhole Well Isolations Plan using LWI for Installing Temporary Suspension Plugs
15	M2010RD0000001-0 - New Agreed Cover page Well P&A Phase 1B	Laminaria-Corallina Field Decommissioning Well P&A (Phase 1b)
16	M2000AX0000003_1_ - New Agreed Cover page FPSO Disconnection Philosophy	Laminaria Corallina Field Decommissioning - FPSO Disconnection Philosophy
17	M2000AX0000002_1_New Agreed Cover page Removal Philosophy	Laminaria Corallina Field Decommissioning - Subsea Removal Philosophy
18	M2000AX0000001_0 - New Agreed Cover Page Subsea Flushing and Isolation Philosophy	Laminaria Corallina Field Decommissioning - Subsea Flushing and Isolation Philosophy

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19	File note - Status update on wells in ACL5 and WA-18L (TSOGA)	Status of wells in AC/L5 and WA-18-L as at November 2019
20	20210805 - Northern Endeavour Well and Subsea Integrity Status Report	Northern Endeavour NE Well and Subsea Integrity Status Report
21	5938466 - ALARP Sheet - Well Isolations_Signed	ALARP Worksheet Template
22	210819-TIMOSEA01-Stock on Hand - IH	210819-TIMOSEA01-Stock on Hand - IH
23	4910-PM-P2021-07_0 - NE Asset Report July 2021	Northern Endeavour Asset Performance Report July 2021
24	4910-PM-2021-06_0 - NE Asset Report June 2021	Northern Endeavour Asset Performance Report June 2021
25	2021 T&V Update	Threats & Vulnerabilities 2021 Update = July 2021
26	120-Day_IAP_27July21	Northern Endeavour 120 Day Integrated Activity Schedule 2021
27	1. Contaminants Sampling Scope of Work	Contaminants Sampling Scope of Work
28	PFD - M5000DP565.03	Oil Separation and Test Max. Gas. Year 2000. Cold
29	PFD - M5000DP565.04	Oil Separation and Test Max. Gas. Year 2000. Hot
30	PFD - M5000DP566.03	Oil Stabilisation Max. Gas. Year 2000. Cold
31	PFD - M5000DP566.04	Oil Stabilisation Max. Gas. Year 2000. Hot
32	PFD - M5000DP567.03	Gas Recompression Max. Gas. Year 2000. Cold
33	PFD - M5000DP567.04	Gas Recompression Max. Gas. Year 2000. Hot
34	PFD - M5000DP568.03	Lift Gas Max. Gas. Year 2000. Cold
35	PFD - M5000DP568.04	Lift Gas Max. Gas. Year 2000. Hot
36	PFD - M5000DP568.05	Gas Dehydration System
37	PFD - M5000DP568.07	Gas Dehydration System Max. Gas. Year 2000. Cold
38	PFD - M5000DP568.08	Gas Dehydration System Max. Gas. Year 2000. Hot
39	PFD - M5000DP569.03	Gas Injection Max. Gas. Year 2000. Cold
40	PFD - M5000DP569.04	Gas Injection Max. Gas. Year 2000. Hot
41	PFD - M5000DP570.03	Debutaniser Max. Gas. Year 2000. Cold
42	PFD - M5000DP570.04	Debutaniser Max. Gas. Year 2000. Hot
43	PFD - M5000DP599.03	Process Flow Diagrams & Safety Drawings Index
44	PFD - M5430XP303.01	P & ID - Process Flow Diagram



Australian Government
**Department of Industry, Science,
Energy and Resources**

Northern Endeavour Taskforce
51 Allara Street
Canberra ACT 2600
Request for Proposal PRI-00004524

Department of Industry, Science, Energy and Resources

Northern Endeavour Decommissioning Project: Phase 1

Request for Proposal

Disclaimer

This Request for Proposal (**RFP**) has been prepared by the Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources (ABN 74 599 608 295) (**the Commonwealth**). The purpose of this RFP is to provide to those Respondents shortlisted through the previous Invitation for Expressions of Interest (**EOI**) (PRI-00004524) with additional information to allow the Respondents to submit a more detailed and complete proposal in response to this RFP (**Proposal**).

This RFP is provided subject to the Conditions stated in Part 5 of this RFP. The disclosure, reproduction, storage, transmission and use of this RFP are subject to the Conditions.

This RFP is provided to **Respondents** for information purposes only. It is not to be considered as a recommendation by any person to submit a Proposal, or that any opportunity outlined in this RFP is suitable. Anyone considering whether or not, and if so the terms on which, to submit a Proposal, should conduct and rely upon their own analysis, enquiry and investigation, including of the information contained in this RFP, and should seek professional advice on all aspects of any opportunity outlined in this RFP, including financial, legal and regulatory and taxation consequences.

This RFP does not constitute accounting, financial, investment, legal, regulatory or tax advice.

Without affecting any other provision, this RFP may include certain estimates, projections and statements. Any estimates, projections or statements are based on assumptions about future events and circumstances that may not eventuate or arise and are subject to contingencies and uncertainties (some of which are significant), many of which are outside the control of the Commonwealth. Those assumptions may or may not prove to be accurate, complete, correct, reasonable, or valid.

No representation is made or warranty given as to the completeness, correctness, reasonableness or reliability of any estimate, projections or statement. Anyone considering whether or not, and if so the terms on which, to submit a proposal, should conduct and rely upon its own analysis, enquiry and investigation, including in respect of any assumption, contingency and uncertainty and the impact that different future events and circumstances may have, and should not rely on any estimates, projections or statements included in this RFP.

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Attachments, Annexes and Schedules

Attachments		Annexes and Schedules	
A	RFP Information Requirements List	A-1	General Information Format Requirements
B	Respondent Information Response Form	B-9	Declaration by Respondent
		B-10	Statement of Variation
C	RFP Commercial Response Form	C-12	Commitment Letter
D	RFP Financial Response Form	D-3	Price and Payment Schedule
E	RFP Technical Response Form	E-5	Phase 1 Implementation Plan (IMP)
		E-6	Contract Master Schedule (CMS)
		E-7	Work Breakdown Structure (WBS)
		E-8	Transition-in Plan (TIP)
		E-13	Commonwealth Supplied Items (CSI)
F	Draft Contract	Sch 1	Contract Particulars
		Sch 2	Glossary
		Sch 3	Scope of Work [see Attachment G]
		Sch 3, Ann A	Contract Deliverables List [see Attachment G]
		Sch 4	Price and Payments
		Sch 5	Bank Guarantee
		Sch 6	Collateral Warranty Deed
		Sch 7	Contractor Parent Company Guarantee
G	Draft Scope of Work <i>Note to Respondents: Once finalised, this Attachment G and its Annexes will become Schedule 3 to the Contract.</i>	A	Contract Deliverables List (CDL)
		B	Applicable Standards
		C	Draft Plans
		D	Resident Personnel
H	RFP Glossary	-	-
I	RFP Stage Deed	-	-

Part 1 – Your Opportunity

1. Background

- (a). This Request for Proposal (**RFP**) is the second stage in a multi-stage procurement process to identify and engage a Contractor to deliver Phase 1 of the Northern Endeavour Decommissioning Project. You have been invited to participate in this RFP Stage by virtue of having been shortlisted through the first Invitation for Expressions of Interest (**EOI**) Stage (PRI-00004524).
- (b). Entry into a Contract is subject to the approval of the Australian Government (**Government**) and its policy decisions. We cannot guarantee that approval will be obtained or that there will not be a shift in policy direction, and so reserve our right to end this procurement process at any stage.
- (c). Respondents should note that neither this RFP nor any attachment, appendix or schedule creates a legally binding agreement with the Commonwealth. The RFP is not, and must not be, construed or relied upon as an offer capable of acceptance or as creating any form of contractual or other rights. This will occur only if and when the successful Respondent (if any) and the Commonwealth have both signed a formal written contract.
- (d). You may be aware that the Government has asked the Northern Endeavour Taskforce (**Taskforce**) to explore the suitability of an unsolicited proposal relating to this Project that was delivered directly to Government. The Taskforce is undertaking that activity in parallel with, but separate from, this procurement process. **However, this procurement process remains the only Government-endorsed process by which to procure the Phase 1 Work.** Should the Government's policy direction change, we will update you at the earliest possible opportunity.

2. Interpretation

- (a). In this RFP, unless the contrary intention appears:
 - (i). headings are for the purpose of convenient reference only and do not form part of this RFP;
 - (ii). the singular includes the plural and vice-versa;
 - (iii). a reference to one gender includes any other;
 - (iv). a reference to a person includes a body politic, body corporate or a partnership;
 - (v). if the last day of any period prescribed for the doing of an action falls on a day, which is not a Business Day, the action is to be done no later than the end of the next Business Day;
 - (vi). a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
 - (vii). a reference to a clause includes a reference to a subclause of that clause;
 - (viii). a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication or document, in effect on the date of release of this RFP or alternatively, a reference to a revised version of the document if agreed in writing between the parties;
 - (ix). the word 'includes' in any form is not a word of limitation;
 - (x). a reference to a party includes that party's administrators, successors, and permitted assigns, or its officers, employees, agents or advisers;

- (xi). words, abbreviation and acronyms have the meaning given to them by the Glossary at Attachment H or the draft Contract at Attachment F;
- (xii). references to 'the Contractor' are to be understood as relating to the entity with whom the Commonwealth enters into the **Disconnection Agreement** (if any). A copy of the draft Disconnection Agreement is at Attachment F to this RFP;
- (xiii). references to 'you', 'your' and other like terms are to be understood as referring to Respondents to this RFP; and
- (xiv). references to 'we', 'us', 'our', and other like terms are to be understood as relating to the Commonwealth as represented by the Department of Industry, Science, Energy and Resources (**DISER**).

3. The opportunity

- (a). As indicated in the EOI Stage of this procurement process, in February 2020, the registered titleholder of the Laminaria Corallina (**LamCor**) oil fields in the West Timor Sea went into liquidation and disclaimed a number of assets, including the Northern Endeavour floating production storage and offtake facility (**FPSO**) and associated petroleum licences, subsea infrastructure and wells (collectively, **the Facility**).
- (b). The Commonwealth, through the Taskforce, took physical custody of the Facility and contracted out control of the operations of the FPSO to ensure the safety of persons, maritime operations and the environment.
- (c). The Government evaluated a range of options for the Facility's future, culminating in a decision to disconnect, decommission and remediate the FPSO, subsea infrastructure and the wells in the LamCor oil fields (**the Project**).
- (d). The Project is likely to be undertaken in three distinct phases:
 - (i). Phase 1 – Disconnection of the FPSO and unmanned tow, including well isolations;
 - (ii). Phase 2 – Permanent Plugging and Abandonment (P&A) of the wells, including removal of Xmas Trees (XT) and wellheads; and
 - (iii). Phase 3 – Subsea infrastructure removal and seabed remediation campaign.
- (e). This RFP is seeking a suitably qualified supplier to undertake Phase 1 of the Project.

4. What we need

- (a). As identified in the Invitation for EOIs, the Commonwealth is seeking assistance to plan, engineer, manage, and execute Phase 1 of the Project safely, in accordance with industry standards and within the earliest possible timeframe while offering best value for money. Achieving value for money is the core principle of the Commonwealth Procurement Rules (**CPRs**) as it is critical to ensuring that public resources are used in the most efficient, effective, ethical and economic manner. This requires the consideration of the relevant financial and non-financial costs and benefits associated with a procurement across the life of the Project.
- (b). The Commonwealth requires that the FPSO be disconnected and ready for tow no later than **30 September 2023**. Delays to this date will attract liquidated damages in accordance with terms of the draft Contract. This disconnection date is critical for the Commonwealth and you must ensure you build sufficient flexibility into your schedule to cater for possible delays.
- (c). The details of the Project and our requirements are set out in the draft Scope of Work (**SOW**) in Attachment G to this RFP. To be considered further for this Project, Respondents must have:

- (i). the required expertise and resources, including personnel, subcontractors, and access to vessels of the right size, type and quantity, to carry out Phase 1 of the Project safely;
 - (ii). the capability and capacity to quickly mobilise these resources and undertake the work;
 - (iii). a proven track record and experience in disconnecting and decommissioning FPSOs and subsea assets;
 - (iv). the capability to execute the work in accordance with, or ahead of, the Commonwealth's schedule, and in accordance with good industry practice and all applicable laws, regulations and standards;
 - (v). health, safety, environmental, and quality assurance systems to support delivery of the Work; and
 - (vi). a track record of, or commitment to, pursuing and developing growth opportunities, particularly with Australian industry.
- (d). Proposals must specifically address each of the above requirements. In addition, they should specifically address the way in which the Respondent would attain each of the following key strategic drivers:
- (i). outstanding health, safety and environmental protection;
 - (ii). compliance with regulatory requirements;
 - (iii). effective management and reduction of risk associated with the FPSO and LamCor fields to persons, maritime operations, the environment, and the reputation of the industry and the Government; and
 - (iv). the earliest feasible release of the FPSO commensurate with minimisation of ongoing operating expenditure (**OPEX**) and abandonment expenditure (**ABEX**).
- (e). The Commonwealth prides itself on a strong ethos of safe and environmentally responsible management of its offshore oil and gas industry and we expect any Contractor engaged as a result of this procurement process to share this ethos.

5. What we don't want

- (a). As indicated at the EOI Stage, due to the complexity of the Project and the short timeframes, we do not want Proposals from consortia, joint ventures or alliances unless each member is prepared to collaborate effectively and do everything possible to ensure the Project is delivered in accordance with requirements.
- (b). For any such arrangements, you must nominate a single point of contact with the appropriate level of authority to act for all members. The Respondent, of whatever construct, will be solely responsible for its own internal management and each entity will be jointly and severally liable to the Commonwealth for delivering the required outcomes, on time, on budget and to the requisite quality.
- (c). Schedule is imperative – we do not want Proposals from entities that cannot commit to an expedited timeframe.
- (d). We do not want Proposals from entities that are inflexible and cannot appropriately manage uncertainty, or work within the confines of the Commonwealth's approvals processes.

6. Procurement process

- (a). The process we expect to take for the remainder of this procurement is:

- (i). Respondents submit a Proposal in response to this RFP;
- (ii). the Commonwealth sets aside Proposals that do not comply with one or more of the minimum format and content requirements, conditions for participation and/or essential requirements from further evaluation and participation in the procurement process;
- (iii). the Commonwealth evaluates remaining Proposals in accordance with clause 6 of the RFP Conditions to determine which Respondent/s (if any) will be shortlisted to continue in the procurement process;
- (iv). the Commonwealth undertakes (if required) individual discussions or clarifications with remaining Respondents (in accordance with clause 5.6 of the Conditions);
- (v). the Commonwealth shortlists (if appropriate) one or more Respondents as preferred Respondents (in accordance with clause 5.7 of the Conditions);
- (vi). the Commonwealth facilitates interactive tendering activities such as Offer Definition and Improvement Activities (ODIA) or parallel negotiations with shortlisted Respondents (in accordance with clause 5.8 of the Conditions);
- (vii). shortlisted Respondents submit updated Proposals and the Commonwealth selects a preferred Respondent;
- (viii). the Commonwealth conducts final contract negotiations with preferred Respondent/s (in accordance with clause 5.9 of the Conditions);
- (ix). the Commonwealth selects a single preferred Respondent and, if agreement is reached and Government approval obtained, a contract (based on the draft Contract at Attachment F) is signed by both parties.

7. Term

- (a). The Disconnection Agreement will commence on the date of execution of the contract (if any) by both parties. The Taskforce is aiming for a contract execution date in early March 2022. For the purposes of your Proposal, you should assume a Commencement Date of 7 March 2022.
- (b). It is critical to the Commonwealth that disconnection of the FPSO from the subsea infrastructure occurs no later than **30 September 2023**. While we acknowledge the many risks to schedule, we require you to consider whether and how you can build sufficient flexibility into your schedule to support this outcome. The Contractor will be required to advise the Commonwealth of the date for disconnection no less than nine (9) months and two (2) weeks prior and again no less than one (1) month prior to disconnection.
- (c). It is anticipated that the Term will expire on completion of Phase 1 of the Project. Based on a disconnection date of 30 September 2023, completion is expected in Quarter 4 of the 2023 calendar year, apart from ongoing monitoring; however, Respondents should consider opportunities for expediting this timeframe.

8. Your Proposal

- (a). In your response to this RFP, we require a much greater level of detail and certainty than for the EOI. However, unless there is strong justification for doing so, your Proposal should not deviate significantly from that your EOI as that is the basis on which you were found suitable for progression to the RFP Stage. Significant deviations that have not been approved by the Commonwealth may be deemed to be non-compliant and may lead to your exclusion from the RFP Stage.

- (b). To assist you in developing your Proposal, we have produced a series of Response Forms (Attachments B-E), similar to those used in the EOI Stage, supported by a series of Annexes that link directly to the line items in the Response Forms.
- (c). Attachment A includes a complete list of documents you need to complete or produce and attach to your Proposal. It maps the information contained in Attachments B-E to the relevant Annexes. Annex A-1 to Attachment A provides general information about the format for documents to be delivered as part of your Proposal. Your Proposal **must** comply with the instructions contained in the Attachments and Annexes.

9. Your challenges

- (a). This procurement process comes with some challenges beyond those specifically related to delivering the Project.

9.1. Site visits

- (a). First, due to a range of factors, including the COVID-19 pandemic, border closures and the impending cyclone season, it is unlikely that we will be able to offer a site visit as part of the RFP Stage. We recognise that, unless you are the incumbent operator, this will impact on your understanding of the condition of the assets and infrastructure and has the potential to create some disparity in the procurement process. Consequently, we have built into the RFP a range of strategies, primarily in relation to evaluation, to help manage this.

9.2. Timeframe

- (a). Second, the timeframe to respond is very short and we are asking you for a significant amount of information. The timeframe is linked to a range of decisions and dependencies that are beyond our control. Consequently, it is unlikely that there will be any extensions to the RFP Closing Time. We have, though, sought to minimise the amount of information required from you and we are seeking your cooperation as the RFP progresses to fill any information gaps ahead of contract signature.
- (b). We have built some flexibility into the Price and Payment Schedule at Annex D-3 of Attachment D, permitting certain details to be inserted as narrative rather than in figures, if necessary. You should ensure you clearly articulate the risks and assumptions behind your pricing to enable us to evaluate the competitiveness of your pricing.
- (c). In addition, we have identified parts of the information to be delivered in your Proposal on which you should focus if time becomes an issue. Similarly, some documents that we would ordinarily require as part of your Proposal, such as the Australian Industry Participation (AIP) Plan and Indigenous Participation Plan (IPP), now form part of the ODIA and/or negotiation process. Note that we will require delivery of these documents before any Contract can be signed.
- (d). Regardless of the flexibility, you should bear in mind that your Proposal needs to be competitive. You should consider carefully the evaluation criteria at clause 6 of the Conditions and focus on meeting those requirements.

9.3. Technical documentation

- (a). Third, for a range of different reasons, the technical documentation we have provided is, in some respects, limited. In addition, we are unable to warrant or guarantee the accuracy or currency of the information provided. You will need to apply your own expertise and experience and, unless otherwise indicated, treat the information as guidance only. If you have to make assumptions as a result of a gap or uncertainty in the information, make that assumption clear in your Proposal to enable us to understand any implications if the information proves inaccurate.

- (b). You will be granted access to the information, including technical documents, we can provide during this RFP Stage through a secure virtual data room (Data Room). To gain access to the Data Room, you must first have duly executed the RFP Stage Deed substantially in the format of Attachment I and returned it to the Contact Officer using the details set out at clause 2.5 of the Conditions. The Contact Officer will then arrange access for no more than five (5) of your personnel.
- (c). Respondents are requested to notify us if you identify any conflicts in the drawings, specifications or instructions, or significant gaps in the information provided as part of this RFP and that you make recommendations in your Proposal to resolve these conflicts.

9.4. Environmental considerations

- (a). The fourth challenge relates to the possible imposition of conditions on the Commonwealth, which will be passed to any Contractor, in relation to the Project under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act). More details are provided about this challenge in Part 3 'Legislative and policy requirements' below. In short, we are unlikely to receive a determination as to which, if any, conditions will apply to the Project until sometime after RFP release and, possibly, after the Disconnection Agreement (if any) has been signed. As a result, Respondents will need to accept that there may need to be last-minute negotiations and/or a variation to the Disconnection Agreement to incorporate any such conditions and will need to be willing to negotiate in good faith and with a view to achieving value for money for the Commonwealth.

9.5. Litigation

- (a). The fifth challenge is that the Commonwealth is currently defending litigation brought by a primary secured creditor of the FPSO, Castleton Commodities Merchant Asia Pte Ltd (**CCMA**). Details of the litigation are, for obvious reasons, confidential. However, what we can tell you is that an early date for disconnection is critical to the resolution of the matter. As a result, you need to make sure to have built a reasonable amount of contingency into the schedule to ensure that disconnection of the FPSO from the subsea infrastructure occurs prior to 30 September 2023.
- (b). As part of the litigation, it is likely that the Commonwealth will be required to disclose copies of your Proposal (and EOI), in full, to CCMA. While the Commonwealth is endeavouring to ensure the disclosure does not extend to information protected by the *Privacy Act 1988* (Cth), commercial-in-confidence information or other Confidential Information, we cannot guarantee we will be permitted to redact the Proposals or (EOIs) to any extent prior to releasing them to CCMA.

10. What these challenges mean for you

- (a). As a result of these challenges, we appreciate that your Proposal may not be as precise, or your pricing as firm, as it ordinarily would. However, we must achieve as much certainty in both scope and pricing as possible. To that end, we have built into the negotiation process and, in case it is necessary, the draft Contract, a price firming activity whereby the preferred Respondent/s and/or successful Contractor (if any) will be permitted to refine their pricing in response to further information regarding these challenges once it becomes available.
- (b). This does not mean we will accept incomplete, conditional or immature Proposals. Instead, you will be assessed, in part, on the maturity of your Proposal and the risks associated with your Proposal given the information at hand. Respondents may elect to rely on additional information or prior experience with this or a similar FPSO, but you must specify in your Proposal the information on which you are relying, and, wherever possible, provide the source of the information with your Proposal (**extraneous information**).

- (c). In order to keep the process as fair and equitable as possible, we may share some of this extraneous information with other Respondents. Consequently, you must identify any aspects of your Proposal in respect of which you have a legitimate reason for it to remain confidential.
- (d). Each Respondent will also be assessed on its apparent preparedness to help us to manage the uncertainty arising from these challenges and to appropriately share the risks inherent in this procurement process. You must ensure you clearly articulate the way/s in which you are able to do so.
- (e). Further, you must very clearly state any assumptions on which your Proposal, including pricing, is based. If the Commonwealth signs a Disconnection Agreement with you, as part of the Price Firming activity, you must be able to link any variation in scope and/or pricing to these assumptions or we may not be able to accept your position. If an agreement is not reached, we may conclude the Contract early and seek an alternative Contractor to deliver the Phase 1 activities. For additional information regarding the Price Firming activity, refer to clause 2.3 of the draft Contract at Attachment F.

11. Why you should respond

- (a). The Commonwealth intends that the delivery of this Project as a whole will set the standard for future similar activities in Australian waters. It presents a unique opportunity for the oil and gas industry to work with the Government on a project of strategic and environmental significance, and to supplement the preferred Respondent's portfolio demonstrating its competence in decommissioning activities.
- (b). In addition, the Project provides an opportunity for Respondents to engage with Australian industry and develop relationships for future projects in Australia and internationally, with a view to creating and sharing long term value.
- (c). There is also significant media and other interest in the outcomes of this Project. Successful delivery of the Project could offer reputational benefits for the successful Respondent.

Part 2 – Our Requirements

1. Project Phases

- (a). The Invitation included an overview of the activities for each of the three Phases of this Project. Note that Phases 2 and 3 remain subject to further Government approvals and that any services required for these Phases, aside from some preparatory work, will be procured separately.
- (b). Respondents should refer back to the Invitation, and to the draft Contract and SOW, to understand the ultimate objective of the Project and to ensure Proposals lead seamlessly into subsequent Phases.
- (c). The details relevant to Phase 1 are primarily set out in the SOW and its Schedules at Attachment G. Your Proposal must address all Phase 1 activities and requirements and should also demonstrate how proposed Phase 1 activities will support delivery of Phase 2 and 3 activities.

2. Environmental management

- (a). We have the highest expectations in relation to the protection of the environment. The Contractor and any person or entity engaged by the Contractor to deliver Phase 1 of the Project must implement an operational Environmental Plan and keep us updated as to any amendments to the plan and any incidents with environmental impacts.

3. Approvals

- (a). The Contractor must obtain all relevant approvals from the Commonwealth and other relevant agencies in order to execute Phase 1 of the Project.

4. Licences and accreditations

- (a). Respondents must hold, or obtain as required, all necessary licences, accreditations, certifications, permits, and approvals (collectively **Licences**) to undertake the work required to deliver Phase 1 of the Project.
- (b). Respondents must specify in Attachment E, Item E-2 which Licences you currently hold and which you are yet to obtain. You may be required to produce evidence of such Licences at any point in the procurement process or the Contract, as appropriate.
- (c). The Contractor (if any) will be required to hold all such Licences for the duration of the Contract (or longer, if circumstances require), unless the Contractor can demonstrate to the satisfaction of the Commonwealth that doing so is not possible or not required.

5. Safety and security

- (a). Establishing and maintaining the highest levels of health and safety is an integral part of all activities to be performed by the Contractor.
- (b). The Contractor and each Subcontractor must develop and implement a plan to ensure compliance with all work, health and safety and related legislation applicable to the industry and the operating environment. This is to be submitted as part of the Environmental Plan to be delivered under the Contract.

Part 3 – Key Details

1. Summary of key details

Table 1 – Summary of Key Details

Project Name	Northern Endeavour Decommissioning Project: Phase 1
RFP Number	PRI-00004524
RFP Closing Time	26 October 2021, 14:00 AEDT time
Clarification Closing Time	19 October 2021, 17:00 AEDT time
ODIA activities	December 2021-January 2022
Anticipated Contract execution date	Early March 2022
Contact details	All enquiries must be directed to: NEProcurement@industry.gov.au .
Lodgement	Proposals must be submitted electronically through AusTender (https://www.tenders.gov.au/).
Proposal Validity Period	9 months after the RFP Closing Time (as extended under clause 4.8 of the Conditions, if applicable)

2. RFP Stage and Conditions

- (a). The RFP Stage is subject to the Conditions set out in Part 5 of this RFP. Make sure you understand them fully before you prepare your Proposal.
- (b). Respondents can seek clarification in relation to this RFP by directing questions to the Contact Officer through the contact details set out in the table above and clause 2.5 of the Conditions. You must do so before the Clarification Closing Time or we may not be able to answer it.
- (c). We will publish any amendments to this RFP and answers to clarification questions on AusTender (<https://www.tenders.gov.au>) in accordance with clause 1.2 of the Conditions. Make sure you are still registered with AusTender so you will receive notification of any such publications.

3. Respondent engagement

- (a). As a result of the current COVID-19 pandemic and border closures, it is unlikely we will be able to offer site visits. The remaining face-to-face activities will almost certainly be conducted via video conferencing.
- (b). If negotiations are successfully concluded, the successful Respondent will be required to enter into the Disconnection Agreement with the Commonwealth to deliver the Phase 1 Work. The Disconnection Agreement will be based on the draft Contract set out in Attachment F.
- (c). If negotiations do not result in the execution of the Disconnection Agreement within a reasonable timeframe, we reserve the absolute right to proceed with an alternative Respondent, terminate the RFP Stage and re-approach the market, or pursue one or more alternative strategies.
- (d). Towards the end of this RFP Stage, provided your Proposal is compliant, you may be required to submit a second binding Proposal that is more fully developed and capable of acceptance by the Commonwealth (**updated Proposal**).

- (e). Some Price Firming activities are likely to occur subsequent to Contract execution. If these activities do not result in a position that is acceptable to the Commonwealth, such as if the Contractor cannot adequately justify any price increases against assumptions made in the RFP Stage or cannot achieve a value for money outcome for the Commonwealth, we reserve the absolute right to end that Contract and proceed with an alternative shortlisted Respondent, terminate the process altogether and re-approach the market, or pursue one or more alternative strategies. A process has been built into clause 2.3 of the draft Contract at Attachment F for this purpose.

4. Industry briefing

- (a). The Commonwealth may conduct one or more industry briefings for this RFP if we deem it necessary to convey additional information. Further details, including how to access the briefing and requirements for attendance (if it is to be conducted live) will be notified via an amendment to this RFP on *AusTender*.

5. Refinement of offers

- (a). Subject to time constraints, we intend to engage in ODIA with one or more Respondents following evaluation of Proposals, and seek updated Proposals.
- (b). The purpose of these activities is to allow shortlisted Respondents to refine and update their Proposals based on Commonwealth feedback and input within a set of interactive, collaborative workshops. Respondents will need to ensure decision-makers are available for these activities.
- (c). Further details, including dates, times and locations, will be provided directly to Respondents.

6. Work Packages

- (a). To facilitate the Price Firming process and to expedite disconnection of the FPSO, the Work under the Disconnection Agreement will be divided into six (6) Work Packages:
 - (i). Work Package A – Engineering Design and Planning;
 - (ii). Work Package B – Operation and Maintenance;
 - (iii). Work Package C – FPSO Disconnection;
 - (iv). Work Package D – FPSO Sail Away;
 - (v). Work Package E – Monitor and Maintain; and
 - (vi). Work Package F – Project Planning and Management.
- (b). Dividing the activity into work packages supports greater flexibility in the delivery of the Project as more becomes known about the working environment. The Work Packages will be dependent upon a range of factors, including, in some cases, the outcomes of other Work Package/s, the Contractor's performance, the feasibility of the proposed approach, the results of Price Firming activities, the competitiveness of pricing, and the value for money offered to the Commonwealth.
- (c). Some Work Packages will be carried out concurrently with, or overlap, others.
- (d). Details of the Work Packages are set out in clause 2 of the draft Contract and clause 4.4 of the draft SOW.

7. Timeline

- (a). The anticipated timeline for the conduct of the RFP Stage is set out in the table at the commencement of this Part 3. However, we reserve the right to vary the table as required. We will advise Respondents of any material changes to the timeline, providing as much notice as possible.
- (b). All dates and times are those of the Australian Capital Territory (ie. Australian Eastern Standard Daylight Time (AEDT)).

8. Developing and submitting a Proposal

- (a). For the RFP, we require significantly more information and detail than we did for the EOI Stage. We have sought to simplify things for Respondents by developing a suite of documents to help you complete your Proposal.
- (b). This suite comprises a series of Attachments and Annexes, mapped out and linked together in Attachment A (RFP Information Requirements List). You can find the document tree in the 'Attachments, Annexes and Schedules' table in the Table of Contents at the top of this document.
- (c). Note that the titles of the Annexes are not sequential but are rather tied to the relevant section (**Item**) of the Attachment with which it is associated.
- (d). Before you draft your Proposal, you should take time to read and understand this RFP, particularly in relation to:
 - (i). the requirements set out in this RFP and the SOW in Attachment G;
 - (ii). the evaluation process set out in Part 4;
 - (iii). the Conditions in Part 5; and
 - (iv). the draft contract in Attachment F.
- (e). Make sure you have provided all information requested, and in the requested format, particularly in respect of any:
 - (i). minimum content and format requirements (refer to clause 5.3 of the Conditions and the various Response Forms);
 - (ii). conditions for participation (refer to clause 5.4 of the Conditions and the various Response Forms); and
 - (iii). essential requirements (refer to clause 5.5 of the Conditions and the various Response Forms),
 as a failure to do so may result in your Proposal being **excluded** from further consideration.
- (f). Your Proposal must be:
 - (i). submitted electronically through *AusTender*, and
 - (ii). received **on or before** the RFP Closing Time in Table 1 above.
- (g). **We cannot accept any submissions after the RFP Closing Time or outside of the AusTender process.** You are responsible for lodging your Proposal in accordance with the lodgement requirements in paragraph (g) above, and for managing all surrounding risks, including those associated with the use of *AusTender* and all information technology risks. If your Proposal is not lodged in accordance with paragraph (g) above, your Proposal will be non-conforming and will not be evaluated (or continue to be evaluated) unless the reason it was not

lodged in accordance with paragraph (g) above was solely due to mishandling by the Commonwealth.

9. Enhancements and alternative approaches

- (a). In this RFP, we have set out in Attachment F a draft contract based on the Key Commercial Principles that formed part of the EOI Stage and informed by EOI responses. If you wish to propose any changes to the draft contract, you must propose new wording or your suggested approach and provide reasons for the change. The Commonwealth may or may not accept any such position you propose.
- (b). Some aspects of the RFP and the draft Contract are mandatory Government requirements and are not subject to negotiation, such as the legislative and policy requirements identified in the section immediately below.
- (c). Proposed enhancements or alternative approaches must meet the requirements of clause 4.7 of the Conditions. In particular, you must identify the aspect of your Proposal to which your proposed change relates and detail the benefits (including those that flow directly to the Commonwealth) to be achieved through the change.
- (d). We are particularly interested in alternatives that would lead to the earlier disconnection of the FPSO. Respondents are encouraged to consider value for money in developing their solutions.
- (e). Note that we are not obliged to accept any proposed enhancement or alternative approach. The extent to which we do consider enhancements or alternatives proposed by you (if at all) is solely up to us.

10. Legislative and policy requirements

- (a). The Commonwealth and, therefore, this Project, is subject to Australian Law. Respondents should seek legal advice regarding how to comply with all relevant Laws in delivering the Project.
- (b). As a Commonwealth agency, DISER is also required to comply, and ensure its contractors comply, with all applicable Commonwealth policies so you will need to make sure you understand your obligations. In particular, you should familiarise yourself with the following:
 - (i). **Black Economy Procurement Connected Policy** (see clause 1.7 of the Conditions and Item C-4 of Attachment C);
 - (ii). **Workplace Gender Equality Procurement Principles** (see clause 1.8 of the Conditions and Item C-5 of Attachment C);
 - (iii). **Australian Industry Participation (AIP) Plan** – Respondents' EOI responses will be again considered as part of the RFP evaluation. However, you must prepare a complete and submit (though draft) AIP Plan **prior to Contract signature** (see <https://www.industry.gov.au/regulations-and-standards/australian-industry-participation> and Item C-6 of Attachment C). Note that this Plan **must** first be approved by the Department through a separate process to this RFP. You must leave sufficient time for this approvals process. As this is Government policy, we cannot sign a contract with any Respondent until you do so. The AIP Plan must comply with the requirements set out in clause 1 of Annex C to the SOW;
 - (iv). **Indigenous Procurement Policy (IPP)** – The mandatory minimum requirements in the Commonwealth's Indigenous Procurement Policy apply to this procurement (see <https://www.niaa.gov.au/resource-centre/indigenous-affairs/indigenous-procurement-policy>). Respondents' EOI responses will be again considered as part of the RFP

evaluation. However, you must prepare a complete and submit (though draft) IPP Plan **prior to Contract signature**. Respondents are required to prepare a draft Indigenous Participation Plan (see Item C-7 of Attachment C) that complies with the requirements set out in clause 2 of Annex C to the SOW;

- (v). **Environment Protection and Biodiversity Conservation (EPBC)** – The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) provides a national scheme of environment and heritage protection and biodiversity conservation across Australian territories. Under the EPBC Act, Commonwealth marine areas are considered to be of national environmental significance.

This Project has previously obtained limited exemptions from the conditions of the EPBC Act. As the Project progresses, that exemption will no longer apply. However, due to the unusual circumstances in which this Project has arisen, the extent of the application of the EPBC Act to the Project is unclear. Consequently, Respondents are advised that the Taskforce will refer this activity to the Department of Agriculture, Water and the Environment (DAWE) for a determination as to whether or not the Project requires formal assessment and approval under the EPBC Act.

If it is determined that the activity is subject to the EPBC Act, DAWE may impose approval conditions on the manner in which the Project, including the Phase 1 activities are carried out. These conditions are imposed on the Commonwealth but will necessarily flow through to the work being undertaken by the Contractor. We will not know the outcome of the referral until sometime after the release of this RFP and potentially not until after contract signature. As a result, Respondents and, ultimately, the Contractor will need to be prepared to negotiate in good faith and with a view to achieving value for money for the Commonwealth to implement any necessary amendments to the scope, methodology or any other aspect of the Disconnection Agreement.

For the purposes of this RFP, you should base your Proposal on the information currently to hand. We will advise you as to the nature of any necessary variations as a result of an EPBC Act determination if and when it becomes necessary.

Further information about the EPBC Act can be found at <https://www.environment.gov.au/epbc/about>. Further information about the referral process can be found at <https://www.environment.gov.au/epbc/publications/factsheet-submitting-referral-under-epbc-act>.

11. Draft Contract

- (a). At the EOI Stage, we invited Respondents to comment against Key Commercial Principles we intended to build into the draft Contract. We have considered the responses received in the EOIs and have developed a draft Contract (Attachment F).
- (b). Respondents are asked to:
- (i). carefully consider the terms and conditions of the draft Contract;
 - (ii). propose amendments that offer an improved risk allocation and better value for money for the Commonwealth (if any); and
 - (iii). identify (where relevant) in the Statement of Variation at Annex B-10 to Attachment B any areas of non-compliance, or propose any amendments that you consider will offer an improved risk allocation and better value for money for the Commonwealth.
- (c). Unless a non-compliance, variation or amendment is detailed in the Statement of Variation at Annex B-10 to Attachment B, the Commonwealth will deem the Respondent to have accept it

and will comply with its terms, and no further negotiation will be entered into unless the Commonwealth, at its sole discretion, determines otherwise.

12. Pricing, risk and assumptions

- (a). Respondents must provide details of pricing, including details of any assumptions behind the pricing, as indicated in the annexes to Attachment D.
- (b). This is particularly important as, should the Commonwealth enter into a Contract with you, you will be required, when conducting Price Firming activities, to clearly link any shifts in pricing to these assumptions. If you are unable to justify the shift, the Commonwealth will not be able to accept it.
- (c). More information relating to Price Firming is at clause 2.3 of the draft Contract (Attachment F to this RFP).
- (d). Respondents are required to provide a full detailed breakdown of pricing for the entire Phase 1 activity as requested in Attachment D, Annex D-3 Price and Payment Schedule. Given the limited time in which you have to respond, we have structured the Schedule to permit narrative where you are unable to provide figures. However, your pricing model should provide as much certainty as is possible given the information available to you in this RFP, and it needs to permit us to determine whether your Proposal is competitive and offers value for money for the Commonwealth. Where there is uncertainty, you should either:
 - (i). indicate a price and an approximate, but informed, margin of error in percentage terms of that price (treated as a cap); or
 - (ii). apply a time and materials model specifying an approximate timeframe and approximate materials pricing figure.

13. Performance

- (a). Ensuring contractor performance is a key requirement for Commonwealth procurement. As a result, the Disconnection Agreement will contain a performance management framework (PMF) or incentive regime, likely involving the setting of service levels and Key Performance Indicators (KPIs) to be achieved in the delivery of the Work.
- (b). Some service levels and/or KPIs will be subject to financial incentives in the form of payments (or the withholding of payments) linked to their achievement.
- (c). The PMF will be tailored to suit the Proposal/s with which we intend to move forward, and to incentivise performance in relation to those aspects of the Work that are most important to us. It will form part of ODIA and/or negotiation activities.
- (d). In preparing your Proposal, you should bear in mind the core Commonwealth objectives in terms of achieving value for money and appropriately ensuring the Work is delivered on time and on budget. We will look favourably on those Respondents who propose performance measures that will assist the Commonwealth to achieve these objectives.

14. Project team and advisers

- (a). The Taskforce overseeing this procurement includes a number of external advisers and an Independent Review Group (IRG).

- (b). Respondents must not approach the Taskforce, its advisers or members of the IRG, or use the advisers or members of the IRG in drafting their Proposals, other than in accordance with clause 2.5 of the Conditions, or we will have to exclude you from the procurement process.
- (c). Further, Respondents must not enter into exclusive teaming or subcontracting arrangements with suppliers whose personnel are members of the IRG. Doing so will result in immediate exclusion from further participation in this procurement process.

Part 4 – Our Evaluation Approach

1. Purpose

- (a). The purpose of the RFP evaluation is to identify a shortlist of Respondents who may subsequently be invited to participate in any ODIA and/or negotiations, and, ultimately a Respondent with whom the Commonwealth may decide to enter into a Contract for the delivery of Phase 1.
- (b). In preparing a Proposal, Respondents should focus on providing concise and considered responses that address the Commonwealth's objectives and requirements.
- (c). The Commonwealth will undertake an initial screening of Proposals to identify any that do not comply with minimum content and format requirements, conditions for participation, or any essential requirements, or Proposals that are otherwise incomplete or non-compliant (apart from as declared in the Statement of Variation at Annex B-10 of Attachment B) with the RFP. Screening is ongoing and the Commonwealth may subsequently decide that a Proposal should be excluded from further consideration.
- (d). The Commonwealth will evaluate Proposals against the evaluation criteria set out in clause 6 of the Conditions.
- (e). Each Respondent **must** complete all the RFP Response Forms in Attachments A-E, including the pricing annexes in Attachment D, and submit them as part of your Proposal. Make sure you refer to the context, information, objectives, and desired outcomes contained in this RFP.

2. Industry consultation

- (a). We reserve the right to consult with industry, including referees, regulators and associations, without disclosing the identity of Respondents, in relation to information contained in any Proposals received.

3. Interviews

- (a). In accordance with clauses 5.1 and 5.6 of the Conditions, we may invite Respondents to an interview or workshops to answer any questions we have or provide any additional information considered necessary in connection with the evaluation of your Proposal.
- (b). Decisions to interview or decline to interview any or all Respondents, and the substance of any such interviews, are at our sole discretion.

Part 5 – Conditions

1. General

1.1. Interpretation

- (a). This RFP comprises:
 - (i). Part 1 – Your Opportunity;
 - (ii). Part 2 – Our Requirements;
 - (iii). Part 3 – Key Details;
 - (iv). Part 4 – Our Evaluation Approach;
 - (v). Part 5 – Conditions;
 - (vi). Attachment A – RFP Information Requirements List;
 - (vii). Attachment B – Respondent Information Response Form;
 - (viii). Attachment C – RFP Commercial Response Form;
 - (ix). Attachment D – RFP Financial Response Form;
 - (x). Attachment E – RFP Technical Response Form;
 - (xi). Attachment F – Draft Contract;
 - (xii). Attachment G – Draft Scope of Work (SOW);
 - (xiii). Attachment H – Glossary; and
 - (xiv). Attachment I – RFP Stage Deed.
- (b). To the extent permitted by law, no binding contract (including a process contract) or other understanding (including any form of contractual, quasi-contractual or restitutionary rights, or rights based upon similar legal or equitable grounds) will exist between the Commonwealth and a Respondent unless and until a contract is signed by the Commonwealth and the successful Respondent following completion of the procurement process.
- (c). The Commonwealth will not be responsible for any costs or expenses incurred by any Respondent in preparation or lodgement of a Proposal or taking part in the RFP Stage.
- (d). Respondents acknowledge that any procurement arising from any subsequent procurement process to this RFP is contingent on Government approval.
- (e). If there is an inconsistency between any part/s of this RFP, a descending order of precedence is to be accorded to:
 - (i). these Conditions (Part 5) and the Glossary (Attachment H);
 - (ii). the other Parts of the RFP;
 - (iii). the Attachments to the RFP other than the Glossary;
 - (iv). the SOW; and
 - (v). any document incorporated by express reference as part of this RFP,
 so that the provision in the higher ranked document, to the extent of the inconsistency, prevails.

1.2. Amendments to this RFP

- (a). The Commonwealth may amend this RFP upon giving Respondents written notice of an amendment.

- (b). If the Commonwealth amends this RFP under clause 1.2(a) after Proposals have been submitted, it may seek amended Proposals.
- (c). Respondents will have no claim against the Commonwealth or its officers, employees or advisers in connection with either the exercise of, or failure to exercise, the Commonwealth's rights under this clause 1.2.

1.3. Termination, suspension or deferral of RFP Stage

- (a). Without limiting its other rights under this RFP or at law or otherwise, the Commonwealth may suspend, defer or terminate this RFP Stage at any time, including where the Commonwealth determines that:
 - (i). it is in the public interest to do so;
 - (ii). the Commonwealth is required by law to do so;
 - (iii). no Respondent represents value for money;
 - (iv). no Respondent meets the Conditions for Participation specified in clause 5.4, if any;
 - (v). no Respondent meets the requirements, if any, identified as essential at clause 5.5;
 - (vi). no Respondent is fully capable of undertaking the Contract; or
 - (vii). the Government changes its policy position,
 and the Commonwealth will notify Respondents to this effect.

1.4. Other Commonwealth rights

- (a). Without limiting its other rights under this RFP or at law or otherwise, the Commonwealth may, at any time during this RFP Stage:
 - (i). select one or more Respondents with whom to conduct any subsequent stage of the procurement process;
 - (ii). if an Insolvency Event occurs in relation to the Respondent or any of its Related Bodies Corporate;
 - (iii). if the Proposal is incomplete or clearly non-competitive; or
 - (iv). a representation or warranty given by the Respondent in its Proposal is false or misleading.
- (b). Any time or date in this RFP is for the convenience of the Commonwealth. The establishment of a time or date in this RFP does not create an obligation on the part of the Commonwealth to take any action or exercise any right established in this RFP or otherwise.

1.5. Australian Government requirements

- (a). Respondents acknowledge that, as a Commonwealth agency, DISER is subject to legislative and administrative accountability and transparency requirements of the Commonwealth, including disclosures to Ministers and other Government representatives, Parliament and its Committees and the publication of information in respect of this RFP Stage, and to the proceedings and orders of the relevant Australian courts. This includes discovery in current proceedings brought by CCMA in the Supreme Court of New South Wales (**NSW**).
- (b). The Respondent agrees that DISER may provide any information collected or provided during the course of this RFP Stage to other Commonwealth agencies or regulatory bodies, or as part

of proceedings in, or on the order of, an Australian court. This includes discovery in current proceedings brought by CCMA in the Supreme Court of NSW.

- (c). The Commonwealth will not enter into a Contract with a Respondent which has a judicial decision against it (including overseas jurisdictions but excluding decisions under appeal or instances where the period for appeal or payment/settlement has not expired) relating to unpaid employee entitlements where the entitlements remain unpaid.
- (d). All Commonwealth contractors, including subcontractors, to the Commonwealth must comply with all applicable legislation.

1.6. Procurement complaints

- (a). If Respondents wish to lodge a formal complaint regarding this procurement, the complaint is to be directed in writing to: NEProcurement@industry.gov.au.
- (b). Respondents are to cooperate with the Commonwealth in the resolution of any complaint regarding this procurement.
- (c). Respondents should note that a Public Interest Certificate (PIC) has been issued for this procurement activity under subsection 22(1) of the *Government Procurement (Judicial Review) Act 2018* (Cth).

1.7. Black economy and procurement connected policy

- (a). The Respondent's attention is again drawn to the Black Economy Procurement Connected Policy, which imposes obligations on the Commonwealth to obtain from respondents valid and satisfactory STRs. More information about the requirements arising under the Black Economy Procurement Connected Policy is available from the Department of Treasury at <https://treasury.gov.au/policy-topics/economy/black-economy/procurement-connected-policy>.
- (b). All shortlisted Respondents invited to participate in this RFP provided valid and satisfactory STRs with their EOIs. As a result, Respondents are **not** required to provide another STR at this RFP Stage **unless** the STR provided with your EOI will be no longer valid and satisfactory at the time of the proposed award date of the Contract. It is the Commonwealth's intention to execute a Contract in early March; however, for the purposes of this clause, if your STR will expire prior to 31 March 2022, you should submit a new one with your Proposal. Should the procurement process be extended beyond this date, Respondents may be asked to provide an updated STR.
- (c). If the STR provided with your EOI will be no longer valid and satisfactory at the time specified in paragraph 1.7(b) above, in accordance with the Black Economy Procurement Connected Policy, your Proposal must include:
 - (i). subject to subclause (ii), all of the satisfactory and valid STRs required from a Respondent under Item C-4 of Attachment C; and
 - (ii). if the Respondent has requested any of the STRs required under Item C-4 of Attachment C but the STR has not been issued by the Australian Taxation Office prior to the RFP Closing Time, an STR receipt issued by the Australian Taxation Office confirming that the STRs required under Item C-4 of Attachment C were requested prior to the RFP Closing Time.
- (d). As before, if the Respondent provides in its Proposal a STR receipt issued by the Australian Taxation Office demonstrating that any of the STRs required under Item C-4 of Attachment C were requested from the Australian Taxation Office prior to the RFP Closing Time, then:

- (i). the Respondent must provide all of the required valid and satisfactory STRs to the Contact Officer by email within 4 Business Days after the RFP Closing Time; and
 - (ii). if the Respondent does not provide all of the required valid and satisfactory STRs to the Contact Officer by email within 4 business days after RFP Closing Time, the Commonwealth will not evaluate (or continue to evaluate) the Proposal.
- (e). Respondents are to obtain and hold as at the RFP Closing Time a satisfactory and valid STR required under Item C-4 of Attachment C (or a receipt in accordance with clause 1.7(c)) for any entity that the Respondent proposes to engage as a direct subcontractor under the Disconnection Agreement, if the total value of all work under the subcontract is expected to exceed \$4 million (inc GST).
- (f). If the Subcontractor has requested its STR but the STR has not been issued by the Australian Taxation Office prior to the RFP Closing Time, Subcontractors must provide to the Respondent a receipt issued by the Australian Taxation Office confirming that the STR was requested prior to the RFP Closing Time.
- (g). For the purposes of the RFP, a STR is taken to be:
 - (i). **satisfactory** if the STR states that the entity has met the conditions, as set out in the Black Economy Procurement Connected Policy, of having a satisfactory engagement with the Australian tax system; and
 - (ii). **valid** if the STR has not expired as at the date on which the STR is required to be provided or held.
- (h). Any Respondent with which the Commonwealth enters into the Disconnection Agreement will be required to:
 - (i). hold a satisfactory and valid STR at the time the Contract is awarded;
 - (ii). maintain an up-to-date satisfactory STR for the entire duration of the Disconnection Agreement; and
 - (iii). obtain and hold, for the entire duration of the Disconnection Agreement, up-to-date satisfactory STRs for each direct Subcontractor under the Disconnection Agreement where the total value of all work under the Subcontract is expected to exceed \$4 million (inc GST). These requirements will apply equally to any direct Subcontractors engaged after the award of the Contract.
- (i). The Commonwealth may ask Respondents to provide STRs for any or all relevant Subcontractors at any time over the course of the procurement process and the Contract operative period.

1.8. Workplace gender equality

Note to Respondents: The Workplace Gender Equality Procurement Principles prevent the Commonwealth from entering into contracts with suppliers who are non-compliant under the Workplace Gender Equality Act 2012 (Cth) (WGE Act).

In performing the Disconnection Agreement, the Contractor must comply with its obligations under the WGE Act.

Information about the Workplace Gender Equality Procurement Principles is available at <https://www.wgea.gov.au/what-we-do/compliance-reporting/wgea-procurement-principles>.

- (a). The *Workplace Gender Equality Act 2012 (Cth) (WGE Act)* requires various employers (**Relevant Employers**) to prepare, submit to the Workplace Gender Equality Agency (**WGEA**) and otherwise make available (in accordance with the WGE Act) public reports in relation to

gender equality indicators and to comply with minimum standards determined by the WGEA within relevant time periods specified in the WGE Act. The Government has adopted a policy of not purchasing goods or services from suppliers who do not comply with their obligations, if any, under the WGE Act.

- (b). If you were a Relevant Employer under the WGE Act at EOI Closing Time you will have provided a letter of compliance with your EOI. However, as the 2021 submissions for compliance under the WGE Act were deferred until after the EOI Closing Time, you are again required to provide a current letter of compliance as part of your Proposal.
- (c). If you have become a Relevant Employer since the EOI Closing Time, or will become a Relevant Employer prior to RFP Closing Time, you must submit with you Proposal a copy of a current letter of compliance issued by the WGE Act.
- (d). The Commonwealth will not enter into a contract with a Respondent who is non-compliant with the WGE Act.

1.9. Environment Protection and Biodiversity Conservation

- (a). The EPBC Act requires that Australian territories, including Commonwealth marine areas, are appropriately protected.
- (b). The Respondent acknowledges that a decision as to the extent to which the EPBC Act applies to the Project, including the Phase 1 Work, is yet to be determined and that the outcome will not be known until sometime after RFP release date and potentially not until after the Disconnection Agreement (if any) is signed.
- (c). The Respondent agrees that, in the event conditions are placed on the Project through the EPBC referrals process during the RFP Stage of the procurement, the Respondent will negotiate in good faith with the Commonwealth to expeditiously integrate all applicable conditions into the Disconnection Agreement in a way that achieves value for money for the Commonwealth.
- (d). The Respondent further agrees that, in the event a Disconnection Agreement is signed between the Commonwealth and the Respondent and conditions are placed on the Project through the EPBC referrals process after contract signature, the Respondent, as Contractor, will negotiate in good faith with the Commonwealth to expeditiously integrate all applicable conditions into the Disconnection Agreement in a way that achieves value for money for the Commonwealth.

1.10. Modern Slavery

- (a). The *Modern Slavery Act 2018* (Cth) (**Modern Slavery Act**) requires that the Commonwealth prepare a modern slavery statement covering relevant Government entities.
- (b). The Commonwealth may, by written request, require Respondents to provide any information in relation to the Respondent or its proposed subcontractors that is necessary to enable the Commonwealth to satisfy its obligations under the Modern Slavery Act.
- (c). If a request is made by the Commonwealth in accordance with clause 1.10(b), Respondents must provide the required information within 10 Business Days of the request.

1.11. Counter-terrorism

- (a). The Commonwealth will not enter into a contract with any Respondent where the Respondent, its personnel and/or any subcontractor/s proposed in the Proposal are listed as terrorists under section 15 of the *Charter of the United Nations Act 1945* (Cth) or named in the Consolidated

List referred to in regulation 40 of the *Charter of the United Nations (Dealing with Assets) Regulations 2008* (Cth).

1.12. Environmental Sustainability

- (a). Under the National Waste Policy Action Plan, the Government has committed to significantly increase the amount of recycled content it uses. As a result, the CPRs require government agencies to consider the Sustainable Procurement Guide issued by DAWE where there are opportunities for sustainability or use of recycled content.
- (b). Further information regarding the Sustainable Procurement Guide is available at <https://www.environment.gov.au/protection/waste/publications/sustainable-procurement-guide-2020>.

2. RFP preparation

2.1. Respondents to inform themselves

- (a). The Commonwealth makes no representations or warranties that the information in this RFP or any information communicated or provided to Respondents during this RFP Stage is, or will be, accurate, current or complete.
- (b). Respondents are responsible for:
 - (i). examining this RFP, any documents referenced in or attached to this RFP and any other information made available by the Commonwealth to Respondents in connection with this RFP Stage;
 - (ii). obtaining and examining all further information which is obtainable by the making of reasonable inquiries relevant to the risks, contingencies, and other circumstances having an effect on their Proposals; and
 - (iii). satisfying themselves as to the accuracy and completeness of their Proposals.
- (c). Respondents prepare and lodge a Proposal based on the Respondents' acknowledgment and agreement that they:
 - (i). do not rely on any representation, letter, document or arrangement, whether oral or in writing, or other conduct as adding to or amending these Conditions other than as expressly stated by the Commonwealth in writing;
 - (ii). have relied entirely upon their own inquiries and inspection in respect of the subject of their Proposal;
 - (iii). are aware of the Australian Consumer Law (as set out in Schedule 2 to the *Competition and Consumer Act 2010* (Cth)) and Division 137 of the *Criminal Code Act 1995* (Cth) under which giving false or misleading information is a serious offence; and
 - (iv). are aware of the impact of the *Auditor-General Act 1997* (Cth) on its participation in this RFP Stage and any subsequent stages of this procurement process.

2.2. Language and measurement

- (a). Any Proposal, including all attachments and supporting documentation, is to be written in English.
- (b). All measurements are to be expressed in Australian legal units of measurement unless otherwise specified in this RFP.

2.3. Proposal Preparation

- (a). Unless otherwise agreed, Respondents must complete and provide the information requested in the RFP Response Forms at Attachments A to E and submit them and all associated annexes with their Proposal. Respondents should refer to the context, information, objectives, and desired outcomes contained in this RFP when completing the RFP Response Form.
- (b). Supporting documentation may be provided, as long as that documentation enhances, and is directly related to, the Proposal. Respondents who choose to provide supporting information are to identify the part of the Proposal to which it relates. The Commonwealth reserves its right not to take into consideration any marketing or other unrelated documentation provided as part of any Proposal.
- (c). Respondents must have completed and returned to the Contact Officer a duly executed RFP Stage Deed substantially in the format of Attachment I before access can be granted to the Data Room and any technical documentation. Upon receipt of the duly executed RFP Stage Deed, the Contact Officer will forward to the Respondent access details to the Data Room. The use of the Data Room is governed by the *User Terms and Conditions* provided at Schedule 2 to Attachment I. Respondents must comply (and must ensure each Data Room user complies) with any terms and conditions in connection with the Data Room. Failure to do so may result in the Respondent being denied access to the Data Room. A breach of the RFP Stage Deed may result in the Respondent being excluded from further participation in the Project.

2.4. Responsibility for RFP costs

- (a). The Respondent's participation in any stage of this RFP Stage, or in relation to any matter concerning this RFP, is at the Respondent's sole risk, cost and expense. The Commonwealth is not responsible and will not be liable for reimbursement of any costs or expenses incurred by any Respondent in connection with preparing and submitting any Proposal, attending any meetings, providing any further information and otherwise in connection with its participation in the RFP Stage, including as a result of any modification or termination of the RFP Stage.
- (b). In addition to clause 1.2(c), the Commonwealth is not liable to the Respondent for any costs on the basis of quantum meruit or any other contractual, quasi contractual or restitutionary grounds whatsoever as a consequence of any matter or thing relating to, or incidental to the Respondent's participation in this RFP Stage, including instances where:
 - (i). a Respondent is not invited to participate in any subsequent stages of the procurement process;
 - (ii). the Commonwealth varies or terminates the evaluation process, or decides not to proceed with the RFP Stage;
 - (iii). the Commonwealth's requirements change; or
 - (iv). the Commonwealth exercises any other right under this RFP or at law.

2.5. Point of contact for enquiries

- (a). The point of contact for this RFP Stage is NEProcurement@industry.gov.au.
- (b). Respondents are to direct any questions regarding this RFP to the Contact Officer in writing.
- (c). Respondents may submit clarification questions and any other general questions or concerns to the Contact Officer before the Clarification Closing Time.

- (d). Any question or concern submitted by Respondents is submitted on the basis that the Commonwealth may circulate it and the Commonwealth's response to all other Respondents without disclosing the source of the question or concern or any Confidential Information.

2.6. Industry briefing

- (a). The Commonwealth may conduct an industry briefing in relation to this RFP.
- (b). Further details, including how to access the briefing and requirements for attendance, will be notified via an addendum.
- (c). Industry briefings are conducted only for the purpose of providing information or clarification in relation to this RFP. Respondents should note the effect of clauses 1.2(a) and 2.4 of these Conditions. Respondents should not rely on a statement made at an industry briefing as amending or adding to this RFP unless that amendment or addition is confirmed by the Commonwealth in writing.

3. Proposal lodgement

3.1. Lodging a Proposal

Note to Respondents: The RFP Closing Time will be displayed on the relevant AusTender webpage together with a real time countdown clock (for more information, see the AusTender Terms of Use).

Once the RFP Closing Time has passed, AusTender will not permit you to upload any further documentation or information. The Commonwealth is unable to accept any Proposals (or part/s thereof) outside of AusTender.

For the purposes of determining whether a Proposal has been lodged before the Closing Time, the countdown clock will be conclusive.

- (a). AusTender is the Government's procurement information system. Access to and use of AusTender is subject to terms and conditions. In participating in this RFP Stage, Respondents must comply with those terms and conditions and any applicable instruction, process, procedures, and recommendations as advised on AusTender at <https://www.tenders.gov.au/?event=public.termsOfUse>.

- (b). All queries and requests for AusTender technical or operational support are to be directed to:

AusTender Help Desk

Telephone: 1300 651 698

International: +61 2 6215 1558

Email: tenders@finance.gov.au

The AusTender Helpdesk is available between 9.00 am and 5.00 pm Australian Eastern Standard Time (AEST) local time, Monday to Friday (excluding ACT and national public holidays).

- (c). Proposals are to be lodged electronically via AusTender (<https://www.tenders.gov.au>) and must be received before the RFP Closing Time in accordance with the response lodgement procedures set out in this RFP and on AusTender.
- (d). Proposals are to be lodged using Microsoft Office file format, unless specified otherwise. All file names should:
 - (i). sufficiently identify the Respondent by including their name; and

- (ii). reflect the parts of the Proposal they represent, where the Proposal comprises multiple files.
- (e). RFP files should not:
 - (i). exceed a combined file size of 500 megabytes per upload (with files compressed or zipped as required);
 - (ii). contain any virus, malicious code or any other matter or thing which might affect the integrity, useability, security or operation of the Commonwealth's or Contact Officer's systems; and
 - (iii). contain macros, scripts or executable codes of any kind.

3.2. Alterations, erasures or illegibility

- (a). Any alterations or erasures made to a Proposal by a Respondent are to be initialled by that Respondent. Proposals containing alterations or erasures that are not initialled, or pricing or other information that is not stated clearly and legibly, may be excluded from consideration.

3.3. Unintentional errors of form

- (a). If the Commonwealth considers that there are unintentional errors of form in a Proposal, the Commonwealth may request the Respondent to correct or clarify the error but will not permit any material alteration or addition to the Proposal.

4. Matters concerning Proposals

4.1. Confidential information

- (a). To obtain access to the information in the Data Room, Respondents must first have duly executed the RFP Stage Deed substantially in the format of Attachment I and returned it to the Contract Officer using the details set out at clause 2.5 of these Conditions.
- (b). In addition to the RFP Stage Deed described in clause 4.1(a), the Commonwealth may require a Respondent, including its officers, employees, advisors or contractors, to execute a deed of confidentiality or similar document before being provided with any other information relating to this RFP. Whether or not such a document is required, and without limiting a Respondent's obligations under the deed, Respondents are to:
 - (i). not disclose or use that information except as strictly required for the purpose of developing a Proposal in accordance with this RFP; and
 - (ii). not disclose that information to another Respondent unless that Respondent is a consortium member which is preparing part of the Proposal on behalf of the Respondent in accordance with clause 4.7.
- (c). Government policy is that Proposals are treated as confidential, except as required by law or as part of proceedings or under order of a Court.
- (d). Despite clause 4.1(c), the Commonwealth may disclose information:
 - (i). if required by law or statutory or portfolio duties, or required for public accountability reasons, including following a request by parliament or a parliamentary committee;
 - (ii). for the purpose of defending any claim or proceeding associated with the RFP Stage, any resultant Contract, or the Project itself;

- (iii). in the public domain otherwise than due to a breach of confidence; or
- (iv). as contemplated under clause 4.6.

4.2. Collusive bidding

- (a). Respondents and their officers, employees, agents and advisers are not to engage in any collusive bidding, anti-competitive conduct, or any other similar conduct in relation to:
 - (i). the preparation or lodgement of Proposals; and
 - (ii). the evaluation and clarification of Proposals,
 in respect of this RFP or RFP Stage or any other stage of this procurement process being conducted by the Commonwealth in connection with the Project.
- (b). For the purposes of clause 4.2(a), collusive bidding, anti-competitive conduct, or any other similar conduct may include the disclosure, exchange and clarification of information (in any form) whether or not such information is confidential to the Commonwealth or any other Respondent or any other person or entity.
- (c). In addition to any other remedies available under any law or any contract, the Commonwealth may immediately reject any Proposal lodged by a Respondent that, in the Commonwealth's reasonable opinion, has engaged in any collusive bidding, anti-competitive conduct, or any other similar conduct with any other Respondent or any other person in relation to the preparation or lodgement of Proposals, whether in respect of this RFP or RFP Stage or any other stage of the procurement process being conducted by the Commonwealth in respect of the Project.

4.3. Unlawful inducements

- (a). Respondents and Related Bodies Corporate, and their officers, employees, agents and advisers are to, at all times during the RFP Stage, comply with any applicable laws (including foreign anti-corruption legislation) and Commonwealth policies regarding the offering of unlawful inducements in connection with the preparation of their Proposal.
- (b). The Commonwealth may exclude a Proposal from further consideration if in the opinion of the Commonwealth, a Respondent or Related Body Corporate, or their officers, employees, agents or advisers fails to comply with this clause 4.3 and/or the undertakings made in the Declaration by Respondent.
- (c). The Commonwealth may also exclude a Proposal from further consideration if the Respondent, any of its Related Bodies Corporate or any officer of any of them has been convicted of bribery of Commonwealth, State, Territory, or foreign government officials at any time during the last seven years.

4.4. Improper assistance

- (a). Proposals that, in the opinion of the Commonwealth, have been compiled:
 - (i). with the utilisation of information unlawfully obtained from the Commonwealth;
 - (ii). in breach of an obligation of confidentiality to the Commonwealth; or
 - (iii). contrary to the Conditions in this RFP,
 may be excluded from further consideration.
- (b). Proposals that, in the opinion of the Commonwealth, have been compiled using information known only to the Respondent and which is withheld from other Respondents, except for commercial-in-confidence information, Confidential Information, or Personal Information, or

information that would not benefit one or more other Respondents, may be excluded from further consideration. If permitted to continue, where there is an unresolved disparity in the information available to Respondents, the Commonwealth retains the absolute right to evaluate each Proposal on the basis of the information available to that particular Respondent rather than through a direct comparison across Proposals.

4.5. Conflict of interest

- (a). A Respondent must not, and must ensure that its officers, employees, agents and advisers do not, place themselves in a position that may or does give rise to an actual, potential or perceived conflict of interest between the interests of the Commonwealth and the Respondent's interests during the RFP Stage.
- (b). If during the RFP Stage a conflict of interest arises, or appears likely to arise, the Respondent is to notify the Commonwealth immediately in writing and take such steps as the Commonwealth may require to resolve or otherwise deal with the conflict. If the Respondent fails to notify the Commonwealth or is unable or unwilling to resolve or deal with the conflict as required, the Proposal may be excluded from further consideration.

4.6. Use of RFP documents

- (a). All Proposals submitted in response to this RFP become the property of the Commonwealth and the Commonwealth may use, retain and copy the information contained in those Proposals for the purposes of:
 - (i). evaluation of any Proposal to this RFP and the preparation and conduct of any subsequent stage of the procurement process in connection with the Project;
 - (ii). verifying the currency, consistency and adequacy of information provided under any other procurement process conducted by the Commonwealth; and
 - (iii). the development of any other procurement process conducted by the Commonwealth.
- (b). The Commonwealth may disclose all or part of the Proposals to a third party for the purposes of assisting the Commonwealth in the conduct of this RFP Stage and for the purposes contained in clauses 1.5, 4.1 and/or 4.6(a) of the Conditions. The Commonwealth may also disclose any extraneous information utilised by a Respondent in the development of its Proposal with other Respondents. The Commonwealth may obtain appropriate confidentiality undertakings from the third party prior to disclosure.
- (c). Nothing in this clause 4.6 changes or affects the ownership of IP in the information contained in the Proposals.

4.7. Part, joint and alternative approaches

- (a). The Commonwealth will not consider a Proposal for only a part of the Phase 1 Work.
- (b). Without limiting the Commonwealth's rights, the Commonwealth intends to enter into a contract with a single legal entity that will be the party responsible for the performance of Work under the Disconnection Agreement. If Respondents submit a consortium response for the execution of the Project, the consortium Proposal is to:
 - (i). include in the Proposal the information sought in this RFP for each member of the consortium;
 - (ii). describe in detail in the Proposal the relationship between each member of the consortium and the structure proposed for management of the consortium, including nominating a single point of contact for all communications in relation to this RFP;

- (iii). provide in the Proposal that each member of the consortium will be jointly and severally liable for the performance of all members of the consortium under any resultant contract, or that one member of the consortium will be fully liable for the performance of all members of the consortium; and
 - (iv). include such other information that the Commonwealth requires to undertake a risk assessment of the proposed consortium Proposal .
- (c). The Commonwealth will not consider a joint Proposal other than a resp Proposal once submitted in accordance with clause 4.7(b). A reference to a Respondent in this RFP is a reference to each member of the consortium.
- (d). The Commonwealth will consider an enhancement or alternative approach submitted in accordance with this RFP. The Commonwealth may consider an alternative response submitted by a Respondent that does not comply with the requirements of this RFP. Any enhancement or alternative approach is to be submitted in accordance with clause 4.7(e).
- (e). The Commonwealth will not consider an enhanced or alternative approach unless the enhanced or alternative response:
 - (i). Is submitted together with a Proposal that addresses the requirements of the RFP;
 - (ii). is clearly identified as an enhancement or alternative approach for the purposes of this clause 4.7(e);
 - (iii). complies with all essential requirements, if any, identified in the RFP;
 - (iv). is fully described by the Respondent, including:
 - (A). the advantages, disadvantages, limitations, and capability of the enhancement or alternative approach; and
 - (B). the extent to which the adoption of the enhancement or alternative approach would impact upon the requirements of this RFP, including any financial impact, impact on the provision of the Work, and any other consequences of the enhancement or alternative approach; and
 - (v). contains sufficient and verifiable supporting information and data to enable a comparison of the enhancement or alternative approach against other Proposals.
- (f). Alternative approaches are not required to constitute a Proposal that addresses all of the requirements of this RFP.

4.8. Validity Period

- (a). The Commonwealth requires that Proposals submitted in response to this RFP remain open for acceptance during the Proposal Validity Period specified in Table 2 – Summary of Key Details in Part 3 of this RFP.
- (b). Without limiting clause 4.8, the Commonwealth may request an extension of the Proposal Validity Period.

4.9. Access to Information

- (a). Respondents are notified that rights to access information in, and related to, documents in the possession of the Commonwealth exist under a range of legislation, including the *Freedom of Information Act 1982* (Cth), the *Auditor-General Act 1997* (Cth) and the *Ombudsman Act 1976* (Cth).
- (b). Respondents should also note that the Commonwealth Parliament and its committees have the power to require the disclosure of Commonwealth contracts and contract information to enable

them to carry out their functions. The courts also have legal rights to access a wide range of information.

5. Competitive selection process

5.1. Presentations

- (a). The Commonwealth may, after the RFP Closing Time and having provided Respondents with reasonable notice, require any or all Respondents to provide a presentation on their respective Proposals.

5.2. Evaluation

- (a). Proposals will be evaluated on the basis of best value for money consistent with Commonwealth procurement policies, utilising the evaluation criteria set out in clause 6.
- (b). The Commonwealth may at any time during the RFP Stage:
 - (i). obtain and/or consider additional information (whether that information is obtained through the RFP process or by any other means) related to the Respondent's Proposal;
 - (ii). use material provided in response to one evaluation criterion in the evaluation of the response against other criteria;
 - (iii). seek clarification or additional information from, and enter into discussions with, any or all of the Respondents in relation to their Proposal;
 - (iv). conduct Offer Definition and Improvement Activities (ODIA); or
 - (v). subject to its IP and confidentiality obligations, use material provided by the Respondent in other procurement processes conducted by the Commonwealth for purposes consistent with the Commonwealth's procurement objectives.
- (c). If additional criteria are intended to be applied for the purposes of evaluation, the Commonwealth will notify Respondents in accordance with clause 1.2 who will be given an opportunity to respond.
- (d). The Commonwealth may exclude Proposals which are incomplete or clearly non-competitive from consideration at any time during the evaluation process or may consider such Proposals and seek clarification under clause 5.6.
- (e). If a Respondent is found to have made a false, misleading or deceptive claim or statement, the Commonwealth may exclude the Respondent's Proposal from further consideration at any time.

5.3. Minimum content and format requirements

- (a). Subject to clause 3.3, the Commonwealth will exclude a Proposal from further consideration if the Commonwealth considers that the Proposal does not comply with any of the minimum content and format requirements specified in Item C-1 of the RFP Commercial Response Form in Attachment C.

5.4. Conditions for participation

- (a). The Commonwealth will exclude a Proposal from further consideration if the Commonwealth considers that the Respondent does not comply with the Conditions for Participation specified in Item C-2 of the RFP Commercial Response Form in Attachment C.

5.5. Essential requirements

- (a). The Commonwealth will exclude a Proposal from further consideration if the Commonwealth considers that the Respondent does not comply with a requirement identified as essential in Item C-3 of the RFP Commercial Response Form in Attachment C.

5.6. Clarification

- (a). The Commonwealth may, at any time during this RFP Stage, seek clarification from and enter into discussions with any or all of the Respondents in relation to their Proposal.
- (b). The Commonwealth may seek additional information in respect of any aspect of a Proposal at any time, including through consultation with referees. The Commonwealth may use such information in interpreting the Proposal and in evaluating the risk to the Commonwealth of inviting the Respondent to participate in any subsequent stage of the procurement process.
- (c). The Commonwealth is not under any obligation to take into account additional information provided by a Respondent in response to a request for clarification.

5.7. Preferred Respondent status

- (a). Through RFP evaluation, the Commonwealth may select one or more Respondents as Preferred Respondents, but such selection:
 - (i). does not affect or limit the Commonwealth's rights or the Respondent's obligations under the RFP; and
 - (ii). is not a representation that a contract will be entered into between the Commonwealth or any one of those Respondents,
 and the Commonwealth may recommence or commence negotiations under the RFP with any other Respondent whether or not that Respondent has been selected as a Preferred Respondent.
- (b). Selection of Preferred Respondent/s will be conducted on the basis of an assessment of the Proposals against the requirements of this RFP.
- (c). Preferred Respondents may be requested to participate in any subsequent ODIA and/or negotiations.

5.8. Offer Definition and Improvement Activities (ODIA)

- (a). The Commonwealth may, as part of the RFP Stage, conduct ODIA with one or more Respondents in order to clarify, improve and maximise value for money of Proposals for the Commonwealth.
- (b). Where the Commonwealth elects to conduct ODIA, the Commonwealth may issue an ODIA process document to Respondents shortlisted to participate in the ODIA process that provides further details of the ODIA process and specific terms and conditions governing the ODIA process.
- (c). The Commonwealth may refuse to conduct, or to further conduct, ODIA with a Respondent if the Respondent fails to comply with the requirements of a process document issued to the Respondent under clause 5.7(b).
- (d). ODIA may include the following:
 - (i). clarification;

- (ii). submission of additional information;
 - (iii). discussions with Respondents;
 - (iv). provision of feedback to Respondents;
 - (v). workshops;
 - (vi). site visits;
 - (vii). improved definition and refinement of draft plans and programs;
 - (viii). assessment of capabilities; and
 - (ix). submission of an updated Proposal upon completion of ODIA.
- (e). As part of the ODIA process, the Commonwealth may make changes to the draft Contract and require Respondents to amend their Proposals to reflect the changes;
- (f). Without limiting clause 1.1(d) of the Conditions, the Commonwealth will not be responsible for any costs or expenses incurred by any Respondent in participating in the ODIA process.

5.9. Negotiation

- (a). The Commonwealth may engage one or more Respondents in negotiations, which may involve Respondents being asked to:
- (i). clarify, improve or consolidate any of the technical, commercial, legal, financial, and operational aspects of their Proposals; or
 - (ii). enter into an agreement with the Commonwealth relating to the terms of the detailed engagement with that Respondent.

5.10. Preferred Contractor status

- (a). The Commonwealth may select a Respondent as the Preferred Contractor, but such selection:
- (i). does not affect or limit the Commonwealth's rights or the Respondent's obligations under the RFP; and
 - (ii). is not a representation that a contract will be entered into between the Commonwealth and that Respondent,
- and the Commonwealth may recommence or commence negotiations under the RFP with any other Respondent whether or not that Respondent has been selected as a Preferred Respondent or Preferred Contractor.
- (b). Selection of a Preferred Contractor will be conducted on the basis of an assessment of the Proposals against the requirements of this RFP.
- (c). The Preferred Contractor may be requested to participate in further negotiations.

5.11. Cost investigation of Proposals

- (a). For the purposes of evaluating a Proposal, the Commonwealth may conduct a cost investigation of the proposed price. On request by the Commonwealth, the Respondent is to facilitate any such cost investigation.

5.12. Debriefing of Respondents

- (a). Respondents will be notified whether they have been successful or unsuccessful and may request an oral or written debriefing. Respondents requiring a debriefing should contact the Contact Officer specified in clause 2.5.
- (b). Respondents will be debriefed against the evaluation criteria contained in clause 6.
- (c). The purpose of the debriefing is to discuss the reasons why the Respondent's Proposal was successful or unsuccessful (as the case may be) and neither the Commonwealth nor the Contact Officer is obliged to make any comparison with, or provide any information about, any other Respondent or Proposal at the debrief.
- (d). The Commonwealth will determine the format by which the debrief will be delivered.

6. Evaluation criteria

6.1. RFP Stage evaluation criteria

- (a). The evaluation criteria for the RFP Stage are set out in Table 2 below, in no particular order of importance.

Table 2: Evaluation Criteria

Key Criteria	Subordinate Criteria
Capability and Capacity (Technical) The Respondent's technical expertise, experience, capability, and capacity to perform the Work as set out in the draft SOW.	1. The extent to which the Respondent has demonstrated relevant past experience. 2. The extent to which the Respondent has demonstrated its ability to form strong relationships with subcontractors, consortium / joint venture / partnership members (where relevant) and other stakeholders. 3. The extent to which the Respondent's proposed organisational structure and resourcing indicates a strong understanding of Project requirements. 4. The appropriateness of the level of expertise of the proposed operator, Key Personnel and Subcontractors.
Capability and Capacity (Commercial) The Respondent's commercial expertise, experience, capability, and capacity to perform the Work as set out in the draft SOW.	1. The extent to which the Respondent has demonstrated relevant past experience. 2. The extent to which the Respondent has demonstrated its ability to effectively manage the commercial requirements of a contract of similar size and complexity. 3. The extent to which the Respondent's proposed commercial arrangements indicate a strong understanding of Project requirements. 4. The extent to which the Respondent's Proposal demonstrates familiarity with, support for, and compliance with, Commonwealth policies.
Capability and Capacity (Financial) The Respondent's financial expertise, experience, capability, and capacity to	1. The extent to which the Respondent has demonstrated relevant past experience. 2. The extent to which the Respondent has demonstrated its ability to manage the financial

perform the Work as set out in the draft SOW.	requirements of a contract of similar value and complexity. 3. The extent to which the Respondent's proposed pricing indicates a strong understanding of Project requirements and associated risks, and the degree of transparency in pricing.
Past performance (Commercial) The Respondent's past performance of contractual obligations and the nature and health of previous contractual relationships and behaviours.	
Response to requirements (Technical) The extent to which the Proposal is capable of meeting the requirements of the draft SOW, including any specifications.	1. The extent to which the Proposal is capable of achieving the Project outcomes. 2. The extent to which the Proposal is compliant with relevant legislative and regulatory requirements 3. The effectiveness of the Respondent's overall Project, engineering, and verification and assurance strategies, and the assessed level of risk relating to the achievement of Project outcomes. 4. Credibility of the proposed Phase 1 Implementation Plan (IMP), Transition-In Plan (TIP), Work Breakdown Structure (WBS), and Contract Master Schedule (CMS). 5. Integrity and maturity of technical processes, organisation and capabilities.
Delivery (Technical) The extent to which the Respondent is assessed as being able to deliver the Work in accordance with the draft SOW.	1. The extent to which the Proposal indicates the Respondent's understanding of, and ability to deliver in accordance with, the SOW requirements, risks and issues. 2. The appropriateness of licences, insurances and accreditations held by the Respondent. 3. The extent to which proposed resourcing falls within industry standards and norms given the proposed solution and the condition of the Facility. 4. The appropriateness of the proposed personnel resourcing profile. 5. The appropriateness of risk management and work health and safety management processes and procedures.
Pricing (Financial) Proposed prices and pricing structure, including the proposed payment schedules and pricing assumptions.	1. The extent to which the proposed pricing indicates the Respondent's understanding of, and ability to deliver in accordance with, the SOW requirements, risks and issues. 2. The extent to which the proposed pricing falls within industry standards and norms given the requirements and the condition of the Facility. 3. The extent to which the Proposal complies with or enhances (in favour of the Commonwealth) the RFP payment schedules.

	4. The extent of compliance with, or enhancement to (in favour of the Commonwealth), price and payment provisions, including the degree of exposure to adjustments for fluctuation in exchange rates and in the cost of labour and materials, and the assessed level of risk relating to compliance.
Commercial Suitability (Commercial) The extent to which the Proposal satisfies the commercial requirements of the draft Contract and the degree to which the commercial risk in entering into a Contract with the Respondent falls within the Commonwealth's tolerance levels.	1. The extent to which the Respondent indicates compliance with the draft Contract, including the Commonwealth's proposed IP rights. 2. The appropriateness of proposed insurances, liability caps, indemnities, and incentive or at-risk payment amounts given the liability risk assessment, scope of work and the condition of the Facility. 3. The extent to which the proposed Incentive Payments and performance measures reflect a willingness to share risk and risk management with the Commonwealth. 4. The extent to which the Respondent's Proposal in relation to Australian industry and Indigenous participation will achieve the long-term objectives of the policies.

Attachment A – RFP Information Requirements Checklist

RFP Location	RFP Response Information Description	Instructions	Actioned
RFP Information Requirements			
Attachment A	RFP Information Requirements Checklist	Complete Form	☐
A-1	General Information Format Requirements	Instructions	☐
Respondent Information			
Attachment B	Respondent Information Response Form	Complete Form	☐
B-1	Respondent Details	Complete Item in Response Form	☐
B-2	Authorised Officer of Respondent	Complete Item in Response Form	☐
B-3	Respondent's Overview	Provide in own format	☐
B-4	Respondent's Profile	Provide in own format	☐
B-5	Corporate Structure	Provide in own format	☐
B-6	Proposed Operator	Complete Item in Response Form	☐
B-7	Key Personnel	Complete Item in Response Form and attach CVs	☐
B-8	Subcontractors	Complete Item in Response Form and attach CVs, Letters of Intent, MOUs or similar	☐
B-9	Declaration by Respondent	Execute Deed in Annex and submit with Proposal	☐
B-10	Statement of Variation	Complete Annex and submit with Proposal	☐
RFP Commercial Response			
Attachment C	RFP Commercial Response Form	Complete Form	☐
C-1	Minimum Content and Format Requirements (Mandatory)	Ensure you have met all requirements	☐
C-2	Conditions for Participation (Mandatory)	Ensure you have met all requirements	☐
C-3	Essential Requirements (Mandatory)	Ensure you have met all requirements (if applicable)	☐
C-4	Black Economy Procurement Connected Policy	Complete Item in Response Form and attach STR/s and/or receipt/s as required	☐
C-5	Workplace Gender Equality Procurement Principles	Complete Item in Response Form and attach WGEA Letter	☐

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C-6	Australian Industry Participation Plan (AIP Plan)	Review draft SOW, Annex C, clause 1. If required, prepare and deliver prior to Contract signature	☐
C-7	Indigenous Procurement Policy Plan (IPP Plan)	Review draft SOW, Annex C, clause 2. If required, prepare and deliver prior to Contract signature	☐
C-8	Liability	Complete Item in Response Form and Annex B-10 (Statement of Variation), if required	☐
C-9	Insurance	Complete Item in Response Form	☐
C-10	Defect Rectification	Complete Item in Response Form and Annex B-10 (Statement of Variation), if required	☐
C-11	Confidential Information	Complete Item in Response Form	☐
C-12	Commitment Letter	Complete and sign letter in Annex and submit with Proposal	☐
C-13	Past Performance (Referee details)	Complete Item in Response Form	☐
C-14	Environmental Sustainability	Complete Item in Response Form	☐
RFP Financial Response			
Attachment D	RFP Financial Response Form	Complete Form	☐
D-1	Financial Viability	Complete Item in Response Form and provide in own format	☐
D-2	Due Diligence	Complete Item in Response Form and provide in own format	☐
D-3	Price and Payment Schedule	Complete Item in Response Form and Annex D-3	☐
D-4	Securities	Complete Item in Response Form	☐
D-5	Agency Arrangements	Complete Item in Response Form	☐
D-6	Proposed Payment Schedule	Complete Item in Response Form and provide in own format	☐
D-7	Incentive Payments	Complete Item in Response Form and provide in own format	☐
RFP Technical and Project Management Response			
Attachment E	RFP Technical Response Form	Complete Form	☐
E-1	Operational Matters	Complete Item in Response Form and provide in own format, if required	☐
E-2	Licences and Accreditations	Complete Item in Response Form	☐
E-3	Previous Experience and Referees	Complete Item in Response Form and provide in own format, if required	☐
E-4	Project Strategies	Complete Item in Response Form and provide in own format	☐

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E-5	Phase 1 Implementation Plan (IMP)	Complete Item in Response Form and provide in own format based on Annex E-5	☐
E-6	Contract Master Schedule (CMS)	Complete Item in Response Form and provide in own format based on Annex E-6	☐
E-7	Work Breakdown Structure (WBS)	Complete Item in Response Form and provide in own format based on Annex E-7	☐
E-8	Transition-In Plan	Complete Item in Response Form and provide in own format based on Annex E-8	☐
E-9	Proposed Personnel Resourcing Profile	Complete Item in Response Form	☐
E-10	Risk Assessment	Complete Item in Response Form and provide in own format	☐
E-11	Hazardous Materials	Complete Item in Response Form and provide in own format, if required	☐
E-12	Commonwealth Supplied Items	Complete Item in Response Form and Annex E-12	☐

Attachment B – Respondent Information Response Form

Respondents **must** submit a completed Respondent Information Response Form as part of the Proposal.

RESPONDENT INFORMATION		
B-1	Respondent Details (Commonwealth's format) <i>Note to Respondents: You are required to supply this information for each member of any consortium, partnership or joint venture arrangement. Add new rows to the table as required.</i>	
(a)	Respondent's full name (and any trading or business name)	(...Respondent to insert...)
(b)	Address of registered office	(...Respondent to insert...)
(c)	Address of principal place of business	(...Respondent to insert...)
(d)	Postal address	(...Respondent to insert...)
(e)	Telephone number	(...Respondent to insert...)
(f)	Email	(...Respondent to insert...)
(g)	Date and place of registration / incorporation	(...Respondent to insert...)
(h)	ACN or equivalent	(...Respondent to insert...)
(i)	ABN or equivalent	(...Respondent to insert...)
(j)	Individual shareholders holding 20 percent or more of any issued share capital	(...Respondent to insert...)
(k)	Particulars of any foreign national or foreign bodies or organisations in a position to exercise or influence control over the Respondent	(...Respondent to insert...)
(l)	Related Bodies Corporate	(...Respondent to insert...)
(m)	For a foreign firm or company, details of registration, incorporation and place of business in Australia (if any), the name of any Australian representative and its ABN (if any)	(...Respondent to insert...)
B-2	Authorised Officer of Respondent (Commonwealth's format) <i>Note to Respondents: You must nominate a single Authorised Officer with the authority to represent the Respondent, including each and every member of a consortium, partnership or joint venture.</i>	
(a)	Full name	(...Respondent to insert...)
(b)	Position	(...Respondent to insert...)
(c)	Organisation	(...Respondent to insert...)
(d)	Telephone number	(...Respondent to insert...)

(e)	Email	(...Respondent to insert...)
B-3	Respondent's Overview (Maximum of 5 pages) (Respondent's own format)	
(a)	Respondents are invited to provide an overview of the organisation and a brief narrative of what you can offer the Commonwealth in the delivery of this Project. It should be suitable for both technical and non-technical readers. Where the Respondent is a partnership, joint venture or consortium, this information should be provided in respect of each participant in the partnership, joint venture or consortium. Your overview must not contain pricing information.	Attached ☐
B-4	Respondent's Profile (Maximum of 20 pages) (Respondent's own format)	
	Note to Respondents: Respondents are required to provide the following information for each and every member of a consortium, partnership or joint venture.	
(a)	Details of any matters relating to commercial, technical or financial capability of the Respondent or any member of a consortium, partnership or joint venture, which may materially affect the Respondent's ability to perform the obligations under any resultant Contract, including: - the proportionate value of any resultant Contract, if the Proposal was accepted, in relation to the Respondent's total income and value of work; and - how the Respondent would mitigate its risks, including risks arising from the management of and payment for subcontracted work, and how it would redeploy resources and maintain sufficient cash flow in the event of a delay to a Work Package or Milestone or a delay in payment to the Contractor becoming due under any resultant Contract for any reason.	Attached ☐
(b)	Details of any orders, contracts, joint ventures, collaborations with other firms or companies or any other commitments relevant to the Respondent's ability to meet the requirements.	Attached ☐ N/A ☐
(c)	Identification of any trust or fiduciary capacity in which the Respondent proposes to perform any resultant Contract.	Attached ☐ N/A ☐
B-5	Corporate Structure (Maximum of 8 pages) (Respondent's own format)	
(a)	Provide an overview of ownership structure with relationship diagram including ultimate parent entities.	Attached ☐
(b)	Provide other relevant information regarding the Respondent's management and governance structure, including corporate management structure and office locations.	Attached ☐
B-6	Proposed Operator (Commonwealth's format)	
(a)	Identify the organisation you propose to engage as the operator of the FPSO over the course of the Contract.	Completed ☐
	Company name	(...Respondent to insert...)
	ACN / ABN	(...Respondent to insert...)
	Relationship to the Respondent (e.g. Related Body Corporate, etc)	(...Respondent to insert...)
(b)	Respondents must confirm or demonstrate the ability of its proposed operator to act as a registered operator as defined by <i>Offshore Petroleum and Greenhouse</i>	Confirmed ☐

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	Gas Storage (Safety) Regulations 2009 (OPGGS Regulations) for an offshore facility (vessel, structure or licensed pipeline) in Commonwealth waters.		
	(...Respondent to insert details...)		
(c)	Has the proposed Operator held a Safety Case in Australian waters before?	Yes ☐	No ☐
(d)	Has the proposed Operator been previously registered with NOPSEMA as an 'operator' as defined by the OPGGS Regulations?	Yes ☐	No ☐
B-7	Key Personnel (Commonwealth's format)		
(a)	Conditions, clause 6 Draft Contract, clause 5.1	Provide details of any proposed Key Personnel to be used in the delivery of the Works. Add rows as required. Respondents must provide curricula vitae (CVs) for all proposed Key Personnel. Where key positions are yet to be filled, leave the 'Name' row blank and complete the bottom row of this section by describing your strategy to fill the position/s.	Completed ☐
		Name	(...Respondent to insert where known...)
		Position / role	(...Respondent to insert...)
		Relevant experience	(...Respondent to insert...)
		Relevant qualifications and training	(...Respondent to insert...)
		Delegated authority level	(...Respondent to insert...)
		Duties and responsibilities	(...Respondent to insert...)
		Name	(...Respondent to insert where known...)
		Position / role	(...Respondent to insert...)
		Relevant experience	(...Respondent to insert...)
		Relevant qualifications and training	(...Respondent to insert...)
		Delegated authority level	(...Respondent to insert...)
		Duties and responsibilities	(...Respondent to insert...)
		Name	(...Respondent to insert where known...)
		Position / role	(...Respondent to insert...)
		Relevant experience	(...Respondent to insert...)
		Relevant qualifications and training	(...Respondent to insert...)
		Delegated authority level	(...Respondent to insert...)
		Duties and responsibilities	(...Respondent to insert...)
		Name	(...Respondent to insert where known...)
		Position / role	(...Respondent to insert...)
		Relevant experience	(...Respondent to insert...)
		Relevant qualifications and training	(...Respondent to insert...)
		Delegated authority level	(...Respondent to insert...)

		Duties and responsibilities	(...Respondent to insert...)
		Proposed Recruitment Strategy	
		Describe the Respondent's strategy for filling any Key Personnel Roles yet to be filled.	(...Respondent to insert if applicable...)
B-8	Subcontractors (Commonwealth's format)		
(a)	Conditions, clause 6 Draft Contract clause 5	Note to Respondents: Nominated Subcontractors has the meaning given to it in clause 5.4 of the Contract. Provide details of any proposed Subcontractors to be engaged in the delivery of Project services and indicate which are to be treated as Nominated Subcontractors. Add rows as required. Respondents must provide curricula vitae (CVs) for all key personnel of the Subcontractors.	Completed ☐
		Subcontractor name	(...Respondent to insert...)
		Origin	Australia / NZ ☐ Overseas ☐
		ACN / ABN or equivalent	(...Respondent to insert...)
		Subcontractor role	(...Respondent to insert...)
		Nominated Subcontractor?	Yes ☐ No ☐
		Estimated value of work to be performed (\$AUD) (incl GST)	(...Respondent to insert...)
		Relationship to the Respondent (e.g. Related Body Corporate, etc)	(...Respondent to insert...)
		WBS reference/s (if applicable)	(...Respondent to insert...)
		STR held?	Yes ☐ No ☐ N/A ☐
		CVs of Subcontractor key personnel provided	Attached ☐
		Subcontractor name	(...Respondent to insert...)
		Origin	Australia / NZ ☐ Overseas ☐
		ACN / ABN or equivalent	(...Respondent to insert...)
		Subcontractor role	(...Respondent to insert...)
		Nominated Subcontractor?	Yes ☐ No ☐
		Estimated value of work to be performed (\$AUD) (incl GST)	(...Respondent to insert...)
		Relationship to the Respondent (e.g. Related Body Corporate, etc)	(...Respondent to insert...)
		WBS reference/s (if applicable)	(...Respondent to insert...)
		STR held?	Yes ☐

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			No ☐ N/A ☐
		CVs of Subcontractor key personnel provided	Attached ☐
		Subcontractor name	(...Respondent to insert...)
		Origin	Australia / NZ ☐ Overseas ☐
		ACN / ABN or equivalent	(...Respondent to insert...)
		Subcontractor role	(...Respondent to insert...)
		Nominated Subcontractor?	Yes ☐ No ☐
		Estimated value of work to be performed (\$AUD) (incl GST)	(...Respondent to insert...)
		Relationship to the Respondent (e.g. Related Body Corporate, etc)	(...Respondent to insert...)
		WBS reference/s (if applicable)	(...Respondent to insert...)
		STR held?	Yes ☐ No ☐ N/A ☐
		CVs of Subcontractor key personnel provided	Attached ☐
		Subcontractor name	(...Respondent to insert...)
		Origin	Australia / NZ ☐ Overseas ☐
		ACN / ABN or equivalent	(...Respondent to insert...)
		Subcontractor role	(...Respondent to insert...)
		Nominated Subcontractor?	Yes ☐ No ☐
		Estimated value of work to be performed (\$AUD) (incl GST)	(...Respondent to insert...)
		Relationship to the Respondent (e.g. Related Body Corporate, etc)	(...Respondent to insert...)
		WBS reference/s (if applicable)	(...Respondent to insert...)
		STR held?	Yes ☐ No ☐ N/A ☐
		CVs of Subcontractor key personnel provided	Attached ☐
(b)	Conditions, clause 6 Draft Contract clause 5	Respondents should, wherever possible, submit with their Proposal a Letter of Intent, Memorandum of Understanding (MOU) or similar evidence from Nominated Subcontractors to confirm agreement with, and the details of, the proposed working relationship.	Attached ☐

		The Commonwealth will use this information to assess the degree of preparedness and the level of agreement reached with the Nominated Subcontractors.	
B-9	Declaration by Respondent (No page limit) (Commonwealth's format)		
(a)	Annex B-9	Respondents must complete and provide an appropriately executed Declaration by Respondent in the format of Annex B-9 to this Attachment B.	Attached ☐
B-10	Statement of Variation (No page limit) (Commonwealth's format)		
(a)	Annex B-10	If a Respondent: (a). does not fully comply with any part of this RFP, including the draft Contract and attachments, and the draft SOW and annexes; or (b). seeks to propose amendments to the draft Contract that offer an improved risk allocation and better value for money for the Commonwealth, it must set out the details in Table B-10 of Annex B-10. Add new rows as required. Respondents are to include details of: (a). the clause, part or Item with which the Respondent does not comply or seeks to vary; (b). the extent, justification and impact of the non-compliance or variation; (c). details of any proposed drafting amendments; and (d). the location in the Proposal where further details and comments (if any) can be found. Responses are to be in the same order as the RFP and refer to the relevant Attachment, Annex and clause / part / Item number. A Respondent will be deemed to be fully compliant with any aspect of the RFP not listed in the Statement of Non-Compliance. Note to Respondents: Failure to indicate all non-compliances in this table may constitute false, misleading or deceptive conduct for the purposes of the Australian Consumer Law (Schedule 2 of the Competition and Consumer Act 2010 (Cth)) or Division 137 of the Criminal Code Act 1995 (Cth).	Attached ☐

Attachment C – RFP Commercial Response Form

Respondents **must** submit a completed RFP Commercial Response Form as part of the Proposal.

MANDATORY REQUIREMENTS			
C-1	Minimum Content and Format Requirements		
(a)	Conditions, clause 5.3	Respondent's Declaration Respondents must submit a signed Declaration by the Respondent substantially in the form of Annex B-9.	Attached ☐
(b)	Conditions, clauses 1.7 and 5.3	Black Economy Procurement Connected Policy If the STR/s provided with your EOI has expired, or will expire, on or before the RFP Closing Time, you must provide with your Proposal, for yourself and each member of any consortium, partnership or joint venture arrangement (as applicable), either: - a Valid and Satisfactory STR by the RFP Closing Time; or - a receipt demonstrating that a STR has been requested from the Australian Taxation Office by the RFP Closing Time, and must provide a Valid and Satisfactory STR no later than 4 Business Days after RFP Closing Time. Note to Respondents: You must ensure you apply for your STRs from the Australian Taxation Office in sufficient time to provide it to the Commonwealth as part of your Proposal. Otherwise, your Proposal will be excluded from consideration.	Attached ☐ N/A ☐
		You must also hold a Valid and Satisfactory STR for any first tier subcontractor that it proposes, as part of your response, to engage to deliver goods or services with an estimated value of over \$4 million (GST inclusive).	Received ☐
C-2	Conditions for Participation		
(a)	Conditions, clause 5.4	Employee entitlements The Respondent must not have had any judicial decisions against it (excluding decisions under appeal) relating to employee entitlements and have not satisfied any resulting order.	Confirmed ☐
(b)	Conditions, clause 5.4	Counter terrorism The Respondent, its personnel, consortium members, and/or any subcontractors proposed must not be listed as terrorists under section 15 of the <i>Charter of the United Nations Act 1945</i> (Cth), or be named in the Consolidated List referred to in regulation 40 of the <i>Charter of the United Nations (Dealing with Assets) Regulations 2008</i> (Cth).	Confirmed ☐
(c)	Conditions, clause 5.4	Legal status The Respondent must be a legal entity with the capacity to contract.	Confirmed ☐
RESPONDENT INFORMATION			
C-4	Black Economy Procurement Connected Policy (Commonwealth's format)		

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(a)	Part 3 Conditions, clause 1.7	If the STR/s provided with your EOI has/have expired, or will expire, on or before the RFP Closing Time, you must provide with your Proposal, for yourself and each member of any consortium, partnership or joint venture arrangement (as applicable), either: - a Valid and Satisfactory STR in accordance with the table below; or - a receipt demonstrating that a STR has been requested from the Australian Taxation Office by the RFP Closing Time, and must provide a Valid and Satisfactory STR no later than 4 Business Days after RFP Closing Time. Note to Respondents: You must ensure you apply for your STRs from the Australian Taxation Office in sufficient time to provide it to the Commonwealth as part of your Proposal. Otherwise, your Proposal will be excluded from consideration.	Attached ☐ N/A ☐ If attached, STR ☐ or Receipt ☐
		In accordance with clause 1.7 of the Conditions, Respondents must obtain and hold at RFP Closing Time any of the STRs referred to in the table below that are applicable to first tier Subcontractors you propose to engage as part of your response to deliver goods and/or services with an estimated value of over \$4 million (GST inclusive).	STRs held? Yes ☐ No ☐
		If the Respondent / subcontractor (as the case may be) is:	STRs required:
		(a)	(b)
		a body corporate or natural person	a satisfactory and valid STR in respect of that body corporate or person;
		a partner acting for and on behalf of a partnership	a satisfactory and valid STR: (i) on behalf of the partnership; and (ii) in respect of each partner in the partnership that will be directly involved in the delivery of any resultant Contract or subcontract (as applicable);
		a trustee acting in its capacity as trustee of a trust	a satisfactory and valid STR in respect of the: (i) trustee; and (ii) the trust;
		a joint venture participant	a satisfactory and valid STR in respect of: (i) each participant in the joint venture; and (ii) if the operator of the joint venture is not a participant in the joint venture, the joint venture operator;
		a member of a Consolidated Group	a satisfactory and valid STR in respect of: (i) the relevant member of the Consolidated Group; and (ii) the head company in the Consolidated Group;
	a member of a GST Group	a satisfactory and valid STR in respect of the: (i) the GST Group member; and (ii) the GST Group representative.	

C-5	Workplace Gender Equality Procurement Principles (Commonwealth's format)		
(a)	Part 3 Conditions, clause 1.8	The 2021 submissions for compliance under the WGE Act were deferred until August 2021. Consequently, Respondents are required to again provide a current letter of compliance issued by the Workplace Gender Equality Agency (WGEA) as part of its Proposal.	Relevant Employer? Yes ☐ No ☐ Letter attached? Yes ☐ No ☐ N/A ☐ In progress ☐
C-6	Australian Industry Participation Plan (Maximum of 10 pages) (Commonwealth's format)		
(a)	Parts 1, 3 Conditions, clause 6 Draft SOW, Annex C, clause 1	Your response to your EOI in relation to Australian Industry Participation (AIP) will again be taken into account in evaluation of this RFP. Note that it is Government policy that a draft AIP Plan is delivered to the Commonwealth prior to the commencement of any resultant Contract. If requested by the Commonwealth, you will be required to provide an AIP Plan in the format of clause 1 of Annex C to the draft SOW detailing the Respondent's proposed approach for increasing Australian industry participation. Draft AIP Plans must be approved by the AIP Authority before they are submitted with your Proposal. The approvals process is set out in clause 1 of Annex C to the draft SOW. Ensure you leave sufficient time for the AIP Authority to review and approve your plan, and for you to make any necessary modifications and resubmit, prior to the RFP Closing Time.	Commenced ☐
C-7	Indigenous Participation Plan (Maximum of 10 pages) (Commonwealth's format)		
(a)	Parts 1, 3 Conditions, clause 6 Draft SOW, Annex C, clause 2	Your response to your EOI in relation to the Indigenous Procurement Policy will again be taken into account in evaluation of this RFP. It is Commonwealth policy that a final Indigenous Participation Plan (IPP) is delivered to the Commonwealth prior to the commencement of any resultant Contract. If requested by the Commonwealth, you will be required to provide an IPP in the format of clause 2 of Annex C to the draft SOW detailing the Respondent's proposed approach for increasing Indigenous participation in the delivery of Works and involving Indigenous enterprises in its supply chains.	Commenced ☐
C-8	Liability (No page limit) (Respondent's own format)		
(a)	Conditions, clause 6	Respondents are to familiarise themselves with the liability and indemnity regime set out in the draft Contract.	Completed ☐ No variation ☐

		The Commonwealth will undertake a liability risk assessment on Proposals of preferred Respondents and this will form the basis of negotiation. If a Respondent proposes to limit its liability on an alternative basis to that set out in clause 16 of the draft Contract (eg by proposing an additional liability limitation or exclusion), the Respondent is to conduct its own liability risk assessment and provide the following details in the Statement of Variation at Annex B-10 to Attachment B: (a). the terms of the Respondent's proposed limitation of liability (if it differs from those in the draft Contract), including proposed monetary caps for each category of loss / liability set out in clause 16 (if applicable) of the draft Contract; (b). an explanation of why the Respondent requires a limitation of its liability regime different to that proposed in clause 16 of the draft Contract; and (c). the impact (if any) of these changes on the insurance requirements of the draft Contract.	
C-9	Insurance (Commonwealth's format)		
(a)	Conditions, clause 6	<i>Note to Respondents: Respondents should not provide evidence of compliance with the draft Contract insurance requirements with the Proposal. This evidence will be sought only from the preferred Respondent(s) prior to negotiations.</i> <i>On the basis of the details and pricing information provided by a Respondent, the Commonwealth may require that the Respondent's current insurance policies be maintained or extended and any proposed insurance policies be obtained. The Commonwealth may also require that additional insurance policies be obtained following negotiations with a preferred Respondent.</i> Respondents must identify in the table below the details of all current or proposed insurance policies required by the draft Contract. Add additional rows as required. Respondents must identify in their Proposal details of all costs associated with the insurance policies identified in the Respondent's insurance response. Respondents that are selected as a preferred Respondent must provide, prior to negotiations, further details of these insurance policies, including: (a). name of the insurer(s); (b). type of insurance; (c). terms and coverage of the insurance, including person(s) insured, conditions and exclusions; (d). limits of indemnity per claim or occurrence and details of any aggregate limits or relevant sublimits that apply; (e). for a current policy, whether or not any past or current claims made under the policy have materially affected, or are likely to materially affect, the Respondent's ability to meet its obligations under any resultant Contract; (f). coinsurance, self-insured retention or deductible amounts; and	Complete ☐

		(g). period of insurance.	
		Type of Insurance	(...Respondent to insert...)
		Proposed level of coverage	(...Respondent to insert...)
		Any notable inclusions / exclusions / limitations	(...Respondent to insert...)
		Type of Insurance	(...Respondent to insert...)
		Proposed level of coverage	(...Respondent to insert...)
		Any notable inclusions / exclusions / limitations	(...Respondent to insert...)
		Type of Insurance	(...Respondent to insert...)
		Proposed level of coverage	(...Respondent to insert...)
		Any notable inclusions / exclusions / limitations	(...Respondent to insert...)
		Type of Insurance	(...Respondent to insert...)
		Proposed level of coverage	(...Respondent to insert...)
		Any notable inclusions / exclusions / limitations	(...Respondent to insert...)
C-10	Defect Rectification (No page limit) (Respondent's own format)		
(a)	Conditions, clause 6	Respondents must, in the Statement of Variation at Annex B-10 to Attachment B, provide details of the Defect rectification coverage being tendered when it differs from that sought in clause 12 of the draft Contract. Respondents must provide the amount proposed to cover the Defect rectification provisions proposed by the Respondent and, if the premium varies from item to item, the premium is to be shown against that specific item. Respondents must provide details of any warranties that are available from relevant manufacturers or suppliers that will extend beyond the end of the relevant Defect Rectification Period. Respondents should identify any warranties of this nature in its Proposal, including the additional cost (if any) associated with such warranties.	Complete ☐ N/A ☐
C-11	Confidential Information (No page limit) (Commonwealth's format)		
(a)	Draft Contract, clause 15.4	Respondents must detail below any information provided under this RFP or to be provided under the Contract that it considers to be Confidential Information and, for each item, a justification as to how the clause meets the definition of 'Confidential Information' in Schedule 2 (Glossary) of the draft Contract (Attachment F).	Completed ☐
		Description of Information	Reasons for Confidentiality
		(...Respondent to insert if applicable...)	(...Respondent to insert if applicable...)
		(...Respondent to insert if applicable...)	(...Respondent to insert if applicable...)

		(...Respondent to insert if applicable...)	(...Respondent to insert if applicable...)
C-12	Commitment Letter (No page limit) (Commonwealth's format)		
(a)	Conditions, clause 6	Note to Respondents: The signed Commitment Letter should not be returned with your Proposal. The President / Chairperson / Managing Director / Chief Executive Officer or other appropriately authorised head of the preferred Respondent or its parent company will be required to sign it after negotiations but before Contract signature. Respondents are required to provide the following details in relation to the draft Commitment Letter at Annex C-14 to this Attachment C: (a). statement confirming the willingness or otherwise of the Respondent or its parent company (as applicable) to sign the draft Commitment Letter after a Contract has been negotiated but before it is signed, should the Respondent become the preferred Respondent; (b). if the Respondent or its parent company (as applicable) is unwilling to sign the letter, an explanation as to why not; and (c). if the Respondent proposes to amend the letter, a revised draft of the letter.	Attached ☐
C-13	Past Performance		
(a)	Conditions, clause 6	Respondents must provide the names and details of referees for at least three (3) other contracts on which you have been engaged in the last seven (7) years. For the purposes of assessing past performance, 'Respondent' includes all members of a consortium, joint venture or partnership and their Related Bodies Corporate, and any proposed Subcontractor and their Related Bodies Corporate. The Commonwealth reserves the right to request and consider past performance information from persons or entities other than those nominated by the Contractor. Where the Commonwealth takes an adverse view of the Respondent's past performance or proposes to exclude the Respondent from further consideration on the basis of information collected for the purposes of assessing past performance, the Commonwealth may request further information or clarification from the Respondent. Respondents must first have obtained the permission of the Referees to share their details and ascertained that the Referees are willing and able to provide the Commonwealth with the requisite information. A failure to do so may result in an adverse finding.	Completed ☐
Referee 1			
		Contracting entity	(...Respondent to insert...)
		Brief description of project	(...Respondent to insert...)
		Respondent's role	(...Respondent to insert...)
		Referee's name	(...Respondent to insert...)
		Referee's position	(...Respondent to insert...)

		Referee's postal address	(...Respondent to insert...)
		Referee's telephone	(...Respondent to insert...)
		Referee's email	(...Respondent to insert...)
		Referee 2	
		Contracting entity	(...Respondent to insert...)
		Brief description of project	(...Respondent to insert...)
		Respondent's role	(...Respondent to insert...)
		Referee's name	(...Respondent to insert...)
		Referee's position	(...Respondent to insert...)
		Referee's postal address	(...Respondent to insert...)
		Referee's telephone	(...Respondent to insert...)
		Referee's email	(...Respondent to insert...)
		Referee 3	
		Contracting entity	(...Respondent to insert...)
		Brief description of project	(...Respondent to insert...)
		Respondent's role	(...Respondent to insert...)
		Referee's name	(...Respondent to insert...)
		Referee's position	(...Respondent to insert...)
		Referee's postal address	(...Respondent to insert...)
		Referee's telephone	(...Respondent to insert...)
		Referee's email	(...Respondent to insert...)
C-14	Environmental Sustainability (Commonwealth's format)		
(a)	Conditions, clause 6 Part 2, para 4	Does your organisation have policies and/or procedures supporting any of the following environmentally sustainable business practices: (a). National Waste Policy; (b). renewable energy or green energy; (c). carbon footprint targets; (d). memberships/pledges/signatory to conventions?	Yes ☐ No ☐
		Provide high level details: (...Respondent to insert...)	

Attachment D – RFP Financial Response Form

Respondents **must** submit a completed RFP Financial Response Form as part of the Proposal.

RESPONDENT INFORMATION			
D-1	Financial Viability (No page limit) (Respondent's own format)		
(a)	Conditions, clause 6	Provide copies of Annual Statement of Financial Position, Income Statement and Statement of Cash Flows, with the appropriate accompanying notes, for the three (3) previous financial years. If the Respondent is part of a group of companies, those documents or the equivalent information is to relate to the Respondent as a single entity, unless granted relief under the relevant Australian Securities and Investments Commission class order.	Attached ☐
(b)	Conditions, clause 6	Provide a description of your Financial Management System (FMS) and the way in which it and your policies, processes and procedures would be applied to the scope of work. Provide a statement as to the effectiveness of your FMS, policies, processes, and procedures in detecting errors, non-compliances and fraud. (Respondent's own format – maximum of 5 pages)	Attached ☐
D-2	Due Diligence (Maximum of 28 pages) (Respondent's own format) Note to Respondents: At the EOI Stage, Respondents were asked to provide information (where applicable) to all items in this section D-3. If your previously-stated position remains unchanged as at the date of submission of your Proposal, select 'N/A'. If your position has changed at all, you must provide updated details.		
(a)	Conditions, clause 6	Provide a list of significant events, matters or circumstances that have arisen within the past 24 months which could affect the Respondent's financial position. (Respondent's own format – maximum of 5 pages)	Attached ☐ N/A ☐
(b)	Conditions, clause 6	Provide a summary of involvement in any mergers and acquisitions within the past 24 months. (Respondent's own format – maximum of 3 pages)	Attached ☐ N/A ☐
(c)	Conditions, clause 6	Provide a list of any legal proceedings against the Respondent, or its directors, parent or associated entities within the past five years. (Respondent's own format – maximum of 2 pages)	Attached ☐ N/A ☐
(d)	Conditions, clause 6	Provide a list of any bankruptcy actions against the Respondent, or its parent or associated entities within the past five years. (Respondent's own format – maximum of 2 page)	Attached ☐ N/A ☐
(e)	Conditions, clause 6	Provide a list of any deregistration actions against the Respondent or its directors, parent or associated entities within the past five years, pending or currently underway. (Respondent's own format – maximum of 2 pages)	Attached ☐ N/A ☐
(f)	Conditions, clause 6	Provide a list of any insolvency proceedings, actual or threatened (including voluntary administration, application to wind up or	Attached ☐ N/A ☐

		other like action), against the Respondent or its directors, parents or associated entities within the past five years. (Respondent's own format – maximum of 2 pages)	
(g)	Conditions, clause 6	Provide a list of any defaults or likely defaults of any agreement, contract, order or award that would adversely affect the Respondent's financial capacity. (Respondent's own format – maximum of 2 pages)	Attached ☐ N/A ☐
(h)	Conditions, clause 6	Provide a statement of solvency and the Respondent's ability to meet all debts as and when they fall due in the normal course of business. (Respondent's own format – maximum of 5 pages)	Attached ☐
(i)	Conditions, clause 6	Provide a statement of any convictions for any criminal offence involving dishonesty, corruption, or punishable by 12 months or more imprisonment by any person associated with the Respondent's Proposal. (Respondent's own format – maximum of 5 pages)	Attached ☐ N/A ☐
D-3	Price and Payment Schedule (No page limit) (Commonwealth's format)		
(a)	Conditions, clause 6 Annex D-3 to Attachment D	Respondents are to complete the Price and Payment Schedule in accordance with the Pricing Instruction and Appendices in Annex D-3 to this Attachment D. Respondents are to indicate their compliance with the Commonwealth's delivery requirements set out in Table D-3 (if any) and indicate the best delivery date that can be effected having regard to other commitments. Proposed prices are to be inclusive of all costs associated with providing the Works and carrying out all matters and doing all things necessary for the due and proper performance and completion of the proposed Contract. These include (except where expressly stated otherwise) all licence fees, royalty payments, overseas taxes, duties and charges, Australian (Federal, State and Local Government) taxes including GST, customs and other duties, and duties and charges arranging customs clearance and services of representatives that are applicable at the Base Date. Respondents are not to include any contingency for exchange rate fluctuations in proposed prices. Respondents are to apply the Australian Government's value for money principle when preparing proposed pricing. Prices are to be stated in Australian dollars. <i>Note to Respondents: The successful Respondent will be responsible for ensuring that it is registered in accordance with the requirements of the GST Act (as amended). Respondents who are non-residents of Australia and not currently registered for GST should obtain independent advice as to whether they will be required to be registered for GST purposes.</i> <i>If the successful Respondent fails to quote an ABN in its dealings with the Commonwealth, we may be required to withhold a percentage of all payments under any resultant Contract in accordance with Australian taxation legislation.</i>	Attached ☐

(b)	Conditions, clause 6 Annex D-3 to Attachment D	Specific Prices There are a number of aspects of pricing for which the Commonwealth requires specific pricing. Respondents are required to provide the information where indicated in Annex D-3 of Attachment D.	Completed ☐																						
D-4	Securities (Commonwealth's format)																								
(a)	Conditions, clause 6 Draft Contract, clause 14.16 Annex D-3	Note to Respondents: The draft Contract requires both a Bank Guarantee in respect of the Contractor's performance and a Parent Company Guarantee. If the Respondent proposes a Mobilisation Payment in the Payment Schedule in this Annex, the Commonwealth will require a non-reducing Bank Guarantee for 50% of the amount of the Mobilisation Payment. In the event that the Commonwealth determines one or more of the securities requested in the draft Contract are unnecessary, the amount nominated for them will be deducted from the proposed price and will not be included in any resultant Contract. Respondents are to provide the following details in relation to the proposed Bank Guarantee and the Contractor Parent Company Guarantee contained in Schedule 5 to the draft Contract: <table border="1"> <tr> <td colspan="2">Bank Guarantee</td></tr> <tr> <td>Acceptability or otherwise of the proposed Bank Guarantee and its terms</td><td> Acceptable ☐ Unacceptable ☐ </td></tr> <tr> <td>Proposed alterations or alternatives to the proposed Bank Guarantee and its terms</td><td>(...Respondent to insert (if applicable)...) </td></tr> <tr> <td>Proposed promisor for the Bank Guarantee, if applicable</td><td>(...Respondent to insert (if applicable)...) </td></tr> <tr> <td colspan="2">Parent Company Guarantee</td></tr> <tr> <td>Acceptability or otherwise of the proposed Parent Company Guarantee and its terms</td><td> Acceptable ☐ Unacceptable ☐ </td></tr> <tr> <td>Proposed alterations or alternatives to the proposed Parent Company Guarantee and its terms</td><td>(...Respondent to insert (if applicable)...) </td></tr> <tr> <td>Proposed guarantor for the Parent Company Guarantee</td><td>(...Respondent to insert (if applicable)...) </td></tr> <tr> <td colspan="2">Mobilisation Payment</td></tr> <tr> <td>Is a Mobilisation Payment requested?</td><td> Yes ☐ No ☐ </td></tr> <tr> <td>If so, indicate estimated value and ensure it is also inserted where indicated in Annex D-3 of Attachment D.</td><td>AUD\$(...Respondent to insert value (if applicable)...) </td></tr> </table>	Bank Guarantee		Acceptability or otherwise of the proposed Bank Guarantee and its terms	Acceptable ☐ Unacceptable ☐	Proposed alterations or alternatives to the proposed Bank Guarantee and its terms	(...Respondent to insert (if applicable)...)	Proposed promisor for the Bank Guarantee, if applicable	(...Respondent to insert (if applicable)...)	Parent Company Guarantee		Acceptability or otherwise of the proposed Parent Company Guarantee and its terms	Acceptable ☐ Unacceptable ☐	Proposed alterations or alternatives to the proposed Parent Company Guarantee and its terms	(...Respondent to insert (if applicable)...)	Proposed guarantor for the Parent Company Guarantee	(...Respondent to insert (if applicable)...)	Mobilisation Payment		Is a Mobilisation Payment requested?	Yes ☐ No ☐	If so, indicate estimated value and ensure it is also inserted where indicated in Annex D-3 of Attachment D.	AUD\$(...Respondent to insert value (if applicable)...)	Completed ☐
Bank Guarantee																									
Acceptability or otherwise of the proposed Bank Guarantee and its terms	Acceptable ☐ Unacceptable ☐																								
Proposed alterations or alternatives to the proposed Bank Guarantee and its terms	(...Respondent to insert (if applicable)...)																								
Proposed promisor for the Bank Guarantee, if applicable	(...Respondent to insert (if applicable)...)																								
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Acceptability or otherwise of the proposed Parent Company Guarantee and its terms	Acceptable ☐ Unacceptable ☐																								
Proposed alterations or alternatives to the proposed Parent Company Guarantee and its terms	(...Respondent to insert (if applicable)...)																								
Proposed guarantor for the Parent Company Guarantee	(...Respondent to insert (if applicable)...)																								
Mobilisation Payment																									
Is a Mobilisation Payment requested?	Yes ☐ No ☐																								
If so, indicate estimated value and ensure it is also inserted where indicated in Annex D-3 of Attachment D.	AUD\$(...Respondent to insert value (if applicable)...)																								
D-5	Agency Arrangements (Commonwealth's format)																								
(a)	Conditions, clause 6	Note to Respondents: The Commonwealth prefers to deal directly with the Respondent and not to have an agent interposed. This preference is not intended to preclude	Completed ☐																						

	Draft Contract, clause 18.5	Australian companies being commissioned by overseas companies to work on their behalf or to collaborate with them in the development of proposals. Respondents are to state whether they have entered into, or propose to enter into, agency arrangements relevant to any resultant Contract in accordance with clause 18.5 of the draft Contract. If so, Respondents are to provide the following details: <table border="1"> <tr> <td data-bbox="432 461 1029 566">In the event that the agent is a company, the name, ACN/ARBN and ABN as applicable and registered office of the agent;</td> <td data-bbox="1029 461 1406 566">(...Respondent to insert (if applicable)...) </td> </tr> <tr> <td data-bbox="432 566 1029 736">In the event the agent is not a company, the name and address of the agent and if the agent is also not a natural person, an explanation of the legal personality of the agent (eg, partnership etc);</td> <td data-bbox="1029 566 1406 736">(...Respondent to insert (if applicable)...) </td> </tr> <tr> <td data-bbox="432 736 1029 817">The basis of the arrangement;</td> <td data-bbox="1029 736 1406 817">(...Respondent to insert (if applicable)...) </td> </tr> <tr> <td data-bbox="432 817 1029 958">The extent to which the provision has been made for any payments in respect of the arrangements to be included, however indirectly, in the prices tendered.</td> <td data-bbox="1029 817 1406 958">(...Respondent to insert (if applicable)...) </td> </tr> </table>	In the event that the agent is a company, the name, ACN/ARBN and ABN as applicable and registered office of the agent;	(...Respondent to insert (if applicable)...)	In the event the agent is not a company, the name and address of the agent and if the agent is also not a natural person, an explanation of the legal personality of the agent (eg, partnership etc);	(...Respondent to insert (if applicable)...)	The basis of the arrangement;	(...Respondent to insert (if applicable)...)	The extent to which the provision has been made for any payments in respect of the arrangements to be included, however indirectly, in the prices tendered.	(...Respondent to insert (if applicable)...)	
In the event that the agent is a company, the name, ACN/ARBN and ABN as applicable and registered office of the agent;	(...Respondent to insert (if applicable)...)										
In the event the agent is not a company, the name and address of the agent and if the agent is also not a natural person, an explanation of the legal personality of the agent (eg, partnership etc);	(...Respondent to insert (if applicable)...)										
The basis of the arrangement;	(...Respondent to insert (if applicable)...)										
The extent to which the provision has been made for any payments in respect of the arrangements to be included, however indirectly, in the prices tendered.	(...Respondent to insert (if applicable)...)										
D-6	Proposed Payment Schedule (No page limit) (Respondent's own format)										
(a)	Conditions, clause 6	Note to Respondents: The Commonwealth's preference is to fix the pricing of, or apply a not-to-exceed (NTE) price to, as many elements of the Contract as possible. Consequently, Respondents are asked to identify in its proposed Payment Schedule to which activities and Deliverables a fixed or NTE price can attach (Milestones) and the price to be paid on completion of each Milestone. Respondents are also asked to identify any Stop Payment Milestones in the Schedule. A Stop Payment Milestone is a Milestone that, if not met, results in suspension of some or all payments under the Contract until the Milestone is achieved. Failure to meet a Stop Payment Milestone would not entitle the Contractor to delay or postponement in the performance of other contractual obligations. The Commonwealth may consider Proposals based on an alternative payment regime, in which case, the Commonwealth's preference is for a combination of payment on delivery and Milestone Payments, or Milestone Payments only. A Mobilisation Payment will be considered by the Commonwealth when the Respondent can demonstrate that it is appropriate and represents value for money for the Commonwealth. Respondents are to detail how the proposed payment regime relates to the Respondent's anticipated work progress and cash flow under any resultant Contract. In addition to information provided in the Price and Payment Schedule, Respondents are to provide a consolidated schedule of all payments proposed that specifies: (a). the amount and date of any proposed Milestone Payments;	Attached ☐								

		(b). the proposed Stop Payment Milestones; and (c). any other price and payment information relevant to Respondent's proposed payment regime. If you intend to propose a Mobilisation Payment, you must provide a justification for it and be able to demonstrate its appropriateness in the circumstances and that it represents value for money for the Commonwealth.	
D-7	Incentive Payments (No page limit) (Respondent's own format)		
(a)	Conditions, clause 6 Annex D-3	<i>Note to Respondents: The performance management framework, including the amount of Incentive Payments payable under any resultant Contract, will be based on a risk assessment of the Proposal/s and will form part of ODIA and/or negotiations.</i> Respondents are to propose Key Performance Indicators (KPIs) and/or Service Levels (SLs) to be achieved in the delivery of the Work. You should provide details of any assessment periods, formulae, weightings, and Incentive Payments and/or At-Risk dollar amounts (or percentages) in relation to the KPIs and SLs.	Attached ☐

Attachment E – RFP Technical Response Form

Respondents **must** submit a completed RFP Technical Response Form as part of the Proposal.

RESPONDENT INFORMATION			
E-1	Operational Matters (Maximum of 20 pages) (Respondent's own format)		
(a)	Conditions, clause 2	In the EOI Stage of the procurement, Respondents were asked to: (a). demonstrate your understanding of the Commonwealth's key strategic objectives in respect of the Project; (b). provide an overview of your expertise and recent experience in the decommissioning of floating, production, storage and offloading facilities and associated infrastructure, field decommissioning (including P&A), introduction of new technologies into such works, experience of managing such arrangements, and experience in meeting the evolving requirements of the industry; (c). identify any previous relevant experience in Australia and provide a list of previous clients for this work; (d). detail your experience in managing environmental impacts of the decommissioning of floating, production, storage and offloading Facilities and the decommissioning of fields; (e). provide details of work health and safety policies and systems, including evidence of compliance with applicable work health and safety legislation and policies and overview of safety performance such as copies of Health Safety, Environment and Quality (HSEQ) policy documents and quantified performance for the previous 5 years; and (f). provide details of industrial relations performance. In this RFP Stage, Respondents are required to provide any updates to the information previously provided, particularly in relation to your work health and safety policies and systems and industrial relations performance.	Updates provided? Yes ☐ No ☐ If yes: Attached ☐
E-2	Licences and Accreditations (No page limit) (Commonwealth's format)		
(a)	Conditions, clause 6	Confirm you hold, or will obtain as required, all necessary licences, accreditations, certifications, permits, and approvals to undertake the required services. For those currently held, indicate an expiration date for each. For those to be obtained, indicate the Work Package/s to which they will relate and an approximate date for obtaining them.	Confirmed ☐
All Offshore Petroleum and Greenhouse Gas Storage (OPGGS) regulatory licences and documents			
Currently held:			
		Name	Expiration Date
		(...Respondent to insert...)	(...Respondent to insert...)

		(...Respondent to insert...)	(...Respondent to insert...)
		(...Respondent to insert...)	(...Respondent to insert...)
		To be obtained:	
		Name	Work Package Date Required
		(...Respondent to insert...)	(...Respondent to insert...)
		(...Respondent to insert...)	(...Respondent to insert...)
		All other relevant licences, accreditations, certifications, permits, and approvals currently held	
		Name	Expiration Date
		(...Respondent to insert...)	(...Respondent to insert...)
		(...Respondent to insert...)	(...Respondent to insert...)
		(...Respondent to insert...)	(...Respondent to insert...)
		All other relevant licences you will need to obtain over the course of the Contract	
		Name	Work Package Date Required
		(...Respondent to insert...)	(...Respondent to insert...)
		(...Respondent to insert...)	(...Respondent to insert...)
		(...Respondent to insert...)	(...Respondent to insert...)
E-3	Previous Experience and References (Maximum of 5 pages) (Respondent's own format)		
(a)	Conditions, clause 6	As part of the EOI Stage of this procurement, Respondents were asked to provide up to 3 specific case studies indicating previous experience of decommissioning a FPSO (or equivalent) and fields of a similar size and scale (or larger) than the LamCor field, including decommissioning durations, methodologies deployed, performance against budget, and referees. In this RFP Stage, Respondents are advised that, as part of the RFP evaluation process, the Commonwealth will seek references in relation to the case studies previously provided. Respondents should ensure that the contact details provided at the EOI Stage are complete and remain current. If any updates are required, you must provide the detail as part of this Proposal.	Updates provided? Yes ☐ No ☐ If yes: Attached ☐
(b)	Conditions, clause 6	Respondents are required to detail the ways in which the knowledge and experience gained from the activities to which the case studies related will be applied to this Work.	Completed ☐

Northern Endeavour FPSO Decommissioning Project

		In doing so, you should identify the role played by proposed Key Personnel (if any) in those activities and any transferrable experience gained. You should also identify and describe any methodologies or techniques developed in the activities to which the case studies related that will be utilised to support this Work. (...Respondent to insert details...)	
E-4	Project Strategies (Maximum of 65 pages) (Respondent's own format) Note to Respondents: Respondents are required to provide the Commonwealth, through the submission of a range of strategies, with a clear and concise understanding of how you propose to undertake the scope of work under any resultant Contract. As these proposed strategies will inform the Commonwealth's selection process, they should contain targeted and specific information, not marketing material. Activities described in the Strategies should be consistent with a tailored application of the Respondent's standard procedures. Where such procedures are important for Commonwealth understanding, they should be referenced in the strategy and provided in the Proposal. If reviewed by the Commonwealth, the content of standard procedures will only be used to confirm a Respondent's ability to implement a strategy and no additional scope contained in those procedures will be considered in the evaluation. We have identified a recommended number of pages for each strategy. These should not be construed as absolute limits but as guidance to assist you to understand the level of detail we expect. Where a strategy includes a 'summary graphic', it may be presented on a single A3 or A4 sized page. These graphics may be prepared in your preferred format but must be printable by the Commonwealth without specialised software.		
(a)	Conditions, clause 6	Overall Project Strategy (Recommended page limit – 25 pages) Respondents are to describe the overall project strategy to meet the requirements of any resultant Contract, including: (a). a summary graphic, showing how the Respondent plans to conduct the program of work defined in the draft SOW, including: (i). major work streams and draft Contract phases; and (ii). key activities and Milestones; (b). a summary of each key activity and Milestone in the summary graphic, including: (i). a brief description of the scope of work; (ii). the main entry and exit criteria for Milestones, and any significant dependencies on the Commonwealth or other parties; and (iii). any significant assumptions, limitations and constraints; (c). the rationale for the proposed strategy, including a description of how the overall project strategy addresses key areas of risk and referencing (where applicable) the Risk Assessment to be provided under Item E-10 below; (d). for any activities to be undertaken in a location other than the Facility, including from proposed Subcontractors, the locations of the work and the strategy for managing the implications of off-site activity; (e). the proposed Subcontracting strategy, appropriately cross-referencing the information provided at Item B-8 of Attachment B, including a description of how the work and associated outcomes of the Subcontractors will be	Attached ☐

		integrated into the Respondent's proposed program of work; (f). the strategy for acquiring and maintaining the key resources to enable the Respondent to perform any resultant Contract, including: (i). assumptions, limitations and constraints due to the Respondent's other programmed work and future projects; (ii). the availability of personnel, including 'in-demand' trade groups, cross-referencing the Key Personnel at Item B-7 of Attachment B; (iii). significant physical resources, including any need for additional Commonwealth resources that have not been included in the list of Commonwealth Supplied Items offered by the Commonwealth; and (iv). any other significant resource requirements needed for any resultant Contract; and (g). the strategy for cost and schedule control and reporting.	
(b)	Conditions, clause 6 SOW, clause 7.8	Engineering Strategy (Recommended page limit – 20 pages) Respondents are to describe the strategy for conducting the engineering activities for any resultant Contract including: (a). a description of the engineering program in context of the Phase 1 activities, the extent of design and development activities required, the development cycle(s) to be adopted (if any), and related implications for the engineering program; (b). a summary graphic, showing how the Respondent plans to conduct the engineering program to meet the requirements; (c). a summary of each key activity and Milestone, including: (i). a brief description of the scope of work; (ii). the main entry and exit criteria for Milestones, and any significant dependencies on the Commonwealth; and (iii). any significant assumptions, limitations and constraints; (d). a list of engineering studies to be undertaken, including proposed delivery date (in the format of Commencement Date (CD) + number of Business Days / calendar days), and key dependencies; (e). the identification of relevant standards to be employed to undertake and structure the engineering program, including the factors to be addressed when tailoring these standards; (f). key areas of risk for the engineering program; (g). the rationale for the proposed strategy, including a description of how the engineering strategy addresses the key areas of risk for the engineering program; (h). the strategy for engineering governance and technical control, including the relationship between the WBS, product breakdown structure, and Subcontract boundaries; and (i). the strategy for integrating engineering activities performed by Subcontractors, including in relation to processes and tools.	Attached ☐

(c)	Conditions, clause 6 Draft Contract, clause 4.3	Verification and Assurance Strategy (Recommended page limit – 20 pages) Respondents are to describe the strategy for conducting verification and assurance (V&A) activities for any resultant Contract, including: (a). a summary graphic, showing how the Respondent plans to conduct the V&A program for Phase 1 activities, including all significant V&A activities and Milestones; (b). a summary of each key activity and Milestone in the summary graphic, including: (i). a brief description of the scope of work, including the expectations for each major V&A activity; (ii). the main entry and exit criteria for Milestones, and any significant dependencies on the Commonwealth; and (iii). any significant assumptions, limitations and constraints; (c). the rationale for the proposed V&A strategy (eg, prioritisation of particular elements), including how the strategy addresses any significant areas of risk; and (d). the extent to which the Respondent intends to use supplier conformance certificates and previous V&A results as evidence to satisfy requirements.	Attached ☐
E-5 Phase 1 Implementation Plan (No page limit) (Respondent's own format) Note to Respondents: In your draft IMP, you should assume a Commencement Date of 7 March 2022.			
(a)	Conditions, clause 6 Draft SOW, clause 6	At the EOI Stage, Respondents were asked to provide a high-level Implementation Plan, including a high-level transition-in plan. In this RFP Stage, Respondents are required to provide a detailed draft Phase 1 Implementation Plan (IMP). Should the Commonwealth enter into a Disconnection Agreement with the Respondent, the Respondent will be required to deliver a final version of the IMP. The requirements of the final IMP are set out in clause 6.2 of the SOW. This draft IMP is to be in the Respondent's own format but must meet the requirements of Annex E-5 to this Attachment E. It should be as complete as you are able to make it and cover all of the elements of the final IMP except for the following which are to be delivered separately: • Contract Master Schedule (CMS) (refer to Annex E-6); • Work Breakdown Structure (WBS) and Dictionary (refer to Annex E-7); and • Transition-In Plan (refer to Annex E-8).	Attached ☐
E-6 Contract Master Schedule (CMS) (No page limit) (Respondent's own format based on Commonwealth's instructions) Note to Respondents: The Commonwealth needs to: (a). understand your time-based sequence of activities, as defined in the WBS; (b). assess the level of schedule risk associated with your proposal (including proposed Subcontractors); (c). ensure that time estimates and dependencies are realistic and consistent with the tasks defined in the WBS Dictionary; and			

	(d). ensure that the proposed Subcontractors' time-based sequence of activities are realistic and consistent with the Contract Master Schedule (CMS). <i>In your draft CMS, you should assume a Commencement Date of 7 March 2022.</i>		
(a)	Conditions, clause 6 Draft SOW, clause 6.3 Annex E-6	Respondents are to provide a draft Contract Master Schedule (CMS) (in soft copy) in accordance with Annex E-6 to this Attachment E in the form of a Gantt Chart in Microsoft Project, Open Plan Professional or other agreed scheduling software. The draft CMS is to contain as much detail as necessary to demonstrate an understanding of the work effort and schedule control required to successfully complete any resultant Contract, including: (a). all Milestones specified in the Price and Delivery Schedule at Annex D-3 to Attachment D; and (b). other major events that the Contractor may select representing the accomplishment of critical technical and managerial steps towards completion of the Contract deliverable. The draft CMS is to include a description of each Milestone, identification of the organisation primarily responsible for its accomplishment (Contractor, Subcontractor or Commonwealth), and a scheduled date for its accomplishment.	Attached ☐
E-7	Work Breakdown Structure (WBS) and Dictionary (No page limit) (Respondent's own format based on Commonwealth's instructions) <i>Note to Respondents: The Commonwealth needs to understand how Respondents plan to undertake the activities defined in the draft SOW and to ensure that:</i> <i>(a). Respondents have sound technical, cost and schedule control mechanisms in place;</i> <i>(b). technical control is integrated with cost and schedule control via the WBS; and</i> <i>(c). Subcontractors' work activities are consistent with, and integrated into, the WBS.</i> <i>In your draft WBS, you should assume a Commencement Date of 7 March 2022.</i>		
(a)	Conditions, clause 6 Draft SOW, clause 6.4 Annex E-7	Respondents are to provide a draft Work Breakdown Structure (WBS) and WBS Dictionary in accordance with Annex E-7 to this Attachment E. The draft WBS is to contain as much detail as is necessary to demonstrate an understanding of the work effort required to successfully achieve the end objectives of any resultant Contract and to ensure that technical control is integrated with cost and schedule control. The draft WBS is to be prepared and provided in a tool such that it can be reviewed at any level of expansion (such as using 'outline mode' in Microsoft Word or Excel). The WBS Dictionary is to be keyed to the WBS index and is to define the scope of each WBS element in the WBS. A suggested (but not mandated) format for the WBS Dictionary is in Annex E-7.	Attached ☐
E-8	Transition-In Plan (No page limit) (Commonwealth's format)		
(a)	Conditions, clause 6 Draft SOW, clause 7.1 Annex E-8	At the EOI Stage, Respondents were asked to provide a high-level Transition-In Plan as part of the high-level Implementation Plan. In this RFP Stage, Respondents are required to provide a more detailed, but still draft, Transition-In Plan in the format of Annex E-8 to this Attachment E.	Attached ☐

Northern Endeavour FPSO Decommissioning Project

		Note that the Contract (if any) will also require the delivery of a Transition-Out Plan towards the end of the Contract.	
E-9	Proposed personnel resourcing profile (No page limit) (Commonwealth's format)		
(a)	Conditions, clause 6 Draft SOW, clause 6.12	Provide details of the personnel resources proposed to deliver the Project. Add rows as required.	Completed ☐
		Skill category	(...Respondent to insert...)
		Skill subcategory	(...Respondent to insert...)
		Number of available resources	(...Respondent to insert...)
		Total resources required	(...Respondent to insert...)
		Skill category	(...Respondent to insert...)
		Skill subcategory	(...Respondent to insert...)
		Number of available resources	(...Respondent to insert...)
		Total resources required	(...Respondent to insert...)
		Skill category	(...Respondent to insert...)
		Skill subcategory	(...Respondent to insert...)
		Number of available resources	(...Respondent to insert...)
		Total resources required	(...Respondent to insert...)
E-10	Risk Assessment (No page limit) (No page limit) (Respondent's own format)		
(a)	Conditions, clause 6 Draft SOW, clause 6.9	The Commonwealth needs to understand the Respondent's assessment of the risks associated with the implementation of any resultant Contract. Respondents are to provide a risk assessment for the performance of any resultant Contract which: (a). identifies the risks associated with the Proposal, including technical, commercial, legal, financial, operational, and schedule risks, and risks relating to health, safety and the environment; (b). categorises those risks according to the likelihood and consequence of their occurrence; and (c). in relation to each risk identified, indicates how the Respondent proposes to reduce, accept or otherwise manage that risk.	Attached ☐
E-11	Hazardous Materials (No page limit) (Respondent's own format)		

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(a)	Conditions, clause 6 Draft Contract, clause 20.4	Respondents must indicate if you propose to use any Hazardous Materials on Commonwealth Premises while performing work under any resultant Contract. If so, you must indicate what these Hazardous Materials are, the purposes for which they will be used, and the way in which they will be managed, under any resultant Contract. The Commonwealth may not be able to permit the use of such Hazardous Materials if, for example, they infringe any legislation of the Commonwealth, State or Territory of Australia.	Attached ☐ N/A ☐
E-12	Commonwealth Supplied Items (CSI) (No page limit) (Commonwealth's format)		
(a)	Conditions, clause 6 Draft Contract, clause 7.5 Annex E-12	All CSI the Respondent proposes should be supplied by the Commonwealth (if any) is to be detailed in Annex E-12 of Attachment E. You should not assume that the Commonwealth can provide this CSI. Consequently, you must identify additional cost elements in Attachment D, Annex D-3 (Price and Delivery Schedule) in the event that any or all of the proposed additional CSI is not made available. You should consider the proposed liability regime and arrangements for the receipt, custody, storage, care, maintenance and use, as applicable, of any CSI set out in the draft Contract. Any proposed variations to the draft Contract are to be recorded in Annex B-10 to Attachment B with a description of the way/s in which the variation will achieve greater efficiencies for, or otherwise benefit, the Commonwealth. <u>IP ownership:</u> If you consider that either the Respondent or one of your proposed Subcontractors owns, or will own, some or all of the IP in any proposed CSI, you must specify this in at Annex E-12 and provide a strong justification as to why you believe this to be the case.	Attached ☐



Australian Government

**Department of Industry, Science,
Energy and Resources**

Disconnection Agreement

Northern Endeavour Decommissioning Project: Phase 1

The Commonwealth of Australia represented by the Department
of Industry, Science, Energy and Resources

ABN 74 599 608 295

and

[Name of Party]

[ABN/ACN/ARBN] [number]

2022

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THIS CONTRACT is made on

BETWEEN:

- (1) The Commonwealth of Australia represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295 (**Commonwealth**); and
- (2) **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Contractor**).

RECITALS:

- (A) The Commonwealth is undertaking a project for the disconnection, decommissioning and remediation of the Northern Endeavour floating production storage and offtake facility, subsea infrastructure and the wells in the Laminaria Corallina oil fields in the West Timor Sea (the **Project**).
- (B) It is anticipated that the Project will be undertaken in three distinct phases:
 - (1) Phase 1 – Disconnection of the FPSO and unmanned tow, including well isolations;
 - (2) Phase 2 – Permanent Plugging and Abandonment (**P&A**) of the wells, including removal of Xmas Trees (**XT**) and wellheads; and
 - (3) Phase 3 – Subsea infrastructure removal and seabed remediation campaign.
- (C) The Commonwealth wishes to engage the Contractor to:
 - (1) undertake engineering, design and planning work in relation to the Project;
 - (2) manage and execute the disconnection of the FPSO and unmanned tow as part of Phase 1 of the Project; and
 - (3) potentially, operate and maintain the FPSO prior to disconnection and towage, and monitor and maintain the wells after disconnection.

CONDITIONS OF CONTRACT

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Contract, unless the contrary intention appears, words, abbreviations and acronyms have the meanings given to them in Schedule 1 (*Contract Particulars*) or Schedule 2 (*Glossary*).

1.1 Rules for interpreting this Contract

The following rules also apply in interpreting this Contract, except where the context makes it clear that a rule is not intended to apply.

- (a) Headings are for convenience only, and do not affect interpretation.
- (b) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this Contract) or agreement, or a provision of a document (including this Contract) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a Party to this Contract or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that Party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) anything (including a right, obligation or concept) includes each part of it; and
 - (vi) a clause or annexure is a reference to a clause or annexure of this Contract.
- (c) A singular word includes the plural, and vice versa.
- (d) A word which suggests one gender includes the other genders.
- (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (f) 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.
- (g) A reference to **"information"** is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.

1.2 Non Business Days

If the day on or by which a person must do something under this Contract is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

1.3 The rule about "contra proferentem"

This Contract is not to be interpreted against the interests of a Party merely because that Party proposed this Contract or some provision in it or because that Party relies on a provision of this Contract to protect itself.

2. WORK PACKAGES

2.1 Objectives

The objective of this Contract is to enable the disconnection of the FPSO in a manner that:

- (a) ensures that the FPSO System and associated infrastructure is safe and secure;
- (b) protects the environment and the health and safety of people;
- (c) complies with the requirements of the OPGGS Legislation, the offshore decommissioning framework and other applicable legislation and policy;
- (d) ensures that the Work undertaken by the Contractor in engineering, designing, planning, managing and executing the disconnection is in accordance with industry standards;
- (e) expedites the disconnection of the FPSO; and
- (f) ensures value for money for the Commonwealth.

2.2 Overview of Work Packages

- (a) The Work under this Contract is to be conducted as part of the following Work Packages as further detailed in Schedule 3 (*Scope of Work*):
 - (i) Work Package A (Engineering, Design and Planning);
 - (ii) Work Package B (Operation and Maintenance);
 - (iii) Work Package C (FPSO Disconnection);
 - (iv) Work Package D (FPSO Sail Away); and
 - (v) Work Package E (Monitor and Maintain);
 - (vi) Work Package F (Project Planning and Management).
- (b) The Contractor acknowledges and agrees that the purpose of this division of the Work into Work Packages is to:
 - (i) allow the Contractor to undertake further assessment of the condition of the Facility, assets and infrastructure as part of Work Package A (Engineering, Design and Planning);
 - (ii) allow the Contractor to develop and/or update documents and other artefacts necessary to obtain relevant approvals, including regulatory approvals;
 - (iii) provide the Commonwealth with an opportunity to assess and determine whether the Contractor will be required to carry out Work Package B (Operation and Maintenance);
 - (iv) allow the Contractor to more accurately define the scope for Work Package C (FPSO Disconnection);
 - (v) enable the Commonwealth to ascertain (in its absolute discretion) whether it will maximise value for money by having the Contractor proceed with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain);

- (vi) allow the Parties to agree a price and program for Work Package C (FPSO Disconnection) before the Contractor is instructed to proceed with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain);
- (vii) give the Commonwealth an opportunity to establish whether it is satisfied (in its absolute discretion) with the performance of the Contractor before proceeding with Work Package B (Operation and Maintenance), Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain); and
- (viii) enable the Contractor to undertake project planning and management activities across the entire Project under Work Package F (Project Planning and Management).
- (c) The Contractor acknowledges and agrees that as a result of the matters described in clause 2.2(b) the Contractor may not be engaged to carry out:
 - (i) Work Package B (Operation and Maintenance); and
 - (ii) Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain).

2.3 **Work Package A (Engineering, Design and Planning)**

- (a) The Contractor must provide all necessary design, planning and engineering of the Work as set out in Schedule 3 (*Scope of Work*).
- (b) As part of Work Package A (Engineering, Design and Planning), the Contractor must undertake price firming activities which include:
 - (i) refinement of the Contract Price for Work Package C (FPSO Disconnection);
 - (ii) submission of the refined Contract Price for Work Package C (FPSO Disconnection) to the Commonwealth Representative, no later than the date notified in writing by the Commonwealth Representative;
 - (iii) submission of an updated Program by the Contractor, no later than the date notified in writing by the Commonwealth Representative;
 - (iv) participation in genuine and good faith negotiations with the Commonwealth's Representative to reach agreement as to:
 - (A) the agreed Contract Price for Work Package C (FPSO Disconnection); and
 - (B) the revised Program; and
 - (v) any other matter or activity notified by the Commonwealth to the Contractor from time to time.
- (c) If the Parties reach agreement on all matters in clause 2.3(b),
 - (i) the Commonwealth will prepare and issue a Variation to this Contract to reflect any changes to the Contract Price for Work Package C and the revised Program; and
 - (ii) upon Completion of Work Package A (Engineering, Design and Planning), the Commonwealth will issue a notice to the Contractor (**Notice to Proceed**) and

the Contractor must proceed with the Work in connection with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain) in accordance with the Contract as varied.

- (d) If the Parties do not reach agreement on all matters in clause 2.3(b) by the Date for Completion of Work Package A (Engineering, Design and Planning):
 - (i) the Contractor will have no entitlement to execute the Work in connection with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain);
 - (ii) the Contractor will not be entitled to any payment of the Contract Price in connection with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain) or to make any Claim (to the extent permitted by law) against the Commonwealth arising out of or in connection with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain);
 - (iii) the Contractor must comply with clause 15.4(k);
 - (iv) the Contractor must immediately take all steps necessary to novate to the Commonwealth any of the Subcontractors required by the Commonwealth to be novated;
 - (v) the Commonwealth may re-tender the execution of the Work (whether with or without obtaining a tender from the Contractor) or procure the execution of the Work in any other manner which the Commonwealth may determine;
 - (vi) the Contractor must co-operate with the Commonwealth and any third parties required by the Commonwealth, and take all other steps necessary, to ensure that the Commonwealth is able to re-tender or procure the execution of the Work under clause 2.3(d)(v); and
 - (vii) use the Documents for the purposes of re-tendering or procuring the execution of the Works under clause 2.3(d)(v).

2.4 **Work Package B (Operation and Maintenance)**

- (a) The Contractor acknowledges and agrees that:
 - (i) as at the date of this Contract, the Facility is being operated and maintained by the Existing Operator in lighthouse mode in accordance with the Existing O&M Agreement;
 - (ii) the Existing Operator will continue to have control of the Facility and be responsible for its operation and maintenance until the Commonwealth Representative issues an instruction in accordance with clause 2.4(b); and
 - (iii) the Contractor has no:
 - (A) obligation to execute the Work in connection with Work Package B (Operation and Maintenance); and
 - (B) entitlement to any payment in connection with Work Package B (Operation and Maintenance),

unless and until instructed by the Commonwealth Representative in accordance with clause 2.4(b).

- (b) The Commonwealth may, in its absolute discretion and at any time, instruct the Contractor to carry out Work Package B (Operation and Maintenance) by notice in writing and specify a "Handover Date".
- (c) If the Commonwealth instructs the Contractor to carry out Work Package B (Operation and Maintenance):
 - (i) Work Package B (Operation and Maintenance) is deemed to form part of the Work;
 - (ii) on and from the Handover Date, the Contractor must carry out the Work in connection with Work Package B (Operation and Maintenance) as set out in Schedule 3 (*Scope of Work*) in accordance with the Contract; and
 - (iii) subject to satisfactory performance by the Contractor, the Contractor will be entitled to the Contract Price specified in Schedule 4 (*Price and Payments*) in respect of Work Package B (Operation and Maintenance).

2.5 **Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain)**

- (a) The Contractor must not commence any Work in relation to Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain) unless and until the Commonwealth issues a Notice to Proceed in accordance with clause 2.3(c).
- (b) If the Commonwealth issues a Notice to Proceed in accordance with clause 2.3(c):
 - (i) Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain) are deemed to form part of the Work;
 - (ii) the Contractor must carry out the Work in connection with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain) set out in Schedule 3 (*Scope of Work*) in accordance with the Contract; and
 - (iii) subject to satisfactory performance by the Contractor, the Contractor will be entitled to the Contract Price specified in Schedule 4 (*Price and Payments*), as agreed in accordance with clause 2.3(c)(i), in respect of Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain).

2.6 **Work Package F (Project Management)**

The Contractor must provide the project management and planning services for the Work as set out in Schedule 3 (*Scope of Work*) in accordance with the Contract.

3. **ROLES AND RESPONSIBILITIES**

3.1 **Engineering, Design and Planning of the Work**

The Contractor must:

- (a) engineer, design and plan the Work; and

- (b) prepare the Detailed Documentation,

in accordance with Schedule 3 (*Scope of Work*) and the other requirements of the Contract.

3.2 **Execution of the Work**

Subject to the issue of a Notice to Proceed in accordance with clause 2.3(c), the Contractor must execute the Work in connection with Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain) in accordance with:

- (a) Schedule 3 (*Scope of Work*);
- (b) the Detailed Documentation which the Commonwealth has approved in accordance with clause 6.1; and
- (c) the other requirements of the Contract.

3.3 **Operation and Maintenance of the Facility**

Subject to an instruction by the Commonwealth Representative in accordance with clause 2.4(b), the Contractor must execute the Work in connection with Work Package B (Operation and Maintenance) in accordance with:

- (a) Schedule 3 (*Scope of Work*);
- (b) the other requirements of the Contract.

3.4 **Role of the Contractor**

- (a) The Contractor is an independent contractor with respect to the Work and must exercise control, supervision, management and direction as to the method and manner of performing the Work.
- (b) Nothing contained in the Contract is intended, and nor will it be construed, to create a partnership, joint venture, agency, trusteeship or other relationship between the Contractor and the Commonwealth (other than that of the Commonwealth and an independent contractor) for any purpose including the performance of the Work.
- (c) The Contractor is not the Commonwealth's agent in any way and has no authority to represent the Commonwealth or to incur any debt or obligation on behalf of the Commonwealth or do anything else that would or might obligate the Commonwealth to third parties.
- (d) The Contractor must ensure that Contractor Personnel are not, under any circumstances, represented or held out to be employees of the Commonwealth for any purpose.

4. **CONTRACTOR'S GENERAL OBLIGATIONS**

4.1 **Performance of the Work**

- (a) The Contractor must provide all management, supervision, personnel, materials and equipment (except Commonwealth Supplied Items), plant, consumables, facilities and all other things whether of a temporary or permanent nature, so far as the necessity for providing the same is specified in or reasonably to be inferred from the Contract.

- (b) The Contractor must perform all of the Work (which includes all activities set out in the Contract and all activities that are reasonably inferable from the express description of the Work in the Contract or are required in order to complete the Work expressly described in the Contract) and carry out all of its other obligations under the Contract.
- (c) The Contractor must perform the Work:
 - (i) diligently, in a safe manner, in accordance with Good Industry Practices and Good Engineering and Operating Practice;
 - (ii) in accordance with the approved Deliverables applicable to the Work;
 - (iii) in accordance with the requirements of the Contract.
- (d) The Contractor must ensure that all Materials and equipment or parts thereof provided by the Contractor for which there is no detailed specification included in the Contract are new or, subject to the Commonwealth's approval, as new, of good quality and workmanship and fit for the intended purpose where a purpose is defined in the Contract, where no such purpose is defined, fit for its ordinary purpose.

4.2 Transition-in

The Contractor must perform all activities specified in the Transition-In Plan in accordance with the timeframes specified in that plan.

4.3 Quality Assurance

- (a) The Contractor must operate a certified quality management system in accordance with the requirements of ISO 9001.2015, including locations and regional facilities, throughout the duration of the Contract. The quality management system must be certified by an accredited third party and the Contractor must provide the Commonwealth with evidence of such accreditation.
- (b) The Contractor must develop, implement and maintain a Commonwealth approved Quality Management Plan in accordance with Schedule 3 (*Scope of Work*) covering:
 - (i) the Work under the Contract;
 - (ii) any Subcontractors, including their activities, systems and controls relevant to the Work under the Contract;
 - (iii) if the Contractor has formed a joint venture, formal partnership, alliance or similar entity, the activities, systems and controls in relation to those arrangements.
- (c) The Quality Management Plan must also describe and define verification activities including design verification, and must include verification targets and performance indicators, tracking, monitoring and status reporting methods.
- (d) The Contractor quality management arrangements and implementation must include all forms of externally provided processes, products and services whether through purchasing from a supplier, an arrangement with an associate company, or outsourcing processes to an external provider.
- (e) The Contractor must define, plan and document the approach to reporting the ongoing status of conformance to codes, standards and specifications. Any deviation must be subjected to an approved technical deviation process. Such deviations must

be a matter of record and must be monitored and reported with the status of code, standard, specification conformance report.

- (f) The Contractor must develop and publish arrangements to demonstrate the achievement of quality. The Contractor must develop a reporting mechanism and associated metrics to demonstrate the status of verification for the Work.
- (g) The Contractor must nominate a Project Quality Manager with assigned responsibilities encompassing the overall Scope of Work. The nominated Project Quality Manager must have demonstrable subject matter expertise and demonstrable competence as per the Contractor's documented competency framework for quality management personnel.
- (h) The Project Quality Manager is deemed to be a 'Key Personnel' and the nominated individual must be reviewed and approved by the Commonwealth prior to deployment onto the project.

4.4 **Contract Deliverables**

- (a) The Contractor must produce, update and deliver all Deliverables to the Commonwealth in accordance with Schedule 3 (*Scope of Work*) (including the Deliverables List) and this clause 4.4.
- (b) The Commonwealth Representative will:
 - (i) review; or
 - (ii) approve or not approve,
 each Deliverable in accordance with the Deliverables List and this clause 4.4.
- (c) If the Deliverables List provides that a Deliverable is to be submitted by the Contractor to the Commonwealth Representative for review, the Commonwealth Representative may provide the Contractor with such comment, information or advice as it considers appropriate to provide. Any comment, information or advice provided:
 - (i) is intended to be of assistance to the Contractor and will not be construed as a direction from the Commonwealth Representative to the Contractor;
 - (ii) will not be taken as approval of Work that does not conform to the Contract;
 - (iii) will not waive any provisions of, or release the Contractor from its obligations under the Contract; and
 - (iv) will be addressed by the Contractor in updating the Deliverable for action in accordance with the Deliverables List.
- (d) The Contractor acknowledges that the Commonwealth may not provide a response to a Deliverable that is submitted for review. If the Commonwealth does not provide a response within the Commonwealth action period set out in the Deliverables List, the Contractor can progress on the assumption that no comment will be provided.
- (e) If the Deliverables List requires a Deliverable to be submitted by the Contractor to the Commonwealth Representative for approval, then the Commonwealth Representative will, within the action period specified in the Deliverables List, notify the Contractor that the Deliverable is either approved or not approved.

- (f) If the Commonwealth Representative determines that any Deliverable subject to approval submitted by the Contractor is not in accordance with the requirements of this Contract, the Commonwealth Representative will notify the Contractor accordingly. In such event, the Deliverable will not be considered to have been submitted and the Deliverable must be rectified at no additional cost to the Commonwealth.
- (g) If, under clause 4.4(e), the Commonwealth Representative provides the Contractor with notice of non-approval of a Deliverable, then the Commonwealth Representative will notify the Contractor of the reasons for non-approval and may provide details of any corrective action to be taken by the Contractor before the Deliverable will be reconsidered for approval.
- (h) The Commonwealth Representative's reasons for non-approval of a Deliverable will be limited to those situations where, in the judgement of the Commonwealth Representative, the Deliverable submitted:
 - (i) is not clearly understandable;
 - (ii) does not provide adequate detail;
 - (iii) is inconsistent with the Contract, including related Deliverables; or
 - (iv) does not meet the objective of the Deliverable.
- (i) The Commonwealth Representative may not withhold approval of a Deliverable for minor omissions or defects in the Deliverable which are identified to the Contractor. In addition to the criteria for non-approval detailed in clause 4.4(h), any subsequent approval of an update to a Deliverable that was previously approved with minor omissions or defects will be subject to the Contractor addressing those identified omissions or defects in the proposed update to the satisfaction of the Commonwealth Representative.
- (j) If the Commonwealth Representative provides the Contractor with notice of non-approval in accordance with clause 4.4(e), the Contractor must, within a period equal to the Commonwealth action period defined in the Deliverables List for the relevant Deliverable (or within such further period as the Commonwealth Representative may allow), deliver the rectified Deliverable for approval.
- (k) If, within the time specified under clause 4.4(j), the Contractor submits the rectified Deliverable as conforming to the requirements of the Contract, the Commonwealth Representative will be entitled to exercise the rights provided by this clause 4.4 as if the Deliverable had been submitted by the Contractor for the first time.
- (l) If, under clause 4.4(e), the Commonwealth Representative provides the Contractor with notice of approval, then the Deliverable will have effect in accordance with that approval and the task comprising the development of that Deliverable will be deemed to be accomplished.
- (m) If the Commonwealth Representative fails to furnish to the Contractor notice of approval or non-approval, under clause 4.4(e), within the period specified in the Deliverables List, then the Contractor may be entitled to claim an extension of time pursuant to clause 9.2.
- (n) Approval of a Deliverable by the Commonwealth will not be construed as:

- (i) any more than an indication that the Deliverable appears to the Commonwealth Representative to be capable of being used as a basis for further work;
- (ii) limiting the Contractor's responsibility to undertake the Work in accordance with the requirements of the Contract; and
- (iii) an election to not enforce any right under this Contract or any cause of action arising out of or as a consequence of any act or omission of the Contractor or any Contractor Personnel.

4.5 **NOPSEMA documents**

- (a) The Commonwealth will provide to the Contractor in a timely manner a copy of the Safety Case, Environmental Plan and Well Operations Management Plan, as last approved by NOPSEMA.
- (b) The Contractor acknowledges and, subject to clause 4.5(c) and 4.5(d), must comply with, the process for submission, review and acceptance of the Safety Case, Environmental Plan and Well Operations Management Plan as set out in the OPGGS Legislation.
- (c) The Contractor must:
 - (i) subject to clause 4.5(d), prepare and submit to NOPSEMA a Safety Case in respect of the Facility and the Work that is consistent with the obligations that an operator would be required to observe under the OPGGS Legislation; and
 - (ii) update and submit each of the Environmental Plan and Well Operations Management Plan in respect of the Facility and the Work to the Commonwealth that is otherwise consistent with the obligations that a titleholder would be required to observe under the OPGGS Legislation,

and in accordance with Schedule 3 (*Scope of Work*).
- (d) The Commonwealth will submit the Environmental Plan and Well Operations Management Plan to NOPSEMA for approval in a manner consistent with the OPGGS Legislation.
- (e) The Contractor must provide a copy of the Safety Case to the Commonwealth for review prior to submission to NOPSEMA.
- (f) The Contractor must use its best endeavours steps to ensure the Safety Case, Environmental Plan and Well Operations Management Plan prepared under this clause 4.5 are approved by NOPSEMA.
- (g) Each Party must promptly notify the other Party if it becomes aware of:
 - (i) any decision of NOPSEMA to approve or not approve any of the Safety Case, Environmental Plan and Well Operations Management Plan;
 - (ii) any requests for further information from NOPSEMA in relation to the Safety Case, Environmental Plan and Well Operations Management Plan; or
 - (iii) any non-compliance with the Safety Case, Environmental Plan and Well Operations Management Plan.

- (h) The Contractor must ensure that the Work is conducted in accordance with the Safety Case, Environmental Plan and Well Operations Management Plan approved by NOPSEMA and any other Authorisations applicable to the Work.

4.6 Co-operation with Commonwealth and Other Contractors and Simultaneous Operations

- (a) The Contractor:
 - (i) acknowledges the current condition of the FPSO (and all associated facilities and infrastructure); and
 - (ii) acknowledges that certain other persons including the Commonwealth and its Other Contractors (but excluding the Subcontractors, for whom the Contractor is responsible) will, during the carrying out of the Work require reasonable access to and use to all or parts of the Facility, and the Contractor must cooperate with the Commonwealth and its Other Contractors with respect to such access, use and works and shall in accordance with the requirements of the Commonwealth allow reasonable opportunities to such persons for carrying out their work).
- (b) The Contractor must co-operate with the Commonwealth and Other Contractors, including in obtaining and providing information which they need in connection with the Work and sharing the Facility with them so that they can carry out their activities at the same time or sequentially with the execution of the Work by the Contractor in a timely and efficient way.
- (c) The Contractor must co-ordinate its work with the Other Contractors' work, so as to minimise delays or disruption to the progress of the Work and make provision for such coordination in the Program.
- (d) The Contractor must provide such information, attend such meetings as described in the Contract or as reasonably requested by the Commonwealth for the purpose of such co-operation.

4.7 No Warranty of Data

- (a) The Contractor acknowledges and agrees that:
 - (i) the Commonwealth gives no warranty of accuracy, sufficiency or completeness in relation to any Data provided by the Commonwealth to the Contractor (whether provided before, on or after the Commencement Date and whether or not such Data is incorporated in the Contract and regardless of the form in which it is provided);
 - (ii) the Commonwealth will not be responsible for such Data, and will not be liable to the Contractor, in contract, tort or under any Law, for any inadequacy of, or any ambiguities, errors, omissions or inconsistencies in, such Data provided to the Contractor in relation to the Work or the Facility;
 - (iii) the Contractor accepts full responsibility for any use which it makes of such Data provided to it by the Commonwealth, including any interpretation it gives or conclusions which it has drawn from such Data; and
 - (iv) if the Contractor finds or has reasonable grounds to consider that there may be any errors, omissions or inconsistencies in any such Data it must notify the Commonwealth immediately.

- (b) The Contractor accepts full responsibility for its own interpretation of, and any conclusions that it draws from any Data provided by the Commonwealth to the Contractor and is not entitled to rely on any interpretation or views that may have been provided or suggested by the Commonwealth.

4.8 Contractor to Inform Itself

- (a) The Contractor is deemed to have satisfied itself, before entering into the Contract, as to the extent and nature of the Work, including:
 - (i) the services, personnel, materials and equipment, plant, consumables and facilities required for the Work;
 - (ii) the means of and arrangements that need to be put in place for access to and egress from and use of the Facility;
 - (iii) the accommodation;
 - (iv) Temporary Works and facilities it may require;
 - (v) the geographic, climatic, weather, and cultural conditions prevailing at the Facility;
 - (vi) third-party services, labour, facilities and ports available;
 - (vii) government rules, regulations, orders, ordinances, codes, policies and Law, general and local conditions;
 - (viii) the correctness and sufficiency of any rates and prices stated in Schedule 4 (*Price and Payments*);
 - (ix) the Contract Price; and
 - (x) all other risks or matters which could affect progress or performance of the Work.
- (b) Without limiting clause 4.8(a), the Contractor acknowledges that:
 - (i) it has inspected and accepts responsibility for delay and/or cost associated with or arising out of the hydrographical, hydrological, climatic (excluding Force Majeure Events) geo-technical and physical conditions; and
 - (ii) it will not be entitled to any extension of time, increase in the Contract Price or Variation in respect of any of the foregoing.
- (c) Despite clause 4.8(b), the Contractor may be entitled to an extension of time, increase in the Contract Price or Variation under clauses 9.2, 13, and 14.2 in respect of:
 - (i) Hazardous Materials that are not included in the information provided in the Commonwealth's geo-technical reports;
 - (ii) the discovery of Unknown Protected Objects under clause 7.6; or
 - (iii) the discovery of pre-existing Hazardous Materials pursuant to clause 20.5(g).
- (d) Subject to clause (c), any failure by the Contractor to take account of matters which affect the Work or to obtain any information necessary for the performance of the Work will not relieve the Contractor from any of its obligations or liabilities under the

Contract and will not give rise to any entitlement of the Contractor to an extension of time or increase in the Contract Price.

5. SUBCONTRACTING AND PERSONNEL

5.1 Contractor Personnel

- (a) The Contractor undertakes to provide sufficient personnel at all times to ensure performance and completion of the Work in accordance with the provisions of the Contract.
- (b) The Contractor must ensure that all Contractor Personnel employed in connection with the Work must, for the work which they are required to perform, be competent, properly qualified, licensed, skilled and experienced in accordance with Good Industry Practices. The Contractor must verify all relevant qualifications of Contractor Personnel.
- (c) Key Personnel must not be replaced without the prior approval of the Commonwealth, provided that this obligation will not require the Contractor to retain such Key Personnel in the event that such Key Personnel are terminated, retire, resign, or are otherwise unavailable beyond the reasonable control of the Contractor to fill the relevant Key Personnel position.
- (d) Any replacement Key Personnel must have the qualifications and experience at least equal to those of the Key Personnel being replaced and must work with the person to be replaced for a reasonable handover period, which period must be no shorter than seven days, at no additional cost to the Commonwealth and so as to ensure there are no interruptions to the Work.
- (e) The Contractor must ensure that such Key Personnel and supervisory personnel of the Contractor and Subcontractors can read, write and speak fluent English.
- (f) If the Contractor fails to replace any Key Personnel in accordance with this clause 5.1, then, without prejudicing the Commonwealth's other rights, such failure will constitute a breach in respect of the Contractor's obligations.
- (g) Unless expressly provided in the Contract, the Contractor must, at its cost, perform or arrange the services of organising, managing and administering all operations required (including all Contractor Personnel) for the performance of the Work and its other obligations under the Contract.
- (h) The Contractor must ensure that:
 - (i) all individuals involved in the performance of the Work will, at all times, hold the appropriate work permits, travel permits, employment passes, visas, licences, endorsements, registrations and any other documents or permissions required for those individuals to lawfully perform the Work; and
 - (ii) it will hold, at all times, any necessary sponsorship status, or satisfy any other immigration controls, required for those individuals to lawfully perform the Work.
- (i) The Commonwealth may instruct the Contractor to remove from the Facility any person engaged in any part of the Work who in the reasonable opinion of the Commonwealth is:
 - (i) incompetent or negligent in the performance of his duties;

- (ii) engaged in activities which are not in accordance with applicable Law or are detrimental to the local custom and culture;
 - (iii) engaged in activities which are contrary or detrimental to the interests of the Commonwealth;
 - (iv) not able to lawfully perform the Work; or
 - (v) not complying with the relevant procedures described in clause 20.3 or persists in any conduct likely to be prejudicial to safety, health, welfare, security or the environment.
- (j) The Contractor must, at its own cost, immediately remove any such person from the Facility. Any person removed for any of the above reasons must not be engaged again in the Work or on any other work of the Commonwealth without the prior approval of the Commonwealth.
 - (k) The Contractor must, at its own cost, provide a suitable replacement for any such person within seven days or such longer time as may be agreed by the Commonwealth, but in any event without any interruption to the performance of the Work.
 - (l) For the purposes of the Contractor's obligations under the Contract, the acts and omissions of the Contractor Group will be taken to be the acts and omissions of the Contractor.

5.2 Subcontracting

- (a) The Contractor must not subcontract the whole or substantially the whole of the Work other than in accordance with this clause 5.2. The Contractor must not subcontract, or appoint an agent or representative, to perform any part of the Work:
 - (i) for which a Nominated Subcontractor has been identified in Schedule 1 (*Contract Particulars*), other than to that Nominated Subcontractor;
 - (ii) which is of a value in excess of \$10,000,000 in aggregate;
 - (iii) which involves the provision of a vessel or related services; or
 - (iv) which relates to the towing of the FPSO for the purposes of Work Package D (FPSO Sail Away),
 without the prior approval of the Commonwealth which approval must not unreasonably be withheld or delayed.
- (b) Before entering into any Subcontract referred to in clause 5.2(a), the Commonwealth must be given an adequate opportunity to review the form of Subcontract (excluding the commercial terms of the Subcontract), the choice of Subcontractor, the part of the Work included in the Subcontract and any other relevant details requested by the Commonwealth.
- (c) No Subcontract will bind or purport to bind the Commonwealth. Nevertheless the Contractor must ensure that any first or second tier Subcontractor will be bound by and observe the provisions of the Contract in so far as the Contractor reasonably considers must apply to the Subcontract.
- (d) Each Subcontract must expressly provide for the Contractor's unconditional right of assignment of the Subcontract to the Commonwealth in the event that the

Commonwealth terminates the Contract for any reason other than under clause 19.1(a).

- (e) The Contractor will be responsible for all work, acts, omissions and defaults of any Subcontractor as fully as if they were work, acts, omissions or defaults of the Contractor.
- (f) The Contractor must, if requested by the Commonwealth, execute, procure the relevant subcontractor to execute and deliver to the Commonwealth a Collateral Warranty Deed as a condition precedent to seeking the prior approval of the Commonwealth under clause 5.2(a).

5.3 Payment of Employees or Subcontractors

- (a) The Contractor must indemnify the Commonwealth against all claims for unpaid moneys from employees, and Subcontractors of the Contractor in respect of goods, labour or services provided in connection with the performance of the Work, provided the Contractor has received relevant payment from the Commonwealth in accordance with the Contract.
- (b) If the Contractor has received relevant payment from the Commonwealth in accordance with the Contract and fails to pay amounts owing to employees, or Subcontractors of the Contractor as they fall due (other than amounts disputed in good faith by the Contractor), then the Commonwealth may in its discretion, withhold from any payment otherwise due to the Contractor an amount which the Commonwealth reasonably believes to be owing but unpaid to the Contractor's employees, or Subcontractors and the Commonwealth will be entitled to pay amounts so withheld to the persons entitled to receive payment from the Contractor.

5.4 Nominated Subcontractors

- (a) If the Contract recommends the Contractor to procure Materials or services from a Subcontractor specified in the Contract, then the Subcontractor so specified will be a **Nominated Subcontractor**. All Nominated Subcontractors have been pre-approved by the Commonwealth.
- (b) The Contractor may enter into a Subcontract with the Nominated Subcontractor, provided that the Nominated Subcontractor is prepared to enter into a Subcontract with the Contractor on terms which meet the requirements of the Contract in relation to Subcontracts. If the Nominated Subcontractor is not prepared to enter into such a Subcontract, or if the Contractor otherwise proposes an alternative Subcontractor that meets the requirements of the Contract and is suitable for the performance of the Work, then the Contractor is entitled to procure the specified Materials or services from that other Subcontractor after obtaining Commonwealth approval.
- (c) The Contractor must satisfy itself as to the suitability of each Nominated Subcontractor. The Contractor is responsible for the acts and defaults of any Nominated Subcontractor in the same way that the Contractor is responsible for the acts and defaults of other Subcontractors.
- (d) The Contractor must not terminate any contract with any Nominated Subcontractor without having given the Commonwealth not less than 14 Business Days' written notice.
- (e) Within 14 days of the Commencement Date, the Contractor must deliver to the Commonwealth the Collateral Warranty Deed between each Nominated Subcontractor (identified in Schedule 1 (*Contract Particulars*)) at the Commencement

Date), the Commonwealth and the Contractor duly executed by the parties other than the Commonwealth.

6. DETAILED DOCUMENTATION

6.1 Submission

- (a) The Contractor must submit draft Detailed Documentation to the Commonwealth in accordance with this clause 6 and the Scope of Work.
- (b) The submission of Detailed Documentation for review or approval by the Commonwealth will occur as follows:
 - (i) the Contractor will submit specified draft Detailed Documentation (as agreed by the Parties), including the Contractor's comments on such Detailed Documentation to the Commonwealth for review as and when the Contractor receives and reviews such draft Detailed Documentation from any Subcontractor or otherwise as agreed by the Parties;
 - (ii) the Commonwealth may elect to review the draft Detailed Documentation submitted and, if it so elects, will provide comments on the draft Detailed Documentation within 5 Business Days of receipt of the submission;
 - (iii) if the Commonwealth provides comments on any draft Detailed Documentation, the Contractor must have reasonable regard to those comments and, where appropriate (as determined by the Contractor acting reasonably), amend the draft Detailed Documentation and must provide a further version of the Detailed Documentation to the Commonwealth as soon as reasonably possible;
 - (iv) the Contractor must submit all final Detailed Documentation to the Commonwealth for approval within 10 Business Days of submitting the draft Detailed Documentation under clause 6.1(b)(i), and the Commonwealth may elect to review the final Detailed Documentation submitted and, if it so elects, will provide comments on the draft Detailed Documentation within 5 Business Days of receipt of the submission. The Contractor must not implement any final Detailed Documentation requiring the Commonwealth's approval until such time as written approval is given by the Commonwealth;
 - (v) once approved by the Commonwealth or otherwise finalised (where the Commonwealth elects not to provide comments within the agreed timeframes), the Detailed Documentation will become the "approved Detailed Documentation";
 - (vi) the Contractor must comply with all approved Detailed Documentation and must not amend it without the prior consent of the Commonwealth, which will not be unreasonably withheld; and
 - (vii) the procedures in this clause 6.1 must be repeated until the Commonwealth approves the Detailed Documentation.

6.2 Detailed Documentation Standards

- (a) The Contractor must regularly and diligently develop the Detailed Documentation in accordance with Schedule 3 (*Scope of Work*) to allow all activities to be undertaken and completed by the relevant Milestone Date.
- (b) The Detailed Documentation must:

- (i) meet or exceed the standards prescribed in Schedule 3 (*Scope of Work*) or, to the extent it is not so prescribed, a standard consistent with the best industry standard for Detailed Documentation of a nature similar to those required for the Work;
 - (ii) be Fit for Purpose; and
 - (iii) be provided to the Commonwealth in accordance with clause 6.2(c),
with each obligation above being a separate and independent obligation.
- (c) Detailed Documentation submitted to the Commonwealth must be:
- (i) in a format specified by the Commonwealth (acting reasonably); and
 - (ii) accompanied by a statement either:
 - (A) confirming that the Detailed Documentation complies and is consistent in all respects with any finalised Detailed Documentation; or
 - (B) identifying any non-compliance or inconsistencies with any previously finalised Detailed Documentation.
- (d) By notice in writing to the Contractor, the Commonwealth may require the Contractor to make available appropriate Subcontractors and Contractor Personnel to:
- (i) explain any part of the Detailed Documentation; and
 - (ii) provide any information in relation to any part of the Detailed Documentation.

6.3 **No liability for review or failure to review**

- (a) The Contractor acknowledges that review of, or comments regarding, any Detailed Documentation by or on behalf of the Commonwealth under this Contract are solely for the purpose of monitoring the performance of the Contractor.
- (b) The Commonwealth does not assume or owe any duty of care, to the Contractor to review, or in reviewing, any work or Detailed Documentation for any error, ambiguity, deficiency or inadequacy (including any compliance matter, inconsistency or omission).
- (c) No review of or comments by the Commonwealth regarding Detailed Documentation nor any failure to review or comment:
 - (i) imposes any liability or responsibility upon the Commonwealth;
 - (ii) relieves the Contractor from responsibility for the Contractor's errors or omissions or from compliance with the requirements of this Contract, or otherwise affect the Contractor's obligations; or
 - (iii) entitles the Contractor to:
 - (A) make, continue to make or enforce any Claim against; or
 - (B) seek, pursue or obtain an indemnity against or contribution to any loss from,

the Commonwealth, and the Contractor releases the Commonwealth from any Claim it may have but for the existence of this clause 6.3 in relation to any review, failure to review, or the formation and delivery of any view by the Commonwealth.

- (d) Any Detailed Documentation initialled and endorsed "no comment" by the Commonwealth is solely for identification purposes and is subject to the qualifications set out in this clause 6.3.
- (e) The involvement of the Commonwealth in reviewing, commenting on or monitoring the Detailed Documentation or the Contractor's design performance does not constitute involvement by the Commonwealth in the design and that, as between the Commonwealth and the Contractor, the Contractor is the designer for the purposes of all Laws including the WHS Legislation.

6.4 **No variations for reviewable design**

- (a) No endorsement, comment or any failure to give or make an endorsement or comment under clause 6.2 will constitute a Variation except to the extent expressly provided in this clause 6.4.
- (b) If, having received comments from the Commonwealth under clause 6.2, the Contractor (acting reasonably) considers that compliance with those comments would amount to a Variation, the Contractor, before complying with the comments, must notify the Commonwealth of the same and clause 13.2 will apply.
- (c) Except as otherwise set out in clause 6.4(d), no alteration or modification to the engineering, design, quality and quantity of the Work arising from the development of Detailed Documentation will be construed or regarded as a Variation instructed by the Commonwealth or will entitle the Contractor to an extension of time.
- (d) To the extent that the Contractor identifies under clause 6.2(c)(ii)(B) any non-compliance or inconsistencies with any previously finalised Detailed Documentation, the resolution of the inconsistency must be dealt with in accordance with clause 13.2 if the resolution involves any change to any previously submitted Detailed Documentation that has been approved by the Commonwealth.
- (e) To avoid doubt, where clause 6.4(d) applies, the Commonwealth may, but is not obliged to, instruct the Variation.

7. **FACILITY AND ACCESS ARRANGEMENTS**

7.1 **Commonwealth Permits**

- (a) Subject to the Contractor's obligation to provide information and cooperate in accordance with clause 20.2(b), the Commonwealth must obtain the Commonwealth Permits in the time specified in Schedule 1 (*Contract Particulars*) and if not specified, in a timely manner and maintain such Commonwealth Permits.
- (b) Where the Commonwealth fails to obtain any of the Commonwealth Permits by the time required under the Contract and such failure causes delay to the progress of the Work and/or the Contractor to incur additional Costs, then the Contractor will be entitled to an extension of time subject to the requirements of clause 9.2 and/or an increase in the Contract Price subject to the requirements of clause 14.2.

7.2 **Access**

- (a) The Commonwealth will allow the Contractor to have access to the Facility, to the extent required for it to undertake the Work, on the later of:

- (i) the Contractor having provided the Commonwealth Representative with evidence that the Contractor has caused to be effected and maintained or otherwise has the benefit of the insurances required under clause 17; and
- (ii) the satisfaction of any other conditions precedent to access specified in Schedule 1 (*Contract Particulars*), the OPGGS Act or elsewhere in the Contract,

and, subject to other provisions of the Contract affecting access, continue to allow the Contractor to have sufficient access to the Facility to enable it to carry out the Work until Completion of the final Work Package or any sooner termination of the Contract.

- (b) The Commonwealth must provide the Contractor with sufficient access to the Facility to allow the Contractor to perform the Work (subject to the Contractor's obligation to coordinate with Other Contractors in accordance with clause 4.4.
- (c) The Commonwealth is not obliged to provide the Contractor with sole access to the Facility.
- (d) The Contractor acknowledges that Work performed at the Facility must be performed in accordance with the requirements applicable to the Facility as notified to the Contractor by the Commonwealth or Other Contractors.
- (e) The Contractor must, in so far as is reasonably practicable, ensure that any person accessing the Facility complies with all:
 - (i) Laws;
 - (ii) Authorisations;
 - (iii) policies and procedures prepared under Schedule 3 (*Scope of Work*); and
 - (iv) other health, safety and environmental policies applicable to the Facility.

7.3 Damage to Commonwealth Facilities

- (a) In the event of any deterioration of any of the Commonwealth owned facilities (including, but not limited to laydown areas, camps, offices and utilities) as a result of use by the Contractor, the Contractor must reimburse the Commonwealth the cost of repairing or replacing such parts of the facilities in accordance with the relevant indemnities in clause 16, except to the extent that such deterioration was caused by normal wear and tear.
- (b) In the event of any loss of or damage to the Facility, the responsibility for the cost of repairing or replacing the same will be borne by the Contractor or the Commonwealth (as the case may be) in accordance with the relevant indemnities in clause 16.

7.4 Commonwealth Supplied Items

[Note: The inclusion of this clause is subject to the successful Respondent requesting, and the Commonwealth agreeing to provide, any of the onshore assets listed as part of the RFP]

- (a) The Commonwealth will:

- (i) make available the Commonwealth Supplied Items to the Contractor at the Designated Location by the relevant Commonwealth Supplied Items Availability Date; and
 - (ii) provide notice to the Contractor when the Commonwealth Supplied Items are available for collection from the Designated Location.
- (b) The Contractor must:
 - (i) provide not less than five Business Days' notice to the Commonwealth Representative of the date on which the Contractor will inspect and collect the Commonwealth Supplied Items from the Designated Location;
 - (ii) liaise and coordinate with the Commonwealth Representative with respect to the inspection, collection and loading of the Commonwealth Supplied Items;
 - (iii) load the Commonwealth Supplied Items for transport to the Facility;
 - (iv) transport the Commonwealth Supplied Items from the Designated Location to the Facility; and
 - (v) prior to loading the Commonwealth Supplied Items for transport to the Facility, inspect the Commonwealth Supplied Items.
- (c) The Contractor must:
 - (i) carry out the inspection contemplated by clause 7.4(b)(v) as soon as possible, and in any event within 10 Business Days, after the date that the Commonwealth notifies the Contractor under clause 7.4(a)(ii) that the Commonwealth Supplied Items are available for collection from the Designated Location (**Inspection Date**); and
 - (ii) if it does not collect all of the relevant Commonwealth Supplied Items from the Designated Location by the date that is 10 Business Days after the relevant Commonwealth Supplied Items Availability Date (**Collection Date**), pay the Commonwealth (as a debt due and payable) the additional storage costs incurred by the Commonwealth between the Collection Date and the date such Commonwealth Supplied Items are collected by the Contractor.
- (d) The Contractor must immediately, and in any event within one Business Day after any inspection under clause 7.4(b)(v), notify the Commonwealth Representative if:
 - (i) there is a Defect in any Commonwealth Supplied Item; or
 - (ii) there is damage to the Commonwealth Supplied Items.
- (e) The Contractor acknowledges that, as between the Commonwealth and the Contractor, the Commonwealth will retain ownership of the Commonwealth Supplied Items at all times.
- (f) Subject to clause 7.4(g):
 - (i) risk in and responsibility for the Commonwealth Supplied Items will pass from the Commonwealth to the Contractor; and
 - (ii) the Contractor will bear all risks associated with the Commonwealth Supplied Items (including loss or damage to the Commonwealth Supplied Items),

on and from the earlier of:

- (iii) the Inspection Date;
- (iv) the date on which the Contractor carries out the inspection of the relevant Commonwealth Supplied Items under clause 7.4(b)(v); or
- (v) the date on which the relevant Commonwealth Supplied Items are loaded for transit to the Facility at the Designated Location,

("Risk Transfer Date").

- (g) Notwithstanding clause 7.4(f), the Contractor is not responsible for:
 - (i) any Defect in a Commonwealth Supplied Item or damage to the Commonwealth Supplied Items which:
 - (A) occurred prior to the Risk Transfer Date; and
 - (B) is notified to the Commonwealth Representative in accordance with clause 7.4(d).
- (h) Without limiting any other provision of this Contract, the Contractor must, from the Risk Transfer Date:
 - (i) keep the Commonwealth Supplied Items in good order and condition;
 - (ii) prevent loss of or damage to any Commonwealth Supplied Items; and
 - (iii) notify the Commonwealth Representative of:
 - (A) any Defect in a Commonwealth Supplied Item; and
 - (B) any loss and damage to the Commonwealth Supplied Items,
 within 3 Business Days of the Contractor becoming aware of such defect, loss or damage.
- (i) The Contractor must:
 - (i) only use the Commonwealth Supplied Items for performance of the Work or incorporation into the Work Product (if applicable); and
 - (ii) dispose of any surplus Commonwealth Supplied Items not otherwise required for the Work prior to Completion of the final Work Package in a manner that complies with the approved Environmental Plan and any applicable Law.

7.5 Contractor Provided Items

- (a) The Contractor must provide all management, expertise, supervision, personnel, materials and equipment, plant, consumables, Temporary Works and Facilities, electricity, gas, water, telecommunications and all other things whether of a temporary or permanent nature (except Commonwealth Supplied Items), so far as the necessity for providing the same is specified in or reasonably to be inferred from Schedule 3 (*Scope of Work*) or any other part of the Contract.
- (b) Contractor Equipment or parts thereof provided or utilised by the Contractor (whether owned or leased by the Contractor) must be in good operating and mechanical condition and fit for the intended purpose where a purpose is defined in the Contract or where no such purpose is defined, must otherwise comply with any specifications contained in the Contract. Such equipment must meet the

requirements of and be operated in accordance with all applicable Law and Good Industry Practices.

- (c) In order to ensure that performance and completion of the Work are not delayed or impeded the Contractor will be responsible for the timely provision of all matters referred to in clauses 7.5(a) and 7.5(b).
- (d) The Contractor must supply the Contractor Equipment and ensure that the same are maintained in good operating and mechanical condition to ensure the seamless continuation of operations. The Contractor must, at its cost provide and maintain a stock of materials, repair parts and supplies sufficient for the continuous and efficient operation of Contractor Equipment.
- (e) Contractor-supplied Materials must be new or, subject to the Commonwealth's approval, as good as new, of good design, quality and workmanship and fit for the intended purpose where a purpose is defined in the Contract and must otherwise comply with any specifications contained in the Contract and meet the requirements of all applicable Law and Authorisations, manufacturers' codes and Good Industry Practices.
- (f) The Work, Data and all Documents provided by the Contractor must comply with all applicable Law and be fit for its intended purpose as set out in the Contract, and comply with Schedule 3 (*Scope of Work*) and all other requirements of the Contract.

7.6 Protected Objects

- (a) In order to protect and preserve the value of cultural resources, the Contractor must give the Commonwealth immediate notice of the discovery of any object at the Facility that may have archaeological, paleontological, ethnographical, traditional or historical interests (**Protected Objects**).
- (b) Whenever, in the course of conducting the Work, Unknown Protected Objects are discovered (where "**Unknown Protected Objects**" are those that have not been disclosed by the Commonwealth for the purposes of the Work on or before the Commencement Date):
 - (i) the relevant part of the Work in progress must immediately be stopped and the find shall be immediately reported to the Commonwealth for determination of appropriate action;
 - (ii) the Contractor must not disturb the Unknown Protected Object under any circumstances other than where such disturbance is necessary to comply with clause 7.6(b)(iii); and
 - (iii) ensure that the Unknown Protected Object is protected until the nature of the item has been competently determined.
- (c) Any Unknown Protected Objects found on or in the Facility will, as between the Parties, be the property of the Commonwealth.
- (d) The Contractor must comply with the directions of the Commonwealth in respect of Protected Objects and if any such stoppage, delay in giving such directions or any such compliance results in a delay to the progress of the Work and/or causes the Contractor to incur additional Costs, then the Contractor will be entitled to an extension of time and/or an increase in the Contract Price subject to the requirements of clauses 9.2 and 14.2 respectively.

- (e) The Contractor must ensure that all Contractor Personnel comply with the foregoing requirements in this clause 7.6.
- (f) To the extent permitted by law, the Contractor will not be entitled to make (nor will the Commonwealth be liable upon) any Claim arising out of or in connection with the finding of the Unknown Protected Object or the Commonwealth's directions other than as specified under clause 7.6(d).

7.7 Title

- (a) The Commonwealth will retain title to any Commonwealth Supplied Items, Data, Documents and any other items, provided by the Commonwealth to the Contractor.
- (b) The Contractor must clearly identify and mark any Commonwealth Supplied Items and any other items of Commonwealth property as the property of the Commonwealth and must separately store and protect them (segregated from other property) and maintain them in good order and condition.
- (c) Without limiting its other obligations under the Contract, the Contractor must ensure that the Commonwealth at all times has access to and copies of Data or Documents generated during the performance of the Work or utilising any deliverables or outputs, Contractor-supplied Materials or other item supplied in connection with the performance of the Work.
- (d) If, for any reason, ownership of all right, title and interest in such deliverables or outputs referred to in clause 7.7(c) does not vest in the Commonwealth, then subject to clause 15, the Contractor agrees that such ownership, whether or not fully or partially complete, is hereby assigned from the Contractor to the Commonwealth without further consideration, and the Commonwealth owns all right, title and interest in the deliverables and outputs. The Contractor must, and must procure that any member of the Contractor Group, its Subcontractors or any other Third Party must, at the Contractor's cost and expense, execute all documents and take all other steps necessary or desirable to give full effect to the assignments contemplated by this clause 7.7(d).
- (e) Title to Contractor-supplied Materials, the Work Product and each of its components will pass to the Commonwealth upon those Contractor-supplied Materials, the Work Product or components, having been used in the Work Product or incorporated in the Commonwealth's property or having been paid for by the Commonwealth, whichever is the earlier. Notwithstanding anything to the contrary in this clause 7.7, nothing herein will expand or limit the Parties' respective rights or obligations to Intellectual Property in clause 15.
- (f) The Contractor will have care, custody and control of the:
 - (i) FPSO until issue of a Notice of Completion for Work Package D (FPSO Sail Away); and
 - (ii) Facility until issue of a Notice of Completion for Work Package E (Monitor and Maintain),

and the FPSO and Facility will be at risk of the Contractor until such issue of a Notice of Completion for the relevant Work Package.
- (g) For the avoidance of doubt, title in the FPSO, the Facility, Commonwealth Supplied Items, Data or Documents will not pass to the Contractor as a result of the Work under this Contract.

7.8 **Liens**

- (a) The Contractor must ensure that all items provided or made available under the Contract (including all Data and Contractor-supplied Materials) by the Contractor under the Contract are free from all liens, attachments, charges, other encumbrances and retention of title claims from any third party (together **Liens**).
- (b) The Contractor must not claim or allow Subcontractors to claim any Liens on the Work or on any Commonwealth Supplied Items or other property of the Commonwealth in the possession of the Contractor or at the Facility.
- (c) Without prejudice to any other provisions of this clause 7.8, the Contractor must indemnify the Commonwealth from and against all liens or attachments by any Subcontractors in connection with or arising out of the Contract.
- (d) Without prejudice to clauses 7.8(a) and 7.8(b), the Contractor must promptly notify the Commonwealth of any possible Liens which may affect the Work or any part thereof.
- (e) If at any time there is evidence of any Lien to which, if established, the Work or the Commonwealth or its property might be subjected, whether made by any persons against the Contractor or made by any Subcontractor against the Commonwealth, then the Commonwealth will have the right to withhold and/or set off or otherwise recover from the Contractor such sum of money as will fully indemnify the Commonwealth against any such Lien.
- (f) Before withholding any payment due to the Contractor in accordance with clause 7.8(e), the Commonwealth must give to the Contractor a reasonable opportunity to demonstrate that the purported Lien is either unenforceable or is covered by the provisions of a payment, security, or otherwise to the reasonable satisfaction of the Commonwealth.

8. **INSPECTION, EXAMINATION AND TESTING**

8.1 **Review, Inspection and Testing**

- (a) The Contractor must carry out all tests and inspections detailed in Schedule 3 (*Scope of Work*). If the Commonwealth so requires, the Contractor must inspect, test or retest any materials or equipment provided by the Contractor in order to confirm that the requirements of the Contract are met, provided the costs are determined in accordance with clause 8.2. The Contractor must supply the Commonwealth with copies of all test records and inspection reports as soon as they become available.
- (b) The Commonwealth and any person notified in advance by the Commonwealth to the Contractor (including representatives and invitees of any Governmental Authority) have the right but not the obligation, at all times during the performance of the Work upon reasonable written notice to enter into any location where the Work is being performed (including at the Facility and the Contractor's and any Subcontractor's premises) and the Commonwealth may:
 - (i) inspect the Work;
 - (ii) observe the performance of the Work (including witnessing any tests or inspections carried out by the Contractor);
 - (iii) examine and make a record of reasonable supporting documentation relating thereto; and

- (iv) take any photographs or other recordings or records in relation to the Work, the Work, the performance of the Work or the Contractor's or Subcontractor's premises.
- (c) The Contractor must notify the Commonwealth in adequate time (which must be not less than 14 days before the test is carried out) in order that the Commonwealth and any such notified persons may exercise this right and must give the Commonwealth and any such notified persons access to any location where the Work is being performed, for this purpose. If the Commonwealth and any such notified persons fail to attend such test or inspection at the time notified by the Contractor the Contractor may proceed with such test or inspection in their absence. If the Contractor fails to provide adequate notice, or adequate access, to enable the Commonwealth or its representative to witness the test or inspection, then the Commonwealth may require the Contractor to re-perform the test or inspection at its own cost with such re-performance being subject to adequate notification and access being provided to the Commonwealth.
- (d) Tests for performance of the Work will be carried out as and when required under the Contract, in accordance with Good Industry Practices or as otherwise required by the Commonwealth as set out in the Contract. Except where otherwise set out in the Contract, the Contractor will provide to the Commonwealth the results of all tests.
- (e) The Commonwealth may reject any part of the Work which does not comply with all the requirements of the Contract including, but not limited to, faulty workmanship, services, materials or equipment. In such event, upon receiving such notice, the Contractor must at its own cost, identify the cause of the non-compliance, fix the non-compliance and immediately repeat the test. A Work Package will not be deemed to have achieved Completion until all testing provided in the Contract has been completed in accordance with the Contract.
- (f) The Commonwealth and any person notified in advance by the Commonwealth to the Contractor (including representatives and invitees of any Governmental Authority) have the right but not the obligation, to participate and contribute to scheduled reviews of engineering, hazards and risks, at any location where the Work is being performed (including at the Facility and the Contractor's and any Subcontractor's premises), and to examine all documentation relating thereto. The Contractor must notify the Commonwealth in adequate time (which for reviews of engineering, hazards and risks shall be not less than 14 days) in order that the Commonwealth and any such notified persons may exercise this right and must give the Commonwealth and any such notified persons access to any location where the Work is being performed, for this purpose. The Contractor must ensure that all action items arising from the Contractor's reviews of engineering, hazards and risks have been closed or reasonable mitigation measures have been put in place to reduce risk to as low as reasonably practical.
- (g) Neither failure on the part of the Commonwealth to inspect the Work or witness or test or to discover Defects nor failure to reject Work performed by the Contractor which is not in accordance with the Contract will relieve the Contractor from any liability or obligation under the Contract.

8.2 Additional Tests

- (a) If the Commonwealth has reasonable grounds to believe there is a Defect, the Commonwealth may require the Contractor to carry out tests of the Work in addition to those specified in the Contract.

- (b) If any such additional test is required to be carried out by the Contractor pursuant to a notice from the Commonwealth, the Contractor must as soon as practicable following receipt of such notice cause such test to be carried out and shall provide the Commonwealth with full details of the results or, if the Contractor fails to cause such test to be carried out after notice, the Contractor must afford the Commonwealth facilities to have the additional test carried out by some person other than the Contractor.
- (c) The Costs of any such additional tests will be borne by the Contractor, and the Contractor must not be entitled to any extension of time, if the test shows the existence of any Defect (including where the workmanship and/or materials tested were not in accordance with the Contract). Where the Costs are to be borne by the Contractor, an amount equal to the Costs thereby incurred by the Commonwealth must be Deducted or Recovered. Where the results of such additional tests show no Defects existing (including where the workmanship and/or materials are in accordance with the Contract) and such additional tests cause delay to the progress of the Work and/or the Contractor to incur additional Costs, the Contractor will be entitled to an extension of time and an increase in the Contract Price subject to the requirements of clauses 9.2 and 14.2 respectively.

8.3 **Substitution of Plant and Materials**

- (a) No substitution of any permanent Plant or Materials specified in the Contract will be permitted except:
 - (i) with the prior written consent of the Commonwealth; or
 - (ii) where necessary to comply with the Contract and the Contractor has obtained the Commonwealth's prior written consent.
- (b) Where the Commonwealth has consented to substitution of the permanent Plant or Materials the Contractor must pay all costs and expenses incurred by the Contractor in connection with any such substitution.

8.4 **Examination of Work before Covering-up**

No work will be covered up or put out of view without the previous examination of that work by the Commonwealth, provided that the Contractor may cover up work or put it out of view where it has given the Commonwealth 14 days prior notice and the Commonwealth has failed to attend for such examination.

8.5 **Uncovering and Making Openings**

The Contractor must, whenever required by the Commonwealth, uncover any part of the Work or make openings in or through the same and thereafter reinstate and make good such part to meet the requirements of the Contract. If any such part has been covered up or put out of view after compliance with the requirements of clause 8.4 and is found to be executed in accordance with the Contract and uncovering, making openings in and reinstating and making good such part caused delay to the progress of the Work and/or the Contractor to incur additional Costs, then the Contractor will be entitled to an extension of time and/or additional costs subject to the requirements of clauses 9.2 and 14.2 respectively. In any other case all Costs will be borne by the Contractor, and the Contractor must not be entitled to any extension of time.

9. **PROGRAM AND DELAY**

9.1 **Program and Progress Reporting**

- (a) The Contractor must complete the Work (including each Deliverable) in accordance with the schedule requirements in the Contract.
- (b) Subject to clause 9.1(a), the Contractor will be responsible for the programming of the Work. The Contractor must produce a detailed work plan, which complies with any requirements set out in the Contract, and provides for performance and completion of the Work in accordance with the Dates for Completion.
- (c) The Contractor must submit a detailed work plan referred to in clause 9.1(b) in respect of the Work, together with full supporting details, to the Commonwealth for review. The Commonwealth's approval rights of such work plan will be exercised prior to the Commencement Date. When approved by the Commonwealth such work plan will become the Program for the Work.
- (d) The Contractor must use the Program as the basis for progress reporting, scheduling, forecasting and controlling performance of the Work.
- (e) The Contractor must regularly update its detailed work plan and supporting details and submit a progress report and schedule update to the Commonwealth for review on a monthly basis or as otherwise provided in the Contract, and if:
 - (i) such update is material, the Contractor will consult with the Commonwealth giving due consideration to the Commonwealth's input; or
 - (ii) such update will impact timing of the Commonwealth's commitments under the Contract, then the Contractor will seek the Commonwealth's prior approval for the proposed changes in the Commonwealth's commitments.
- (f) Once a revised work plan has been approved or submitted to the Commonwealth as the case may be it will become the Program, there being only one Program at any particular time.
- (g) The Contractor must submit to the Commonwealth Representative reports on the progress of the Work containing the content, in the format, at the times and using the method of delivery specified in the Contract, and copies of such reports must be issued to the Commonwealth at the same time that they are issued to the Commonwealth Representative and using the same method of delivery.
- (h) Without limiting the requirements of this clause 9.1, the Contractor must provide written notice to the Commonwealth:
 - (i) 9 months prior to the date when, in the Contractor's opinion, Work Package C (FPSO Disconnection) will achieve Completion (the **Forecast Completion Date for Work Package C**); and
 - (ii) 15 days prior to the date when, in the Contractor's opinion, Work Package D (FPSO Sail Away) will achieve Completion (the **Forecast Completion Date for Work Package D**).

If the Contractor reasonably expects that the Forecast Completion Date for Work Package C or Forecast Completion Date for Work Package D is likely to be earlier than the date previously notified to the Commonwealth hereunder, the Contractor must provide a written update to the Commonwealth with reasonable promptness for the purpose of allowing the Commonwealth to take appropriate steps.

9.2 Delay and Extensions of Time

- (a) Subject to clause 9.2(b) and clause 13.4, if and to the extent that the completion of the whole or part of the Work will be, or has been, delayed or further delayed beyond the relevant Dates for Completion by reason of any of the matters set out in clause 9.2(b), the Commonwealth will adjust any relevant Dates for Completion in accordance with clause 13.4. Any Dates for Completion will not be extended for any reason except as provided in this clause 9.2.
- (b) If the achievement of a Date for Completion in respect of any Work Package will be, or has been, delayed or further delayed beyond the relevant Date(s) for Completion specified therefor by reason of:
 - (i) a Variation instructed under clause 13.1(a) or requested under clause 13.2 where:
 - (A) pursuant to clause 13.2 the Contractor has requested a Variation, which has not been accepted by the Commonwealth; or
 - (B) adjustments to the relevant Date(s) for Completion have not been agreed pursuant to clauses 13.1 or 13.3;
 - (ii) a suspension, for which the Contractor is entitled to claim an extension of time pursuant to clause 10.9 (except to the extent that such suspension arose as a result of due cause under clause 20.3 or Default on the part of the Contractor) under clause 13.2;
 - (iii) failure by the Commonwealth to obtain any Commonwealth Permits by the time required under the Contract, for which the Contractor is entitled to claim an extension of time as set out in clause 7.1(b);
 - (iv) reperformance, repair, replacement, uncovering, reinstating, testing or inspection of the Work to the extent entitled as set out in clauses 8.2 and 8.5;
 - (v) a Force Majeure Event, to the extent that clause 10 permits the Contractor to claim an extension of time for such Force Majeure Event;
 - (vi) breach of the Contract by the Commonwealth or any act of prevention of the Commonwealth Group, the Commonwealth's Representative, any delegate of the Commonwealth Representative, any other Commonwealth Personnel or any Other Contractor (other than the Contractor and any Subcontractor);
 - (vii) compliance by the Contractor with clause 7.6 with respect to Unknown Protected Objects or delay by the Commonwealth in providing directions with respect to Unknown Protected Objects, for which the Contractor is entitled to claim an extension of time pursuant to clause 7.6;
 - (viii) a Change in Law (as described in clause 20.2(d));
 - (ix) failure by the Commonwealth to furnish to the Contractor notice of approval or non-approval, under clause 4.4(e), within the period specified in the Deliverables List,

then the Commonwealth must grant a reasonable extension to the relevant Date for Completion provided that:

 - (x) the Contractor must at its own cost have used and continue to use reasonable endeavours (without incurring substantial expenditure) to prevent, avoid,

overcome and minimise any such delay and to proceed with the Work or the relevant part thereof;

- (xi) the Contractor must have submitted its claim in compliance with clause 9.3;
- (xii) the Contractor's entitlement to any extension of time will be reduced if and to the extent any delay is attributable to any default, breach of contract or negligence on its part, on the part of any Subcontractor, or to any matters or events which are within the Contractor's, or any Subcontractor's control;
- (xiii) any extension of time granted by the Commonwealth under this clause 9.2 will not of itself entitle the Contractor to any increase in the Contract Price, which increase will be addressed in accordance with clause 13.4 and 14.2(b);
- (xiv) the Contractor must not be entitled to an extension of time by reason of any delay, unless the Contractor can establish that:
 - (A) where the event causing the delay occurred prior to the relevant Date for Completion, the delay actually affects the Contractor's ability to satisfy the requirements for Completion of any Work Package by the relevant Date for Completion or affects the performance of any Work that is on or will become on the critical path (by reason of the event) of the current schedule as described in the Program, taking into account the Contractor's ability to reschedule activities to minimise delays, notwithstanding delays to certain parts of the Work; or
 - (B) where the event causing the delay occurred on or after the relevant Date for Completion (as applicable), Completion of any Work Package, or the performance of any Work that is on or will become on the critical path of the current schedule by reason of the event, is delayed by the event causing the delay; and
- (xv) where it is expressly provided under any provision of the Contract (for the circumstances specified in such provision) that the Contractor is entitled to claim an extension of time pursuant to this clause 9.2, such entitlement, together with any entitlement to claim an increase in the Contract Price pursuant to clause 14.2, will be the Contractor's sole and exclusive remedy for such circumstances (other than those adjustments to the Contractor's other obligations under the Contract to the extent impacted by the item or event referenced in clause 9.2).
- (c) The Commonwealth may, but is not be obliged to:
 - (i) when determining each claim for an extension of time; or
 - (ii) whenever the Commonwealth may otherwise from time to time consider it appropriate,

review previous determinations for extensions of time.

9.3 Claims Procedure

- (a) Where the Contractor considers itself entitled to an extension of time under clause 9.2, it must, as soon as practicable after the relevant circumstances giving rise to the claim have occurred, and in any case no later than 14 days (in respect of the information required in paragraphs (i) and (ii) below) or 21 days (in respect of the information required in paragraphs (iii) — (vii) below) of the date on which the Contractor first knew of the circumstances acting diligently submit to the

Commonwealth in writing a claim, together with substantiated and detailed particulars (including but not limited to detailed activity schedules of the Contractor and its Subcontractors) of its claim, including:

- (i) stating that such circumstances have occurred;
 - (ii) giving the reasons why such circumstances have occurred;
 - (iii) explaining why such circumstances necessitate an extension of time;
 - (iv) identifying the ground or grounds under clause 9.2 which it considers gives rise to such entitlement;
 - (v) stating the length or expected length of delay to the relevant Date(s) for Completion and providing supporting documents demonstrating such delay;
 - (vi) providing the Contractor's estimation of the date which will become the relevant Date for Completion; and
 - (vii) advising the steps being taken by the Contractor in accordance with clause 9.2(b)(i) to prevent, avoid, overcome and minimise any such delay.
- (b) The Contractor must also provide any further particulars requested by the Commonwealth as soon as practicable and in any case no later than 14 days, after any such request.
- (c) If the circumstances giving rise to the claim have a continuing effect:
- (i) the fully detailed claim submitted in accordance with the foregoing provisions shall be considered as interim;
 - (ii) the Contractor must send further interim claims at monthly intervals, providing updated particulars regarding all of the matters referred to in clause 9.3(a) above, and providing such further particulars as the Commonwealth may require; and
 - (iii) the Contractor must send a final claim within 14 days after the end of the effects resulting from the circumstances, or within such other period as may be proposed by the Contractor and approved by the Commonwealth.

9.4 **Rate of Progress**

- (a) If for any reason which does not entitle the Contractor to an extension of time, the rate of progress of the Work is at any time forecasted to be more than 21 days behind schedule to achieve the Date for Completion, the Commonwealth may so notify the Contractor, requiring the Contractor to submit, within a reasonable time period specified in the notification, a comprehensive mitigation plan and a revised Program, for the Commonwealth's review. The Contractor must submit such plan and revised Program accordingly, and must give due consideration to any comments of the Commonwealth arising out of such review. The Contractor must then take the necessary steps consistent with this plan (as may have been modified by the Contractor to take into account the Commonwealth's comments), to achieve Completion of the relevant Work Package, by the relevant Date for Completion (or, if achievement of Completion by such Date for Completion is not reasonably practicable in light of the particular circumstances, to achieve Completion within the shortest period of time in which it is reasonably practicable to do so). If the Contractor fails to produce the necessary mitigation plan, or fails to use reasonable efforts to implement such plan, the Commonwealth may reasonably instruct the

Contractor in writing, to expedite progress so as to achieve Completion by the Date for Completion (or, if achievement of Completion by such Date for Completion is not reasonably practicable in light of the particular circumstances, to achieve Completion within the shortest period of time in which it is reasonably practicable to do so). The Contractor must not be entitled to any increase in the Contract Price for complying with its obligations under this paragraph.

- (b) In any circumstances where the Contractor is or would be entitled to an extension of time, under clause 9.2, the Commonwealth may instruct the Contractor to submit written proposals and a price submission to the Commonwealth as soon as reasonably practicable regarding the feasibility of acceleration of the Work as an alternative to such extension of time and stating:
 - (i) any lump sum which the Contractor will reasonably require to be added to the Contract Price if instructed by the Commonwealth to accelerate the Work pursuant to this clause 9.4, together with details showing the manner of calculation of the lump sum and proposals for the terms of payment thereof;
 - (ii) the extent to which the extension of time to which the Contractor would be entitled can be cancelled or reduced and each date which as a result would become the relevant Date for Completion; and
 - (iii) any other amendments to the Contract which the Contractor would reasonably require if the Commonwealth were to instruct an acceleration of the Work pursuant to this clause 9.4.
- (c) Following receipt of the Contractor's proposals the Commonwealth and the Contractor must use their reasonable efforts to agree:
 - (i) the amount by which the Contract Price is to be increased to take account of the lump sum quoted by the Contractor;
 - (ii) each revised Date for Completion (including the reduction in any extension of time previously granted to take account of such acceleration);
 - (iii) the details of the acceleration and the alteration of sequence or timing required; and
 - (iv) any other appropriate adjustments to the Contract.

If the Parties are unable to agree on such steps, the Contractor must continue to proceed with the Work in accordance with the Contract.

9.5 **Commonwealth may Give an Extension of Time**

The Commonwealth may grant an extension of time to the Contractor for any reason, whether or not the Contractor has applied for or is entitled to, an extension of time. The Commonwealth is not required to exercise this right for the Contractor's benefit.

9.6 **Prevention Principle**

- (a) A delay by, or the failure of the Commonwealth to grant an extension of time strictly in accordance with this clause 9.2 will not cause the relevant Date for Completion to be set at large, however, nothing in this clause 9.6 will prejudice any right of the Contractor to damages and to an extension of time under clause 9.2 or an increase in the Contract Price under clause 14.2.

- (b) The Contractor will not be entitled to and must not make any Claim or raise any defence against the Commonwealth to the effect that an act of prevention of the Commonwealth has set the time for achieving a Date for Completion at large.

10. FORCE MAJEURE

10.1 Meaning of Force Majeure Event

- (a) Subject to clauses 10.1(b) and 10.1(c), each of the following are Force Majeure Events:
 - (i) requisition, order, control, direction, intervention, or requirement of a Government Authority;
 - (ii) war, preparation for war or the consequence thereof, whether or not there has been a declaration of war;
 - (iii) riot or civil commotion or a terrorist act as defined in section 100.1 of the *Criminal Code Act 1995* (Cth);
 - (iv) cyclones or hurricanes measuring at 12 or above on the Beaufort Scale;
 - (v) industry-wide strikes or labour disputes not caused or contributed to by the Contractor; and
 - (vi) maritime or aviation disasters but excluding an FPSO disaster,

which directly causes the Work to cease.
- (b) No event or circumstance referred to in clause 10.1(a) will qualify as a Force Majeure Event unless the event or circumstance:
 - (i) is beyond the reasonable control of the Party affected by the event or circumstance (affected **Party**);
 - (ii) delays or prevents the performance by the affected Party of its obligations under the Contract (including the effects of such Force Majeure Event); and
 - (iii) cannot have been prevented or avoided by the affected Party by the standard of care and diligence consistent with that of Good Industry Practices.
- (c) Without limiting the requirements of clauses 10.1(b), the Parties confirm that the following events or circumstances do not qualify as a Force Majeure Event:
 - (i) breakdown or other failure of any vessel, machinery or equipment used by the Contractor Group;
 - (ii) breakdown or other failure of any transportation used by the Contractor Group;
 - (iii) other commitments of the Contractor limiting its ability to perform the Work;
 - (iv) any failure by a Subcontractor or sub-supplier (of any tier) of the Contractor to perform its obligations, unless that failure was itself due to an event or circumstance that would qualify as a Force Majeure Event if such Subcontractor or sub-supplier had been a party to the Contract;
 - (v) lack of funds or inability to use funds;

- (vi) lack of valid certificates, permits or any other documents; and
- (vii) shortage of labour or equipment, unless caused by events or circumstances that are themselves Force Majeure Events.

10.2 **Affected Party not Liable**

A Party affected by a Force Majeure Event will not be liable to the other Party for any inability to comply with its obligations under the Contract to the extent that such inability results from the Force Majeure Event.

10.3 **Notification**

- (a) Upon the occurrence of a Force Majeure Event, the affected Party will notify the other Party of the occurrence of the Force Majeure Event, details of the circumstances giving rise to the Force Majeure Event, the anticipated effect of the Force Majeure Event on the affected Party's ability to perform its obligations and the steps that the affected Party intends to take to overcome or reduce the Force Majeure Event and its effects.
- (b) Notification must be given promptly upon the affected Party becoming aware or ought reasonably to have become aware that a Force Majeure Event has occurred or is likely to occur.

10.4 **Mitigation**

The affected Party will take reasonable steps to overcome or reduce the Force Majeure Event and its effects provided that neither Party be required by reason of this clause to settle or resolve any strike, lockout or industrial dispute on terms that it considers to be unreasonable.

10.5 **No Change in Remuneration**

Subject to clause 10.6(b), a Party affected by a Force Majeure Event will not be entitled to any additional payment on account of the Force Majeure Event or for any delay affecting the Work which results from the Force Majeure Event. The Contractor may be entitled to an extension of time subject to the requirements of clause 9.2 for any Force Majeure Event.

10.6 **Termination for Suspension due to Force Majeure Event**

- (a) If a Force Majeure Event causes a suspension in the Work, and if the suspension continues for more than 180 days, then the Commonwealth may by notice to the Contractor terminate the Contract.
- (b) In the event of such termination, the Commonwealth will pay for Work performed in accordance with the Contract up to the date of termination, and all reasonable termination costs (e.g. demobilisation costs) and the Parties will have no further obligation to each other under the Contract.

10.7 **Guaranteed Time**

The Contractor guarantees that the requirements for Completion of each Work Package will be achieved by the respective Date(s) for Completion.

10.8 **Damages for Delay**

- (a) If the Contractor does not achieve Completion of Work Package C (FPSO Disconnection) or Work Package D (FPSO Sail Away) by the relevant Date for Completion, the Contractor will be liable to pay to the Commonwealth liquidated

damages for each day that elapses between the Date for Completion and the Date of Completion, at the applicable rate specified in Schedule 1 (*Contract Particulars*).

- (b) Any amount of liquidated damages for which the Contractor is liable under paragraph (a) will be:
 - (i) cumulative and will accrue daily and will be payable by the Contractor to the Commonwealth as a debt due and payable; and
 - (ii) limited to the Liquidated Damages Cap.
- (c) The amount of liquidated damages for delay specified in Schedule 1 (*Contract Particulars*) has been determined by the Parties in good faith and is:
 - (i) a genuine pre-estimate of the likely damages the Commonwealth will suffer as a result of (as the case may be) any delay in Completion of Work Package C (FPSO Disconnection) or Work Package D (FPSO Sail Away), as applicable;
 - (ii) commensurate with the Commonwealth's interests that will be adversely affected if the relevant Date for Completion is not met; and
 - (iii) not a penalty.
- (d) To the extent that all or any part of this clause 10.8 is found for any reason to be void, invalid, unenforceable or otherwise inoperative so as to disentitle the Commonwealth from receiving liquidated damages, the Commonwealth will be entitled to Claim from the Contractor any liability suffered or incurred by the Commonwealth under the Contract due to the failure by the Contractor to achieve Completion of Work Package C (FPSO Disconnection) or Work Package D (FPSO Sail Away) by the relevant Date for Completion up to the Liquidated Damages Cap.
- (e) Where the Commonwealth is entitled to liquidated damages or unliquidated damages under this clause 10.8, receipt by the Commonwealth of such liquidated damages or unliquidated damages (as the case may be) shall, without prejudice to the Commonwealth's remedies under clause 15.4, be the Commonwealth's sole remedy and the Contractor's sole liability in respect of delay in the Completion of Work Package C (FPSO Disconnection) or Work Package D (FPSO Sail Away) by the relevant Date for Completion.

10.9 **Suspension of the Work**

- (a) The Commonwealth will have the right, by notice to the Contractor, to suspend the Work or any part thereof to the extent detailed in the notice, for any of the following reasons:
 - (i) where clause 20.3 applies;
 - (ii) subject only to clause 19.2, in the event of Default on the part of the Contractor;
 - (iii) in the event that suspension is necessary for the safety of the Work, or persons; or
 - (iv) to suit the convenience of the Commonwealth.
- (b) Upon receipt of any such notice, the Contractor must, unless instructed otherwise:
 - (i) discontinue the Work or the part of the Work detailed in the notice, on the date and to the extent specified; and

- (ii) properly protect and secure the Work.
- (c) Unless the suspension arises as a result of due cause under clause 20.3 or Default on the part of the Contractor, the Contractor will be entitled to an extension of time subject to the requirements of clause 9.2 and/or an increase in the Contract Price subject to the requirements of clause 14.2.
- (d) In the case of a suspension that did not arise as a result of Default on the part of the Contractor, the Commonwealth may remove from Schedule 3 (*Scope of Work*) the part of the Work affected by the suspension, or (if it affects all of the Work) terminate the Contract, in accordance with clause 19.1(a).
- (e) If the suspension results from Default on the part of the Contractor, or the Contractor's failure to carry out its obligations in accordance with the Contract, to the extent permitted by law and without prejudice to the Commonwealth's other rights under the Contract:
 - (i) any additional costs reasonably and unavoidably incurred by the Commonwealth as a direct result of the suspension and the resumption of the Work will be recoverable by the Commonwealth from the Contractor; and
 - (ii) the Contractor will not be entitled to make (nor will the Commonwealth be liable upon) any Claim arising out of or in connection with the suspension.
- (f) The Commonwealth may, by further notice, instruct the Contractor to resume performance of the Work to the extent specified.

11. COMPLETION

11.1 Contractor to Notify

The Contractor must give the Commonwealth written notice 28 days, and then again 14 days, before it anticipates achieving Completion of a Work Package.

11.2 Commonwealth Representative to Inspect

- (a) The Commonwealth must:
 - (i) promptly, and in any event no later than 14 days after receiving the Contractor's second written notice under clause 11.1 or a notice under clause 11.2(b)(ii) (as the case may be), inspect the Work Package; and
 - (ii) if:
 - (A) satisfied that Completion has been achieved, issue a notice to the Contractor:
 - (aa) stating the date upon which the Commonwealth determines Completion was achieved; and
 - (bb) containing a list of any minor Defects of the type described in paragraph (a) of the definition of "Completion" in Schedule 2 (*Glossary*); or
 - (B) not satisfied that Completion has been achieved, issue a notice so advising the Contractor.
- (b) If the Commonwealth issues a notice under clause 11.2(a)(ii)(B), the Contractor must:

- (i) proceed to bring the Work Package to Completion; and
- (ii) when it considers it has achieved Completion, give the Commonwealth Representative written notice to that effect (after which clause 11.2 will reapply).

11.3 **Unilateral Issue of Completion Notice**

If at any time a notice required to be given by the Contractor to the Commonwealth under clause 11.1 or 11.2 is not given by the Contractor yet the Commonwealth is of the opinion that Completion has been achieved, the Commonwealth may issue a Notice of Completion under clause 11.2(a)(ii)(A).

11.4 **Correction of Defects**

The Contractor must correct all Defects listed in the Notice of Completion by the time specified in the Notice of Completion or otherwise with a reasonable period after the issue of the Notice of Completion.

11.5 **Effect of Notice of Completion**

A Notice of Completion will not:

- (a) constitute approval of the Work or the Work Package, nor will it be taken as an admission or evidence that the Work or the Work Package has been satisfactorily carried out in accordance with the Contract;
- (b) constitute an admission or evidence that the Work or the Work Package complies with the Contract;
- (c) otherwise, constitute any approval, admission or evidence by the Commonwealth of the Contractor's performance or compliance with the Contract; or
- (d) prejudice any rights or remedies of the Commonwealth under the Contract or otherwise at law or in equity.

12. **WARRANTIES AND DEFECTS**

12.1 **Warranties**

In addition to the Contractor's other obligations provided in the Contract, the Contractor warrants that:

- (a) the Work will be fit for their intended purpose where a purpose is defined in the Contract or, where no such purpose is defined, fit for its ordinary purpose;
- (b) the Work will be carried out in accordance with all applicable Laws, the Commonwealth Permits, the Contractor Permits, the requirements of the Contract, Good Industry Practices, manufacturers' recommendations and warranty requirements;
- (c) the Work will be free of Defects;
- (d) all Contractor-supplied Materials and Plant will be merchantable, new and of first class quality and which will be suitable and fit for the purpose specified in the Contract or, where no such purpose is defined, fit for its ordinary purpose;
- (e) it will at all times have the necessary resources, experience, qualifications and capabilities as are required to fully perform its obligations under the Contract;

- (f) it will satisfy the requirements for Completion by the relevant Date for Completion;
- (g) it will incorporate in the Work only design, Materials and Plant of proven technology, unless the Commonwealth otherwise agrees in respect of any particular design or technology proposed by the Contractor to the Commonwealth;
- (h) it will be responsible for the testing and completion of the Work; and
- (i) it will be responsible for the rectification of any Defect, as part of the Work in accordance with clause 12 of the Contract.

12.2 Third Party Suppliers' Warranties

- (a) The delivery of a warranty from any third party supplier will be in addition to the warranties given by the Contractor under the Contract, and will not relieve the Contractor from responsibility for its warranties under the Contract.
- (b) The Contractor must obtain and assign to the Commonwealth any warranties received from third party suppliers for the parts of the Work covered by those warranties if any such warranties are still valid at the expiration of the Defects Liability Period. The Contractor must assist the Commonwealth in securing performance of such third party warranties.
- (c) The Contractor must ensure that any mandatory safety bulletins or remedial work identified by third party suppliers pursuant to their warranty obligations prior to, or during the Defects Liability Period are performed by the Contractor or its third party suppliers without delay.

12.3 Defects Liability Period

The Defects Liability Period will commence on Completion of the Work, or a Work Package of the Work, and continue for the period set out in Schedule 1 (*Contract Particulars*).

12.4 Making Good Defects

- (a) If the Commonwealth notifies the Contractor of any Defects in the Work within the Defects Liability Period, describing the Defect, the Contractor must, subject to clause 12.4(b), at its own cost carry out all works necessary to correct such Defects (including redesign, re-performance, rectification and replacement of all or any part of the Work). The Contractor must commence to correct such Defects within the period of time specified in such notification (which period of time will be reasonable having regard to the nature of the Defect, the action required to remedy it and the impact of the Defect on the Commonwealth) but in any event not later than 28 days from the date of such notification and must continue diligently to fully remedy the Defect as soon as possible.
- (b) If the Contractor fails to commence or to diligently continue to correct any Defects in the Work notified by the Commonwealth to the Contractor under clause 12.4(a) (and provided the Commonwealth granted the Contractor access to the Facility in accordance with clause 12.8), then the Commonwealth may correct such Defects (whether by itself or through a third party), and the Commonwealth will be entitled to recover from the Contractor all additional costs reasonably incurred by the Commonwealth as a direct result of such failure (including the costs of carrying out the works necessary for the correction of such Defects).

12.5 Extension of Defects Liability Period

- (a) If in the course of making good any Defect which arises during the Defects Liability Period the Contractor redesigns, re-performs, rectifies or replaces any part of the Work, this clause 12 shall apply to that part of the Work so redesigned, re-performed, rectified or replaced and the Defects Liability Period for such part shall commence afresh from the date that the redesign, re-performance, rectification or replacement of such part was completed, provided always that any period so extended shall not exceed the period of 48 months from the date that the relevant Defects Liability Period first commenced.
- (b) The Contractor will assign to the Commonwealth, upon request, any Subcontractor warranties still subsisting at the expiry of the Defects Liability Period for each Work Package.

12.6 Defects That Have Not Yet Manifested

- (a) At any time during the Defects Liability Period, where either Party is of the reasonable belief that there is a Defect that has not yet manifested in the Work, either Party may give the other notice that it considers there to be such a Defect.
- (b) Upon the provision of notice by either Party under clause 12.6(a) above, the Commonwealth may direct the Contractor (including by way of issuing a Variation under clause 13) to investigate and report to the Commonwealth in respect of any such Defect as well as the cause or potential cause of such a Defect.
- (c) Upon completion of such investigation under clause 12.6(b) above, the Contractor must notify the Commonwealth as to the outcome of the investigation, including whether a Defect is or has occurred or reoccurred in the same component, multiple equivalent components, or is likely, having regard to Good Industry Practices, to occur or reoccur in multiple equivalent components across the Work and:
 - (i) in the event that a Defect is found to be likely be present in such manner, capacity and extent such that Good Industry Practices would require the necessary rectification and/or replacement of such component forming part of the Work, the Contractor will be responsible for all costs of investigation and rectification and/or replacement of that Defect; or
 - (ii) in the event that a Defect is found but is not likely to be present in a manner, capacity and extent such that Good Industry Practices would require the necessary rectification and/or replacement of such component forming part of the Work, the Contractor will be responsible for all costs of investigation and rectification and/or replacement of such component that is a Defect and the Commonwealth must be responsible for rectification and/or replacement of such component that is not a Defect; or
 - (iii) in the event that no Defect is found to exist, the Commonwealth will be responsible for the Contractor's costs of investigation under clause 12.6(b).
- (d) In respect of all rectification work performed by the Contractor to remedy such Defects, the Defects Liability Period in relation to the rectification work will be extended in accordance with the provisions of clause 12.5.

12.7 Removal of Defective Work

If any Defect is such that repairs cannot be expeditiously carried out at the Facility, the Contractor may with the consent of the Commonwealth, remove from the Facility for the purpose of repair any part of the Work which is in error, defective or damaged, provided

that the Contractor must replace the relevant part of the Work, if such replacement will rectify the Defect more quickly than repair away from the Facility and the cost of replacing such part would be commercially reasonable and would not be disproportionate to the cost of repairing such part away from the Facility.

12.8 **Right of Access**

- (a) During each Defects Liability Period, the Contractor will have access to relevant parts of the Work Packages for the purpose of making good Defects subject to the Commonwealth's reasonable operation and safety constraints.
- (b) The Commonwealth is entitled to require that such access shall be during the Commonwealth's normal working hours, at the Contractor's risk and cost, subject to the Commonwealth's requirements regarding safety.

12.9 **Contractor to Search**

If required by the Commonwealth, where a Defect exists, the Contractor must use commercially reasonable efforts to search for the cause of any such Defect. The costs thereby incurred by the Contractor must be borne by the Contractor.

12.10 **Defects Liability Certificate**

- (a) When the Defects Liability Period for a Work Package (or any part thereof) has expired and the Contractor has made good all Defects in such Work Package notified pursuant to clause 12.4(a), the Contractor may apply to the Commonwealth for a Defects Liability Certificate for such Work Package. The application shall certify that all making good has been completed in accordance with the Contract.
- (b) The Commonwealth must within 14 days thereafter issue to the Contractor a Defects Liability Certificate to that effect unless at that date it disputes anything contained in the application.

12.11 **Urgent Repairs**

- (a) If, by reason of any accident or failure or event occurring to, in, or in connection with the Work or any part thereof during any Defects Liability Period, any remedial or other work or repair is, urgently necessary for the protection of people, property or the environment and the Contractor is unable or unwilling as soon as reasonably practicable to do such work or repair, the Commonwealth may, by its own or others, do such work or repair as considered necessary.
- (b) If the work or repair so done by the Commonwealth is work which the Contractor was liable to do at its own cost under the Contract, all Costs reasonably incurred by the Commonwealth in so doing shall be Deducted or Recovered. The Commonwealth must as soon after the occurrence of any such emergency as may be reasonably practicable notify the Contractor thereof.

13. **VARIATIONS**

13.1 **Variations by the Commonwealth**

- (a) The Commonwealth has the right to issue instructions to the Contractor at any time to make any variations to the Work (including any additions or reductions to the requirements of the Contract) within the general scope and nature of the Work. Notwithstanding that the Parties may not have agreed the terms of a Variation or the Commonwealth may not have determined any entitlement of the Contractor to

adjustments to any relevant Date for Completion and the Contract Price in respect of a Variation, the Contractor must proceed immediately as instructed.

(b) If:

- (i) prior to instructing a Variation pursuant to clause 13.1, the Commonwealth notifies the Contractor of the nature and form of a proposed Variation and requests the Contractor to provide a Variation Proposal, the Contractor must submit a Variation Proposal for that proposed Variation within a reasonable time period following such notification not to exceed 14 days; or
- (ii) the Commonwealth has instructed a Variation pursuant to clause 13.1(a) (without a Variation Proposal for that Variation having been submitted under clause 13.1(b)(i) or 13.2(a)) then within 14 days of such instruction, the Contractor must submit a Variation Proposal for that Variation to the Commonwealth.

(c) Where the Commonwealth:

- (i) instructs a Variation based on a Variation Proposal submitted by the Contractor pursuant to clause 13.1(b)(i);
- (ii) accepts a Variation Proposal submitted by the Contractor pursuant to clause 13.1(b)(ii); or
- (iii) agrees that an occurrence notified by the Contractor pursuant to clause 13.2(a) constitutes a Variation in whole or part (as provided in clause 13.2(c)) and accepts the Variation Proposal submitted by the Contractor pursuant to clause 13.2(a),

the relevant adjustments will be deemed to have been made to the Dates for Completion, the Program, the Contract Price and any other relevant provisions of the Contract in accordance with the relevant Variation Proposal and, without prejudice to the deemed adjustments, will be recorded in writing by the Parties.

(d) Where the Commonwealth:

- (i) does not accept a Variation Proposal submitted by the Contractor pursuant to clause 13.1(b)(i) but proceeds to instruct the relevant Variation;
- (ii) does not accept a Variation Proposal submitted by the Contractor pursuant to clause 13.1(b)(ii); or
- (iii) agrees that an occurrence as referred to in clause 13.1(c)(iii) constitutes a Variation but does not accept a Variation Proposal submitted by the Contractor pursuant to the same clause,

the Parties will seek to agree the cost, time and other consequences of the relevant Variation and, if they reach agreement on such consequences, adjustments as required to give effect to such agreement will be deemed to have been made to the Dates for Completion, the Program, the Contract Price and any other relevant provisions of the Contract and, without prejudice to the deemed adjustments, will be recorded in writing by the Parties. Where no such agreement is reached within a reasonable period of time, clause 13.3 will apply.

(e) For the purposes of clauses 13.1 to 13.3 (inclusive), a Variation Proposal must contain a detailed description of:

- (i) the work to be performed and a schedule for its performance;
- (ii) the Contractor's proposals for any necessary modifications to the Dates for Completion, to the Program or to any of the Contractor's obligations under the Contract;
- (iii) the Contractor's proposed adjustment to the Contract Price and justification including:
 - (A) the proposed pricing method (which will be consistent with clause 13.3);
 - (B) a detailed estimate for that adjustment (whether an increase or decrease in the Contract Price);
- (iv) a work breakdown to such a level of detail showing how the adjustment amount claimed directly results from the Variation;
- (v) any other such supporting information, as the Commonwealth may reasonably require, so as to permit detailed analysis of labour and costs for the purpose of valuing the Variation (unless rates and prices included in Schedule 4 (*Price and Payments*) will apply to the Variation); and
- (vi) any other reasonable supporting documentation requested by the Commonwealth in relation to the costs, time and technical aspects of the proposed variation.
- (f) The Contractor is not entitled to a Variation, or any adjustment of the Dates for Completion, the Program, the Contract Price or any of the Contractor's obligations under the Contract if the Commonwealth requests the Contractor to perform remedial work due to any Defect or if the relevant modification or adjustment to the Work is due to any Default on the part of the Contractor.
- (g) Where a Variation involves a reduction in the scope of the Work the Commonwealth itself or through other Contractors may proceed to perform the Work removed from the Contractor's Scope of Work.

13.2 Variations by Contractor

- (a) If the Contractor considers that an occurrence has taken place for which it is entitled to receive a Variation, the Contractor, before proceeding with any work affected by such occurrence, must, without delay and in any case no later than 14 days of the date on which the Contractor first knew of the circumstance acting diligently, request in writing that the Commonwealth instruct a Variation.
- (b) Any such request must include details of the occurrence including any relevant dates and within 14 days of such request the Contractor must submit to the Commonwealth a Variation Proposal for such requested Variation.
- (c) The Commonwealth will within a reasonable time of having received a request for a Variation in accordance with clause 13.2(a) give notice to the Contractor stating that:
 - (i) it is accepted in principle that the occurrence in question constituted a Variation in whole or part, in which case the Commonwealth will instruct a Variation under clause 13.1(a); or
 - (ii) such occurrence does not constitute a Variation and the reasons for such rejection, and the Contractor must then immediately comply with the same.

- (d) If the Contractor wishes to bring a claim in respect of any request for a Variation or part thereof which has been rejected by the Commonwealth it must proceed in accordance with the provisions of clauses 13.4 and 14.2 or 9.2, as the case may be.

13.3 Adjustments to Contract Price and Dates for Completion for Variations

Where a Variation Proposal submitted by the Contractor for a Variation has not been accepted by the Commonwealth pursuant to clause 13.1(c) and the Parties have not agreed the consequences of that Variation within a reasonable period of time pursuant to clause 13.1(d), the effects of that Variation will be determined in accordance with the following principles:

- (a) where work is of a similar nature and carried out under similar conditions to work priced in the Contract it will be valued at the appropriate rates and prices included in the Contract;
- (b) where work is not of a similar nature or is not carried out under similar conditions to work priced in the Contract then a fair valuation will be made in accordance with reasonable market rates
- (c) in the event that rates and prices for delay are included in Schedule 4 (*Price and Payments*), then such rates and prices will be used where appropriate, otherwise the Contractor will be entitled to be reimbursed any additional costs which it reasonably incurs as a direct result of the Variation and which it will not recover in a valuation made pursuant to clause 13.3(a) or 13.3(b), however if the Contractor does not agree with any such valuation, it may claim a further adjustment to the Contract Price in accordance with clauses 13.4 and 14.2 or seek dispute resolution in accordance with clause 18; and
- (d) the Contractor will be entitled to an adjustment to the Dates for Completion and an adjustment to the Contract Price in respect of any delay or disruption to the performance of the Work caused by the Variation subject to the Contractor satisfying the requirements of clauses 13.4 and 14.2 or 9.2, as the case may be.

13.4 Claims Procedures for Adjustments to the Date for Completion and Contract Price

- (a) Subject to clauses 9.2(b) and 14.2(c), and this clause 13.4, if and to the extent that the Completion of the whole or part of the Work will be, or has been, delayed or further delayed beyond the relevant Date(s) for Completion, or the Contractor will incur or has incurred any additional Cost, by reason of any of the matters set out in clauses 9.2(b) and 14.2(b) as the case may be, the Commonwealth will adjust any relevant Date for Completion and/or the Contract Price in accordance with this clause 13.4.
- (b) Where the Contractor considers itself entitled to any adjustment to any of the Dates for Completion or the Contract Price pursuant to clauses 14.2 and 9.2, it must, as soon as practicable after the relevant circumstances giving rise to the claim have occurred, and in any case no later than 14 days after the date on which the Contractor first knew of such circumstances acting diligently, submit to the Commonwealth a notice of the Contractor's intention to claim an extension of time and/or increase in the Contract Price, together with particulars which:
 - (i) describe the circumstances that have occurred, give the reasons why they have occurred and explain why they necessitate an extension of time and/or increase to the Contract Price;

- (ii) identify the ground or grounds under clauses 14.2 and/or 9.2 which the Contractor considers entitles it to an extension of time or increase to the Contract Price;
 - (iii) state the length or expected length of the delay;
 - (iv) provide the Contractor's estimation of any adjustments required to the relevant Date(s) for Completion if the Commonwealth grants the extension of time claimed by the Contractor;
 - (v) provide the Contractor's statement of any increase to the Contract Price which the Contractor considers that it is entitled to recover; and
 - (vi) advise the steps being taken by the Contractor in accordance with clauses 9.2(b) and/or 14.2(c) to prevent, avoid, overcome and minimise any delay or additional Cost.
- (c) Upon the occurrence of the relevant circumstances giving rise to the claim, the Contractor must keep at a location acceptable to the Commonwealth such records as may be reasonably necessary to support any claim it may subsequently wish to make, copies of which must be supplied to the Commonwealth as and when the Commonwealth may direct.
- (d) Within 30 days after the date of the Contractor's notice under clause 13.4(b) above, the Contractor must send to the Commonwealth a fully detailed claim which sets out final particulars of the claim (including particulars of the matters referred to in clauses 13.4(b)(i) to 13.4(b)(vi) (inclusive) above). However, if the claim has a continuing effect, the Contractor must within such period, both provide the above-mentioned particulars as an interim claim and detailed particulars of the continuing effect, and thereafter send to the Commonwealth updated interim claims at monthly intervals until the end of such continuing effect, whereupon the Contractor must within 30 days of such effect coming to an end send to the Commonwealth final particulars of the claim as described above.
- (e) The Contractor must provide any further particulars requested by the Commonwealth as soon as practicable, and in any case not later than 21 days, after any such request.
- (f) As soon as reasonably practicable after receiving the particulars required to be submitted under this clause 13.4, the Commonwealth will notify to the Contractor its response on the principles of the claim, and may request necessary further particulars, which must be provided by the Contractor as soon as reasonably practicable.
- (g) Where the Contractor has any entitlement to an adjustment to the Dates for Completion or the Contract Price under clauses 14.2 or 9.2, then following receipt of sufficient particulars from the Contractor, such adjustments to the Dates for Completion or the Contract Price will be determined in accordance with the relevant provisions of the Contract. In the event that appropriate rates and prices are included in Schedule 4 (*Price and Payments*), then such rates and prices will be used where appropriate to determine any adjustment to the Contract Price under the provisions of this clause and will be deemed to represent cost (plus overhead and profit) incurred by the Contractor.
- (h) In the absence of appropriate rates and prices in Schedule 4 (*Price and Payments*), the adjustment to the Contract Price will be determined on the basis of the cost (plus overhead and profit) incurred by the Contractor calculated in accordance with the methodology described in Schedule 4 (*Price and Payments*). The Commonwealth

will inform the Contractor of decisions reached in this respect and will, under clause 9.6, make appropriate payments in accordance with such decisions.

- (i) The entitlement of the Contractor to adjustments to the Dates for Completion and the Contract Price in accordance with clauses 9.6 and this clause 13.4 are its sole remedies and the sole liabilities of the Commonwealth in respect of any delay suffered by or additional cost incurred by the Contractor in the performance of the Work.

13.5 Deductive Variations

- (a) The Contractor must provide a deductive Variation Proposal with relevant information pursuant to clause 13.1(e) if:

- (i) the Commonwealth instructs a Variation that requires the reduction, omission or deletion of any part of the Work;
- (ii) there is a Change in Law referred to in clause 20.2(d) which results in the reduction, omission or deletion of any part of the Work; or
- (iii) the Commonwealth issues an instruction or direction that reduces the Contractor's cost or reduces the program for performing the Work,

to enable the Commonwealth and the Contractor to determine, what (if any) adjustment should be made to Dates for Completion for the Work or a Work Package and the Contract Price or any other relevant provisions of the Contract.

- (b) Notwithstanding clause 9.2(b) and clause 13.4(i), the Parties recognize that circumstances may arise where impacts arising from Variations under clause 13, the matters set out in clause 9.2(b), or the matters set out in clause 14.2(b) may cause impacts that it is not reasonably practicable to fully address through an increase in the Contract Price or adjustments to the Dates for Completion and, in such cases, to the extent that the Contractor demonstrates that such an impact or impacts exists, the Contractor will be entitled to adjustment to the Contractor's other obligations under the Contract. The Parties shall attempt to agree on any such adjustment(s), with both the Contractor and the Commonwealth acting reasonably, provided that, in the event that the extent of the adjustment is not agreed, then either Party may submit the matter to dispute resolution as set out in clause 18.

14. PRICING AND PAYMENT

14.1 Contract Price

- (a) For the performance and completion of the Work in accordance with the Contract, the Commonwealth will pay or cause to be paid to the Contractor the amounts provided in Schedule 4 (*Price and Payments*) at the times and in the manner specified in Schedule 4 (*Price and Payments*) and in this clause 14.
- (b) Except where it is expressly provided that the Commonwealth will carry out an obligation under the Contract at its own cost, all things to be supplied or performed by the Contractor under the Contract will be deemed to be included in the Contract Price and the rates and prices included in Schedule 4 (*Price and Payments*). The Contractor will be deemed to have examined all parts of the Contract and to have fully satisfied itself as to the sufficiency of the Contract Price and those rates and prices for the carrying out and completion of its obligations under the Contract.

14.2 Increases in the Contract Price

- (a) Subject to clause 14.2(c) and to clause 13.4 (provided however, the time periods to give the notices and the fully detailed claims shall be 14 days and 21 days, respectively), if and to the extent that the Contractor will incur or has incurred any additional Cost, by reason any of the matters set out in clause 14.2(b), the Commonwealth will adjust the Contract Price in accordance with clause 13.4.
- (b) The matters which pursuant to clause 14.2(a) give the Contractor entitlement to adjustments to the Contract Price, subject to clause 14.2(c), are:
 - (i) a Variation instructed under clause 13.1(a) or requested under clause 13.2 where:
 - (A) pursuant to clause 13.2 the Contractor has requested a Variation, which has not been accepted by the Commonwealth; or
 - (B) adjustments to the Contract Price have not been agreed pursuant to clauses 13.1 or 13.3 but only if and to the extent the Contractor has not recovered such additional Cost under clause 13.3;
 - (ii) a suspension of the performance of the Work under clause 10.9 (except to the extent that such suspension arose as a result of due cause under clause 20.3, or clause 4.3 or Default on the part of the Contractor), under clause 13.2;
 - (iii) a Change in Law (as described in clause 20.2(d));
 - (iv) Pollution, to the extent of the Commonwealth's responsibility under clause 20.4;
 - (v) compliance by the Contractor with clause 7.6 with respect to Unknown Protected Objects or delay by the Commonwealth in providing directions with respect to Unknown Protected Objects, for which the Contractor is entitled to claim an increase in the Contract Price pursuant to clause 7.6;
 - (vi) acceleration of the Work for which the Contractor is entitled to claim an increase in the Contract Price pursuant to clause 9.4(c);
 - (vii) failure by the Commonwealth to obtain any Commonwealth Permits by the time required under the Contract, for which the Contractor is entitled to claim an increase in the Contract Price pursuant to clause 7.1;
 - (viii) a failure by the Commonwealth to allow the Contractor to have access to the Facility or a part thereof in accordance with clause 7.2(a);
 - (ix) reperformance, repair, replacement, uncovering, reinstating, testing or inspection of the Work to the extent entitled as set out in clauses 8.2 or 8.5;
 - (x) a breach of the Contract on the part of the Commonwealth or an act of prevention by the Commonwealth Group, the Commonwealth Representative, any delegate of the Commonwealth Representative, any other Commonwealth Personnel or any Other Contractor (other than the Contractor and any Subcontractor);
 - (xi) encountering subsurface man-made conditions that are not revealed in the information provided in the Commonwealth's geo-technical reports;

- (c) The matters which pursuant to clause 14.2(a) may give the Contractor entitlement to adjustments to the Contract Price are subject to the proviso that:
 - (i) the Contractor must use, and continue to use, reasonable endeavours, including rescheduling activities where reasonably practicable, to prevent, avoid or minimise such additional Cost and to proceed with the Work or the relevant part thereof, and the Contractor must not be entitled to adjustments to the Contract Price if and to the extent that such additional Cost could have been avoided or reduced if the Contractor had used such endeavours;
 - (ii) the Contractor is not entitled to adjustments to the Contract Price if and to the extent that the relevant additional Cost is attributable to any Default on its part;
 - (iii) the Contractor will not be entitled to an adjustment of the Contract Price if and to the extent that it would have incurred such additional Cost as a result of any matter not referred to in clause 14.2(b); and
 - (iv) any adjustment to the Contract Price to which the Contractor is entitled under clause 13.4 and this clause 14.2 will not of itself entitle the Contractor to any extension of time.
- (d) The Contractor must have no further claim, whether in contract, tort or under any Law, against the Commonwealth for compensation because the progress of any Work has been or is likely to be affected by any matter beyond the entitlement under clause 13.2 and this clause 14.2.

14.3 Invoicing and Payment

- (a) As and when the Contractor becomes entitled to make a claim for payment in accordance with the Contract, the Contractor will submit an invoice to the Commonwealth for the amount payable within 14 days after the end of each calendar month in which the Work was performed.
- (b) Each invoice will:
 - (i) be in the form required by the Contract;
 - (ii) clearly state the contract number and (if applicable) the purchase order number;
 - (iii) describe and particularise the part of the Work for which the invoice is submitted;
 - (iv) separately identify the different categories of the Work covered by the invoice;
 - (v) provide particulars of the calculation of the amount claimed with reference to the amount, rates or prices stated in the Contract;
 - (vi) be accompanied by the documents required under clause 14.9; and
 - (vii) include or attach such documents in relation to costs or payment by the Contractor as the Commonwealth may reasonably require.
- (c) Each invoice must be forwarded to the address specified in Schedule 1 (*Contract Particulars*).

14.4 Terms of Payment

- (a) Subject to clauses 14.5(a) and 14.5(b), within 30 days after the day on which the Commonwealth received a correctly prepared and adequately supported invoice at the address referred to in clause 14.3(c), the Commonwealth must make payment of the due amount in respect of such invoice in the appropriate currencies provided in Schedule 4 (*Price and Payments*).
- (b) Unless otherwise agreed in writing, the Commonwealth will make payment direct to the Contractor's bank account as nominated in Schedule 1 (*Contract Particulars*), using electronic funds transfer.
- (c) In the event the Commonwealth fails to pay the Contractor undisputed amounts due under this Contract, interest on late payment of such undisputed amounts shall accrue at the rate that is specified in Schedule 1 (*Contract Particulars*).

14.5 Disputed Invoices

- (a) If the Commonwealth disputes any items on any invoice in whole or in part for any reason (including a dispute in relation to any items on the invoice or the invoice having been prepared or submitted incorrectly in any respect), the Commonwealth must notify the Contractor within 14 days of its reasons for disputing the invoice. The Contractor will resubmit the undisputed portion of the invoice and the Commonwealth must pay such undisputed portion within 30 days after the day on which the Commonwealth receives such invoice.
- (b) If any other dispute connected with the Contract exists between the Parties or the Commonwealth is entitled under any other provision of the Contract to withhold any amount that would otherwise be due to the Contractor, the Commonwealth may withhold from any money which is payable or becomes payable under the Contract the amount which is the subject of the dispute or that it is entitled to withhold under such provision as applicable.

14.6 Payment on Account

Neither the presentation nor payment or non-payment of an individual invoice will constitute a settlement of a dispute, an accord and satisfaction, a remedy of account stated, or proof or an admission that the Work (or any part thereof) has been performed to the satisfaction of the Commonwealth or otherwise waive or affect the rights of the Parties. In particular the Commonwealth may correct or modify any sum previously paid in any or all of the following circumstances:

- (a) any such sum was incorrect; or
- (b) any such sum was not properly payable to the Contractor.

14.7 Deductions and Withholding from Payment

- (a) The Commonwealth may deduct from any payment otherwise becoming due to the Contractor:
 - (i) any debt or other moneys due from the Contractor to the Commonwealth (including liquidated damages); and
 - (ii) any other amount which the Commonwealth is entitled to deduct or withhold under the Contract, which are due under or in relation to the Contract or any other contract between the Commonwealth and the Contractor.

- (b) Where moneys become payable by the Contractor to the Commonwealth but the precise amount payable has not been determined, then the Commonwealth may make a reasonable estimation of the amount likely to become payable and may withhold that estimation from moneys payable to the Contractor. As soon as the exact amount payable by the Contractor to the Commonwealth becomes known, the Parties will make any necessary adjustments between them.
- (c) In the event of a material or persistent breach of the Contract, the Commonwealth may withhold any payment otherwise due to the Contractor, or a part thereof that is proportionate to the applicable breach, for each month following the breach until the Contractor remedies the breach.

14.8 Statement at Completion

Without limiting any time limits or other requirements under the Contract applicable to claims by the Contractor:

- (a) Within 28 days after receiving the Notice of Completion for the last Work Package, the Contractor must submit to the Commonwealth an invoice in accordance with the requirements set out in clause 14.3, accompanied by a supporting statement (a **Statement at Completion**) showing:
 - (i) the Work done in accordance with the Contract up to the date stated in such Notice of Completion;
 - (ii) an estimate of any other amounts which the Contractor considers will become due to the Contractor under the Contract;
 - (iii) any further sums which the Contractor considers to be due, arising in any way out of the performance of its obligations under the Contract, in tort, or any other claim at Law; and
 - (iv) any deductions which may have become due under the Contract or otherwise.
- (b) Following receipt of the Statement at Completion and such invoice, the Commonwealth must make payment to the Contractor in accordance with clauses 14.4 to 14.7.
- (c) The Contractor must, within 28 days prior to the date of issue of the last Defects Liability Certificate to be issued submit to the Commonwealth a draft final statement of all the Contractor's claims against the Commonwealth arising in any way out of the performance of its obligations under the Contract, in tort, or any other claim at Law, and any deductions which may have become due under the Contract or otherwise. The Contractor must not be entitled to include in such draft final statement, and shall have no entitlement to payment of, any amount which was not expressly provided for in the Statement at Completion, except for any amount in relation to any matter or thing arising after the issue of the Notice of Completion for the last Work Package to achieve Completion.
- (d) If the Commonwealth disagrees with or cannot verify any part of the draft final statement, the Commonwealth must notify the Contractor within 21 days of its reasons for disputing the draft final statement and the Contractor must submit such further information as the Commonwealth may require and shall make such changes in the draft final statement as may be agreed between them. The Contractor must then prepare and submit to the Commonwealth the final statement as agreed (this being the **Final Statement**), together with an invoice complying with the requirements of clause 14.3. However if, following discussions between the Commonwealth and the Contractor and any changes to the draft final statement

which are agreed, it becomes evident that a dispute exists, with respect to the agreed parts of the draft final statement the Contractor must submit to the Commonwealth an invoice complying with the requirements of clause 14.3 and the Commonwealth must make payment to the Contractor in accordance with clauses 14.4 to 14.7. Thereafter, if the dispute is finally resolved, the Contractor must prepare a final statement accordingly (this being the **Final Statement**) and submit it, together with an invoice complying with the requirements of clause 14.3, to the Commonwealth.

- (e) Within 28 days after receipt by the Commonwealth of the Final Statement and accompanying invoice, the Commonwealth must make payment to the Contractor of any amount which is finally due to the Contractor. However, if the Final Statement shows that an amount is due to the Commonwealth, the Contractor must pay such amount to the Commonwealth on demand, failing which, the Commonwealth may recover such amount by making a demand under the Bank Guarantee or as a debt from the Contractor at Law.
- (f) Subject to clause 14.7:
 - (i) the Commonwealth must not be liable to the Contractor under or in connection with the Contract or execution of the Work or otherwise; and
 - (ii) the Contractor irrevocably and forever releases the Commonwealth from all further Claims of any nature whatsoever in connection with the Contract or execution of the Work or otherwise, and waives all further rights against the Commonwealth,

in relation to:

 - (iii) any amount which is not expressly provided for in the Statement at Completion, except for any amount in relation to any matter or thing arising after the issue of the Notice of Completion for the last Work Package to achieve Completion; and
 - (iv) any amount in relation to any matter or thing arising after the issue of the Notice of Completion for the last Work Package to achieve Completion which is not expressly provided for in the Contractor's draft final statement submitted under clause 14.8(c).
- (g) Subject to clause 14.8(i), once the Final Statement has been agreed, or determined following resolution of any dispute, and the Contractor has been paid the amount (if any) which is finally due to it in accordance with clause 14.8(e) above, the Contractor irrevocably and forever releases the Commonwealth from all further Claims of any nature whatsoever in connection with the Contract or execution of the Work or otherwise and waives all further rights against the Commonwealth.
- (h) Subject to clause 14.8(i), the Contractor acknowledges that the Commonwealth may plead clause 14.8(f) and/or clause 14.8(g) above as a bar to any cost, demand, legal proceedings, claims, actions, fines, penalties, obligation or liabilities of any nature, including legal costs on a full indemnity basis, arising under any Laws.
- (i) However, neither clause 14.8(f) nor clause 14.8(g) above shall limit the Commonwealth's liability under its indemnification, intellectual property, or confidentiality obligations in the Contract or its liability in any case of fraud on its part. The releases in this clause 14.8 do not exclude the Contractor's rights, releases, and defences in the Contract.

14.9 Payment of Workers and Subcontractors

- (a) Together with each invoice submitted by the Contractor, the Contractor must provide to the Commonwealth in respect of all Work performed in the Commonwealth of Australia to the extent Australian Law applies when requested a statutory declaration by a representative of the Contractor who is in a position to know the facts which confirms that:
 - (i) all workers who have at any time been employed by the Contractor in respect of the Work; and
 - (ii) all Subcontractors,

have been paid all moneys due and payable to them in respect of the Work.
- (b) If the Contractor fails to comply with clause 14.9(a), the Commonwealth may withhold payment of any moneys which would otherwise be payable to the Contractor until compliance has been achieved.
- (c) The Contractor must indemnify the Commonwealth from and against any and all Claims for unpaid moneys from the Contractor's Personnel and Subcontractors in respect of goods, labour or services provided in connection with the performance of the Work, provided the Contractor has received relevant payment from the Commonwealth in accordance with the Contract.
- (d) If the Contractor fails to pay amounts owing to the Contractor's Personnel or Subcontractors as they fall due (other than amounts disputed in good faith by the Contractor), then the Commonwealth may, in its discretion, withhold from any payment otherwise due to the Contractor an amount which the Commonwealth reasonably believes to be owing but unpaid to the Contractor's Personnel, or Subcontractors and the Commonwealth will be entitled to pay amounts so withheld to the persons entitled to receive payment from the Contractor provided the Contractor has received relevant payment from the Commonwealth in accordance with the Contract.
- (e) Not less than seven days before making a payment pursuant to clause 14.9(d), the Commonwealth must inform the Contractor of the details of such payment.

14.10 Correction to Payment

The Commonwealth may in any payment made pursuant to this clause 15 make any corrections or modification that should properly be made in respect of any previous payment, provided that the Commonwealth notifies the Contractor of any amount withheld or added and the reasons for such adjustment.

14.11 Payment on Non-Business Days

If the due date for any payment under the Contract is not a Business Day the payment shall be made on the next Business Day following the due date.

14.12 Audit

- (a) The Contractor must maintain a complete and correct set of records pertaining to all aspects of the Contract, including accurate and complete books and records of the costs incurred by the Contractor and which explain and verify the basis for claiming payment.

- (b) The Commonwealth, in order to verify that all transactions between the Commonwealth and the Contractor under the Contract satisfy all terms and conditions of the Contract, shall have the right through a third-party firm of auditors, to inspect and audit relevant records relating to the Work and payments at any time during the performance of the Work and thereafter until the date which is seven years after the later of
 - (i) the Date of Completion in respect of the last Work Package; and
 - (ii) the date of a final non-appealable judgment in any proceedings relating to any dispute.
- (c) Should the Commonwealth discover (whether by a process of such audit or otherwise) that payments have been made incorrectly, the Commonwealth has the right to make the necessary appropriate adjustments and the Commonwealth or the Contractor must make any payments required to effect these adjustments.

14.13 Records

- (a) The Contractor will keep full and accurate records of all Work carried out by the Contractor. The Contractor will ensure that all records are correct, valid and in good order. The Contractor's records will include:
 - (i) on a daily basis, the number of employees engaged in the Work classified by trade, position and nationality;
 - (ii) the incidence of lost time through industrial bans or limitations or other reasons;
 - (iii) training received by employees;
 - (iv) a weekly itemised list of Contractor Equipment engaged in the Work; and
 - (v) maintenance records for all Contractor Equipment, including records of breakdown and resulting maintenance requirements.
- (b) The Commonwealth will have full access to the records during the term of the Contract and for a period of seven years following termination of the Contract.

14.14 Taxes

- (a) **General Obligations**
 - (i) The Contractor will comply with all applicable taxation Law and requirements in the place or places where the Work is being performed. The Contractor will comply with all Law relating to Taxes.
 - (ii) Except as otherwise expressly provided in the Contract, the Contractor will be solely liable for, and will pay when due and payable, all Taxes which may be imposed upon the Contractor in relation to the performance of the Contract. The Contract Price is deemed to include all Taxes payable by the Contractor.
 - (iii) The Contractor must indemnify the Commonwealth in respect of all Claims and liabilities arising as a result of or in connection with any failure by the Contractor to pay Taxes for which it is liable.
 - (iv) The Contractor will, during the term of the Contract and for a period of two years thereafter, provide the Commonwealth with reasonable supporting information and documents to assist the Commonwealth to obtain all

allowances, input credits, exemptions and deductions available to it under any Law. The Commonwealth will be under the same obligations with respect to providing the Contractor with supporting information and documents.

(b) **Withholdings**

(i) If the Commonwealth is required by the Law of any country (including without limitation Laws which impose a withholding tax) to make withholdings or deductions from payments otherwise due to the Contractor, then:

- (A) the Commonwealth will withhold such amounts or make such payments and remit to the appropriate Government Authority as required by the applicable Law;
- (B) the Commonwealth will provide the Contractor with written advice of the requirement, amount and timing of such withholding or payment. The Commonwealth will use reasonable efforts to provide the Contractor with advanced warning allowing sufficient time for the Contractor to provide documentation to reduce or eliminate the withholding. The Commonwealth will also provide the Contractor with any copies of any available governmental instructions or directions under which sums are withheld and of any available governmental receipts for amounts withheld or other evidence of sums withheld reasonably required by the Contractor;
- (C) the Contractor will have no claim against and releases the Commonwealth from and in respect of any sum of money lawfully withheld and remitted to the appropriate Government Authority pursuant to this clause;
- (D) the Contractor will provide such information and documents as the Commonwealth reasonably requires for the purposes of this clause;
- (E) where the requirement for any withholding is eliminated or reduced by the Contractor holding an appropriate exemption or variation certificate it is the duty of the Contractor to inform the Commonwealth that such certificate is held and to promptly inform the Commonwealth of any change to or cancellation of the certificate and to provide copies of the certificate or any further information that may be required by the Commonwealth to satisfy itself that it can eliminate any withholding; and
- (F) the Commonwealth must in a timely manner provide the Contractor with original tax receipts in the Contractor's name, if available under the Law, or other documentary evidence confirming the payment of such taxes to the applicable tax authority to enable the Contractor to claim credit for such tax payments against the Contractor's tax liability.

(ii) Each Party will as soon as practicable advise the other of any Law that may require a withholding or deduction referred to in clause 14.14(b)(i).

(c) **Tax Information**

Except as otherwise provided, the Commonwealth may, but shall not be obliged to, provide the Contractor with information or documents setting out its interpretation of any relevant taxation laws. The Commonwealth makes no warranty or representation regarding the accuracy or completeness of the information and the Contractor must seek its own taxation advice.

(d) **GST**

- (i) Under the Law of Australia, GST is payable on certain supplies of goods and/or services.
- (ii) In this clause:
 - (A) GST means the same as in the GST Law;
 - (B) GST Law means the same as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
 - (C) words defined in the GST Law have the same meaning in this clause unless specifically defined in this clause.
- (iii) All charges and amounts payable by one Party to another under the Contract are stated exclusive of GST.
- (iv) For each taxable supply under or in connection with the Contract:
 - (A) The supplier will be entitled to charge the recipient for any GST payable by the supplier in respect of the taxable supply.
 - (B) The recipient must pay to the supplier the amount of the GST at the same time as the relevant charge applicable to the supply becomes payable under the Contract.
 - (C) The supplier must provide a valid tax invoice (or a valid adjustment note) to the recipient in respect of the taxable supply, and will include in the tax invoice (or adjustment note) the particulars required by the GST Law. The recipient is not obliged to pay the GST unless and until the recipient has received a tax invoice (or an adjustment note) for that supply.
 - (D) If the actual GST liability of the supplier differs from the GST paid by the recipient, the supplier will promptly create an appropriate valid adjustment note, and the recipient will pay to the supplier any amount underpaid, and the supplier will refund to the recipient any amount overpaid.
 - (E) If any Party is entitled to payment of any costs or expenses by way of reimbursement or indemnity, the payment must exclude any part of that cost or expense which is attributable to GST for which that Party or the Representative Member of any GST Group of which that Party is a Member is entitled to an Input Tax Credit.
- (v) Each invoice issued under the Contract will be in the form of a tax invoice. Each invoice issued under the Contract will show the GST payable on supplies covered by that invoice.

14.15 **Sufficiency of the Contract Price**

- (a) The Contractor must be deemed to have examined all parts of the Contract and to have fully satisfied itself as to the sufficiency of the Contract Price for the carrying out and completion of its obligations under the Contract.
- (b) The Contractor must be deemed to have satisfied itself as to, and shall be responsible for the form and nature of, the work and materials necessary for the completion of

the Work and the means of access to and egress from the Facility and the accommodations it may require. The Contractor must be responsible for obtaining all information necessary for the performance and execution of the Work.

- (c) The Contractor must be deemed to have made all due allowance:
 - (i) in the Program;
 - (ii) in agreeing the Dates for Completion;
 - (iii) in the Contract Price;
 - (iv) in any rates and prices set out in the Contract; and
 - (v) in the price of any Variation agreed between the Parties under clause 13, for all,

of the following matters;

 - (vi) all things necessary for the design, engineering, construction, supervision, assistance to the Commonwealth in testing of the Work, and the remedying of any Defects therein;
 - (vii) all risks and contingencies,
 - (viii) price and cost escalation (including inflation, all factors which may affect prices of materials, equipment and labour and variance in currency exchange rates);
 - (ix) all local, regional and national conditions;
 - (x) complying with all applicable Laws, the Commonwealth Permits and the Contractor Permits;
 - (xi) securing all required labour (including immigration and work permit requirements);
 - (xii) giving due consideration to applicable customs and practices;
 - (xiii) all other matters in connection with the execution of the Work (including all works shown or described in the Schedule 3 (*Scope of Work*) or which ought reasonably to have been inferred from the Schedule 3 (*Scope of Work*) by the Contractor acting in accordance with Good Industry Practices having carried out all appropriate investigations); and
 - (xiv) complying with all the Contractor's obligations under the Contract, except as otherwise expressly set out in the Contract.
- (d) None of the matters referred to in clause 14.15(c) above shall give rise to a Variation or to any entitlement to an extension of time or increase in the Contract Price.
- (e) The Contractor must be responsible for any error or omission made by it in calculating or agreeing the Contract Price, any rates and prices set out in the Contract and the price of any Variation agreed between the Parties under clause 13, in preparing the Program and in agreeing the Dates for Completion. The Contract Price shall not be adjusted, no extension of time shall be given, and no Variation shall be considered to have arisen, in respect of any such error or omission.

- (f) Where the Contractor discovers any Protected Objects at any time, clause 7.6 shall apply.

14.16 Parent Company Guarantee

- (a) The Contractor must provide to the Commonwealth within 14 days after the Commencement Date, as security for due performance of the Contractor's obligations, and discharge of the Contractor's liabilities, under the Contract, a Contractor Parent Company Guarantee form, and executed by the Contractor Parent.
- (b) The delivery by the Contractor of the Contractor Parent Company Guarantee is a condition precedent to the Contractor's entitlement to payment by the Commonwealth of any amounts due to the Contractor under the Contract. Failure to provide any Contractor Parent Commonwealth Guarantee will be regarded as due cause for the Commonwealth to suspend the performance of the Work in accordance with clause 10.9 or terminate the Contract in accordance with clause 19.
- (c) The Contractor warrants, and will continue to warrant, that the Contractor and any Contractor Parent are financially solvent, able to pay their respective debts as they fall due and possessed of sufficient working capital and financial strength to complete their respective obligations under the Contract.
- (d) The Contractor must give notice to the Commonwealth immediately if it or any Contractor Parent ceases to be financially solvent or if there are any grounds to believe that either may cease to be financially solvent, able to pay its debts as they fall due or possessed of sufficient working capital and financial strength to complete their obligations under the Contract.
- (e) The Contractor must provide to the Commonwealth promptly after each of its financial years a set of fact sheets describing its and its Parent's financial position.

14.17 Bank Guarantee

- (a) The Contractor must provide to the Commonwealth within 14 days of the Commencement Date, as security for due performance of its obligations, and discharge of the Contractor's liabilities, under the Contract, a duly executed unconditional bank guarantee (the **Bank Guarantee**) that is:
 - (i) in the form set out at Schedule 5 (*Bank Guarantee*);
 - (ii) from a trading bank appropriately registered and carrying on business in Australia with a Standard and Poor's (Australia) Pty Limited, financial strength rating of A- or better (or the equivalent rating with Moodys, A M Best, Fitch's or another reputable rating agency's);
 - (iii) valid and enforceable from the date it is issued until the date of the expiry of the last Defects Liability Period; and
 - (iv) in the amount stated in Schedule 1 (*Contract Particulars*) (the **Secured Amount**) until the date of the commencement of the last Defects Liability Period, at which time it will reduce to the lower of:
 - (A) the amount then available thereunder; or
 - (B) half of the Secured Amount.

- (v) The Bank Guarantee shall be returned/cancelled at the expiration of the last Defects Liability Period provided that there are no outstanding Claims at that time.
- (b) If:
 - (i) the rating of the entity which issued the Bank Guarantee is downgraded below Standard and Poor's (Australia) Pty Limited, financial strength rating of A- (or the equivalent rating with Moodys, A M Best, Fitch's or another reputable rating agency's), or
 - (ii) the Bank Guarantee will, in accordance with its terms, expire prior to the end of the Defects Liability Period,

the Contractor must at no extra cost to the Commonwealth within 28 days of such rating downgrading event occurring or not less than 14 days prior to such expiry, deliver to the Commonwealth a replacement for the Bank Guarantee in the amount then available under the Bank Guarantee which otherwise satisfies the requirements of clause 14.17(a) above (a **Replacement Guarantee**).

14.18 Failure to provide a Parent Company Guarantee or Bank Guarantee

- (a) The delivery by the Contractor of the Contractor Parent Company Guarantee, the Bank Guarantee and, when required by this clause 14.17, any Replacement Guarantee, is a condition precedent to the Contractor's entitlement to payment by the Commonwealth of any amounts due to the Contractor under the Contract.
- (b) If:
 - (i) the Contractor fails to provide the Contractor Parent Company Guarantee in accordance with clause 14.16, the Bank Guarantee in accordance with clause 14.17(a) or, any Replacement Guarantee; or
 - (ii) for any reason, the Commonwealth is unable to draw down any amount under any Bank Guarantee under this Contract which the Commonwealth is entitled to draw down in accordance with the terms of that Bank Guarantee,

this will be regarded as due cause for the Commonwealth to suspend the performance of the Work in accordance with clause 10.9 or terminate the Contract in accordance with clauses 19.1(c) and 19.2.
- (c) The Commonwealth:
 - (i) is not obliged to pay the Contractor interest on:
 - (A) the Bank Guarantee; or
 - (B) subject to clause 14.18(d), the proceeds of the Bank Guarantee if it is converted into cash; and
 - (ii) does not hold the proceeds or money referred to in clause 14.18(c)(i) on trust for the Contractor.
- (d) If the Commonwealth makes a call upon any security held under clause 14.17 and obtains cash as a consequence:
 - (i) the Commonwealth will pay simple interest, at the rate applying to damages for the purpose of clause 14.4(c), on the amount of any cash obtained in

excess of the sum to which the Commonwealth is entitled at the time of such call; and

- (ii) the sum attracting interest pursuant to 14.18(d)(i) will be further reduced by any unsatisfied amounts which subsequently become payable (whether as a debt, by way of damages or otherwise) by the Contractor to the Commonwealth at the time such amounts become payable.

14.19 Incentive Payments

[Note: The inclusion of this clause is subject to the successful Respondent's Proposal regarding the payment of incentives]

- (a) In addition to the Contract Price, the Commonwealth must pay the Contractor incentive payments (**Incentive Payments**) for superior performance as evidenced by the Contractor achieving the key performance indicators set out in Schedule 4 (*Price and Payments*), to the Commonwealth Representative's satisfaction but subject to clause 14.19(b).
- (b) The Commonwealth must not pay the Contractor Incentive Payments for any assessment period if, during the assessment period:
 - (i) the Contractor did not Complete a Work Package due to be achieved during the assessment period;
 - (ii) the Commonwealth was entitled to claim liquidated damages under clause 10.8(a); or
 - (iii) the Commonwealth was entitled to terminate the Contract for default under clause 19.1.
- (c) The maximum amount payable as Incentive Payments under the Contract, to be apportioned over the assessment periods set out in Schedule 4 (*Price and Payments*), shall be the Incentive Payment amount specified in Schedule 1 (*Contract Particulars*).
- (d) The weightings for the key performance indicators for each assessment period are set out in Schedule 4 (*Price and Payments*).
- (e) At the end of each assessment period the Contractor must provide the Commonwealth Representative with a written statement of the Contractor's achievement of the key performance indicators and reasonable information as requested by the Commonwealth Representative to evaluate the Contractor's performance. No Incentive Payments shall be awarded until the Contractor has given the Commonwealth Representative the written statement and reasonable information as requested.
- (f) Within 30 days after the completion of the assessment period, the Commonwealth Representative shall assess the information provided under clause 14.19(e) and notify the Contractor of the amount of Incentive Payments awarded, if any.
- (g) On receipt of notice as to the amount of the Incentive Payments, the Contractor must submit to the Commonwealth Representative a claim for the amount detailed in the notice. The Commonwealth must pay the claim for Incentive Payments within 30 days after receipt of the claim.
- (h) Incentive Payments not awarded for the assessment period to which they apply shall not be payable by the Commonwealth in any subsequent assessment period.

15. INTELLECTUAL PROPERTY AND CONFIDENTIALITY

15.1 Background Intellectual Property and New Intellectual Property

- (a) All rights, interest in and title to Background Intellectual Property vest in the owner of the Background Intellectual Property.
- (b) The Contractor grants to the Commonwealth a worldwide, royalty-free, irrevocable, perpetual, non-exclusive, sub-licensable transferable licence to use (including modify, adapt, copy and distribute) the Contractor's Background Intellectual Property for the purposes of enjoying the full benefit of the Work, Contractor-supplied Materials and any outputs of the Work for the applicable Work Package and otherwise exercising its rights in relation to the Work, Contractor-supplied Materials, including with the right to:
 - (i) assign, novate, transfer, license or sub-license its rights to any person without consent; and
 - (ii) sub-license its rights to any Third Party engaged by or on behalf of the Commonwealth to perform the Work (or any subcontractor of such Third Party), and/or any other work or services relating to the Project (including completion of the Work following any breach or termination of the Contract), right to use the deliverables and outputs for any purpose whatsoever with respect to the Project and Work.
- (c) All New Intellectual Property will vest in the Commonwealth and the Contractor hereby assigns to the Commonwealth any interest it may have in such New Intellectual Property, and the Commonwealth grants to the Contractor a royalty free, irrevocable, non-exclusive, non-transferable and sub-licensable worldwide licence to use such New Intellectual Property for the purpose of enabling the Contractor to perform the Work under the Contract.
- (d) The Contractor must procure that any authors of any copyright works which are assigned or licensed to the Commonwealth under the Contract consent, to use of such works as contemplated by the Contract which would otherwise infringe the author's Moral Rights in relation to such copyright works.
- (e) If so requested, the Contractor must (and must procure that any Subcontractor will) execute such documents and perform such acts as may be required fully and effectively to effect any assignments of Intellectual Property and to grant or transfer any licences or sub-licences as permitted under this clause 15.1 or otherwise to give to the Commonwealth the full benefit of or intended by this clause 15.1.
- (f) Upon the Completion of the Work or (if sooner) at the date of termination of the Contract the Contractor must hand to the Commonwealth the Commonwealth Intellectual Property and any Data or Documents provided by the Commonwealth to the Contractor for the purposes of the Work, together with all copies thereof in the custody, possession or control of the Contractor or any Subcontractor.
- (g) The Commonwealth grants to the Contractor a royalty free, irrevocable, non-exclusive, non-transferable and sub-licensable worldwide licence to use the Commonwealth's Background Intellectual Property which is made available to the Contractor by the Commonwealth under the Contract for the sole purpose of performing the Work under the Contract. All Third Party Information provided by the Commonwealth to the Contractor must only be used strictly in accordance with the provisions set out in clause 15.2. Any other third party licence restrictions that limit this grant will be addressed as a Variation.

- (h) The Contractor warrants to the Commonwealth that:
 - (i) it is entitled to use the Contractor's Background Intellectual Property and that it has the ability to allow the Commonwealth to use it in the manner contemplated by the Contract; and
 - (ii) it will release and indemnify the Commonwealth in respect of any Claim from a third-party on any breach or alleged breach of any Intellectual Property in connection with the Work or Contractor-supplied Materials.
- (i) In the event an infringement for which the Contractor is responsible to indemnify the Commonwealth as set out in clause 15.1(h) results in any suit, claim, temporary restraining order or preliminary injunction, the Contractor must, in addition to its obligations under clause 15.1(h) make reasonable effort, by giving a satisfactory bond or otherwise, to secure the suspension of the injunction or restraining order.
- (j) If, in any such suit or claim, the Work, or any part, combination or process thereof, is held to constitute an infringement and its use is preliminarily or permanently enjoined, the Contractor must make reasonable effort to secure for the Commonwealth a licence, at no cost to the Commonwealth, authorizing continued use of the infringing Work.
- (k) If the Contractor is unable to secure such a licence within a reasonable time, the Contractor must, at its own expense, either replace the affected Work, in whole or in part, with non-infringing components or parts or modify the same so that they become non-infringing.
- (l) The Contractor must not use the Commonwealth's Background Intellectual Property, Commonwealth Data or Commonwealth Documents otherwise than for the performance of the Work.
- (m) At the completion of the Work or upon request from the Commonwealth, the Contractor must hand the Commonwealth's Background Intellectual Property, Commonwealth Data and Commonwealth Documents to the Commonwealth together with all copies in the custody, possession, or power of the Contractor or any Subcontractor.
- (n) Any disclaimers produced on the Data or Documents by the Contractor or its Subcontractors which are inconsistent with the Parties' rights and obligations under this clause 15.1 and clause 15.4 must be removed and to the extent such disclaimers are not removed, shall be void and of no effect.

15.2 Use of Third Party Information

- (a) The Contractor must only use Third Party Information and Records solely for the Permitted Purpose until the expiry of the Defects Liability Period or the earlier termination of the Contract and must not use Third Party Information or Records for any other purpose.
- (b) Subject to clauses 15.2(c) and 15.2(d), the Contractor may disclose Third Party Information and Records to an Authorised Person and permit Authorised Persons to use the Third Party Information to the extent necessary for the Permitted Purpose.
- (c) The Contractor must not disclose any Third Party Information to any Subcontractor without the Commonwealth's prior written consent.
- (d) The Contractor must ensure that, before disclosing Third Party Information and Records, each Authorised Person (including employees of Subcontractors referred to

in clause 15.2(c) above) is aware of the confidential nature of the Third Party Information and executes (or has already executed) a written undertaking in the form of a deed of confidentiality or is subject to a contractual obligation that appropriately restricts the further disclosure of that information.

- (e) Except to the extent required for the Permitted Purpose, the Contractor must not reverse engineer, disassemble or decompile any samples, prototypes, software or other tangible objects provided by the Commonwealth or produce any derivative works (whether in copyright or through filing of patent application(s)) that are based on or derived from the Third Party Information. Without limitation to the above, the Parties agree that the Contractor must not, and must ensure that no other person to whom it has disclosed Confidential Information:
 - (i) uses Confidential Information in the manufacture of any products (other than to the extent required for the Permitted Purpose); or
 - (ii) files (and prosecutes) any patent applications containing, based on or derived from the Third Party Information.

15.3 Right to Use Software

Without limitation to clause 15, if the Contractor provides any software to the Commonwealth as part of the Work or incorporated in the Work, Contractor-supplied Materials or software is required to use the Work or Contractor-supplied Materials, the Contractor must:

- (a) obtain the Commonwealth's written consent (which consent shall not be unreasonably withheld) to procure third party software that may be required for the use or provision of the Work or Contractor-supplied Materials; and
- (b) ensure that any software (including third party software) required for the Work or Contractor-supplied Materials, entitles the Commonwealth to:
 - (i) use the software and, extract any Data or other information that the Commonwealth may have entered into any database using such software or which is generated using the software;
 - (ii) permit any person to assist the Commonwealth to do any of the things referred to in clause 15.3(a) above; and
 - (iii) subject to clause 15, own any Data or other proprietary information generated in the course of the Commonwealth using the software, operating the Contractor-supplied Materials or otherwise utilising the Work.

15.4 Confidentiality

- (a) In the Contract, **Confidential Information** means the terms of the Contract, any information (including technical information, know-how, Data, inventions, trade secrets, formulae, graphs, designs and other related information) which the Contractor receives from or on behalf of the Commonwealth or learns about the Commonwealth or any member of the Commonwealth Group; provided such information is clearly marked as confidential, but does not include Third Party Information.
- (b) The Contractor must use Confidential Information solely for the purposes of the Contract, and not for any other purpose.

- (c) The Contractor must treat Confidential Information in its possession as strictly confidential, and must not disclose Confidential Information to other persons without the prior written consent of the Commonwealth; provided however, the Contractor may disclose such Confidential Information to its Subcontractors, provided further such Subcontractors are subject to confidentiality obligations no less stringent than this clause 15.4. The Contractor will take reasonable measures to safeguard Confidential Information from unauthorised disclosure.
- (d) The provisions of clause 15.4 will not apply to Confidential Information which:
 - (i) is part of the public domain;
 - (ii) was in the possession of the Contractor prior to the Parties entering into the Contract and which was not subject to any obligation of confidentiality owed to the Commonwealth;
 - (iii) was received from a third party whose possession is lawful and who is under no obligation not to disclose;
 - (iv) is disclosed to a court, arbitrator or administrative tribunal in the course of proceedings before it or him/her to which the disclosing Party is a party or to an expert in the course of any determination by him/her to which the disclosing Party is a party; or
 - (v) is required to be disclosed in order to comply with the requirements of any Law, rule or regulation of any Governmental Authority or regulatory body having jurisdiction over the Work or the Contractor, or of any relevant stock exchange. The Contractor must promptly give prior notice to and consult with the Commonwealth about such disclosure and use reasonable endeavours to minimise such disclosure;
- (e) The Contractor must ensure that the provisions of clauses 15.4(a), 15.4(b), and 15.4(c) are incorporated in each Subcontract and that all members of the Contractor Group comply with the same.
- (f) In respect of the Contractor's Confidential Information, the Commonwealth will be entitled to:
 - (i) disclose to and authorise use by the Commonwealth Group, and the Commonwealth's Other Contractors, the Contractor's Confidential Information that is technical information (including such technical information that is Detailed Documentation and Documents) to the extent necessary for the purposes of the Work or any facilities connected to the Work;
 - (ii) disclose in order to comply with the requirements of any Law, rule or regulation of any Governmental Authority or regulatory body having jurisdiction over the Work or the Commonwealth, or of any relevant stock exchange applicable to any member of the Commonwealth Group. The Commonwealth must promptly give prior notice to and consult with the Contractor about such disclosure and use all reasonable endeavours to minimise such disclosure;
 - (iii) disclose to and authorise use by Governmental Authorities, regulatory bodies or their representatives or related to financing, and obtaining professional legal and tax advice;
 - (iv) disclose and use such information as required in order to exercise its rights granted pursuant to clause 15.1(b) and 15.1(c) in respect of Intellectual

Property; provided such disclosures are otherwise permitted under this clause 15.4(f)(iv); and

- (v) disclose to bona fide prospective purchasers of assets of any member of the Commonwealth Group,

provided at all times, that before disclosing any Contractor Confidential Information to a party who is not contractually bound to keep information disclosed by the Commonwealth confidential then the Commonwealth will ensure that such permitted disclosees referred to in clauses 15.4(f)(i) and 15.4(f)(v) are subject to confidentiality obligations and use restrictions not less stringent than those contained in this Contract; and ensure to the extent reasonably possible, that information disclosed to Governmental Authorities and regulatory bodies is done on a confidential basis and provided the Commonwealth must to the extent it is possible to do so, promptly give prior notice to and consult with the Contractor about such disclosures and use all reasonable endeavours to minimise such disclosure.

- (g) In respect of Third Party Information, the Contractor may disclose Third Party Information and Records to the extent required to comply with any applicable Law or the stock exchange rules that apply to the Contractor or a Related Body Corporate of the Contractor. The Contractor must, as permitted by such Law or stock exchange rules:
 - (i) as soon as possible after it becomes aware of a disclosure requirement contemplated by clause 15.4(g) notify the Commonwealth of that requirement;
 - (ii) use all reasonable endeavours to ensure that the disclosure is limited to the extent so required and, where possible, that any person or entity to whom the Confidential Information is disclosed under clause 15.4(g) keeps the Confidential Information confidential in accordance with this Contract; and
 - (iii) where such disclosure is to be made in order to comply with the rules of a stock exchange, give the Commonwealth a reasonable opportunity to review the text of the proposed disclosure and use reasonable endeavours to adopt the changes to such text that are requested by the Commonwealth.
- (h) The Contractor must keep and must require its Subcontractors to keep, all Third Party Information and Records confidential in perpetuity.
- (i) The Contractor must notify the Commonwealth immediately on becoming aware of any suspected or actual unauthorised use or disclosure of Third Party Information.
- (j) The Contractor must, at its cost, keep the Third Party Information and each Record:
 - (i) confidential, in a way that makes it clear that it is confidential and, if so required by the Commonwealth, that it is confidential to the Commonwealth;
 - (ii) under its effective control; and
 - (iii) secure from theft, loss, damage and unauthorised access, use and disclosure.
- (k) Upon the expiry of the Defects Liability Period or earlier termination of the Contract or a request by the Commonwealth Representative, the Contractor must within seven days immediately stop using all Third Party Information and Records, and, at its cost, must, subject to clause 15.4(l):

- (i) deliver to the Commonwealth or, at the Commonwealth's option, destroy every tangible Record; and
- (ii) erase or destroy every intangible Record,

in the possession, custody or control of the Contractor or of any person to whom it has given access to any Record. The Commonwealth may at any time require the Contractor to certify in writing to the Commonwealth that every Record in the possession, custody or control of the Contractor or of any person to whom it has given access to any Record has been delivered, erased or destroyed in accordance with this clause 15.4(k).

- (l) Despite clause 15.4(k), the Contractor may retain (subject to the continuing obligations of confidentiality provided for in this Contract) the following:
 - (i) all reports, summaries, studies or other derivatives of the Third Party information included in recording the decisions of the board or executive meetings of the Contractor; and
 - (ii) such copies of the Third Party Information as may be required to be retained by Law.
- (m) If the Contractor is unable to destroy any electronically held Confidential Information by virtue of it being retained in the Contractor's automated electronic back-up data system, the Contractor undertakes that such Third Party Information:
 - (i) will be held subject to the terms of this Contract;
 - (ii) will be destroyed in accordance with clause 15.4(k) when required under the Contractor's regular ongoing records policy; and
 - (iii) will not be used prior to its destruction.

16. **LIABILITY**

16.1 **Risks and Responsibilities**

(a) **Commonwealth's indemnity in respect of Personal Injury**

The Commonwealth must indemnify and release the Contractor Group from and against any and all Claims in respect of Personal Injury to any member of the Commonwealth Group arising out of or in connection with the Contract from any cause whatsoever, including the negligence of the Contractor Group, to the fullest extent permitted by law.

(b) **Contractor's indemnity in respect of Personal Injury**

The Contractor must indemnify and release the Commonwealth Group from and against any and all Claims in respect of Personal Injury to any member of the Contractor Group arising out of or in connection with the Contract from any cause whatsoever, including the negligence of the Commonwealth Group, to the fullest extent permitted by law.

(c) **Commonwealth Group property**

The Commonwealth must indemnify and release the Contractor Group from and against any and all Claims in respect of damage to the Commonwealth Group property (excluding the Facility, the Work Product, Commonwealth Supplied Items), wherever it is located arising out of or in connection with the Contract from any cause

whatsoever, including the negligence of the Contractor Group, to the fullest extent permitted by law.

(d) **Commonwealth Supplied Items and Work Product (prior to the Date of Completion)**

The Contractor must indemnify and release the Commonwealth Group from and against any and all Claims in respect of loss of or damage to the Facility, Commonwealth Supplied Items and Work Product arising out of or in connection with the Contract prior to the Date of Completion, except to the extent that the negligence of the Commonwealth Group has caused or contributed to the Claim.

(e) **Commonwealth Supplied Items and Work Product (each on or after the Date of Completion)**

The Contractor must indemnify and release the Commonwealth Group from and against any and all Claims in respect of loss of or damage to the Facility, Commonwealth Supplied Items and Work Product (including damage caused by a Defect) (on or after the Date of Completion) arising out of or in connection with the Contract, each to the extent of the Contractor Group's fault or negligence up to the limit specified in Schedule 1 (*Contract Particulars*). The Commonwealth will be responsible for the Claim in excess of this limit and releases and indemnifies the Contractor Group accordingly.

(f) **Contractor Group property**

The Contractor must indemnify and release the Commonwealth Group from and against any and all Claims in respect of loss of or damage to Contractor Group property (including Contractor's Equipment and Temporary Works and facilities but excluding the Work Product) whether owned, supplied, leased, hired, chartered or borrowed by the Contractor Group arising out of or in connection with the Contract from any cause whatsoever, including the negligence of the Commonwealth Group, to the fullest extent permitted by law.

(g) **Third Parties**

(i) The Contractor must indemnify and release the Commonwealth Group from and against any and all Claims for Personal Injury and/or property damage by a Third Party arising out of or in connection with the Contract to the extent that the Claim is caused or contributed to by the fault or negligence or breach of duty (whether statutory or otherwise) of the Contractor Group to the fullest extent permitted by law. As between the Parties, all other Third Party Claims not covered in the Contract will be determined at Law.

(ii) The Commonwealth must indemnify and release the Contractor Group from and against any and all Claims for Personal Injury and/or property damage by a Third Party arising out of or in connection with the Contract to the extent that the Claim is caused or contributed to by the fault or negligence or breach of duty (whether statutory or otherwise) of the Commonwealth Group to the fullest extent permitted by law. As between the Parties, all other Third Party Claims not covered in the Contract will be determined at Law.

(h) **Indemnities in respect of Pollution**

Subject to clauses 16.1(a) to 16.1(f) (inclusive):

(i) Subject to paragraph (iv) below, the Contractor must indemnify and release the Commonwealth Group from and against any and all Claims for Pollution

occurring on the premises of the Contractor Group or originating from property of the Contractor Group (including Contractor Equipment) or which the Contractor has brought, generated or introduced at the Facility (excluding the Work, Work Product or Commonwealth Supplied Items), arising from, relating to or in connection with the performance or non-performance of the Contract.

- (ii) Subject to paragraph (iv) below, the Contractor must indemnify and release the Commonwealth Group from and against any and all Claims for Pollution that originates from Commonwealth Group property (excluding the Work, Work Product and Commonwealth Supplied Items) to the extent that such Claims arise from the fault or negligence of the Contractor or any member of the Contractor Group that results in a failure to comply with clause 20.5(a) or (c) up to the per occurrence and aggregate amount specified in Schedule 1 (*Contract Particulars*). The Commonwealth will be responsible for the Claim in excess of this limit and releases and indemnifies the Contractor Group accordingly to the fullest extent permitted by law.
- (iii) Subject to paragraph (iv) below, the Contractor must indemnify and release the Commonwealth Group from and against any and all Claims for Pollution that originates from the Work, Work Product or Commonwealth Supplied Items to the extent that such Claims arise from the fault or negligence of the Contractor or any member of the Contractor Group that results in a failure to comply with clause 20.5(a) or (c) up to the per occurrence and aggregate limit specified in Schedule 1 (*Contract Particulars*). The Commonwealth will be responsible for the Claim in excess of this limit and releases and indemnifies the Contractor Group accordingly to the fullest extent permitted by law.
- (iv) The Commonwealth must indemnify and release the Contractor Group from and against any and all Claims incurred by the Contractor Group to the extent arising from any Hazardous Material in, on, or under the Facility prior to the Commencement Date.

16.2 Indemnities in Favour of Other Contractors

- (a) Subject to clause 16.2(b), the Contractor indemnifies each Other Contractor, and its respective Group, against all Claims arising from the performance of the Work where the Claim relates to:
 - (i) to the maximum extent permitted by law, Personal Injury to any member of the Contractor Group;
 - (ii) damage to the property owned, hired, leased or provided by any member of the Contractor Group;
 - (iii) any Consequential Loss, economic loss, loss of use, loss of production, loss of opportunity, loss of revenue, loss of profit or loss of anticipated profit suffered by any member of the Contractor Group; or
 - (iv) the discharge or escape of any pollutant or waste material which emanates from the property or equipment of the Contractor Group whether owned, hired, leased or provided by any member of the Contractor Group.
- (b) The indemnities in clause 16.2(a) (**Indemnities**) apply regardless of cause and notwithstanding any negligence or breach of duty (statutory or otherwise) of the indemnified parties. However, the Indemnities will not extend to any criminal prosecution, fine or penalty.

- (c) The indemnities will only be enforceable by an Other Contractor and its respective Group if and to the extent that, prior to the event giving rise to a Claim under the indemnity, the Other Contractor has provided an enforceable indemnity which operates in favour of the Contractor in substantially the same manner as the Indemnities operate in favour of the Other Contractor (**Reciprocal Indemnities**). An Other Contractor that has not provided Reciprocal Indemnities in favour of the Contractor is not entitled to the benefit of the Indemnities provided by the Contractor under clause 16.2(a).
- (d) An Other Contractor that has provided Reciprocal Indemnities is referred to as a **Reciprocating Contractor**. The Contractor acknowledges that:
 - (i) The Indemnities are intended to apply for the benefit of each and every Reciprocating Contractor and its respective Group, notwithstanding that the indemnified persons are not parties to the Contract.
 - (ii) The Reciprocal Indemnities provided by Reciprocating Contractors are due and proper consideration for the Indemnities given by the Contractor in favour of Reciprocating Contractors and their respective Groups.
 - (iii) The Indemnities can be relied on by Reciprocating Contractors, and their respective Groups, and are enforceable against the Contractor directly by Reciprocating Contractors and by their respective Groups.
 - (iv) The Commonwealth receives the benefit of the Indemnities as agent and trustee for itself, Reciprocating Contractors and their respective Groups. This clause does not in any way prevent or restrict the Commonwealth from amending any terms of the Contract without reference to Reciprocating Contractors.
 - (v) The Commonwealth is at liberty to inform Reciprocating Contractors of the existence and terms of the Indemnities and of this clause.
- (e) If any member of the Contractor Group makes a Claim against any person which contravenes the intent of this clause, then the Contractor must indemnify the Commonwealth Group against all costs, expenses and liabilities associated with the Claim.
- (f) The Commonwealth gives no warranty as to the legal effect or enforceability of any Reciprocal Indemnities, and the Commonwealth will not in any circumstances incur any cost or liability by reason of these indemnities. In seeking to enforce a Reciprocal Indemnity, the Contractor will not seek to join the Commonwealth in any legal proceedings, and if the Commonwealth is joined in any such legal proceedings, the Contractor must indemnify the Commonwealth against all costs and liabilities associated with the legal proceedings.

16.3 **Effect on Contractor's Remuneration**

To the extent the Contractor causes any Personal Injury, property damage or Pollution (excluding Hazardous Materials for which the Contractor is not liable under clause 20.5(g)) then, the Contractor is not entitled to any additional remuneration or extension of time on account of suspension resulting from the incident.

16.4 **Consequential Loss**

- (a) Subject to clause 16.4(b) below, neither the Contractor Group nor the Commonwealth Group is liable to the other for, and each such party (Contractor Group and Commonwealth Group, as the case may be) hereby waives and releases

the other from any claim for Consequential Loss arising from, relating to or in connection with the performance or non-performance of the Contract.

- (b) Nothing in clause 16.4(a) relieves:
- (i) a Party from its indemnity obligations related to Third Parties given under clauses 15 and 16 or from its knock for knock obligations in clause 16.1(a), (b), (c) and (f);
 - (ii) a Party from any liability under clause 15.4 for the Contractor's breach of its confidentiality obligations;
 - (iii) a Party if and to the extent that liability is covered by proceeds of any insurance policy which such Party is obliged to take out or maintain under clause 17;
 - (iv) a Party from any liability for delay damages provided for in the Contract or unliquidated damages in the event that for any reason such liquidated damages are not enforceable (in an amount not to exceed the total amount of delay damages provided for in the Contract);
 - (v) a Party from any statutory fine or penalty imposed by any Governmental Authority or a Court under any applicable Law; or
 - (vi) a Party from any liability arising from its obligations under clause 14.14 to pay taxes for which the Contractor is liable.

16.5 **Application of indemnities**

- (a) Each indemnity granted by a Party under this Contract applies until [12 months] after the end of the Defects Liability Period, after which neither Party will be entitled to, or liable for, a Claim under an indemnity under this Contract.
- (b) Despite the other provisions of this clause 16, an indemnity given by the Commonwealth under this clause 16 does not apply to a Claim or loss arising in connection with any of the following:
 - (i) a failure of a member of the Contractor Group to pay Taxes (under clause 14.14) for which it is liable including customs taxes under clauses 21.1
 - (ii) any statutory fine or penalty imposed by a Governmental Authority on a member of the Contractor Group;
 - (iii) a liability to the extent that payments are received under any insurance policy or policies required to be effected and maintained under the Contract in relation to that liability or which would have been received under such insurance policy or policies but for:
 - (A) the failure of a member of the Contractor Group to effect and maintain the required insurance policy or insurance policies;
 - (B) any failure of an insurance policy to respond due to the misconduct of a member of the Contractor Group (including a failure to make proper disclosure or to comply with the requirements of the policy);
 - (C) the failure by a member of the Contractor Group to claim under the relevant insurances; or

- (D) a failure by a member of the Contractor Group to comply with the terms of the relevant insurance (including the claims procedure under the relevant insurance); or
 - (iv) any liability arising from fraud, illegal or criminal acts, or wilful misconduct on the part of a member of the Contractor Group.
- (c) Despite the other provisions of this clause 16, an indemnity given by the Contractor under this clause 16 does not apply to a Claim or loss arising in connection with any of the following:
 - (i) a liability to the extent that payments are received under any insurance policy or policies required to be effected and maintained under the Contract in relation to that liability or which would have been received under such insurance policy or policies but for:
 - (A) the failure of a member of the Commonwealth Group to effect and maintain the required insurance policy or insurance policies;
 - (B) any failure of an insurance policy to respond due to the misconduct of a member of the Commonwealth Group (including a failure to make proper disclosure or to comply with the requirements of the policy);
 - (C) the failure by a member of the Commonwealth Group to claim under the relevant insurances; or
 - (D) a failure by a member of the Commonwealth Group to comply with the terms of the relevant insurance (including the claims procedure under the relevant insurance); or
 - (ii) any liability arising from fraud, illegal or criminal acts, or wilful misconduct on the part of a member of the Commonwealth Group.
- (d) The Contractor acknowledges and agrees that the primary source of recovery is the Required Insurance (to the extent the Required Insurance covers the relevant loss) and the Commonwealth is not liable for any loss that the Contractor recovers, or is compensated for, under the Required Insurance.

16.6 Limitations of Contractor's Liability

- (a) Subject to clause 16.6(b) below, the Contractor's total cumulative liability to the Commonwealth will be limited to the amount specified in Schedule 1 (*Contract Particulars*).
- (b) The above limitation under clause 16.6(a) will not apply to:
 - (i) the Contractor's failure to pay Taxes (under clause 14.14) for which it is liable including customs taxes under clauses 21.1
 - (ii) the Contractor's violation of its confidentiality obligations under clause 15.4 (Confidentiality);
 - (iii) the indemnities given by the Contractor under this Contract;
 - (iv) the Costs incurred by the Contractor to correct Defects under clause 12 (Defects);
 - (v) any statutory fine or penalty imposed by a Governmental Authority;

- (vi) Abandonment of the Work;
- (vii) a liability of the Contractor to the extent that payments are received by the Contractor under any insurance policy or policies required to be effected and maintained under the Contract in relation to that liability or which would have been received by the Contractor under such insurance policy or policies but for:
 - (A) the failure of the Contractor to effect and maintain the required insurance policy or insurance policies;
 - (B) any failure of an insurance policy to respond due to the misconduct of the Contractor (including a failure to make proper disclosure or to comply with the requirements of the policy);
 - (C) the failure by the Contractor to claim under the relevant insurances; or
 - (D) a failure by the Contractor to comply with the terms of the relevant insurance (including the claims procedure under the relevant insurance);
- (viii) amounts payable by the Contractor as a result of termination of the Contract by the Commonwealth;
- (ix) any liability arising from fraud, illegal or criminal acts, or wilful misconduct on the part of the Contractor or any of its Related Bodies Corporate;
- (x) liability arising out of a breach of clause 15 (Intellectual Property);
- (xi) a Claim by a third party in respect of:
 - (A) the death, personal injury, disease or illness of any person; or
 - (B) loss of or damage to property of a third party;
- (xii) liability that cannot be limited or excluded at Law.

16.7 **Limitations of Commonwealth's Liability**

- (a) Subject to clause (b)16.7(b) below, the Commonwealth's total cumulative liability to the Contractor will be limited to the amount specified in Schedule 1 (*Contract Particulars*).
- (b) The above limitation under clause 16.7(a) will not apply to:
 - (i) the indemnities given by the Commonwealth under this Contract;
 - (ii) a liability of the Commonwealth to the extent that payments are received by the Commonwealth under any insurance policy or policies required to be effected and maintained under the Contract in relation to that liability or which would have been received by the Commonwealth under such insurance policy or policies but for:
 - (A) the failure of the Commonwealth to effect and maintain the required insurance policy or insurance policies;

- (B) any failure of an insurance policy to respond due to the misconduct of the Commonwealth (including a failure to make proper disclosure or to comply with the requirements of the policy);
- (C) the failure by the Commonwealth to claim under the relevant insurances; or
- (D) a failure by the Commonwealth to comply with the terms of the relevant insurance (including the claims procedure under the relevant insurance);
- (iii) any liability arising from fraud, illegal or criminal acts, or wilful misconduct on the part of the Commonwealth;
- (iv) a Claim by a third party in respect of:
 - (A) the death, personal injury, disease or illness of any person; or
 - (B) loss of or damage to property of a third party;
- (v) liability that cannot be limited or excluded at Law.

16.8 **Extent of Exclusion or Limitation of Liability**

- (a) Any exclusion or limitation of liability under the Contract will exclude or limit such liability not only in contract but also in tort or otherwise at law.
- (b) Except where expressly stated to the contrary in this Contract, the waivers and disclaimers of liability, releases from liability, limitations and apportionments of liability, indemnity and defence obligations, subrogation waivers, and exclusive remedy provisions of this Contract:
 - (i) shall apply to the maximum extent permitted by the governing Law of this Contract even in the event of the fault, negligence (in whole or in part), strict liability, breach of contract, or otherwise of the party to the benefit of which such provisions operate;
 - (ii) shall apply regardless of the legal theory pursuant to which such liability is alleged; and
 - (iii) shall extend to such Party's Related Bodies Corporate, their subcontractors and suppliers, and its and their shareholders, directors, officers, employees and agents (as applicable).
- (c) The Commonwealth represents and agrees that it is authorized to bind and does bind all owners of the Work Package for which the Work is performed to the releases and limitations of liability set out in the Contract. If any third party obtains any ownership interest in the Work Package for which the Work is performed, the Commonwealth must secure such party's written agreement to be bound to the limitations on and releases of the Contractor's liability in this Contract.

16.9 **Time Bar for Late Notification**

- (a) It is a condition precedent to the Contractor's entitlement to make any claim for an extension of time, a Variation, additional costs or any other increase in the Contract Price, or any other compensation or remedy under the Contract that any notice of or particulars of such claim:

- (i) is provided to the Commonwealth in writing within the periods required under the Contract (or where no period is specified in the Contract, within seven days of the date when the Contractor became aware acting diligently of the circumstances giving rise to the claim);
 - (ii) includes all information required by the terms of the Contract (or where the Contract does not specify the information required, the written claim must include the amount claimed, the contractual or other basis for the claim and details of all circumstances relevant to the claim); and
 - (iii) otherwise complies with the requirements of the Contract.
- (b) If the Contractor fails to comply with the provisions of clause 16.9(a) in respect of any claim for extension of time, a Variation, additional costs or any other increase in the Contract Price, or any other compensation or remedy under the Contract, the Commonwealth is not liable to the Contractor in respect of the relevant claim and the Contractor is absolutely barred from bringing any further claim in respect of such matter or issue.

17. **INSURANCE**

17.1 **General**

- (a) Each Required Insurance must be effected with an insurer with a Standard and Poor's (Australia) Pty Limited, financial strength rating of A- or better (or the equivalent rating with Moodys, A M Best, Fitch's or another reputable rating agency's).
- (b) Except where expressly provided in the Contract, the Contractor must ensure that the Required Insurance remains in full force and effect throughout the term of the Contract including for the duration of the Defects Liability Period.
- (c) The obligation to effect, or cause to be effected, insurance in no way limits or affects the liability of either Party under the Contract.
- (d) Except where expressly provided in this Contract, the Required Insurances to be effected, or caused to be effected, by the Contractor are primary to, and without right of contribution from, any insurance or self-insurance the Commonwealth Group may have.
- (e) The Contractor must ensure that Subcontractors are covered under project specific policies procured by the Contractor or effect and maintain, or cause to be effected and maintained, for their own benefit similar insurances to the insurances provided in this clause 17.1 as relevant to their work, as determined by the Contractor acting reasonably, and that those Subcontractors' insurances otherwise comply, mutatis mutandis, with this clause 17.1.
- (f) The Contractor acknowledges and agrees that the insurances it is required to maintain, or cause to be maintained, under this clause 17.1 will be primary to the indemnities contained in this Contract. The Commonwealth will not be required to enforce the indemnities in this Contract as a precondition to claiming the same loss under such insurances.
- (g) The Contractor must promptly advise the Commonwealth should insurers of an insurance it is required to maintain, or cause to be maintained, under this clause 17.1 issue a notice of cancellation of, notice of avoidance, notice of an intention not to renew, or if there is a material adverse change to cover.

- (h) Notwithstanding anything to the contrary in the Contract the Contractor is solely responsible for payment of all deductibles, self-insured retentions or co-insurance contributions that are applicable to the insurance policies required to be maintained, or caused to be maintained, by the Contractor under this Contract with the exception of deductibles, self-insured retentions or co-insurance contributions under policies required in clauses 17.2(c)(ii), 17.2(c)(iii) and 17.2(c)(iv) below to the extent caused by the fault, negligence, act or omission of a member of Other Contractor Group. The Commonwealth must have responsibility for such policy deductibles.

17.2 Insurance by Contractor

- (a) In addition to the insurances specified in the Contract, the Contractor must effect and maintain, or cause to be effected and maintained:
 - (i) any additional insurance required by any applicable Law; and
 - (ii) any other insurance which the Commonwealth may at its cost require from time to time acting reasonably.
- (b) The Contractor must effect and maintain, or cause to be effected and maintained the insurances set out in this clause 17.2. With the exception of statutory insurances, all such insurances must:
 - (i) with respect to insurance required in clauses 17.2(c)(ii), (iii), (iv), (v), (vi) and (viii) include the Commonwealth Group as additional insureds;
 - (ii) with respect to insurance required in clauses 17.2(c)(ii), (iii) and (iv) include members of Other Contractor Group, as additional insureds; upon request of the Contractor, the Commonwealth must provide current list of members of Other Contractor Group, including scope of work and estimated contract value;
 - (iii) provide that insurers waive any rights of recourse, including in particular subrogation rights, against the Commonwealth Group and Other Contractor Group;
 - (iv) provide that the insurer will not avoid the policy;
 - (v) provide that the insurance operates as if a separate policy of insurance had been issued to each insured (subject always to the overall sum insured not being increased thereby) and that the acts, omissions, knowledge, or pre-contractual misrepresentations or non-disclosures of one insured will not be imputed to or prejudice a claim by another assured; for liability policies cover the liability of one insured to another; and
 - (vi) where required by law, be endorsed to give effect to clause 17.1(f).
- (c) The Contractor must effect and maintain, or cause to be effected and maintained, the following insurances (to the extent that they are relevant to the Work including whilst in transit) for the period of the Contract including any Defects Liability Period:
 - (i) employers' liability and/or worker's compensation insurance covering personal injury (including death, disease or sickness) to the employees of the Contractor engaged in the performance of the Work to the minimum value required by any applicable Law including extended cover (where required) for working offshore. Where commercially available this insurance is to include an indemnity to principals extension;

- (ii) construction all risk insurance covering the Work and Work Product for its full replacement value during on site and off site construction (including module fabrication yards outside of Australia) during the decommissioning work against the risk of physical loss or damage from insurable perils for its full replacement or reinstatement value plus removal of debris, extra costs of reinstatement and professional fees; such coverage shall remain in effect up to 21 days from the Date of Completion of the last Work Package of the Work to achieve Completion;
- (iii) marine cargo/transit insurance covering loss or damage to the Work or Work Product while in the course of transit via land, sea, inland waterways or air; the policy shall cover all commercially insurable perils causing direct physical loss or damage to materials, supplies and equipment intended to become a part of the Work Product or as otherwise mutually agreed between the Commonwealth and the Contractor for their full replacement value plus 10%;
- (iv) project specific third-party public and products liability insurance in respect of legal liabilities of the Contractor, its directors, officers, employees, agents and subcontractors to third parties arising out of the performance of the Work, including the decommissioning work, in the amount set out in Schedule 1 (*Contract Particulars*) for any one occurrence and unlimited in the aggregate, except in relation to products liability where the limit may also be an aggregate limit for all occurrences during the period of insurance. The insurance will cover products and completed operations, explosion, collapse and underground hazards, sudden and accidental pollution and contractual liability. The policy shall include all areas where the Work is performed and the Facility. Such insurance shall respond be excess of and on a 'difference in conditions' basis to third party liability coverage required for module yard Subcontractors;
- (v) motor vehicle third party liability insurance as required by any applicable Law; motor vehicle third party property damage and for unregistered vehicles, also death or bodily injury for in the amount set out in Schedule 1 (*Contract Particulars*) for any one occurrence;
- (vi) project specific pollution liability insurance including against claims for bodily injury, property damage and clean-up costs caused by or arising out of pollution incidents in the course of the activities of the Contractor Group. Coverage shall apply to sudden and accidental pollution events and shall respond to clean up both on and off the site of the Facility. This policy shall have a limit of not less than the amount set out in Schedule 1 (*Contract Particulars*) per occurrence and in the aggregate during the period of insurance;
- (vii) all risks property insurance covering the Contractor's property, and materials and equipment owned, hired, leased or used by the Contractor in the performance of the Work against insurable perils for not their less than their full replacement value;
- (viii) where the Work requires the use of a vessel, barge, tug or other watercraft:
 - (A) hull and machinery insurance for all vessels owned, hired, chartered, leased or used by the Contractor, in the performance of the Work for an amount no less than the agreed or market value of each such vessel, including cover for the cost of removal of debris and war risk cover;
 - (B) marine protection and indemnity insurance (where this is by entering the vessel into a protection and indemnity (P&I) Club, the Club must

- be a member of the International Group of P&I Clubs) covering all vessels owned, hired, chartered, leased or used by the Contractor in the performance of the Work, including cover for pollution, full collision liability and cost of removal of debris, for the amount set out in Schedule 1 (*Contract Particulars*); and
- (C) where the vessel required is chartered, charterers' liability insurance for the amount set out in Schedule 1 (*Contract Particulars*); and
 - (D) marine general liability, stevedore's legal liability, and/or legal liability insurance for the amount set out in Schedule 1 (*Contract Particulars*) covering liability arising from unloading or loading of water based craft or the management of wharf, pier or marine unloading or loading facilities;
- (ix) control of well insurance covering losses resulting from loss of well control with coverage limits of not less than the amount set out in Schedule 1 (*Contract Particulars*) for each occurrence; and
 - (x) professional indemnity insurance with a limit of indemnity of not less than the amount set out in Schedule 1 (*Contract Particulars*) per claim and in the aggregate for all claims in any 12 month policy period, and including an automatic right of reinstatement, which covers the liability of the Contractor arising from a negligent breach of duty owed in a professional capacity, by reason of any act or omission of the Contractor, its officers, employees, agents or Subcontractors.
- (d) In relation to all insurances provided in this clause 17, the Contractor must:
- (i) provide to the Commonwealth certificates of currency, and (with the exception of statutory insurances) a full copy of each policy (which shall be deemed the Contractor's confidential information under clause 15.4) for such insurances prior to the commencement of any part of the Work and otherwise within three Business Days following a request from the Commonwealth; and
 - (ii) in respect of clause 17.2(c)(ii), (iii) and (iv);
 - (A) provide to the Commonwealth at least 120 days prior to Commencement Date, an insurance program proposal including proposed policy form, insured limits and sub-limits, deductibles, exclusions, premium cost, insurer panel and placement timing;
 - (B) provide a summary of the policy of insurance or binder confirmation if the policy has not yet been issued) including any material endorsements, to the Commonwealth within three Business Days following a request from the Commonwealth; and
 - (C) upon written request from the Commonwealth, provide a copy of the policy which shall be deemed the Contractor's confidential information under clause 15.4.
- (e) If any insurance (including the limits or sub-limits thereof) hereby required to be maintained, other than insurance required by applicable Law, shall not be available in the commercial insurance market from insurers that meet the required financial strength rating required by clause 17.1(a) or otherwise on terms (including premium) that entities with a similar risk profile would accept, the Commonwealth and the Contractor must not unreasonably withhold their agreement to waive or modify such requirement to the extent that maintenance of the insurance thereof is

not so available; provided, however, that the Party shall first request any such waiver in writing from the other Party, which request shall be accompanied by written reports prepared by two independent advisers, including insurance brokers, of recognised international standing certifying that such insurance is not reasonably available in the commercial insurance market (and, in any case where the required amount is not so available, explaining in detail the basis for such conclusions and the amount that is available), such insurance advisers and the form and substance of such reports to be reasonably acceptable to the other Party. Any such waiver shall be effective only so long as such insurance shall not be available and commercially feasible in the commercial insurance market. The Party who sought any waiver given shall check the availability of such insurance at least once every 6 months and effect the waived insurance within 3 months of it becoming available, unless otherwise agreed with the other Party.

18. DISPUTE RESOLUTION

18.1 Disputes

- (a) Any Party claiming that a dispute or controversy in connection with the Contract has arisen (**Claimant**) will give notice to the other Party identifying such dispute, controversy or claim and designating its representative in negotiations, being a senior officer of the Party with authority to settle the matter and the other Party will promptly give notice designating its representative in negotiation with similar authority (**Notified Party**).
- (b) The Parties agree that the resolution of any disagreement will escalate up the management chain in a timely manner and in the event that the issue is not resolved at project sponsor lever within 14 days, it will be referred to senior officers for determination.
- (c) The senior officers of each Party will meet to seek to resolve the matter within 60 days of the receipt by Notified Party of the notice described above.

18.2 Arbitration

- (a) Any dispute, difference, controversy or claim whatsoever arising out of or in connection with the Contract (**Dispute**) must be submitted to arbitration in accordance with, and subject to UNCITRAL rules on the following basis:
- (b) the venue of the arbitration must be in Perth, Western Australia;
- (c) three arbitrators will be appointed by agreement between the parties. If the parties cannot agree the appointment of the arbitrators, the arbitrators will be appointed by the Resolution Institute of Australia (National);
- (d) the arbitrator(s) must be a Queens Counsel or Senior Counsel or a retired member of the Judiciary; and
- (e) the arbitration will be conducted in English.

18.3 Urgent Interlocutory Relief

Nothing in clauses 18.1 (Disputes) or 18.2 (Arbitration) prevents a Party from obtaining injunctive, declaratory or other interlocutory relief from a court which may be urgently required.

18.4 Dispute not to Affect Performance of Work

Notwithstanding any dispute that may arise between the Contractor and the Commonwealth, the Contractor will continue to perform the Work and its obligations under the Contract pending resolution of the dispute. Any threat by the Contractor to suspend or discontinue the Work on account of any dispute between the Contractor and the Commonwealth will be a Default and a fundamental breach by the Contractor of its obligations under the Contract.

18.5 Agent in Australia

- (a) The ruling language of the Contract is the English language.
- (b) If the Contractor does not have a registered office in Australia, the Contractor will be required to appoint an agent in Australia for receipt of legal notices and service of legal process, unless clause 14.3(c) specifies an alternative address acceptable to the Commonwealth. The Contractor will notify the name and address of its agent to the Commonwealth. Any process to be served on the Contractor, and any notice to be given to the Contractor, may be validly served or given by being left at the address so notified.
- (c) If the Contractor fails to meet its obligations under clause 18.5(b) within 30 days of the Commencement Date, then the Commonwealth may itself appoint a person in Australia to act as agent for the Contractor as required under clause 18.5(b) and will notify the Contractor of the appointment. The Contractor will be responsible for all costs incurred by the Commonwealth in so doing.

19. TERMINATION AND DEFAULT

19.1 Termination by Commonwealth

The Commonwealth will have the right, by giving notice to the Contractor, to terminate the Contract at such time or times as the Commonwealth may consider necessary for any of the following reasons:

- (a) at any time, to suit the convenience of the Commonwealth;
- (b) in the event of a Force Majeure Event where the Parties have not been able to agree within the required time a course of action to minimise its effects, as provided in clause 10.6 (Termination for Force Majeure);
- (c) subject only to clause 19.2, in the event of any Default on the part of the Contractor;
- (d) in the event of the Contractor or a Contractor Parent suffering an Insolvency Event;
- (e) if the Contractor or any first tier Subcontractor commits an ABC Law Violation;
- (f) if the Contractor or any first tier Subcontractor commits a Modern Slavery Law Violation, as provided in clause 20.11;
- (g) the Contractor meets or exceeds the Liquidated Damages Cap;
- (h) the Contractor meets or exceeds the general liability cap specified in Schedule 1 (*Contract Particulars*);
- (i) the Contractor fails to effect, maintain or replace the Bank Guarantee in accordance with clause 14.17;

- (j) the Contractor Parent Company Guarantee becomes void or voidable and is not replaced by a valid and enforceable Contractor Parent Company Guarantee within 10 Business Days from receipt by the Contractor of a notice from the Commonwealth;
- (k) the Contractor fails to obtain and maintain Authorisations required for the Work under the Contract;
- (l) the Contractor abandons the carrying out of the Work or behaves in a manner which could reasonably be regarded as amounting to Abandonment; or
- (m) the Contractor breaches its obligations under the Contract where the breach is not capable of remedy, or the Contractor fails to remedy a breach that is capable of remedy within the time required by the Commonwealth.

19.2 Notice of Contractor Default

- (a) In the event of Default on the part of the Contractor, the Commonwealth must give notice of Default (**Default Notice**) to the Contractor specifying the Default and requiring the Contractor to remedy the Default within a reasonable period, if the Default is capable of being remedied.
- (b) The Contractor must, upon receipt of a notice under clause 19.2(a), promptly commence, and thereafter continuously proceed with, action to remedy the Default specified in the Default Notice and complete the remedying of such Default within the period of time specified in the Default Notice.
- (c) If the Contractor fails to commence, continuously proceed with, or complete, the remedial action in accordance with the foregoing provisions, the Commonwealth may exercise its rights under clause 19.2(e), suspend the performance of the Work in accordance with clause 10.9 or, in the case of a Default that is a material breach of an obligation under the Contract, issue a notice of termination in accordance with the provisions of clause 19.1. No earlier suspension by the Commonwealth by reason of any Default will prejudice the right of the Commonwealth to issue a notice of termination under clause 19.1 in respect of the same Default where it has not been remedied at the time such notice is issued.
- (d) Notwithstanding the above, in the case of any Default that gives rise to any material WHS risks, the Commonwealth may require the Contractor to carry out remedial action immediately and/or suspend the performance of the Work in accordance with clause 10.9.
- (e) If the Contractor commits any Default and fails to remedy the Default in accordance with the requirements of clauses 19.2(b) to (d) then:
 - (i) the Commonwealth will be entitled without further notice to do all such acts, matters and things as may be reasonably necessary to remedy the Default for and on behalf of the Contractor, and without limitation the Commonwealth is entitled to do any of the following on behalf of the Contractor:
 - (A) make or withhold any payment;
 - (B) procure any Required Insurance for which the Contractor is the responsible Party and which the Contractor has failed to take out and maintain;
 - (C) procure any Materials, Plant, services or equipment, which the Contractor has failed to provide; and

- (D) complete any part of the Work, including any remedial work which the Contractor has failed to complete; and
- (ii) the Contractor will pay to the Commonwealth on demand all Costs reasonably incurred by the Commonwealth pursuant to the exercise of its powers under this clause.

19.3 Consequences of Termination

- (a) In the event of the Commonwealth giving the Contractor notice of termination of the Contract under clause 19.1, such notice will become effective on the date specified therein (provided that such date is on or after the date of the notice) or, in the absence of any specified date, at the date of receipt of the notice whereupon the Contractor must immediately:
 - (i) cease performance of the Work or such part thereof as may be specified in the notice, and use commercially reasonable efforts to mitigate costs incurred up to the date of termination;
 - (ii) comply with all directions of the Commonwealth regarding the Contractor's work-in-progress, and cease the Contractor's activities at the Facility, and remove the Contractor's workforce, materials and facilities used by the Contractor in the performance of the Work and Contractor Equipment from the Facility unless otherwise directed by the Commonwealth;
 - (iii) allow the Commonwealth or its nominee full right of access to the Facility to remove or take over the Work, together with all materials and equipment which are the property of the Commonwealth; and
 - (iv) unless such termination was under clause 19.1(a), assign to the Commonwealth, or its nominee, to the extent desired by the Commonwealth all or the relevant parts of the rights, titles, liabilities and Subcontracts relating to the Work which the Contractor may have acquired or entered into.
- (b) In the event of termination under clause 19.1(c) to 19.1(m), the Commonwealth will have the right to obtain completion of the Work or the relevant parts thereof by other contractors.
- (c) In the event of termination under clause 19.1(a), 19.1(b) the Contractor will be entitled to payment as set out in Schedule 4 (*Price and Payments*) for the part of the Work performed in accordance with the Contract up to the date of termination and any reasonable costs incurred by the Contractor that are directly attributable to the termination, and then only when the Contractor substantiates these amounts to the satisfaction of the Commonwealth Representative.
- (d) In the event of termination of Contract under any of clause 19.1(c) to 19.1(m):
 - (i) the Contractor will cease to be entitled to receive any money or monies on account of the Contract until the costs of completion and all other costs arising as a result of the Contractor's Default or other events giving rise to the termination have been finally ascertained;
 - (ii) thereafter and subject to any deductions that may be made under the provisions of the Contract (including under clause 19.3(d)(iii)) the Contractor will be entitled to payment only as set out in Schedule 4 (*Price and Payments*) for the part of the Work performed in accordance with the Contract up to the date of termination; and

- (iii) as the Contractor's sole liability and the Commonwealth's exclusive remedy with respect to such termination, the Contractor will pay to the Commonwealth the Replacement Contractor Costs with respect to the whole of the Work.
- (e) Termination of the Contract will be without prejudice to any rights or remedies under the Contract that may have accrued to either Party prior to such termination.

20. POLICY AND LAW

20.1 Governing Law and Proportionate Liability

- (a) The Contract and any dispute or matter arising out of or in connection with it (including any non-contractual dispute or matter) will be governed by and construed in accordance with the laws in force in Western Australia. The Parties agree that any conflict of laws rule that may otherwise refer the interpretation of the Contract to the laws of another jurisdiction, will not apply to the Contract.
- (b) To the extent permitted by law, the Parties agree that Part 1F of the *Civil Liability Act 2002* (WA) is excluded from operation with respect to any dispute, claim, action, or any matter whatsoever brought by any Party against the other, arising out of or in connection with the Contract.

20.2 Laws and Regulations

(a) Compliance with Laws and regulations

- (i) The Contractor must comply and ensure the Work complies with all applicable Law (including all of the rules and regulations of any Governmental Authority or regulatory body having jurisdiction over the Work and/or the Facility and all Authorisations). The Contractor must carry out its obligations under the Contract so as not to cause or contribute to any breach by the Commonwealth of any Law.
- (ii) The Contractor acknowledges and agrees that:
 - (A) the entry into the Contract and its terms does not impede any discretions, powers and rights that the Commonwealth and/or NOPSEMA have under OPGGS Legislation; and
 - (B) its performance of the Work shall be in a manner that is consistent with the obligations that an operator would be required to observe under the OPGGS Legislation, the approved NOPSEMA Environmental Plan, Well Operations Management Plan and Safety Case.

(b) Contractor permits

- (i) The Contractor must, at its own cost, obtain and maintain all Authorisations, other than the Commonwealth Permits listed in Schedule 1 (*Contract Particulars*), required by the applicable Law for the performance of the Work (including work permits, licensing and certification of Contractor Personnel, importation, transportation and delivery of Contractor Equipment and Material, licensing and operating of Contractor Equipment and disposal of its waste and rubbish, except to the extent that the same can only be legally obtained by the Commonwealth), and the Contractor must ensure that all such Authorisations remain in full force and effect to the extent applicable for the duration of the performance of the Work.

- (ii) With respect to Authorisations that can only be legally obtained by the Commonwealth together with the Commonwealth Permits as listed in Schedule 1 (*Contract Particulars*), collectively (**Commonwealth Permits**) the Contractor must provide such reasonable assistance as may be requested by the Commonwealth.

(c) **Indemnity**

The Contractor must indemnify and release the Commonwealth Group from and against any statutory fine or penalty imposed by a Governmental Authority.

(d) **Change in Law**

Should any Change in Law (other than a change in any applicable Law relating to income Taxes, i.e, taxes on income, profits, turnover, capital gains, dividends, corporation income or personal income; or a change in any other applicable Law agreed by the Contractor to be at Contractor's risk and included within the Contract), result in any delay to the progress of the Work or increase in the cost to the Contractor of performing the Work, then the Contractor will be entitled to an extension of time and/or increase in the Contract Price to the extent described under clauses 9.2 and 13.4 and/or 14.2 as the case may be.

20.3 **Work Health and Safety**

(a) In relation to this Contract, the Contractor must:

- (i) comply, ensure that the work conducted by it or on its behalf complies, and ensure so far as is reasonably practicable that the Subcontractors comply, with the WHS Legislation and with all applicable Laws, codes of practice, standards and policies and requirements of this Contract that relate to the health and safety of the Contractor, the Subcontractors and third parties. The other provisions of this clause 20.3 do not limit this clause;
- (ii) ensure so far as is reasonably practicable, the health and safety of workers engaged, or caused to be engaged by the Contractor and workers whose activities in carrying out work (including the Contractor Personnel and Subcontractors), are influenced or directed by the Contractor, while those workers are at work;
- (iii) ensure so far as is reasonably practicable, that the health and safety of other persons is not put at risk;
- (iv) where required by Law, consult, co-operate and co-ordinate with the Commonwealth in relation to the Contractor's work health and safety duties;
- (v) where required by Law, consult with workers who carry out work for the Contractor (or are likely to be) directly affected by a work and safety matter;
- (vi) where required by Law, consult, cooperate and coordinate activities with all other persons including Subcontractors who have a work health and safety duty in relation to the same matter;
- (vii) promptly notify the Commonwealth of any event or circumstance that has, or is likely to have, any adverse effect on the health or safety of persons to whom the Commonwealth has a duty under WHS Legislation;

- (viii) inform the Commonwealth of any adverse court or tribunal decision for a breach of WHS Legislation made against it in respect of the Work and any remedial action it has taken, or proposes to take, as a result of the decision;
 - (ix) if a "notifiable incident" (as defined by WHS Legislation) (**Notifiable Incident**) occurs:
 - (A) immediately report to the Commonwealth including all relevant details known to the Contractor; and
 - (B) as soon as possible investigate the Notifiable Incident to determine (as far as can reasonably be done) its cause and any adverse effects on this Contract including risks to health and safety, and take all reasonable steps to remedy any effects on health and safety and to ensure the event or circumstances that led to the Notifiable Incident do not recur;
 - (x) comply, and ensure that the Subcontractors comply, with any direction given by the Commonwealth in connection with its work under this Contract, that the Commonwealth considers reasonably necessary to deal with an event or circumstance that has, or is likely to have, an adverse effect on the health or safety of persons (including a Notifiable Incident);
 - (xi) promptly provide to the Commonwealth, upon request, information, documentation or evidence relevant to its obligations under clause 20.3, or to assist the Commonwealth and the Commonwealth Personnel to comply with their duties under WHS Legislation, including a written report on the investigation and response to an event or circumstance notified under clauses 20.3(a)(v), 20.3(a)(vii), 20.3(a)(viii) or 20.3(a)(ix); and
 - (xii) co-operate fully with any investigation by any Commonwealth Government Agency, parliamentary inquiry, board of inquiry or coronial inquiry with respect to a Notifiable Incident.
- (b) To the extent that work to be performed by the Contractor under the Contract is construction work for the purposes of the:
- (i) WHS Legislation, in accordance with regulation 293 of the *Work Health and Safety Regulations 2011* (Cth) (in respect of the Commonwealth and the harmonised WHS Legislation of each of the States or Territories in which the construction work is carried out), the Contractor is engaged as the principal contractor for the construction work the subject of the Contract and is authorised to have management or control of the workplace and discharge the duties imposed on a principal contractor for the purpose of the WHS Legislation; and
 - (ii) *Occupational Safety and Health Regulations 1996* (WA), in accordance with regulation 1.3 of the *Occupational Health and Safety Regulations 1996* (WA), the Contractor is the main contractor for the construction work the subject of the Contract and is taken to have control of the site and the workplace and is required to discharge the duties imposed on a main contractor for the purpose of the *Occupational Health and Safety Regulations 1996* (WA).
- (c) In relation to the Work, each party acknowledges that:
- (i) the Work constitutes a construction project (as that term is defined in the WHS Legislation);

- (ii) subject to clause 20.3(d), the Contractor is the WHS Principal Contractor for the applicable construction project; and
 - (iii) as the Contractor is the WHS Principal Contractor, the Contractor is authorised to have management and control of the applicable part of the Facility and will have and must discharge the duties of a WHS Principal Contractor.
- (d) There may be circumstances in which the Commonwealth considers it appropriate for it or another person to be the WHS Principal Contractor, in which case, the Commonwealth will notify the Contractor in writing.
- (e) The Contractor must:
 - (i) before commencement of any Work at the Facility, undertake an identification of hazards and assessment of the risks to health and safety associated with all activities involved in the relevant Work and identify and implement appropriate measures to eliminate all such risks, so far as is reasonably practicable, and if it is not reasonably practicable to eliminate risks to health and safety, minimise risks so far as is reasonably practicable by implementing control measures;
 - (ii) maintain the control measures so that they remain effective;
 - (iii) review and revise, control measures so as to maintain, so far as is reasonably practicable, a work environment that is without risks to health and safety; and
 - (iv) provide details of the risk assessment and evidence of implementation of adequate risk control measures to the Commonwealth on and in accordance with any reasonable request by or on behalf of the Commonwealth.
- (f) The Contractor must:
 - (i) before commencement of any Work at the Facility, prepare a written WHS Management Plan for the workplace, ensuring so far as is reasonably practicable, that each person who is to carry out the Work (including any construction work) is made aware of the plan, their right to inspect it and ensuring that a copy of the WHS Management Plan is accessible for an appropriate amount of time;
 - (ii) review and, as necessary, revise the WHS Management Plan to ensure it remains up-to-date and relevant for the Works; and
 - (iii) before commencement of any Work at the Facility, prepare safe work method statements for any high risk construction work, on the activities involved and associated hazards, risks and controls.
- (g) In addition to its rights under clause 20.18, the Commonwealth may:
 - (i) audit and monitor the compliance by the Contractor with this clause 20.3, its obligations under the WHS Legislation, its auditing and monitoring of any Subcontractor, which may include requiring documentary material that evidences the satisfaction of any circumstance, event, factor or matter. The Commonwealth may engage a Third Party to conduct auditing and monitoring and may recover the costs of doing so from the Contractor if material deficiencies, underperformance or non-compliance are identified;

- (ii) direct the Contractor to conduct, at its own cost and expense, an audit of its compliance with its obligations under this clause 20.3, its obligations under the WHS Legislation, its auditing and monitoring of Subcontractors, and report to the Commonwealth, in the form required by the Commonwealth, about the outcome of the audit; and
- (iii) commission any other work health and safety investigations at its election.
- (h) The Contractor must not make any material commitment, or give any material undertaking, to NOPSEMA in relation to the "Safety Case" without giving the Commonwealth prior written notice.

20.4 **Environment Protection and Biodiversity Conservation Requirements**

- (a) The Contractor acknowledges and agrees that following the Commencement Date, the Work may be:
 - (i) determined to be subject to the application of the EPBC Act; and
 - (ii) subject to conditions imposed under the EPBC Act.
- (b) If the Commonwealth advises the Contractor that the Work is subject to the EPBC Act, the Contractor must execute the Work in accordance with the EPBC Act including any conditions imposed under the EPBC Act as instructed by the Commonwealth.

20.5 **Pollution**

- (a) In performing the Work, the Contractor must comply with its obligations in respect of Pollution under:
 - (i) the approved WHS Management Plan, the Waste Management Plan and the approved Environmental Plan; and
 - (ii) all applicable Law relating to Pollution,

excluding any obligations regarding Hazardous Material present in, on, or under the Facility prior to the Commencement Date.
- (b) The Contractor must conduct its operations in a manner that will minimise Pollution, including minimise unnecessary use of Hazardous Material and damage to the environment at the Facility in accordance with Good Industry Practices.
- (c) The Contractor must ensure that no Pollution is discharged or otherwise allowed to escape as part of the Work, unless such discharge or escape is permitted under the approved Waste Management Plan, the approved Environmental Plan and all Laws.
- (d) The Contractor must remove all wreckage and debris resulting from or arising out of or in connection with the performance of the Work.
- (e) If any Pollution is discharged in connection with the Work, or if the Contractor brings, generates, or introduces any Pollution at or near the Facility, that does not comply with the approved Waste Management Plan, the approved Environmental Plan or any Law, then the Contractor must immediately comply with the reasonable directions of the Commonwealth with regard to preventing further escape or discharge of Pollution and cleaning up the Pollution (as the case may be) in compliance with the applicable Law.
- (f) The costs incurred associated with cleaning up the Pollution and Hazardous Material will be allocated in accordance with clauses 16.1(h) and clause 20.5(g).

- (g) If the Contractor or any Subcontractor encounters Hazardous Material which was present in, on, or under the Facility prior to the Commencement Date, the Contractor and its Subcontractors shall promptly notify the Commonwealth and take any steps in relation to the conduct of the Work (including isolating the Hazardous Material and, if necessary, ceasing or rescheduling work) to ensure compliance with:
 - (i) the approved WHS Management Plan, the Waste Management Plan and the approved Environmental Plan; and
 - (ii) all applicable Laws.
- (h) If under such circumstances the Contractor or any of its Subcontractors fail to stop Work and notify the Commonwealth, the Contractor must be responsible and liable to the Commonwealth for damages, costs, losses and expenses to the extent such failure increases the damages, costs, losses and expenses with respect to such Hazardous Material at the Facility and will not be entitled to any associated extension of time; provided that the Contractor's liability to the Commonwealth for such failure shall not exceed the amount set out in Schedule 1 (*Contract Particulars*).

20.6 Construction Contracts Act 2004 (WA)

- (a) This clause 20.6 will apply only to the extent that the *Construction Contracts Act 2004* (WA) (**CCA**) applies to the Contract. Expressions defined or used in the CCA have the same meaning for the purposes of this clause 20.6 (unless the context otherwise requires).
- (b) The Contractor must:
 - (i) when it gives the Commonwealth any application or notice under the CCA immediately give a copy of that application or notice to the Commonwealth Representative; and
 - (ii) when it receives an application or notice under the CCA relating to the work under the Contract from any third party (including any Subcontractor), give a copy of that application or notice to both the Commonwealth and the Commonwealth Representative.
- (c) For the purposes of Part 3 of the CCA, the Parties appoint the person specified in Schedule 1 (*Contract Particulars*) as the prescribed appointor for the Contract.
- (d) Nothing in the Contract will be construed to make any act or omission of the Commonwealth in contravention of the CCA (including failure to pay an amount becoming due under that Act) a breach of the Contract (unless the Commonwealth would have been in breach of the Contract had the CCA had no application).
- (e) If the Contractor at any time is entitled to and does suspend the whole or any part of the Work under the CCA, despite any other provision of the Contract clause 20.6(d) will apply.
- (f) If any Subcontractor at any time suspends the provision by it of work, services, materials or other things (which form part of the Work) or takes any other action under the CCA, despite any other provision of the Contract:
 - (i) the Contractor will not be relieved of any of its obligations under the Contract and the suspension or other action by the Subcontractor will not entitle the Contractor to any Claim against the Commonwealth; and

- (ii) the Contractor must immediately provide to the Commonwealth full details of the circumstances giving rise to the Subcontractor's right or alleged right to suspend or take other action.

20.7 Personal Properties Securities Act 2009 (Cth)

(a) Meaning of terms

In this clause 20.6:

- (i) PPSA means the *Personal Property Securities Act 2009* (Cth) (**PPSA**);
- (ii) security interest, perfected, personal property, possession, financing statement, registration and control have the meanings given to them in the PPSA; and
- (iii) the Commonwealth's Personal Property means all personal property the subject of a security interest granted in favour of the Commonwealth under the Contract.

(b) PPSA further steps

- (i) Whenever the Commonwealth requests that the Contractor do anything to ensure any security interest granted under the Contract is fully effective, enforceable and perfected with the priority required by the Commonwealth, the Contractor must promptly do it at the Contractor's cost.
- (ii) This may include doing anything to make, procure or obtain any consent, authorisation, registration or approval in respect of anything, or to facilitate it:
 - (A) creating or executing (or procuring the creation or execution of) any document, including any form, notice, consent or agreement; and
 - (B) delivering documents or evidence of title or otherwise giving possession or control with respect to any personal property or other asset.
- (iii) The Contractor is not responsible for the registration of a financing statement with respect to any security interest pursuant to the PPSA.

(c) Provision of information

The Commonwealth may request that the Contractor provide information relating to a security interest (in favour of any person) in the Contract or any matter contemplated by the Contract, including requesting a copy of any form, notice, consent or agreement relating to such a security interest. The Contractor must promptly (and at its own cost) comply with such a request.

(d) PPSA requirements

- (i) The Contractor must promptly, at its own cost, take all reasonable steps that are prudent for its business under or in relation to the PPSA in respect of any matter contemplated by, or concerning the subject matter of, the Contract including doing anything reasonably requested by the Commonwealth for that purpose where failure to do so would materially impact the rights of the Commonwealth under the Contract.

- (ii) Without limiting clause 20.7(d)(i), the Contractor must, at its own cost, take reasonable steps to identify security interests in connection with the Contract or any matter contemplated by the Contract in its favour and to perfect and protect them with the highest priority reasonably available, where failure to do so would materially impact the rights of the Commonwealth under the Contract.
- (iii) The Commonwealth may request that the Contractor provide evidence of its compliance with this clause (d), and the Contractor must promptly comply with that request at its own cost.

(e) **PPSA exclusions**

- (i) To the extent the Contract or the transactions contemplated by it give rise to a security interest under the PPSA, the Parties contract out of each provision that sections 115(1) or 115(7) of the PPSA permits them to contract out, other than sections 117 and 118 (relationship with land laws), 128 and 129 (disposal of collateral) and 134(1) and 135 (retention of collateral). Any disposal or other exercise of a right, power or remedy under the Contract or otherwise will only be taken to be under a provision listed in this clause (a) if the exercising Party so elects.
- (ii) The Contractor waives its rights to receive:
 - (A) each notice that section 157(3) permits it to waive and, to the extent capable of being waived, notice under any other provision of the PPSA; and
 - (B) anything from the Commonwealth under section 275 and agrees not to make any request of the Commonwealth under that section.

(f) **Priority of Commonwealth's interest**

Nothing in the Contract will be taken or construed as an agreement or consent by the Commonwealth to:

- (i) subordinate the Commonwealth's interest in the Commonwealth's Personal Property (or any part thereof) to any other encumbrance or interest affecting the Commonwealth's Personal Property at any time; or
- (ii) delay the time when a security interest created or provided for under the Contract attaches to the relevant collateral.

(g) **Notices to be given to the Commonwealth**

The Contractor must notify the Commonwealth in writing as soon as the Contractor becomes aware of any of the following:

- (i) if any personal property that does not form part of the Commonwealth's Personal Property becomes an accession to the Commonwealth's Personal Property and is subject to a security interest in favour of a third party, that has attached at the time it becomes an accession; and
- (ii) upon request by the Commonwealth, of the present location or situation of any Commonwealth's Personal Property.

20.8 Freedom of Information

- (a) The *Freedom of Information Act 1982* (Cth) (**FOI Act**) gives members of the public rights of access to official documents of the Commonwealth Government and its agencies. The FOI Act extends, as far as possible, rights to access information (generally documents) in the possession of the Commonwealth Government, limited only by considerations for the protection of essential public interest and of the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities.
- (b) The Contractor acknowledges that Commonwealth requirements and policies will require certain identifying details of the Contract to be made available to the public via the internet.

20.9 Long Service Leave Levy Payments

- (a) The Contractor agrees that the Contract Price includes any levy payable by either the Contractor or the Commonwealth under any legislative requirement relating to the payment of portable long service leave in the construction industry.
- (b) In accordance with any legislative requirements, the Contractor must:
 - (i) pay to the Construction Industry Long Service Leave Payments Board, or its agent, the amount of the long service leave levy payable in respect of the Work under the *Construction Industry Portable Paid Long Service Leave Act 1985* (WA); and
 - (ii) produce to the Commonwealth the documents evidencing the payment of the levy.
- (c) For the avoidance of doubt and to the extent permitted under the Law, the Contractor will bear all obligations and liabilities of an employer under the *Construction Industry Portable Paid Long Service Leave Act 1985* (WA) in respect of employees (as that term is defined in the *Construction Industry Portable Paid Long Service Leave Act 1985* (WA)) who execute any of the Work.

20.10 Liability Under NGER Legislation

- (a) Without limiting any other provision of the Contract, the Contractor acknowledges and agrees that, if the Work constitutes a "facility" within the meaning of the NGER Legislation, then for the purposes of the NGER Legislation, the Commonwealth has operational control of that facility or facilities and that person will comply with any obligations arising in respect of the Work under the NGER Legislation.
- (b) If, despite the operation of clause 20.10(a), the Commonwealth incurs, or but for this clause 20.10 would incur, a liability under or in connection with the NGER Legislation as a result of or in connection with the Work, and the NGER Legislation provides that such liability can be transferred by the Commonwealth to the Contractor, the Contractor must, upon the written request of the Commonwealth, do all things reasonably necessary to transfer the liability to the Contractor.

20.11 Compliance with Modern Slavery Laws

(a) Contractor Warranties

The Contractor represents and warrants that, having made reasonable enquiries and to the best of its knowledge, with respect to or in connection with the subject matter of the Contract:

- (i) neither it nor any of its officers, directors, employees, related bodies corporate, first tier Subcontractors or agents have engaged in or allowed, and none of the foregoing will engage in or allow, any conduct which would comprise Modern Slavery or would be a Modern Slavery Law Violation; and
- (ii) it will otherwise comply with the Modern Slavery Laws.

(b) **Subcontractors**

Before the award of any first tier Subcontract, the Contractor must:

- (i) procure a warranty in the same terms as set out in clause 20.11(a) above from such Subcontractor in favour of the Contractor;
- (ii) conduct, or procure the conduct of, a due diligence on such Subcontractor's ability to comply with the Modern Slavery Laws that a reasonable and prudent contractor subject to the Modern Slavery Laws would conduct under the circumstances to a standard that is proportionate to the identified risk; and
- (iii) conduct, or procure that such Subcontractor conduct, a due diligence on such Subcontractor's proposed Subcontractors that satisfies clause 20.11(b)(ii) above.

(c) **Right of termination**

- (i) If the Contractor or a first tier Subcontractor commits a Modern Slavery Law Violation in connection with the subject matter of the Contract then the Commonwealth may terminate the Contract for breach, by giving written notice of termination to the Contractor.
- (ii) In the event of termination in accordance with clause 20.11(c)(i), the Contractor will be entitled to payment only for that part of the work properly performed as part of the Work, up to the date of termination, and clause 19.3 applies.
- (iii) The Contractor must procure that each Subcontract includes a termination clause as described in this clause 20.11(c).
- (iv) Any right of termination under this clause 20.11(c) is additional to any other right of termination the Commonwealth may have, either in the Contract or at law.

(d) **Audit rights**

- (i) The Commonwealth may, on reasonable notice and at its sole expense, conduct an audit of books and records referred to in clause 20.18(b) to determine whether a Modern Slavery Law Violation has occurred.
- (ii) The Contractor agrees to obtain audit rights similar to those set out in clause 20.11(d)(i) above, in each first tier Subcontract, so that for any Subcontract that was entered into solely for the performance of the Contract, the Commonwealth or Contractor may audit the books and records of the Subcontractor, in the same manner as set out in this provision.

20.12 Applicable Standards

- (a) The Contractor acknowledges that Annex B to Schedule 3 (*Scope of Work*) identifies:
 - (i) the Australian standards which are applicable to the Work; or

- (ii) in the absence of an applicable Australian standard, the relevant international standards which are applicable to the Work,

(Applicable Standards).

- (b) Without limiting the Contractor's obligations under this Contract, the Contractor must comply with the Applicable Standards in carrying out the Work.
- (c) The Commonwealth Representative may, at any time, request that the Contractor provides:
 - (i) a certificate which certifies that the Detailed Documentation, the Work or any Work Package complies with the Applicable Standards; and
 - (ii) a corresponding certificate from each relevant subcontractor which certifies that (to the extent then applicable) all design carried out by that subconsultant or the Work performed by that subcontractor (as the case may be) complies with the Applicable Standards.
- (d) The Contractor acknowledges that the Commonwealth may exercise any of its rights under this Contract to carry out periodic auditing of the Contractor's compliance with this clause 20.12.

20.13 Fraud Control

- (a) Without limiting the Contractor's other obligations, the Contractor must proactively:
 - (i) take all necessary measures to prevent, detect and investigate any fraud in connection with the Contract or the Work (including all measures directed by the Commonwealth Representative); and
 - (ii) take all necessary corrective action to mitigate any loss or damage to the Commonwealth resulting from fraud to the extent that the fraud was caused or contributed to by the Contractor or any of its officers, employees, subcontractors or agents and put the Commonwealth in the position it would have been in if the fraud had not occurred (including all corrective action directed by the Commonwealth Representative).
- (b) If the Contractor knows or suspects that any fraud is occurring or has occurred it must immediately provide a detailed written notice to the Commonwealth Representative including details of:
 - (i) the known or suspected fraud;
 - (ii) how the known or suspected fraud occurred;
 - (iii) the proactive corrective action the Contractor will take under clause 20.13(a)(ii); and
 - (iv) the proactive measures which the Contractor will take under clause 20.13(a)(i) to ensure that the fraud does not occur again,

and such further information and assistance as the Commonwealth, or any person authorised by the Commonwealth, requires in relation to the fraud.

20.14 Black Economy Procurement Connected Policy

- (a) The Contractor must not enter into a Subcontract with a proposed direct Subcontractor (or agree to a novation of a direct Subcontract) if the total value of all

work under the Subcontract is expected to exceed \$4 million (inclusive of GST), unless the Contractor has obtained and holds any the following Statements of Tax Records (**STRs**), as applicable to the proposed direct Subcontractor:

If the proposed Subcontractor to enter into the Subcontract is:	STRs required:
(a)	(b)
a. a body corporate or natural person;	a satisfactory and valid STR in respect of that body corporate or person;
b. partner acting for and on behalf of a partnership;	a satisfactory and valid STR: (i) on behalf of the partnership; and (ii) in respect of each partner in the partnership that will be directly involved in the delivery of the Subcontract;
c. a trustee acting in its capacity as trustee of a trust;	a satisfactory and valid STR in respect of the: (i) trustee; and (ii) the trust;
d. a joint venture participant;	a satisfactory and valid STR in respect of: (i) each participant in the joint venture; and (ii) if the operator of the joint venture is not a participant in the joint venture, the joint venture operator;
e. a member of a Consolidated Group;	a satisfactory and valid STR in respect of: (i) the relevant member of the Consolidated Group; and (ii) the head company in the Consolidated Group;
f. a member of a GST Group;	a satisfactory and valid STR in respect of the: (i) the GST Group member; and (ii) the GST Group representative.

- (b) The Contractor must obtain and hold additional STRs in the following circumstances within 10 Business Days of the Contractor becoming aware of the circumstances arising:

If the Contractor or Subcontractor is:	Additional STRs required:
(a)	(b)

a. a partner acting for and on behalf of a partnership;	a satisfactory and valid STR in respect of any additional partner that becomes directly involved in the delivery of the Contract or Subcontract (as applicable);
b. a trustee acting in its capacity as trustee of a trust;	a satisfactory and valid STR in respect of any new trustee appointed to the trust;
c. a joint venture participant;	a satisfactory and valid STR in respect of: (i) any new participant in the joint venture; and (ii) any new joint venture operator if the new operator is not already a participant in the joint venture;
d. a member of a Consolidated Group;	a satisfactory and valid STR in respect of any new head company of the Consolidated Group; and
e. a member of a GST Group;	a satisfactory and valid STR in respect of any new representative for the GST Group.

- (c) The Contractor must provide the Commonwealth with copies of the STRs referred to in clause 20.14(a) and 20.14(b) within 5 Business Days after a written request by the Commonwealth.
- (d) The Contractor:
- (i) warrants that at the date of the Contract it holds a valid and satisfactory STR;
 - (ii) must hold a valid and satisfactory STR at all times during the Work and, on request by the Commonwealth Representative, provide to the Commonwealth Representative a copy of any such STR;
 - (iii) must ensure that any subcontractor, if the total value of all work under the subcontract is expected to exceed \$4 million (inclusive of GST), holds a valid and satisfactory STR at all times during the term of the relevant subcontract; and
 - (iv) must retain a copy of any STR held by any subcontractor in accordance with clause 20.14(d)(iii) and must, on request by the Commonwealth Representative, provide to the Commonwealth Representative a copy of any such STR.
- (e) For the purposes of the Contract, an STR is taken to be:
- (i) **satisfactory** if the STR states that the entity has met the conditions, as set out in the Black Economy Procurement Connected Policy, of having a satisfactory engagement with the Australian tax system; and
 - (ii) **valid** if the STR has not expired as at the date on which the STR is required to be held.

20.15 **Workplace Gender Equality**

- (a) The Contractor must comply with its obligations under the *Workplace Gender Equality Act 2012* (Cth) (**WGE Act**).
- (b) If the Contractor becomes non-compliant with the WGE Act during the period of the Contract, the Contractor must notify the Commonwealth Representative.
- (c) The Contractor must not enter into a subcontract made in connection with the Contract with a subcontractor named by the Workplace Gender Equality Agency as an employer currently not complying with the WGE.

20.16 **Indigenous Procurement Policy**

- (a) It is Commonwealth policy to stimulate Indigenous entrepreneurship and business development, providing Indigenous Australians with more opportunities to participate in the economy (see Indigenous Procurement Policy, for further information).
- (b) The Contractor must use its reasonable endeavours to increase its:
 - (i) purchasing from Indigenous Enterprises; and
 - (ii) employment of Indigenous Australians,
 in the performance of the Contract.
- (c) The Contractor must:
 - (i) comply with the Indigenous Participation Plan; and
 - (ii) submit a written report to the Commonwealth via the Powering Indigenous Procurement reporting portal on its compliance with the Indigenous Participation Plan, as follows:
 - (A) at least quarterly; and
 - (B) within 7 days of the expiry of the last Defects Liability Period (**End of DLP Report**).
- (d) The Contractor must set out in the End of DLP Report:
 - (i) whether the Contractor:
 - (A) met the mandatory minimum requirements for the Indigenous Procurement Policy; and
 - (B) complied with the Indigenous Participation Plan; and
 - (ii) if the Contractor did not comply with the Indigenous Participation Plan, an explanation for its non-compliance.
- (e) Throughout the carrying out of the Work, the Contractor is responsible for managing the Contractor's access to the Powering Indigenous Procurement reporting portal including by managing the:
 - (i) enabling of its authorised personnel's access; and
 - (ii) disabling of its authorised personnel's access,

and must promptly notify the Commonwealth Representative of such enabling and disabling and any other matters relating to access to the Powering Indigenous Procurement reporting portal.

- (f) If the Commonwealth Representative considers, in its absolute discretion at any time during the carrying out of the Work, that it has concerns in relation to the Contractor's:

- (i) compliance with the Indigenous Participation Plan; or
- (ii) overall ability to meet the mandatory minimum requirements as set out in the Indigenous Participation Plan,

the Commonwealth Representative may direct the Contractor to provide additional detail in relation to its implementation of and overall ability to comply with the Indigenous Participation Plan.

- (g) The Contractor:

- (i) must comply with all directions issued by the Commonwealth Representative in relation to the Contractor's implementation of the Indigenous Participation Plan; and
- (ii) will not be entitled to make (nor will the Commonwealth be liable upon) any Claim arising out of or in connection with any direction of the Commonwealth Representative under clause 20.16(g)(i).

- (h) Notwithstanding any other clause of this Contract, the Contractor acknowledges and agrees that the reports it submits under clause 20.16(c)(ii):

- (i) will be recorded in a central database accessible by the Commonwealth and may be made publically available;
- (ii) will not be Confidential Information for the purposes of clause 15.4; and
- (iii) may be used by the Commonwealth for any purpose, including being taken into account for evaluation of in any registration of interest process, tender process or similar procurement process in connection with any other Commonwealth project.

20.17 Australian Industry Participation

- (a) The Contractor must comply with the Australian Industry Participation (**AIP**) Plan.
- (b) The Contractor must further develop, deliver and update the AIP Plan in accordance with Schedule 3 (*Scope of Work*).
- (c) The Contractor must provide AIP reports as part of the progress report submitted in accordance with clause 9.1.
- (d) Prior to, or following, the submission of the first AIP report, a review may be conducted by the Commonwealth at the Contractor's premises to assess and verify the:
 - (i) implementation of the AIP Plan; and
 - (ii) adequacy of the Contractor's financial management information system and data collection methods.

- (e) AIP progress reviews may be undertaken annually by the Commonwealth at the Contractor's and Subcontractors' premises to verify the nature and level of the work actually performed and the achievement of the AIP Plan as reported by the Contractor. The Contractor must facilitate, and shall ensure that Subcontractors facilitate, these reviews.
- (f) The Contractor must flow down the AIP progress review requirements of this clause 20.17 to relevant Subcontractors.

20.18 Audit and Storage of Documents

- (a) During the course of the Work and thereafter until the Longstop Audit Date, the Commonwealth or its duly authorised representative (including an external auditor appointed by the Commonwealth) will have the right to audit at all reasonable times during normal business hours reasonable supporting documentation relating to:
 - (i) all invoiced charges made by the Contractor on the Commonwealth; and
 - (ii) any provision of this Contract under which the Contractor has obligations the performance of which is capable of being verified by audit.

However, the Commonwealth will not be entitled to investigate the make-up of rates and lump sums included in the Contract.

- (b) The Commonwealth may require that an audit cover the Contractor's financial procedures, controls and systems, or the Contractor's adherence to a Deliverable, or for the purpose of verifying compliance with the terms of the Contract or to determine whether an ABC Law Violation or Modern Slavery Law Violation has occurred.
- (c) The Contractor must co-operate with the Commonwealth and/or its representatives in the carrying out of any audit required by the Commonwealth and must provide reasonable necessary assistance (including making the Contractor's personnel and facilities available on request) to the auditors. The Commonwealth will conduct any audit in a manner which will keep to a reasonable minimum any inconvenience to the Contractor.
- (d) The Contractor must keep and maintain books, records, personnel records, accounts, correspondence, vouchers, receipts, dockets and other documents of every kind (including those which are stored on computers) relating to this Contract until the Longstop Audit Date.
- (e) The above provisions of this clause 20.18 will also apply to all first tier Subcontractors mutatis mutandis, and the Contractor must ensure that appropriate provisions are included in all such Subcontracts to effect the same.
- (f) Should the Commonwealth discover (whether through any such audit or otherwise) that payments have been made incorrectly, the Commonwealth has the right to make appropriate adjustments and the Commonwealth or the Contractor, as the case may be, must then make any payments required to give effect to such adjustments.
- (g) Without limiting clauses 20.18(a) to 20.18(f), the Contractor acknowledges and agrees that:
 - (i) the Auditor-General has the power under the *Auditor-General Act 1997* (Cth) to conduct audits (including performance audits) of the Contractor and Subcontractors in relation to the Contract;

- (ii) the Auditor-General may give a copy of, or an extract from, a report on an audit in relation to the Contract to any person (including a Minister) who, in the Auditor-General's opinion, has a special interest in the report or the content of the extract; and
- (iii) the Commonwealth Representative may authorise the Auditor-General, or member of the staff of the Australian National Audit Office, to access premises, records and accounts.

20.19 Privacy

- (a) The Contractor must, in respect of all Personal Information collected, received or supplied under the Contract:
 - (i) comply with Data Privacy Laws;
 - (ii) take all necessary steps to enable the Commonwealth to comply with Data Privacy Laws and the Commonwealth's relevant policies, including obtaining any necessary consents and making any notifications regarding Personal Information;
 - (iii) keep the Personal Information confidential and protect it from unauthorized destruction, loss, alteration or disclosure or access;
 - (iv) not disclose or transfer any Personal Information to any third party or allow any third party to access or use the Personal Information during or after the term of this Contract;
 - (v) upon termination or expiry of the Contract, return, destroy or de-identify to the Commonwealth's satisfaction all Personal Information (unless otherwise required by Law); and
 - (vi) promptly comply with the Commonwealth's reasonable requests to provide the Commonwealth or an individual with a copy of the individual's Personal Information in the form requested and correct, block or delete the individual's Personal Information.
- (b) If Data Privacy Laws of Australia, the European Economic Area, Canada or the United States apply to Personal Information, the Contractor must comply with any requirements of the Data Privacy Laws regarding cross-border transfers of such Personal Information.

21. GENERAL PROVISIONS

21.1 Customs Procedures

- (a) The Contractor will be responsible for all customs imports and exports clearances in respect of all Materials and Contractor Equipment, and must comply with all applicable Law in relation to international trade. Without limitation to this obligation, the Contractor must:
 - (i) be responsible for and make all necessary arrangements for the importation and exportation of items by the Contractor Group;
 - (ii) use all reasonable endeavours to minimise import Taxes and associated costs in respect of all Materials and Contractor Equipment; and

- (iii) comply with all the Commonwealth's reasonable directions and provide the Commonwealth with reasonable supporting information it requires in relation to import Taxes and customs regulations.
- (b) The Contract Price is inclusive of, and the Contractor must be responsible for, all import Taxes or other charges levied as a result of the importation of all Materials and Contractor Equipment for use in connection with the Contract. The Contract Price is exclusive of, and the Commonwealth must be responsible for, import Taxes levied in Australia on the Commonwealth for Commonwealth Supplied Items and any permanent Work or deliverables imported into the Commonwealth of Australia.
- (c) The Commonwealth may make applications for import Taxes concessions or exemptions in respect of any equipment imported in to the Commonwealth of Australia for use in connection with this Contract. Where the Commonwealth makes such applications for concessions or exemptions, the Contractor must:
 - (i) supply reasonable supporting documentation required; and
 - (ii) provide reasonable assistance as requested by the Commonwealth,
 to enable the Commonwealth to make valid applications and claim a refund, rebate, concession or exemption in respect of import duties.
- (d) The Commonwealth will be entitled to the sole and full benefit of any concession or exemption granted in respect of import Taxes for Materials, Commonwealth Supplied Items, any deliverables, and Contractor Equipment for use in respect of the Contract.
- (e) If the Contractor has included an import Taxes component in the Contract Price, and subsequently obtains any refund of import Taxes paid by the Contractor Group on Materials, goods or Contractor Equipment, there shall be a debt due from the Contractor to the Commonwealth in respect of these refunds.
- (f) For the purpose of import Taxes exemptions, the Contractor must use reasonable efforts to provide all conditions are met and obligations fulfilled to facilitate the obtaining of free trade agreement (**FTA**) approvals where goods, equipment and/or inputs are manufactured in a country which is a signatory to an FTA with Australia. Specifically, where it is determined FTA treatment is available and rules of origin requirements have been met, the Contractor must, and must ensure that its Subcontractors, obtain all required 'Certificates of Origin' in the approved formats, and any other documentation from the relevant Governmental Authorities in a timely manner and ensure its availability to the Commonwealth upon request. Should the Contractor or its Subcontractors through acts or omissions fail to obtain the appropriate Certificates of Origin for FTA qualifying (or use "eligible") goods, equipment and/or inputs in respect of the Work, and the Commonwealth incurs import Taxes liabilities upon importation into the Commonwealth of Australia, there shall be a debt due from the Contractor to the Commonwealth in respect of these liabilities only if, and to the extent that, the Contractor failed to use the aforementioned reasonable efforts in obtaining Certificates of Origin.

21.2 Export Controls

- (a) The Contractor must comply with all applicable Law (including rules and regulations of all Governmental Authorities) concerning export and re-export of goods, other foreign trade controls, including (without limitation) under U.S., Australian, United Kingdom, European Union and other countries' Law restricting sales and transfers to other countries and parties of commodities, software or technical data.

- (b) Notwithstanding any other provision of the Contract to the contrary the Contractor agrees that no commodities, software or technical data of U.S. origin or with U.S. origin content will be sold, exported, re-exported or transmitted except in compliance with all relevant U.S. government requirements.
- (c) The Contractor represents and warrants that neither the Contractor, nor any person or entity that owns, controls or is a director, officer or employee of the Contractor, is a Restricted Person.
- (d) Unless in receipt of an approval, licence or other authorisation from the relevant Governmental Authority, the Contractor must not:
 - (i) lend, contribute or otherwise make available funds made available to it under, pursuant to or in connection with the Contract to any person that is a Restricted Person;
 - (ii) engage in, or be a party to, any transaction or activity with any person or entity that is:
 - (A) subject to and in violation of Sanctions or any applicable Law relating to export controls; or
 - (B) a Restricted Person to the extent that such transaction or activity is in violation of Sanctions or any applicable Law relating to export controls or might provide grounds for the Contractor to be listed on any list of Restricted Persons maintained by any national or supra national body or agency with jurisdiction over a Party; and
 - (iii) enter into any agreement, transaction or dealing that will result in a violation by any person of Sanctions.
- (e) The Contractor will provide, upon request by the Commonwealth, written certification that the Contractor has complied with the provisions of this clause 21.2.
- (f) The Contractor must indemnify the Commonwealth Group in accordance with clause 20.2(c) from and against any breach by the Contractor of Law under this clause 21.2(a).
- (g) The Contractor must ensure that the requirements of this clause 21.1 form part of or are otherwise imposed on any party from which products or Work are procured, including the obligation to impose such terms (including this provision) on any Subcontractor.
- (h) If the Contractor or any of its Related Bodies Corporate breaches any of the obligations in this clause 21.1, then the Commonwealth may terminate the Contract for Default, by giving written notice of termination to the Contractor in accordance with clause 19.2.
- (i) In the event of termination in accordance with clause 21.1, the Contractor will be entitled to payment only for that part of the Work properly performed under the Contract, up to the date of termination, and the Commonwealth's rights and limitations under clause 19.3 apply.
- (j) Any right of termination under clause 21.2 is additional to any other right of termination the Commonwealth may have in the Contract.

21.3 Industrial Relations

The Contractor:

- (a) shall assume sole responsibility for and manage all Industrial Action and Industrial Relations Issues in relation to the Work;
- (b) shall maintain the Approved Enterprise Agreement in place for the Contractor's Personnel who will work on board the FPSO;
- (c) shall keep the Commonwealth regularly informed of any Industrial Relations Issues or Industrial Action which will, or is likely to, affect the performance of the Work;
- (d) must immediately notify the Commonwealth of:
 - (i) any Industrial Relations Issues or Industrial Action which causes or is likely to cause the Contractor or a subcontractor to suspend or cease carrying out all or any part the Work; and
 - (ii) what action or measures (including settlement) the Contractor has taken or proposes to take to overcome, or minimise the effects of, such Industrial Relations Issues or Industrial Action; and
- (e) shall submit to the Commonwealth for its approval, a plan for the management of Industrial Relations Issues and Industrial Action and the Approved Enterprise Agreement which is consistent with the Commonwealth's requirements. The Contractor must review and update its plan at the times requested by the Commonwealth and in any event no less than annually. The Contractor must implement and comply with, and must ensure all subcontractors implement and comply with, the plan.

21.4 Language

The Contract, all documents, notices, waivers and all other communications written or otherwise between the Commonwealth and the Contractor in connection with the Contract shall be in the English language.

21.5 Waiver

None of the terms and conditions of the Contract will be considered to be waived by either the Commonwealth or the Contractor unless a waiver is given in writing by one Party to the other. No failure on the part of either Party to enforce any of the terms and conditions of the Contract will constitute a waiver of such terms and conditions.

21.6 Notices

- (a) Except as otherwise stated in the Contract, any notice in respect of the Contract must be given in writing and delivered by hand or sent by email or post to the relevant address specified in Schedule 1 (*Contract Particulars*) and copied to such other office or offices of the Parties as are from time to time be nominated by them in writing to the other.
- (b) Any such notice is deemed to be delivered:
 - (i) if sent by pre-paid post, in three Business Days when sent within Australia and in eight Business Days when sent by air mail from one country to another;
 - (ii) if hand delivered, when received at the address, or by the recipient if sooner; or

- (iii) if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Business Day that the email has not been delivered to the recipient,
- (c) but if the receipt, transmission or entry into the information system is not on a Business Day or is after 5.00pm (recipient's local time) on a Business Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Business Day. For the purpose of this clause, 'Business Day' in relation to the doing of an action in a place, means any day other than a Saturday, Sunday or public holiday in that place.

21.7 Entire Agreement

The Contract constitutes the entire agreement between the Parties with respect to the subject-matter hereof. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. Neither Party has relied on or is relying on any other Conduct in entering into the Contract and completing the transactions contemplated by it.

21.8 Precedence of Documents

If there is any inconsistency between parts of the Contract, a descending order of precedence shall be accorded to:

- (a) the Conditions of Contract (including the Contract Particulars);
- (b) Schedule 3 (*Scope of Work*) and its annexes;
- (c) the Schedules other than Schedule 3 (*Scope of Work*); and
- (d) any document incorporated by express reference or otherwise referenced as part of the Contract,

so that the provision in the higher ranked document, to the extent of the inconsistency, shall prevail.

21.9 Mitigation of Loss

Both the Commonwealth and the Contractor must take all reasonable steps to mitigate any losses resulting from any breach of Contract by the other Party.

21.10 Provisions Applicable to Indemnities

For each indemnity provided for under the Contract, the following provisions will apply:

- (a) no indemnity is waived by any provision of the Contract with regard to insurance or by approval of any insurance policy;
- (b) if either Party becomes aware of any incident likely to give rise to a Claim under an indemnity, it must notify the other and both Parties must cooperate fully in investigating the incident. The indemnifying Party has the obligation and right to handle and defend any Claims under the indemnity and the indemnified Party must give the indemnifying Party notice of any such Claim and must supply the indemnifying Party with details and information it may have relating to the Claim in an expeditious manner and must take no action to compromise the indemnifying Party's legal position in relation to the Claim; and

- (c) each Party claiming the benefit of an indemnity must take all reasonable steps to minimise loss or damage suffered by it.

21.11 **Invalidity and Severability**

If any provision of the Contract is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability will not affect the other provisions of the Contract and all provisions not affected by such invalidity or unenforceability will remain in full force and effect. The Commonwealth and the Contractor agree to attempt to substitute, for any invalid or unenforceable provision, a valid or enforceable provision which achieves to the greatest possible extent, the economic, legal and commercial objectives of the invalid or unenforceable provision.

21.12 **Contract Amendments**

Any amendments to the Contract must be in writing contained in an agreement and signed by the Commonwealth Representative on behalf of the Commonwealth and a duly authorised representative of the Contractor. Minutes of meetings and other reports and records signed by authorised representatives of the Parties do not constitute amendments to the Contract.

21.13 **Contractor's Change of Control**

- (a) The Contractor must ensure that no Change of Control occurs, except with the Commonwealth's prior written consent (such consent not to be unreasonably withheld or delayed if, in the reasonable opinion of the Commonwealth, the Change of Control will not affect the financial or technical capacity of the Contractor to carry out its obligations under the Contract).
- (b) Where the Contractor comprises two or more companies acting in Joint Venture, clause 21.13(a) applies to each such company individually.

21.14 **Further Assurances**

Each Party agrees, at its own expense, to do everything reasonably necessary to give full effect to the Contract and the transactions contemplated by it, including the execution of documents.

21.15 **Sale of Goods Acts and Implied Warranties**

- (a) The United Nations Convention on the Contracts for the International Sale of Goods is excluded in its entirety.
- (b) To the extent permitted by Law, all warranties and analogous conditions that would otherwise be implied by Law are expressly excluded, except to the extent that any such warranty or analogous condition is expressly stated to apply.

21.16 **Assignment and Novation**

The Contractor must not assign, novate, encumber or declare a trust over the Contract or any part of it or any benefit or interest in or under it without the prior written approval of the Commonwealth which must not unreasonably be withheld or delayed.

SCHEDULE 1

CONTRACT PARTICULARS

Work which must be let to one of the Nominated Subcontractors: (Clause 5.2(a)(i))	Work	Nominated Subcontractor
	[INSERT]	[INSERT]
	[INSERT]	[INSERT]
Time within which Commonwealth must obtain Commonwealth Permits: (Clause 7.1(a))	[INSERT]	
Conditions precedent to Facility access: (Clause 7.2(a)(ii))	[INSERT]	
Liquidated damages: (Clause 10.8(a))	Work Package	Liquidated Damages
	Work Package C (FPSO Disconnection)	[\$[INSERT]] per day
	Work Package D (FPSO Sail Away)	[\$[INSERT]] per day
Defects Liability Period: (Clause 12.3 and Schedule 2)	[INSERT]	
Address for invoices: (Clause 14.3(c))	[INSERT]	
Contractor's bank account: (Clause 14.4(b))	[INSERT]	
Interest on late payments: (Clause 14.4(c))	[INSERT]	
Secured Amount: (Clause 14.17(a)(iv))	[INSERT]	
Limit of Contractor's indemnity with respect to Commonwealth Supplied Items or Work Product: (Clause 16.1(e))	[INSERT]	
Limit of Contractor's indemnity with respect to Commonwealth Group property: (Clause 16.1(h)(ii))	[INSERT]	
Limit of Contractor's indemnity with respect to Work, Work Product or Commonwealth Supplied Items: (Clause 16.1(h)(iii))	[INSERT]	
Contractor's limitation of liability: (Clause 16.6(a))	[INSERT]	
Commonwealth's limitation of liability: (Clause 16.7(a))	[INSERT]	
Insurance Limits (Clause 17.2)		
	Project specific third-party public and products liability	[INSERT]

	insurance limit (Clause 17.2(c)(iv))	
	Motor vehicle third party liability insurance (Clause 17.2(c)(v))	[INSERT]
	Project specific pollution liability insurance (Clause 17.2(c)(vi))	[INSERT]
	All risks property insurance (Clause 17.2(c)(vii))	[INSERT]
	Marine protection and indemnity insurance (Clause 17.2(c)(viii)(B))	[INSERT]
	Charterers' liability insurance (Clause 17.2(c)(viii)(C))	[INSERT]
	Marine general liability, stevedore's legal liability (Clause 17.2(c)(viii)(D))	[INSERT]
	Control of well insurance (Clause 17.2(c)(ix))	[INSERT]
	Professional indemnity insurance (Clause 17.2(c)(x))	[INSERT]
General liability cap: (Clause 19.1(h), 16.6(a))	[INSERT]	
Commonwealth Permits: (Clause 20.2(b))	[INSERT]	
Maximum liability for failure to stop Work: (Clause 20.5(h))	[INSERT]	
Prescribed appointer for the Contract (Clause 20.6(c))	[INSERT]	
Address and email address, for the giving or serving of notices, upon: (Clause 21.6(a))	Commonwealth:	
	Address (not PO Box):	[INSERT]
	Email address:	[INSERT]
	Attention:	[INSERT]
	Contractor:	
	Address (not PO Box):	[INSERT]
	Email address:	[INSERT]
	Attention:	[INSERT]
Commencement Date: (Schedule 2)	[INSERT]	
Commonwealth Representative: (Schedule 2)	[INSERT]	

Northern Endeavour FPSO Decommissioning Project

Commonwealth Supplied Items:
(Schedule 2)

[INSERT]

Commonwealth Supplied Items Availability Date:
(Schedule 2)

Item

Delivery Date

[INSERT]

[INSERT]

Completion - additional conditions precedent to Completion:
(Schedule 2)

[INSERT]

Contractor:
(Schedule 2)

[INSERT]

Contractor Parent:
(Schedule 2)

[INSERT]

Contractor Representative:
(Schedule 2)

[INSERT]

Date for Completion:
(Schedule 2)

Work Package

Date for Completion

Work Package A
(Engineering, Design and Planning)

[INSERT]

Work Package B (Operation and Maintenance)

N/A

Work Package C (FPSO Disconnection)

[INSERT, but no later than 30 September 2023]

Work Package D (FPSO Sail Away)

[INSERT, but no later than 30 September 2023]

Work Package E (Monitor and Maintain)

N/A

Work Package F (Project Planning and Management)

N/A

Designated Location:
(Schedule 2)

Item

Location

[INSERT]

[INSERT]

Key Personnel:
(Schedule 2)

Person

Position

[To be inserted following selection of successful tenderer]

Contractor's Representative

[To be inserted following selection of successful tenderer]

Project Quality Manager

[To be inserted following selection of successful tenderer]

Health and Safety Representative

[To be inserted following selection of successful tenderer]

[INSERT]

Liquidated Damages Cap:
(Schedule 2)

\$(INSERT)

SCHEDULE 2

GLOSSARY

Term	Definition
ABC Law	includes: a) any anti-corruption law of the Commonwealth of Australia (including any applicable common law, law of equity, any written law, statute, regulation or other instrument made under statute or by any Governmental Authority); b) any anti-corruption Law of a country other than Australia which applies to the Commonwealth, the Contractor or a Subcontractor from time to time in relation to the Contract.
ABC Law Violation	means a situation where the Contractor or a first tier Subcontractor has: a) directly or indirectly offered, paid, solicited or accepted bribes in any form including facilitation payments; or b) otherwise breached any ABC Law, in connection with the subject matter of the Contract or Subcontract as the case may be.
Abandonment	means: a) cessation of all or substantially all of the Work by the Contractor prior to Completion (unless the Contractor is entitled to stop, suspend, terminate or refuse to perform the Work under the Contract or at Law); or b) the Contractor engages in conduct that constitutes a repudiation of its rights and obligations in the Contract as a whole.
Approved Enterprise Agreement	means [<i>insert</i>].
Authorisation	means: a) an authorisation, consent, declaration, exemption, notarisation or waiver, however it is described; and b) in relation to anything that could be prohibited or restricted by law if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken including any renewal or amendment.
Authorised Person	means: a) a Related Body Corporate of the Contractor and any officer or employee of the Contractor; and b) any Subcontractor and any of its officers or employees who have been approved in writing by the Commonwealth.
Background Intellectual Property	means: a) in respect of the Commonwealth, Intellectual Property that is owned by or licensed to the Commonwealth independently of the Contract or which is Third Party Information; and b) in respect of the Contractor, any Intellectual Property that is used by the Contractor in the performance of the Work, is otherwise made available to the Commonwealth under or in connection with the Contract, including any Intellectual Property that is owned by or licensed to the Contractor which exists prior to the Commencement Date, or is otherwise developed or acquired by the Contractor independently of the Contract, and excludes New Intellectual Property.

Term	Definition
Bank Guarantee	has the meaning given to it in clause 14.17.
Black Economy Procurement Connected Policy	means the Black Economy Procurement Connected Policy – Increasing the Integrity of Government Procurement – March 2019, as amended from time to time.
Business Day	means: a) for determining when a notice, consent or other communication is given, a day that is not a Saturday, Sunday or public holiday in the place to which the notice, consent or other communication is sent; and b) for any other purpose, a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Canberra (ACT) or Perth (Western Australia).
Change in Law	means any of the following events occurring after Commencement Date as a result of any action by any Governmental Authority; a) the adoption, imposition, promulgation, coming into effect, modification or repeal of any Law that affects the Project, affects the performance of the Work by the Contractor Group, or the Commonwealth; or b) any change in the application, interpretation or implementation of a Law by a Governmental Authority that affects the Project, affects the performance of the Work by the Contractor Group, or the Commonwealth.
Change of Control	means: a) a change of the person that controls the Contractor (other than where the person that ultimately controls the Contractor remains the same following the change); b) a person that controls the Contractor ceases to control the Contractor (other than where the person that ultimately controls the Contractor remains the same following the change); or c) if the Contractor is not controlled, another person acquires control of the Contractor, and for these purposes, control means the power (whether directly or indirectly, through shares, by contract, under applicable Laws or otherwise) to control the affairs of the Contractor generally and, in this regard, the right to exercise 50% or more of the voting rights in the Contractor, or to appoint or remove the majority of directors in the Contractor, is deemed to "control" the Contractor, and controls and controlled are to be construed accordingly.
Claim	means any claim, action, demand, suit or proceeding (including by way of counterclaim, contribution or indemnity) made: a) in connection with the Work, the Facility, the Project or the Contract; or b) at Law or for specific performance, restitution, payment of money (including damages), an extension or time or any other form of relief or remedy.
Collateral Warranty Deed	means a collateral warranty deed in the form set out in Schedule 6 (<i>Collateral Warranty Deed</i>).
Commencement Date	has the meaning given to it in Schedule 1 (<i>Contract Particulars</i>).

Term	Definition
Commonwealth Government Agency	means: a) a "corporate Commonwealth entity" or "Commonwealth company" as defined in the <i>Public Governance, Performance and Accountability Act 2013</i> (Cth); b) an unincorporated body established or constituted for a public purpose by Commonwealth legislation, or an instrument made under that legislation; c) a body established by the Commonwealth Parliament, either House of Parliament, the Governor-General or a Minister of State or the Commonwealth; or d) any body that may exercise any of the powers of the Commonwealth under the Commonwealth Constitution, whether acting directly or through an agent, and e) any other Commonwealth department, agency, authority or entity.
Commonwealth Group	means: a) the Commonwealth; b) any Commonwealth Personnel; c) any Commonwealth Invitee, but does not include any member of the Contractor Group or Other Contractor Group.
Commonwealth Invitee	means any person (other than the Commonwealth or any Commonwealth Personnel) on the Facility at the invitation of the Commonwealth, but does not include any member of the Contractor Group or Other Contractor Group.
Commonwealth Personnel	means agents, representatives, directors, officers and employees of the Commonwealth, but does not include any Contractor Personnel.
Commonwealth Permits	means the Authorisations required to be obtained by the Commonwealth in accordance with clause 7.1.
Commonwealth Representative	means the person named as the "Commonwealth Representative" in Schedule 1 (<i>Contract Particulars</i>).
Commonwealth Supplied Items	means all plant, materials or other items which are supplied by the Commonwealth to the Contractor to use in the performance of the Work or incorporate in the Work Product, and which are specified in the Contract as "Commonwealth Supplied Items" in Schedule 1 (<i>Contract Particulars</i>).
Commonwealth Supplied Items Availability Date	means, for each item of Commonwealth Supplied Material, the relevant date set out in Schedule 1 (<i>Contract Particulars</i>).

Term	Definition
Completion	means the point in time when, in respect of a Work Package other than Work Package A (Engineering, Design and Planning) and Work Package F (Project Management): a) the Work Package is, complete except for minor Defects which do not prevent the Work Package from being reasonably capable of being used for the intended purpose of the Work Package; b) those inspections and tests which are required by the Contract to be carried out and passed before the Work Package reaches Completion have been carried out and passed; c) all documents and other information required for the safe use, operation and maintenance (as applicable) of the Work Package have been submitted to the Commonwealth Representative in accordance with the Contract; and d) without limiting the foregoing, the Contractor has done everything which the Contract requires it to do as a condition precedent to Completion, including those things specified in Schedule 1 (<i>Contract Particulars</i>).
Consequential Loss	means any: a) loss and/or deferral of production, loss of product, loss of use, loss of revenue, profit or anticipated profit (if any), loss of opportunity, loss of goodwill, costs of capital, costs of obtaining and maintaining financing, business interruption, and claims of customers, in each case whether direct or indirect, and whether or not foreseeable at the Commencement Date; and b) indirect damages, costs, losses or expenses of whatever nature, whether the losses described in (a) and (b) arise in contract, tort, including negligence or otherwise.
Contract Price	means the price payable to the Contractor for the performance of the Work, and all of its other obligations under the Contract, in accordance with the Contract, as calculated in accordance with Schedule 4 (<i>Price and Payments</i>).
Contractor	has the meaning given to it in Schedule 1 (<i>Contract Particulars</i>) and includes its successors and assigns as permitted under the Contract.
Contractor's Confidential Information	means: a) any estimating, technical, or pricing methodologies, price related information, schedule related information, techniques, know-how or information related to the business, services, research, or development of the Contractor conspicuously marked and identified in writing as confidential by the Contractor; or b) any Intellectual Property or Background Intellectual Property which is conspicuously marked and identified in writing as confidential.
Contractor Equipment	means all equipment that the Contractor supplies or is required to supply for the performance of the Work in accordance with the Contract, including the equipment specified in Schedule 3 (<i>Scope of Work</i>), whether owned, leased or hired.
Contractor Group	means: a) the Contractor; b) any Contractor Personnel; c) any Contractor Invitees; d) any Subcontractor, but does not include any member of the Commonwealth Group or Other Contractor Group.

Term	Definition
Contractor Intellectual Property	means the Background Intellectual Property of the Contractor.
Contractor Invitee	means any person (other than the Contractor, a Subcontractor or any Contractor Personnel) on the Facility at the invitation of the Commonwealth, but does not include any member of the Commonwealth Group or Other Contractor Group.
Contractor Parent	means each of the entities described as such in Schedule 1 (<i>Contract Particulars</i>).
Contractor Parent Company Guarantee	means a parent company guarantee in the form set out in Schedule 7 (<i>Contractor Parent Company Guarantee</i>) to be given in accordance with clause 14.16 by the Contractor Parent, or (where the Contractor comprises a joint venture) by each Contractor Parent, referred to in Schedule 1 (<i>Contract Particulars</i>).
Contractor Permits	means the Authorisations required to be obtained by the Contractor in accordance with clause 20.2(b).
Contractor Personnel	means agents, representatives, directors, officers and employees of the Contractor or a Subcontractor, but does not include any Commonwealth Personnel.
Contractor Representative	means the person named as the "Contractor Representative" in Schedule 1 (<i>Contract Particulars</i>).
Contractor supplied Materials	means all Materials supplied by the Contractor for incorporation in the Work Product or use in the Work.
Cost	means all charges, disbursements, expenses, costs and overheads which are reasonably and properly incurred as a result of the matter in question, but excluding any element of profit.
Data	means all data and information and includes any: a) compilation of data, data set or database; and b) raw versions of data as well as interpreted or otherwise modified versions of data.
Data Privacy Laws	include without limitation, to the extent applicable the <i>Privacy Act 1988</i> (Cth) and the Australian Privacy Principles.
Date for Completion	means, in respect of a Work Package, the date, or period of time, specified in Schedule 1 (<i>Contract Particulars</i>), as adjusted under the Contract.
Date of Completion	means the date of Completion set out in a Notice of Completion.
Deducted or Recovered	means deducted by the Commonwealth from payments due, or which become due to the Contractor, under the Contract in accordance with clause 14.7 or, if not paid by the Contractor to the Commonwealth on demand in accordance with the Contract, recovered by the Commonwealth from the Contractor by making a demand under the Bank Guarantee or for breach of the Contractor's obligation to pay.
Default	means a breach by a Party of its obligations under the Contract.

Term	Definition
Defect	means any defect, shrinkage, fault or omission in the Work or Work Product including any aspect of the Work or Work Product which is not in accordance with the requirements of the Contract. Defects will include: a) workmanship or Contractor-supplied Materials incorporated in the Work or Work Product not being of the standard or quality required under the Contract; and b) the Work or Work Product not meeting all the requirements of the Contract, including not being in accordance with Good Industry Practices, applicable law, and applicable codes and standards, including any error, omission, or inaccuracy therein.
Defects Liability Period	means the period which commences on the Date of Completion of a Work Package and continues for the period set out in Schedule 1 (<i>Contract Particulars</i>), as extended by clause 12.5.
Defects Liability Certificate	means the certificate to be issued by the Commonwealth pursuant to clause 12.10.
Deliverable	means each item, as set out at Annex A to Schedule 3 (<i>Scope of Work</i>), to be submitted by the Contractor to the Commonwealth.
Deliverables List	means the list of Deliverables set out at Annex A to Schedule 3 (<i>Scope of Work</i>).
Designated Location	means, for each item of Commonwealth Supplied Material, the location set out in Schedule 1 (<i>Contract Particulars</i>).
Detailed Documentation	means all documentation (including design standards, design reports, specifications, models, samples, calculations, drawings, or request for proposal or request for quotation documentation for any work and equipment packages) in computer readable and written forms, or stored by other means, which the Contractor or any Subcontractor prepares or creates in connection with the Work.
Documents	means any and all appropriate technical documents, drawings, designs, specifications, manuals, operating systems and records.
Environmental Plan	means the NOPSEMA approved Environmental Plan for the Petroleum Production Licences, as may be amended from time to time.
EPBC Act	means the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth).
Excluded Information	means any information that the Contractor can establish to the reasonable satisfaction of the Commonwealth: a) is in or enters the public domain other than through a breach of any obligation of confidence owed by the Contractor or its Authorised Person to the Commonwealth; b) is or was made available to the Contractor by a person (other than the Commonwealth) who was not then under any obligation of confidence to the Commonwealth in relation to that information, or c) was developed by the Contractor without the Contractor relying on, referring to or incorporating any of the Third Party Information.
Existing O&M Agreement	means the agreement between the Commonwealth and the Existing Operator to operate and maintain the FPSO in "lighthouse mode", dated on or around 22 December 2020.
Existing Operator	means Upstream Production Solutions Pty Ltd (ABN 26 166 665 952).

Term	Definition
Facility	means all of the facilities and systems that form part of the FPSO System (and includes any and all facilities and systems outside of the FPSO Battery Limit to the extent applicable in this Contract).
Facility Safety Case	has the same meaning as Safety Case.
Final Statement	means the Final Statement submitted by the Contractor under clause 14.8.
Fit for Purpose	means fit for its intended purpose in accordance with, or reasonably ascertainable from, this Contract (including Schedule 3 (<i>Scope of Work</i>)) and including for the purposes of carrying out the Work in a safe and lawful manner.
Force Majeure Event	has the meaning given in clause 10.1.
FPSO	means the Northern Endeavour floating production storage and offtake facility, which vessel is a dumb barge and bearing IMO number 9182916 and at the date of this contract located in the Timor Sea.
FPSO Battery Limit	means the FPSO System up to but not including the flanges connecting the FPSO to the subsea risers.
FPSO Equipment	means all equipment, hoses, pumps, parts and machinery that are not always attached or affixed to or integrated with the FPSO but form an integral part of the FPSO and are necessary for FPSO operations, including the offtake hose.
FPSO Mooring	means the bottom mounted internal turret mooring system which enables the FPSO to operate in all weather conditions by allowing the vessel to weathervane around the turret.
FPSO Subsea Controls	means all controls for the operation and maintenance of field sub-sea facilities (pipelines, umbilicals, flowlines and other equipment and structures in the fields), that are on, in or attached to the FPSO.
FPSO System	means the FPSO, FPSO Mooring, FPSO Subsea Controls and FPSO Equipment and every part, section, piece and item thereof up to and within the FPSO Battery Limit.
Good Engineering and Operating Practice	means operations management and maintenance practices that can be reasonably expected of a skilled and prudent contractor performing works and services the same as or similar to the Works, in accordance with best practice in Australia.
Good Industry Practices	means the practices that would be adopted by, and the exercise of that degree of care, skill, diligence, prudence and foresight that reasonably would be expected from, a competent contractor in the international oil and gas industry experienced in performing engineering, procurement, and construction works similar in nature, size, scope and complexity to the Work and under conditions comparable to those applicable to the Work, where such works are subject to, and such contractor is seeking to comply with, the standards and codes specified in the Contract or (to the extent that they are not so specified) such national or international standards and codes as are reasonably applicable in the circumstances, and the applicable Law.
Governmental Authority	means a governmental department, authority, instrumentality or agency having jurisdiction over the relevant matter and includes any Commonwealth Government Agency or governmental department, authority, instrumentality or agency that replaces that Governmental Authority in its jurisdiction over that matter.
Handover Date	means the date stated as the "Handover Date" in a notice issued by the Commonwealth to the Contractor in accordance with clause 2.4(b).

Term	Definition
Hazardous Material	means any substance, gas, chemical, liquid or other matter that presents a risk of harm to human health or any other aspect of the environment, and which is or becomes regulated by Law.
Indigenous Enterprise	means an organisation that is 50% or more indigenous owned that is operating a business.
Indigenous Participation Plan	means the plan attached at Annex C to Schedule 3 (<i>Scope of Work</i>).
Indigenous Procurement Policy	means the Commonwealth's Indigenous Procurement Policy, as amended from time to time, available at https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp .
Industrial Action	means industrial action of any description including any action of the following kinds: a) the performance of work by any person employed or engaged by the Contractor or the Contractor's agents or subcontractors in a manner different from that in which it is customarily performed, or the adoption of a practice in relation to work, the result of which is a restriction or limitation on, or a delay in, the performance of work; b) a ban, limitation or restriction on the performance of work by any person employed or engaged by the Contractor or the Contractor's agents or subcontractors, or on the acceptance of or offering for work by such a person; or c) a failure or refusal or slow or obstructive or disruptive conduct by any persons employed or engaged by the Contractor or the Contractor's agents or subcontractors to attend for work or to perform any work in collaboration with other Contractor Group personnel.
Industrial Relations Issue	means any issues arising out of or pertaining to the relationship between: a) the Contractor and the Contractor's employees, agents or subcontractors; b) any persons employed or engaged by the Contractor or the Contractor's agents or subcontractors; or c) any representatives of the persons in paragraph (b).

Term	Definition
Insolvency Event	means, in respect of the Contractor or a Contractor Parent (as the case may be), any of the following events: a) a receiver, manager, receiver and manager, trustee, administrator, controller (as defined for the purposes of Section 9 of the <i>Corporations Act 2001</i> (Cth)) or similar officer is appointed (and whose appointment is not withdrawn within seven days) in respect of it or substantially over all of its assets; b) a liquidator or provisional liquidator is appointed; c) an order is made, or a meeting is convened, or a resolution is passed, for the purpose of: i. appointing a person referred to in paragraphs (a) or (b); ii. winding up; or iii. proposing or implementing a scheme of arrangement; d) a moratorium of any debts or an official assignment or a composition or an arrangement (formal or informal) with its creditors or any similar proceeding or arrangement by which its assets are subjected conditionally or unconditionally to the control of its creditors is ordered, declared or agreed to, or is applied for and the application is not withdrawn, stayed or dismissed within 42 days; e) an application has been made in connection, which is preparatory to, or could result in any of the circumstances in paragraphs (b) or (c) above, and is not stayed, withdrawn or dismissed within 42 days; f) it admits in writing that it is insolvent; g) it is declared to be insolvent or becomes unable to pay all its debts as and when they become due and payable; h) any writ of execution, garnishee order, mareva injunction or similar order, attachment, distress or other process is made, levied or issued against or in relation to substantially all of its assets; or i) any act is done or event occurs that under the Law from time to time of a country other than Australia has an analogous or similar effect to any of the events in paragraphs (a) to (h).
Intellectual Property	means all present and future rights conferred by law in or in relation to any of the following: a) copyright; b) rights in relation to a circuit layout, patent, registrable design or trade mark (including service marks); and c) any other rights resulting from intellectual activity in the industrial, scientific, literary and artistic fields recognised in domestic law anywhere in the world, whether registered or unregistered.
Key Personnel	means those persons referred to in Schedule 1 (<i>Contract Particulars</i>).

Term	Definition
Law	means any of the following which is in force from time to time: a) any treaty, statute, directive, ordinance, by-law, tariff, quota, rule, order (including executive order), decree, notification, regulation, warrant, proclamation, or delegated legislation, in each case, of any nation, state, jurisdiction, intergovernmental or supranational organisation, or of any political subdivision of the foregoing, or of any regulatory body having jurisdiction over the Work Product or the Contractor Group with respect to the Work, or the Facility, including any binding requirement, instruction, direction, order, authorisation, warrant, franchise or scheme of a Governmental Authority, any other body of competent jurisdiction or any regulatory body having jurisdiction over the Work Product or the Contractor Group with respect to the Work, or the Facility; and b) any notices, guidance notes, circulars and codes of practice issued, made or published under or in connection with any of the foregoing.
Liens	has the meaning given to it in clause 7.8.
Liquidated Damages Cap	means the amount specified in Schedule 1 (<i>Contract Particulars</i>).
Longstop Audit Date	means the date which is seven years after the later of: a) the date of a final non-appealable judgment in any proceedings relating to any dispute referred in accordance with clause 18; and b) the date of termination of the Contract.
Materials	means any and all goods, parts, materials and equipment.
Milestone	means an event specified as a Milestone in [Schedule 3 (<i>Scope of Work</i>)].
Milestone Date	in relation to a Milestone, means the date for achievement of the Milestone as set out in [Schedule 3 (<i>Scope of Work</i>)].
Milestone Payment	in relation to a Milestone, means the amount set out in Schedule 4 (<i>Price and Payments</i>) in respect of the Milestone.

Term	Definition
Modern Slavery	means: a) any offence under Division 270 or Division 271 of the <i>Criminal Code Act 1995</i> (Cth) as amended from time to time; b) any offence under Division 270 or Division 271 of the <i>Criminal Code Act 1995</i> (Cth), as amended from time to time, if the conduct took place in Australia; c) the holding (or the arranging or facilitating of the holding) of another person in slavery or servitude, or forcing another person to undertake compulsory labour, where a person knows or ought to know that the other person is being forced to perform compulsory labour; d) the arranging or facilitating (or aiding the arranging or facilitating) of the travel of another person with a view to that person being exploited; e) trafficking (or the arranging or facilitating of the trafficking) in persons, within the meaning of any international protocol or international convention on that subject binding on Australia from time to time; f) the arranging or facilitating (or aiding the arranging or facilitating) of work conditions contravening the principles and objectives of International Labour Organisation conventions CO29, C105, C138 and/or C182; or g) any conduct of the above kinds prohibited by another law applicable to the Commonwealth, the Contractor or a Subcontractor from time to time in relation to the Contract.
Modern Slavery Law	means: a) any law of the Commonwealth of Australia or any State or Territory of Australia (including any applicable common law, law of equity, any written law, statute or regulation or other instrument made under statute by any Governmental Authority) pertaining to Modern Slavery; and b) any law of a country other than Australia, pertaining to Modern Slavery, which applies to the Commonwealth, the Contractor or a Subcontractor from time to time in relation to the Contract.
Modern Slavery Law Violation	means a situation where the Contractor or a Subcontractor has, in connection with the subject matter of the Contract or a Subcontract (as the case may be), breached any Modern Slavery Law.
Moral Rights	means any of the rights described in Article 6bis of the Berne Convention for the Protection of Literary and Artistic Works 1886, being "a droit moral" or other analogous rights arising under the <i>Copyright Act 1968</i> (Cth), Chapter IV (<i>Moral Rights</i>) of Part 1 of the <i>Copyright Designs and Patents Act 1988</i> (England and Wales) and any other Law or jurisdiction, that exists or that may come to exist anywhere in the world, including: a) a right of attribution of ownership; b) a right not to have authorship falsely attributed; and c) a right of integrity of ownership.
New Intellectual Property	means any Intellectual Property that arises out of, or is created in the course of, the performance of the Work and the Contract.
NGER Legislation	means the <i>National Greenhouse and Energy Reporting Act 2007</i> (Cth) and the regulations and any other legislative instruments under that Act.
Nominated Subcontractor	has the meaning set out in clause 5.4.

Term	Definition
NOPSEMA	means the National Offshore Petroleum Safety and Environmental Management Authority established under the OPGGS Legislation.
Notice of Completion	means a notice under clause 11.2(a)(ii)(A) by the Commonwealth Representative stating that Completion of the Work Package has been achieved.
OPGGS Legislation	means <i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (Cth) and the <i>Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009</i> (Cth) or the <i>Offshore Petroleum and Greenhouse Gas Storage (Safety) Regulations 2009</i> (Cth) each as amended from time to time.
Other Contractors	means any contractors of the Commonwealth (other than the Contractor), including the Existing Operator, and also subcontractors (of any tier) of such other contractors who are providing work or services in the vicinity of the Facility or in relation to any project or activity related to the Work.
Other Contractor Group	means: a) the Other Contractor; and b) any Other Contractor Personnel, but does not include any member of the Commonwealth Group or the Contractor Group.
Other Contractor Personnel	means, in respect of an Other Contractor, any agents, representatives, directors, officers and employees of the Other Contractor or a subcontractor of the Other Contractor.
Party	means either the Commonwealth or the Contractor, and Parties means the Commonwealth and the Contractor.
Permitted Purpose	means use of Third Party Information to undertake the Work in accordance with the Contract.
Personal Information	means information or an opinion about an identified individual or an individual who is reasonably identifiable.
Personal Injury	includes personal injury, death or disease.
Petroleum Production Licences	means petroleum production licences numbered AC/L5 and WA-18-L.
Plant	means the plant, equipment, materials, supplies, machinery, tools, buildings, structures, computer hardware and software, apparatus, roads and other items of whatsoever nature to be provided under the Contract by the Contractor for incorporation in the Work Product.
Pollution	means: a) any liquid or non-liquid waste substance of whatsoever nature including but not limited to gaseous or thermal irritant or contaminant, smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, low level radioactive material and electromagnetic fields that upon discharge into or upon land, or any structure on land, the atmosphere or any watercourse or body of water will lead to a direct or indirect degradation of the environment, provided such conditions are not naturally present in the environment in the concentration or amounts discovered, unless such natural condition(s) are released or dispersed as a result of the performance of this Contract, and such release or dispersal is unexpected and unintended; or b) any Hazardous Material.

Term	Definition
Powering Indigenous Procurement reporting portal	means the online portal where contractors report on their progress against their mandatory minimum requirements under the Indigenous Procurement Policy.
Program	means the schedule provided by the Contractor and approved by the Commonwealth as set out in clause 9.1(c) as may be revised from time to time in accordance with clause 9.1.
Protected Objects	has the meaning set out in clause 7.6.
Quality Management Plan	means the quality management plan which is a Deliverable to be developed by the Contractor in accordance with Schedule 3 (<i>Scope of Work</i>).
Reciprocating Contractor	has the meaning set out in clause 16.2.
Reciprocal Indemnities	has the meaning set out in clause 16.2.
Required Insurance	means a policy of insurance that a Party is required under the Contract to effect and maintain or cause to be effected and maintained.

Term	Definition
Replacement Contractor Costs	shall mean the reasonable and documented costs incurred by the Commonwealth in completing the Work terminated or removed, as applicable, to the extent that such costs exceed the amount that would have been paid to the Contractor had such Work been completed by the Contractor in accordance with the Contract. To the extent that the Commonwealth incurs reasonable and documented costs in the following categories in completing such Work terminated or removed, as applicable, then such costs shall be recoverable by the Commonwealth from the Contractor as Replacement Contractor Costs: a) any delay liquidated damages that have accrued in respect of the Work terminated or removed as of the date of such termination or removal; b) the costs of the replacement contractor(s) to procure all materials, goods and services necessary to perform or reperform all outstanding aspects of the Work required to be performed by the replacement contractor(s); c) costs to hire consultants, independent certifiers and experts to prepare reports to ascertain condition, compliance of Work performed, presence of Defects, and the necessary work to correct Defects or complete the Work not completed as at the date of termination or removal, including any costs incurred by the replacement contractor(s) in attempting to complete such Work as expeditiously as possible; d) costs incurred to remedy Defects in the Work existing as of the date of termination or removal, including where such would be required under clause 12.6, repairs, reperformance, replacement, parts, materials, equipment and costs to uncover/cover/install and uninstall items necessary to access or correct the Defect(s); e) to the extent not previously performed by the Contractor, costs to clean up the Facility and make the Facility safe as of the date of the termination or removal; f) costs of hire of equipment and any necessary temporary works as required to complete the work to be performed by the replacement contractor(s); g) costs to design, engineer and specify the work to be performed by the replacement contractor(s); h) mobilisation and logistics costs of personnel and equipment incurred by the replacement contractor(s); and i) costs to carry out all inspections and testing of the work to be performed by the replacement contractor(s).
Resident Personnel	means any one or more members of the Commonwealth Group who are, or will be, collocated with the Contractor at the Facility and/or the Contractor's or Subcontractor's premises from time to time for the purposes of the Contract.

Term	Definition
Restricted Person	means any person or entity that is identified on any applicable restricted party list issued by a Governmental Authority, and also includes, without limitation any person: a) that is, or is directly or indirectly owned or controlled by a person that is, or has an affiliate, director, officer, employee, contractor, agent, branch or representative which is or is directly or indirectly owned or controlled by a person that is, listed on any list of restricted persons maintained by any national or supra national body or agency with jurisdiction over a Party or its affiliates, as may be updated, amended or superseded from time to time; b) acting or having express or ostensible authority to act on behalf of any of the persons listed in paragraph (a) above; or c) with which any Party under this Contract, its affiliates is prohibited from dealing or otherwise engaging in any transaction pursuant to any Sanctions or any other applicable Law.
Records	means records (including all copies) in any form or media (whether or not visible) that contain, refer to or are based on any Third Party Information or any analysis of it.
Safety Case (or Facility Safety Case)	means the NOPSEMA approved safety case or cases for the Facility currently comprising: a) Northern Endeavour NOGA Facility Safety Case Part 1 - Introduction (Document No. 26/HSEO/GEN/PL01_ST01, Revision 1, dated 25 February 2016); and b) Northern Endeavour NOGA Safety Case Part 2 - Facility Description (Document No. 26/HSEO/GEN/PL01_ST02, Revision 1, dated 25 February 2016); and c) Section 3 Safety Management System (SMS) Summary (Document No. 26/HSEO/GEN/PLOLST03, Revision 1, dated 25 February 2016); and d) Northern Endeavour NOGA Facility Safety Case- Part 4 Formal Safety Assessment Description (Document No. 26/HSEO/GEN/PL01_ST04, Revision 1, dated 25 February 2016); and e) Northern Endeavour NOGA Facility Safety Case - Part 5 References & Supporting Documents (Document No. 26/HSEO/GEN/PL01_ST05, Revision 1, dated 25 February 2016); and f) Northern Endeavour Facility Safety Case Addendum - Operator Transition (Document No. 26/HSEO/GEN/PL01_AP01, Revision 1, dated 25 February 2016), and supplementary information provided in response to NOPSEMA's request for further written information for the operations stage in the life of the Facility, as amended from time to time.
Sanctions	means sanctions, restrictions or designations imposed under any laws or regulations of Australia, the European Union, the U.S., the United Kingdom, or any other country with jurisdiction over the Contract, a Party under this Contract or its Related Bodies Corporate.
Secured Amount	has the meaning given to it in clause 14.17(a)(iv).
Statement of Tax Record or STR	has the meaning given in the Black Economy Procurement Connected Policy.
Subcontract	means the agreement, contract, purchase order or other arrangement under which a Subcontractor is appointed for a part of the Work.
Subcontractor	means any person appointed as a subcontractor for a part of the Work, including a Nominated Subcontractor, whether directly by the Contractor or at a lower tier, and such person's successors in title.

Term	Definition
Taxes	means all taxes, duties, levies, charges, contributions and imposts (and any interest or penalties thereon) levied or assessed by any Governmental Authority.
Temporary Works and Facilities	mean all temporary works, utilities and facilities of every kind required for the carrying out and completion of the Work and the remedying of Defects therein, but which will not and do not form a permanent part of the completed Work, and excludes Contractor Equipment.
Third Party Information	means confidential information to the extent such information is the subject of a license between the Commonwealth in any form or media, whether verbal, written or electronic, that is designated by the Commonwealth as being 'Third Party Information' that is made available by or on behalf of the Commonwealth to the Contractor (or Authorised Person), directly or indirectly, before, on or after the date of this Contract (but does not include the Excluded Information).
Third Party	means a person who is not a member of the Commonwealth Group, Contractor Group or Other Contractor Group.
Transition-In Plan	means the transition-in plan developed by the Contractor, a copy of which is attached at Annex C to Schedule 3 (<i>Scope of Work</i>).
Unknown Protected Objects	has the meaning set out in clause 7.6(b).
Variation	means a variation to the Work as instructed or agreed in accordance with clause 13.
Variation Proposal	means a Variation proposal as described in clause 13.1.
WHS Legislation	means any of the following: a) the Work Health and Safety Act 2011 (Cth) and the Work Health and Safety Regulations 2011 (Cth); and b) any corresponding WHS law as defined in section 4 of the <i>Work Health and Safety Act 2011</i> (Cth).
WHS Principal Contractor	means the 'principal contractor' as defined in the <i>Work Health and Safety Act 2011</i> (Cth).
Well Operations Management Plan or WOMP	means the NOPSEMA approved Well Operations Management Plan for the Petroleum Production Licences, as may be amended from time to time.
WHS Management Plan	means the WHS management plan which is a Deliverable to be developed by the Contractor in accordance with Schedule 3 (<i>Scope of Work</i>).
Work	means all the work activities (including the provision and supply of all Data, Documents, Detailed Documentation, materials, services, equipment and deliverables) that the Contractor is required to carry out or supply or make available to the Commonwealth in connection with: a) Work Package A (Engineering, Design and Planning); b) subject to an instruction by the Commonwealth Representative in accordance with clause 2.4(b), Work Package B (Operation and Maintenance); c) subject to the issue of a Notice to Proceed in accordance with clause 2.3(c), Work Package C (FPSO Disconnection), Work Package D (FPSO Sail Away) and Work Package E (Monitor and Maintain); and d) Work Package F (Project Planning and Management).

Term	Definition
Work Package	means a package of the Work as described in Schedule 3 (<i>Scope of Work</i>).
Work Product	means any structure, installation, facility, modification, addition, improvement, materials (including Commonwealth Supplied Items and Contractor-supplied Materials), development or deliverable resulting from the performance of the Work, in each case as more particularly described in Schedule 3 (<i>Scope of Work</i>) and includes any such item as a work-in-progress prior to completion thereof.

DRAFT

SCHEDULE 3

SCOPE OF WORK

[Note: See separate attachment]

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SCHEDULE 4

PRICE AND PAYMENTS

[Note: This Schedule will be developed following the receipt of Proposals]

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SCHEDULE 5

BANK GUARANTEE

THIS DEED POLL is made on **[INSERT]**

By: **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Bank**)

In favour of: The Commonwealth of Australia represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295 (**Commonwealth**)

RECITALS:

- (A) The Commonwealth is undertaking a project for the disconnection, decommissioning and remediation of the Northern Endeavour floating production storage and offtake facility, subsea infrastructure and the wells in the Laminaria Corallina oil fields in the West Timor Sea (the **Project**).
- (B) The Commonwealth and **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Contractor**) have entered into a contract dated **[INSERT]** to plan, engineer, manage and execute Phase 1 of the Project (**Contract**).
- (C) Under the Contract, the Contractor is required to provide this Deed to the Commonwealth.

THIS DEED POLL PROVIDES:**1. UNCONDITIONAL UNDERTAKING BY BANK**

The Bank unconditionally and irrevocably undertakes and covenants to pay to the Commonwealth any sum or sums which may from time to time be demanded in writing by the Commonwealth to a maximum aggregate sum of \$**[INSERT SECURED AMOUNT]**:

- (a) on demand;
- (b) without reference to the Contractor; and
- (c) notwithstanding any notice given by the Contractor to the Bank not to pay that sum or sums.

2. CONTINUING LIABILITY OF BANK

- (a) The Bank's liability under this Deed is a continuing liability and will continue until:
 - (i) payment is made under this Deed of the maximum aggregate sum; or
 - (ii) the Commonwealth notifies the Bank that this Deed is no longer required.
- (b) However, the Bank may at any time, without being required to do so, pay to the Commonwealth the maximum aggregate sum less any amounts it may previously have paid under this Deed. After such payment, the Bank's liability under this Deed will immediately cease.

3. NO DISCHARGE OF LIABILITY BY VARIATION

The Bank's liability under this Deed will not be discharged or impaired by reason of:

- (a) any variation (with or without the knowledge or consent of the Bank) in:

- (i) any of the provisions of the Contract;
 - (ii) the Contractor's Work (as defined in the Contract); or
 - (iii) acts or things to be executed, performed and done under the Contract; or
- (b) any breach of the Contract by the Contractor or the Commonwealth.

4. NOTICE

- (a) Unless the contrary intention appears, any notice under this Deed shall be effective if it is in writing and sent from and delivered to the Commonwealth or Bank, as the case may be, as detailed below:

[INSERT COMMONWEALTH ADDRESS AND EMAIL]

[INSERT BANK ADDRESS AND EMAIL]

- (b) A notice given in accordance with clause 4(a) is deemed to be delivered:
- (i) if sent by pre-paid post, in three Business Days when sent within Australia and in eight Business Days when sent by air mail from one country to another;
 - (ii) if hand delivered, when received at the address, or by the recipient if sooner; or
 - (iii) if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Business Day that the email has not been delivered to the recipient,

but if the receipt, transmission or entry into the information system is not on a Business Day or is after 5.00pm (recipient's local time) on a Business Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Business Day. For the purpose of this clause, 'Business Day' in relation to the doing of an action in a place, means any day other than a Saturday, Sunday or public holiday in that place.

5. GOVERNING LAW

The laws of **[INSERT RELEVANT STATE OR TERRITORY]** apply to this Deed, and the courts of that State or Territory have non-exclusive jurisdiction to decide any matter relating to this Deed.

EXECUTED as a Deed Poll.

[INSERT APPROPRIATE SIGNATURE BLOCK FOR BANK]

SCHEDULE 6

SUBCONSULTANT COLLATERAL WARRANTY DEED

[Note: Where the subcontract involves construction type work, please use the Subcontractor Collateral Warranty Deed instead]

THIS DEED is made on **[INSERT]**

BETWEEN:

- (1) The Commonwealth of Australia represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295 (**Commonwealth**);
- (2) **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Contractor**); and
- (3) **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Subconsultant**).

RECITALS:

- (A) The Commonwealth has engaged the Contractor under the contract described in Item 1 of the Schedule (**Contract**) to effect certain work, brief particulars of which are set out in Item 2 of the Schedule (**Work**).
- (B) The Contractor and the Subconsultant have entered into the subcontract described in Item 3 of the Schedule (**Subcontract**) to effect certain services, brief particulars of which are set out in Item 4 of the Schedule (**Services**), which services forms part of the Contractor's obligations under the Contract.
- (C) The Contract and the Subcontract require the Contractor and the Subconsultant to enter into this Deed.

THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

1.1 Definitions

In this Deed, terms defined in the Contract and not otherwise defined in this Deed have the same meanings and the following terms have the following meanings unless the context otherwise requires.

"**Attorney**" means any attorney and agent appointed under clause 2.

1.2 General

In this Deed, unless the context otherwise indicates:

- (a) words in the singular include the plural and vice versa;
- (b) references to a person include an individual, firm, corporation or unincorporated body;
- (c) headings are for convenience only and do not affect the interpretation of this Deed;
- (d) references to any legislation or to any section or provision of any legislation include any:

- (i) statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
- (ii) ordinances, by-laws, regulations and other statutory instruments issued under that legislation, section or provision;
- (e) the words "including" and "includes", and any variants of those words, will be read as if followed by the words "without limitation";
- (f) references to any document (including this Deed) include any amendment to or substitute for such document; and
- (g) references to any party to or in this Deed or any other document include its successors or permitted assigns.

1.3 This Deed Prevails

To the extent of any inconsistency between this Deed, the Contract or the Subcontract, this Deed prevails unless the parties expressly agree otherwise.

2. NOVATION

If the Commonwealth gives a notice under [clause 2.3(d)(iv)] of the Contract requiring novation of the Subcontract in accordance with this clause 2 and (where applicable) of the name of the person, firm or corporation (if any) which is to be a party to the new contract referred to in clause 2(b) (**Nominee**) then:

- (a) the Subcontract is immediately terminated on and from the date of the notice;
- (b) the Commonwealth or the Nominee (as the case may be) and the Subconsultant will be deemed to have immediately on and from the date of the notice entered into a new contract on the same terms and conditions as the Subcontract, subject to the following:
 - (i) the Commonwealth or the Nominee (as the case may be) will be named in the new contract in lieu of the Contractor; and
 - (ii) the rights, obligations and liabilities of the Commonwealth or the Nominee (as the case may be) and the Subconsultant will be as if the Commonwealth or the Nominee (as the case may be) had executed the Subcontract in lieu of the Contractor; and
- (c) the Subconsultant must indemnify the Commonwealth against all claims, costs, expenses, losses or damages suffered or incurred by the Commonwealth arising out of or incidental to any failure by the Subconsultant to perform its obligations under the Subcontract with the Contractor prior to its termination.

3. DUTY OF CARE

The Subconsultant:

- (a) warrants to the Commonwealth that it will exercise the standard of skill, care and diligence in the performance of the Services that would be expected of an expert professional provider of the Services;
- (b) must:
 - (i) ensure that the services provided by the Subconsultant complies with the requirements of the Subcontract; and

- (ii) use its best endeavours to ensure that the services provided by the Subconsultant will be fit for the purposes as set out in, or reasonably to be inferred from, the Subcontract;
- (c) must ensure that the Services are provided economically and in accordance with any budgetary requirements of the Contractor notified to the Subconsultant; and
- (d) must exercise the utmost good faith in the best interests of the Contractor and keep the Contractor fully and regularly informed about all matters affecting or relating to the Services and the Subcontract Services (as defined in the Subcontract) or otherwise.

4. NOTICES

- (a) Unless the contrary intention appears, any notice or communication under this Deed shall be effective if it is in writing and sent from and delivered to the Commonwealth Contractor or Subconsultant, as the case may be, at the following address:

[INSERT COMMONWEALTH ADDRESS AND EMAIL]

[INSERT CONTRACTOR ADDRESS AND EMAIL]

[INSERT SUBCONSULTANT ADDRESS AND EMAIL]

- (b) A notice given in accordance with clause 4(a) is deemed to be delivered:
 - (i) if sent by pre-paid post, in three Business Days when sent within Australia and in eight Business Days when sent by air mail from one country to another;
 - (ii) if hand delivered, when received at the address, or by the recipient if sooner; or
 - (iii) if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Business Day that the email has not been delivered to the recipient,

but if the receipt, transmission or entry into the information system is not on a Business Day or is after 5.00pm (recipient's local time) on a Business Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Business Day. For the purpose of this clause, 'Business Day' in relation to the doing of an action in a place, means any day other than a Saturday, Sunday or public holiday in that place.

5. WAIVERS, REMEDIES CUMULATIVE

5.1 No waiver

No failure to exercise and no delay in exercising, on the part of the Commonwealth, any right or remedy under this Deed will operate as a waiver, nor will any single or partial exercise of any right or remedy preclude any other or further exercise, of that or any other right or remedy.

5.2 Remedies cumulative

The rights and remedies provided in this Deed are cumulative and are not exclusive of any rights or remedies provided by law or any other such right or remedy.

6. SEVERANCE

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Deed or affecting the validity or enforceability of such provision in any other jurisdiction.

7. ASSIGNMENT

Except as expressly contemplated by this Deed, neither the Contractor nor the Subconsultant may assign or transfer any of its rights or obligations under this Deed or the Subcontract.

8. FURTHER ASSURANCES

The Contractor and the Subconsultant undertake upon request by the Commonwealth to execute all documents and do all things necessary to vest in the Commonwealth or its Nominee (as the case may be) the Subcontract or otherwise to give effect to the terms of this Deed.

9. GOVERNING LAW AND JURISDICTION

The laws of [**INSERT RELEVANT STATE OR TERRITORY**] apply to this Deed, and the courts of that State or Territory have non-exclusive jurisdiction to decide any matter relating to this Deed.

10. COUNTERPARTS

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

11. SET OFF

Without limiting the Commonwealth's rights under the Contract, all moneys which the Commonwealth may pay or incur and for which the Contractor is liable under the terms of the Contract or in respect of which it is under this Deed liable to make reimbursement to or indemnify the Commonwealth, may be deducted by the Commonwealth from all moneys due, becoming due or to become due from it to the Contractor under the Contract or may be recovered by the presentation of any unconditional undertaking which may have been provided by the Contractor under the Contract or may be recovered from the Contractor by action at law or otherwise.

12. ATTORNEYS

Each of the attorneys executing this Deed states that they have no notice of the revocation of their power of attorney.

OFFICIAL

Northern Endeavour FPSO Decommissioning Project

SCHEDULE

Item 1: (Recital A)	Contract:	Contract for [INSERT] dated [INSERT]
Item 2: (Recital A)	Work:	[INSERT BRIEF DESCRIPTION]
Item 3: (Recital B)	Subcontract:	[INSERT BRIEF DESCRIPTION]
Item 4: (Recital B)	Services:	[INSERT BRIEF DESCRIPTION]
Item 5: (Clause 4)	Notices:	[INSERT ADDRESS AND EMAIL FOR EACH PARTY]

EXECUTED as a Deed.

SIGNED, SEALED AND DELIVERED by
THE COMMONWEALTH OF AUSTRALIA,
REPRESENTED BY THE DEPARTMENT
OF DEFENCE:

SEAL

Signature of authorised signatory

Name of authorised signatory

Date

[INSERT APPROPRIATE SIGNATURE BLOCKS FOR CONTRACTOR AND SUBCONSULTANT]

SUBCONTRACTOR COLLATERAL WARRANTY DEED

[Note: Where the subcontract involves engineering / design / planning type work, please use the Subconsultant Collateral Warranty Deed instead]

THIS DEED is made on **[INSERT]**

BETWEEN:

- (1) The Commonwealth of Australia represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295 (**Commonwealth**);
- (2) **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Contractor**); and
- (3) **[INSERT]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Subcontractor**).

RECITALS:

- (A) The Commonwealth has engaged the Contractor under the contract described in Item 1 of the Schedule (**Contract**) to effect certain work, brief particulars of which are set out in Item 2 of the Schedule (**Work**).
- (B) The Contractor and the Subcontractor have entered into the subcontract described in Item 3 of the Schedule (**Subcontract**) to effect certain work, brief particulars of which are set out in Item 4 of the Schedule (**Subcontract Work**), which work forms part of the Contractor's obligations under the Contract.
- (C) The Contract and the Subcontract require the Contractor and the Subcontractor to enter into this Deed.

THE PARTIES AGREE AS FOLLOWS:**1. INTERPRETATION****1.1 Definitions**

In this Deed, terms defined in the Contract and not otherwise defined in this Deed have the same meanings and the following terms have the following meanings unless the context otherwise requires.

"**Attorney**" means any attorney and agent appointed under clause 2.

"**Event of Termination**" means that:

- (a) an event has occurred which under clause 19 of the Contract entitles the Commonwealth to terminate the Contract (subject to the issue of all notices required by that clause); or
- (b) the Commonwealth has given notice to the Contractor under clause 19.1 of the Contract terminating the Contract.

"**Nominee**" means the person, firm or corporation (if any) nominated by the Commonwealth under clause 6.2(b).

"**Security**" means any unconditional bank undertaking provided by the Subcontractor to the Contractor under the Subcontract as replaced or reduced from time to time.

1.2 General

In this Deed, unless the context otherwise indicates:

- (a) words in the singular include the plural and vice versa;
- (b) references to a person include an individual, firm, corporation or unincorporated body;
- (c) headings are for convenience only and do not affect the interpretation of this Deed;
- (d) references to any legislation or to any section or provision of any legislation include any:
 - (i) statutory modification or re-enactment of, or any statutory provision substituted for, that legislation, section or provision; and
 - (ii) ordinances, by-laws, regulations and other statutory instruments issued under that legislation, section or provision;
- (e) the words "including" and "includes", and any variants of those words, will be read as if followed by the words "without limitation";
- (f) references to any document (including this Deed) include any amendment to or substitute for such document; and
- (g) references to any party to or in this Deed or any other document include its successors or permitted assigns.

1.3 This Deed Prevails

To the extent of any inconsistency between this Deed, the Contract or the Subcontract, this Deed prevails unless the parties expressly agree otherwise.

2. SUBCONTRACTOR'S COVENANTS

- (a) The Subcontractor undertakes to the Commonwealth to complete the Subcontract Work:
 - (i) in a thorough and tradesmanlike manner;
 - (ii) with materials of merchantable quality and which are fit for their purpose;
 - (iii) with proper skill and care;
 - (iv) so that they are fit for the purposes as set out in, or reasonably to be inferred from, the Subcontract; and
 - (v) in accordance with the Subcontract.
- (b) Where there is any inconsistency or ambiguity between the requirements of clauses 2(a)(i) to 2(a)(iv) and clause 2(a)(v), whichever is the higher standard will apply to the extent of the inconsistency or ambiguity.

3. GENERAL COVENANTS AND ACKNOWLEDGEMENTS

Notwithstanding any provision of the Contract or the Subcontract, each of the Contractor and the Subcontractor acknowledges and agrees for the benefit of the Commonwealth that:

- (a) they will duly and punctually perform their respective obligations under the Contract and the Subcontract;
- (b) they will notify the Commonwealth of any dispute or difference between the Contractor and the Subcontractor;
- (c) the Subcontractor will notify the Commonwealth of a default by the Contractor under the Subcontract and the Subcontractor will give [30 days'] prior written notice (**Termination Notice**) to the Commonwealth of its intention to terminate the Subcontract;
- (d) the Subcontractor will not terminate the Subcontract if before the expiry of the Termination Notice, the Commonwealth has:
 - (i) in the case of a payment default, paid all moneys required to remedy the default; or
 - (ii) in the case of any other default, undertaken to remedy it within a reasonable time after the Termination Notice's expiry having regard to the nature and extent of the default or, where the default is incapable of being remedied, to compensate the Subcontractor for the default for an agreed amount;
- (e) they will not without the prior written consent of the Commonwealth amend, rescind, grant or accept any waiver or discharge of the Subcontract, or otherwise alter the obligation under the Subcontract whether by the doctrine of estoppel or (without limitation) pursuant to any other principle of law; and
- (f) the Commonwealth owes no obligation to the Subcontractor unless it otherwise agrees in accordance with this Deed.

4. INSURANCES

- (a) Notwithstanding anything else, the Subcontractor will:
 - (i) take out all insurances as are required under the Subcontract; and
 - (ii) otherwise comply with all of its obligations in relation to insurance in the Subcontract.
- (b) The Contractor and the Subcontractor must ensure that they do not do or omit to do anything or do not permit anything to be done or omitted to be done whereby any insurance policy may be prejudiced.
- (c) If any default is made by the Subcontractor in effecting or maintaining such insurance policy or if any such insurance policy becomes void or voidable, the Commonwealth may (but is not obliged to) effect or maintain that insurance policy at the cost of the Subcontractor or, failing it, the Contractor.
- (d) The Contractor and the Subcontractor will do all things necessary and provide all documents, evidence and information necessary to enable the Commonwealth to collect or recover any moneys due or to become due in respect of any insurance policy at the cost of the Subcontractor or, failing it, the Contractor.
- (e) Without prejudice to the above requirements, neither the Contractor nor the Subcontractor will cause or take any steps to bring about the cancellation, lapse, material change, reduction or any rescinding of any such insurance policy unless it has first obtained the written consent of the Commonwealth after giving 60 days prior written notice to the Commonwealth.

- (f) The Contractor and the Subcontractor will immediately notify the Commonwealth of any cancellation, lapse, material change, reduction, or any rescinding of any such insurance policy, and of the occurrence of any event giving rise to any claim under any such insurance policy in respect of the Subcontract Work.

5. SECURITY

- (a) The Contractor and the Subcontractor will ensure that any Security will:
 - (i) contain a provision permitting assignment by way of security of the Contractor's rights and benefit of the Security to the Commonwealth without the necessity for consent from the Subcontractor or the issuer of the Security; and
 - (ii) be in terms approved by the Commonwealth.
- (b) The Contractor will deposit each Security with the Commonwealth. The Commonwealth will not be obliged to release the Security to the Contractor unless:
 - (i) the Contractor makes a request in writing for its return and proves to the reasonable satisfaction of the Commonwealth that the Subcontractor is in default under the Subcontract; or
 - (ii) the Contractor is obliged to return it to the Subcontractor by the terms of the Subcontract.

6. ENFORCEMENT

6.1 Request for Information

- (a) The Commonwealth may at any time after an Event of Termination has occurred give a notice in writing to the Subcontractor (**Request**) requesting it to advise of any claims outstanding between the Contractor and the Subcontractor. The Subcontractor will within 7 days of the Request give the Commonwealth a written notice (**Advice**) advising:
 - (i) the sum claimed against the Contractor and then outstanding pursuant to the terms of the Subcontract;
 - (ii) the sum claimed against the Contractor as a result of breaches of the Subcontract by the Contractor; and
 - (iii) the sum claimed pursuant to any other principle of law (including any claim in negligence).
- (b) The Advice must specifically identify the legal basis of the claims and the amounts claimed on that basis.

6.2 Notice of intention to complete

The Commonwealth may after receipt of the Advice give written notice (**Notice**) to the Subcontractor stating:

- (a) the intention of the Commonwealth to require the Subcontractor to complete the Subcontract Work; and
- (b) the name of the person, firm or corporation (if any) which is to be a party to the new contract referred to in clause 6.3(b).

6.3 Continued performance of Subcontractor's obligations

As from the date of receipt by the Subcontractor of a Notice:

- (a) the Contractor and the Subcontractor will be deemed to have terminated the Subcontract;
- (b) the Commonwealth or the Nominee (as the case may be) and the Subcontractor will be deemed to have entered into a new contract on the same terms and conditions as the Subcontract, save and except that:
 - (i) the Commonwealth or the Nominee (as the case may be) will be named therein in lieu of the Contractor;
 - (ii) subject to clause 6.3(b)(iii), the rights, obligations and liabilities of the Commonwealth or the Nominee (as the case may be) and the Subcontractor will be as if the Commonwealth or the Nominee (as the case may be) had executed the Subcontract in lieu of the Contractor; and
 - (iii) the liability (if any) of the Commonwealth or the Nominee (as the case may be) to the Subcontractor in respect of any fact, matter or thing arising before the date of the Request will not exceed the amount referred to in the Advice given to the Commonwealth and if the Subcontractor has not given an Advice to the Commonwealth, the Subcontractor will have no right to make a claim against the Commonwealth or the Nominee (as the case may be) in respect of any fact, matter or thing arising before the date of the Request to the extent permitted by law; and
- (c) the Subcontractor must indemnify the Commonwealth against all claims, costs, expenses, losses or damages suffered or incurred by the Commonwealth arising out of or incidental to any work which may have been performed by the Subcontractor under the Subcontract with the Contractor prior to its termination.

7. PAYMENT FOR UNFIXED GOODS

7.1 Request for payment

Where the Subcontractor requests the Contractor to make payments in advance for the provision of materials, plant and equipment which are intended for incorporation into the Work but which at the time of the request have not yet been incorporated into the Work, the Contractor must give notice in writing to the Commonwealth.

7.2 Security

Following receipt of a notice in accordance with clause 7.1, if the Commonwealth agrees to include the value of such materials, plant and equipment in a payment statement under the Contract, it may require the Subcontractor to provide to the Commonwealth security in the form of an unconditional undertaking in the form set out in [Schedule 5 to the Contract (Bank Guarantee)] and given by a bank approved in writing by the Commonwealth under which that bank undertakes to pay to the Commonwealth on demand a sum equal to the value of the materials, plant and equipment for which payment in advance is being requested.

7.3 Payment for unfixed materials, plant and equipment

Subject to the provision of security in accordance with clause 7.2, the Commonwealth must incorporate into a payment statement under the Contract an amount equal to [90%] of the

value (as determined by the Commonwealth) of the materials, plant and equipment for which payment in advance is being made, subject to the following conditions:

- (a) the Commonwealth is satisfied that the materials, plant or equipment have not been prematurely delivered to the Facility or to the place of storage and have been stored and protected in a location and manner that is appropriate and adequate having regard to their nature;
- (b) the materials, plant or equipment have been inspected by the Commonwealth and found to be satisfactory subject to any further tests and inspections that the Commonwealth may require to be carried out upon building in, fixing or installation of the materials, plant or equipment;
- (c) the materials, plant or equipment have been insured by the Subcontractor in the name of the Commonwealth;
- (d) all relevant shipping and insurance documents together with any test results and inspection certificates which may be required by the Contract in relation to the materials, plant and equipment have been received by the Commonwealth and are in a form which is satisfactory to the Commonwealth;
- (e) the materials, plant or equipment are properly labelled as the property of the Commonwealth;
- (f) the Subcontractor has executed a certificate of ownership in the form set out in Appendix 1 in respect of materials, plant and equipment stored off-site or in the form set out in Appendix 2 in respect of materials, plant and equipment at the Facility and has supplied the original of that certificate to the Commonwealth;
- (g) in the case of materials, plant and equipment stored off-site the Commonwealth may at any time demand that the materials, plant or equipment be delivered to the Facility or any other place that it may from time to time require and may at any time, during normal working hours, gain access to the place of storage for the purpose of collecting the materials, plant or equipment;
- (h) the inclusion of such materials, plant and equipment in a payment statement under the Contract or the payment of that payment statement will not be taken as evidence against or as an admission by the Commonwealth that the materials, plant or equipment are in accordance with the requirements of the Contract or the Subcontract but will be taken to be a payment on account only;
- (i) the amount of the payments pursuant to this clause must not at any time exceed the amount of the security lodged with the Commonwealth under clause 7.2; and
- (j) no payment will be made by the Commonwealth for storage costs or double handling.

7.4 Reduction of security

The amount of the security provided by the Subcontractor under clause 7.2 will be progressively reduced upon incorporation into the Work of the materials, plant and equipment in respect of which the payments in advance have been made. The security will be reduced by such amount as is determined by the Commonwealth.

7.5 Liability of the Contractor

The Contractor acknowledges and agrees that nothing in this clause 7 will in any way diminish, reduce or relieve the Contractor from any of its liabilities or obligations under the

Contract and (without limitation) the Contractor will be and remain responsible for the work of the Subcontractor.

8. NOTICES

- (a) Unless the contrary intention appears, any notice or communication under this Deed shall be effective if it is in writing and sent from and delivered to the Commonwealth Contractor or Subcontractor, as the case may be, at the following address:

[INSERT COMMONWEALTH ADDRESS AND EMAIL]

[INSERT CONTRACTOR ADDRESS AND EMAIL]

[INSERT SUBCONTRACTOR ADDRESS AND EMAIL]

- (b) A notice given in accordance with clause 4(a) is deemed to be delivered:
- (i) if sent by pre-paid post, in three Business Days when sent within Australia and in eight Business Days when sent by air mail from one country to another;
 - (ii) if hand delivered, when received at the address, or by the recipient if sooner; or
 - (iii) if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Business Day that the email has not been delivered to the recipient,

but if the receipt, transmission or entry into the information system is not on a Business Day or is after 5.00pm (recipient's local time) on a Business Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Business Day. For the purpose of this clause, 'Business Day' in relation to the doing of an action in a place, means any day other than a Saturday, Sunday or public holiday in that place.

9. WAIVERS, REMEDIES CUMULATIVE

9.1 No waiver

No failure to exercise and no delay in exercising, on the part of the Commonwealth, any right or remedy under this Deed will operate as a waiver, nor will any single or partial exercise of any right or remedy preclude any other or further exercise, of that or any other right or remedy.

9.2 Remedies cumulative

The rights and remedies provided in this Deed are cumulative and are not exclusive of any rights or remedies provided by law or any other such right or remedy.

10. STAMP DUTY

The Contractor must pay all stamp and other duties (together with any fines or penalties for late payment) on or in connection with the execution, delivery and performance of this Deed and the transactions contemplated by this Deed which may be payable in any State or Territory of Australia and whether assessable against itself or any other person.

11. MORATORIUM LEGISLATION

Unless application is mandatory by law, any present or future law will not apply to this Deed so as to abrogate or otherwise prejudicially affect any rights, powers, remedies or discretions given or accruing to the Commonwealth.

12. SEVERANCE

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Deed or affecting the validity or enforceability of such provision in any other jurisdiction.

13. ASSIGNMENT

Except as expressly contemplated by this Deed, neither the Contractor nor the Subcontractor may assign or transfer any of its rights or obligations under this Deed or the Subcontract.

14. FURTHER ASSURANCES

The Contractor and the Subcontractor undertake upon request by the Commonwealth to execute all documents and do all things necessary to vest in the Commonwealth or its Nominee (as the case may be) the Subcontract or otherwise to give effect to the terms of this Deed.

15. GOVERNING LAW AND JURISDICTION

The laws of **[INSERT RELEVANT STATE OR TERRITORY]** apply to this Deed, and the courts of that State or Territory have non-exclusive jurisdiction to decide any matter relating to this Deed.

16. COUNTERPARTS

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

17. SET OFF

Without limiting the Commonwealth's rights under the Contract, all moneys which the Commonwealth may pay or incur and for which the Contractor is liable under the terms of the Contract or in respect of which it is under this Deed liable to make reimbursement to or indemnify the Commonwealth, may be deducted by the Commonwealth from all moneys due, becoming due or to become due from it to the Contractor under the Contract or may be recovered by the presentation of any unconditional undertaking which may have been provided by the Contractor under the Contract or may be recovered from the Contractor by action at law or otherwise.

18. ATTORNEYS

Each of the attorneys executing this Deed states that they have no notice of the revocation of their power of attorney.

OFFICIAL

Northern Endeavour FPSO Decommissioning Project

SCHEDULE

Item 1: (Recital A)	Contract:	Contract for [INSERT] dated [INSERT]
Item 2: (Recital A)	Work:	[INSERT BRIEF DESCRIPTION]
Item 3: (Recital B)	Subcontract:	[INSERT BRIEF DESCRIPTION]
Item 4: (Recital B)	Subcontract Work:	[INSERT BRIEF DESCRIPTION]
Item 5: (Clause 8)	Notices:	[INSERT ADDRESS AND EMAIL FOR EACH PARTY]

EXECUTED as a Deed.

SIGNED, SEALED AND DELIVERED by
THE COMMONWEALTH OF AUSTRALIA,
REPRESENTED BY THE DEPARTMENT
OF DEFENCE:



Signature of authorised signatory

Name of authorised signatory

Date

[INSERT APPROPRIATE SIGNATURE BLOCKS FOR CONTRACTOR AND SUBCONTRACTOR]

APPENDIX 1**Certificate of ownership for off-site goods**

Date:

Work:

Contractor:

Subcontractor:

This is to certify that the off-site materials, plant and equipment (**goods**) described in this certificate will become the property of the Commonwealth of Australia (**Commonwealth**) upon payment by the Commonwealth to the Contractor in respect of the Work of the sum of \$.....

The goods are stored and will remain stored until delivery to the Facility at:

[INSERT]

The value of the goods including delivery to the Facility at the date shown on this certificate is:

[\$INSERT]

The anticipated delivery date to the Facility is:

[INSERT]

Sum for which the goods will be insured (to include an allowance for inflation for the period of storage off-site) is:

[\$INSERT]

Description of identification attached to the goods:

[INSERT]

Description of goods (a complete detailed description is required, including technical specifications, model or serial numbers, quantity and, where several items are included, a detailed inventory with values of each item indicated):

[INSERT]

[INSERT APPROPRIATE SIGNING BLOCK FOR SUBCONTRACTOR]

APPENDIX 2**Certificate of ownership for on-site goods**

Date:

The Work:

Contractor:

Subcontractor:

This is to certify that the on-site materials, plant or equipment (**goods**) described in this certificate will become the property of the Commonwealth of Australia (**Commonwealth**) upon payment by the Commonwealth to the Contractor in respect of the Work of the sum of \$.....

The value of the goods including delivery to the Facility at the date shown on this certificate is:

[\$INSERT]

Description of identification attached to the goods:

[INSERT]

Description of goods (a complete detailed description is required, including technical specifications, model or serial numbers, quantity and, where several items are included, a detailed inventory with values of each item indicated):

[INSERT]

[INSERT APPROPRIATE SIGNING BLOCK FOR SUBCONTRACTOR]

SCHEDULE 7

CONTRACTOR PARENT COMPANY GUARANTEE

THIS DEED is made on **[INSERT]**

BETWEEN:

- (1) The Commonwealth of Australia represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295 (**Commonwealth**); and
- (2) **[INSERT NAME OF COMPANY]** [ABN/ACN/ARBN] **[INSERT]** whose registered office is at **[INSERT]** (**Guarantor**).

RECITALS:

- (A) The Commonwealth is undertaking a project for the disconnection, decommissioning and remediation of the Northern Endeavour floating production storage and offtake facility, subsea infrastructure and the wells in the Laminaria Corallina oil fields in the West Timor Sea (the **Project**).
- (B) The Commonwealth has engaged the Contractor under the contract dated **[INSERT]** to plan, engineer, manage and execute Phase 1 of the Project (**Contract**).
- (C) The Guarantor has agreed to guarantee to the Commonwealth all of the Relevant Obligations and to indemnify the Commonwealth on the terms and conditions in this Deed.

AGREED TERMS:**1. DEFINITIONS AND INTERPRETATION****1.1 Definitions**

In the interpretation of this Deed, unless the contrary intention appears:

"**Authorisation**" means a licence, accreditation, permit, registration, regulatory approval, or other documented authority (however described), required by law.

"**Business Day**" means a day other than a Saturday, Sunday or public holiday on which banks are open for general banking business in Canberra (ACT) or Perth (Western Australia).

"**Contractor**" means **[INSERT NAME OF COMPANY]** **[INSERT ACN/ARBN AND ABN IF APPLICABLE]**.

"**Constitution**" means, in relation to any person, the constitution, or similar governing document(s), of that person (if any).

"**Corporations Act**" means the *Corporations Act 2001* (Cth).

"**Event of Default**" means any event which entitles the Commonwealth to terminate the Contract for Contractor default.

"**Event of Insolvency**" means, in respect of a person:

- (a) the person:
 - (i) becoming insolvent;

- (ii) ceasing to carry on all or a material part of its business; or
- (iii) taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (b) the appointment of a Controller (as defined in the Corporations Act), a liquidator or provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property;
- (c) the person becoming subject to external administration provided for in Chapter 5 of the Corporations Act;
- (d) the person suffering execution against, or the holder of a Security Interest or any agent on its behalf taking possession of, any of the person's property (including seizing the person's property within the meaning of section 123 of the Personal Property Securities Act 2009 (Cth));
- (e) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (f) an order or resolution for the winding up or deregistration of the person;
- (g) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (h) any analogous event under the law of any applicable jurisdiction.

"Guaranteed Money" means all amounts the payment or repayment of which from time to time forms part of the Relevant Obligations and includes any amount recoverable as a debt to the Commonwealth in relation to the Contract.

"Obligor" means the Contractor or the Guarantor.

"Power" means any right, power, authority, discretion, remedy or privilege.

"Relevant Obligations" means all of the liabilities and obligations of the Contractor to the Commonwealth under or by reason of the Contract and includes any liabilities or obligations of the Contractor which:

- (a) are liquidated or unliquidated;
- (b) are present, prospective or contingent;
- (c) are in existence before or come into existence on or after the date of this Deed; or
- (d) relate to the payment of money or the performance or omission of any act.

"Security Interest" means each of the following:

- (a) a security for the payment of money or performance of an obligation, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement;
- (b) a "security interest" as defined in section 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth); and
- (c) an agreement to create any of these or allow any of these to exist.

"Unpaid Sum" means any sum due and payable by the Guarantor under this Deed but unpaid.

1.2 Interpretation

In this Deed, unless the contrary intention appears:

- (a) headings are for the purpose of convenient reference only and do not form part of this Deed;
- (b) the singular includes the plural and vice-versa;
- (c) a reference to one gender includes the others;
- (d) a reference to a person includes a body politic, body corporate or a partnership;
- (e) if the last day of any period prescribed for the doing of an action falls on a day which is not a Business Day, the action shall be done no later than the end of the next Business Day;
- (f) a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
- (g) a reference to a clause includes a reference to a sub-clause of that clause;
- (h) a reference to a "dollar", "\$", "\$A" or "AUD" means the Australian dollar;
- (i) a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on the date of this Deed, or alternatively, a reference to another version of the document if agreed in writing between the parties;
- (j) the word "includes" in any form is not a word of limitation;
- (k) a reference to a party includes that party's administrators, successors, and permitted assigns, including any person to whom that party novates any part of this Deed; and
- (l) a reference to a document (including the Contract) is to that document as varied, novated, ratified, replaced or restated from time to time.

1.3 Joint and Several Liability

[Note: This clause will be included where the Guarantor comprises more than one party]

The expression "Guarantor" refers to each person identified as a Guarantor, and the obligations of the Guarantors under this Deed bind each person identified as a Guarantor, jointly and severally.

1.4 Liability as Guarantor and Indemnifier

Any reference in this Deed to the obligations or liabilities of the Guarantor shall be construed as a reference to its obligations or liabilities, whether as a guarantor or an indemnifier or both, under this Deed.

1.5 Principal Obligation

Each obligation of the Guarantor under this Deed constitutes a principal, not a secondary or ancillary obligation, such that, without limiting in any way the operation of any of the other provisions of this Deed, any limitation on the liability of the Guarantor which would otherwise arise by reason of its status as a guarantor, co-guarantor, indemnifier or co-indemnifier, is negated.

1.6 **No Bias against Drafting Party**

No term or provision of this Deed shall be construed against a party on the basis that this Deed or the term or provision in question was put forward or drafted by that party.

2. **GUARANTEE**

2.1 **Guarantee**

Subject to clause 2.4, the Guarantor irrevocably and unconditionally guarantees to the Commonwealth the due and timely performance by the Contractor of all the Relevant Obligations.

2.2 **Performance of Relevant Obligations**

- (a) If the Contractor defaults in the performance or observance of any of the Relevant Obligations, the Guarantor must, on demand from time to time by the Commonwealth, immediately perform any of the Relevant Obligations then required to be performed by the Contractor in the same manner as the Contractor is required to perform the Relevant Obligations.
- (b) For the avoidance of doubt but subject to the provisions of this Deed, in the performance of the Relevant Obligations under clause 2.2(a), the Guarantor will be entitled to the same rights and defences available to the Contractor under the Contract in the same manner and on the same terms as the Contractor is entitled to exercise its rights and defences under the Contract.

2.3 **Payment by Guarantor**

Subject to clause 2.4, if the Contractor does not pay the Guaranteed Money when due in accordance with the terms of the Contract, the Guarantor shall within three Business Days following demand by the Commonwealth, pay to the Commonwealth the Guaranteed Money which is then due and unpaid.

2.4 **Limitation of Liability**

Subject to clause 7.1, the Guarantor's liability pursuant to this Deed in respect of the Contract shall be no greater than the aggregate of the remaining Relevant Obligations of the Contractor as they exist from time to time pursuant to or arising out of the Contract and the Guarantor shall be entitled to all defences and limitations of liability to which the Contractor is entitled under the Contract. The total sum recoverable from the Guarantor under this Deed in respect of the Contract shall not exceed the liability the Contractor would otherwise have for the Relevant Obligations under the Contract.

3. **INDEMNITY**

Subject to clause 2.4, the Guarantor, as a separate additional and primary liability, shall irrevocably and unconditionally indemnify the Commonwealth against any liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor and own client basis), compensation or expense sustained or incurred by the Commonwealth arising out of or as a consequence of:

- (a) any failure by the Contractor to perform the Relevant Obligations in accordance with the Contract; or
- (b) any obligation or liability that would otherwise form part of the Relevant Obligations being void, voidable or unenforceable against or irrecoverable from the Contractor for any reason (including the insolvency of the Contractor), whether or not the Commonwealth knew or ought to have known of that reason.

4. NATURE AND PRESERVATION OF LIABILITY

4.1 Absolute and Unconditional Liability

Subject to clause 2.4, the liability of the Guarantor under this Deed:

- (a) is absolute and is not subject to the performance of any condition precedent or subsequent; and
- (b) shall not be affected by any act, omission, matter or thing which may release the Guarantor from that liability or reduce the liability of the Guarantor (other than an express release of the Guarantor from all of its liabilities under this Deed) including any of the following:
 - (i) the occurrence before, on or at any time after, the date of this Deed of any Event of Insolvency in relation to any Obligor;
 - (ii) the Contract or any payment or other act, the making or doing of which would otherwise form part of the Relevant Obligations being or becoming or being conceded to be frustrated, illegal, invalid, void, voidable, unenforceable or irrecoverable in whole or in part for any reason whether past, present or future;
 - (iii) the Commonwealth granting time, waiver or other concession to, or making any composition, arrangement or compromise with any other Obligor (including to or with the Contractor in respect of the liability of the Guarantor) or any other person;
 - (iv) the Commonwealth not exercising or delaying (whether deliberately, negligently, unreasonably or otherwise) in the exercise of any Power it has for the enforcement of the Contract or any Relevant Obligation;
 - (v) the determination, rescission, repudiation or termination, or the acceptance of any of the foregoing, by the Commonwealth or any other Obligor of the Contract or any Relevant Obligation;
 - (vi) any variation to the Contract or any Relevant Obligation, whether or not that variation is substantial or material or imposes an additional liability on or disadvantages any Obligor;
 - (vii) the full, partial or conditional release or discharge by operation of law of any other Obligor from the Contract or any Relevant Obligation;
 - (viii) the transfer, assignment or novation by the Commonwealth or any Obligor of all or any of its rights or obligations under the Contract;
 - (ix) any person, whether named as a party or not, does not execute the Contract or the execution of the Contract by any person is invalid, forged or irregular in any way; or

- (x) any failure by the Commonwealth to disclose to the Guarantor any material or unusual fact, circumstance, event or thing known to, or which ought to have been known by, the Commonwealth relating to or affecting any Obligor at any time before or during the term of the Contract, whether prejudicial or not to the rights and liabilities of the Guarantor and whether or not the Commonwealth was under a duty to disclose that fact, circumstance, event or thing to any Obligor.

4.2 **No Merger**

The guarantee and indemnity from the Guarantor under this Deed is in addition to and does not merge with, postpone, lessen or otherwise prejudicially affect the Contract or any other Power of the Commonwealth.

4.3 **No Obligation to Gain Consent**

The Guarantor has no right or entitlement to consent to or be made aware of any event referred to in clause 4.1(b), any transaction between the Commonwealth and any Obligor or any particulars concerning any obligation or liability that forms part of the Relevant Obligations.

4.4 **Appropriation**

The Commonwealth is under no obligation to marshal or appropriate in favour of the Guarantor, or to exercise, apply, transfer or recover in favour of the Guarantor, any Security Interest or any funds or assets which the Commonwealth holds, has a claim on, has received or is entitled to receive, but may do so in the manner and order as the Commonwealth determines in its discretion.

4.5 **Void or Voidable Transactions**

If a claim that a payment to the Commonwealth in connection with this Deed or the Contract is void or voidable (including a claim under laws relating to liquidation, administration, insolvency or protection of creditors) is upheld by a court of competent jurisdiction or conceded or compromised then the Commonwealth is entitled immediately as against the Guarantor to the rights to which it would have been entitled under this Deed if the payment had not occurred.

4.6 **Claim or Demand on the Guarantor**

- (a) Where the Contract obliges the Commonwealth to deliver a notice or demand to the Contractor or to comply with an obligation (including observing time periods for performance and Contractor opportunities to cure defaults) prior to the Commonwealth exercising a right under the Contract in respect of a failure by the Contractor to comply with a Relevant Obligation, the Commonwealth shall deliver that notice or demand to the Contractor or comply with that obligation (including observing time periods for performance and Contractor opportunities to cure defaults) before making a demand under this Deed in respect of a failure by the Contractor to comply with that Relevant Obligation.
- (b) Subject to the Commonwealth complying with clause 4.6(a), the Guarantor agrees that the Commonwealth is not required to make any claim or demand on any Obligor, or to otherwise enforce the Contract or any other right, power or remedy against any other Obligor, before making any demand or claim on the Guarantor.

4.7 **Waiver of Rights**

The Guarantor may not exercise any right of contribution, indemnity or subrogation which it might otherwise be entitled to claim and enforce against or in respect of any other Obligor before the Relevant Obligations are satisfied in full and irrevocably waives all of those rights of contribution, indemnity or subrogation it may have before the Relevant Obligations are satisfied in full.

5. REPRESENTATIONS AND WARRANTIES

5.1 General Representations and Warranties

The Guarantor represents and warrants to the Commonwealth that:

- (a) this Deed constitutes its valid and legally binding obligation and is enforceable against it in accordance with its terms, subject to any necessary stamping and registration requirements and laws affecting creditors' rights generally;
- (b) the execution, delivery and performance of this Deed and each transaction contemplated by this Deed does not violate or breach any law or any document or agreement to which it is a party or which is binding on it or any of its assets;
- (c) all Authorisations required to be obtained by it in connection with the execution, delivery and performance of this Deed, the transactions contemplated by this Deed and the legality, validity and enforcement of this Deed have been obtained and are valid and subsisting and it is not aware of any breach of any of the conditions of any of those Authorisations or aware of any fact or circumstance which may cause any of those Authorisations to be suspended, forfeited, cancelled or rendered void;
- (d) no Event of Default has occurred which has not been remedied or waived in accordance with the terms of the Contract;
- (e) it is not the trustee of any trust; and
- (f) it does not enjoy immunity from suit or execution in relation to its obligations under this Deed.

5.2 Corporate Representations and Warranties

The Guarantor represents and warrants to the Commonwealth that:

- (a) it is duly registered and remains in existence;
- (b) its execution, delivery and performance of this Deed does not (and the transactions contemplated by this Deed do not) violate its Constitution nor, if the Guarantor is listed on a stock exchange, any listing requirements or business rules of the applicable stock exchange;
- (c) it has the power to enter into, deliver and perform this Deed and to carry out the transactions contemplated by this Deed;
- (d) it has taken all corporate action required to enter into, deliver and perform this Deed and to carry out the transactions contemplated by this Deed; and
- (e) the entry into and the performance of its obligations under this Deed is in its best interests and for a proper purpose.

5.3 Representations and Warranties Repeated

Each representation and warranty in clauses 5.1 and 5.2 shall be repeated on each day while any of the Relevant Obligations remain outstanding with reference to the facts and circumstances then subsisting, as if made on each such day.

6. PAYMENTS

6.1 Payments on Demand

All payments by the Guarantor under this Deed are to be made to the Commonwealth in Australian dollars in immediately available funds and on the due date specified in the notice to the Guarantor or if no due date is specified, within three Business Days following receipt of demand by the Commonwealth.

6.2 Payments of Interest on Unpaid Sums

(a) The Guarantor shall pay default interest on all Unpaid Sums. Default interest shall be calculated:

- (i) where the Contract provides for the payment of default interest for late payment by the Contractor, in accordance with the relevant provisions of the Contract; and
- (ii) otherwise in accordance with clause 6.2(b).

(b) Where this clause 6.2 applies, default interest shall be calculated in accordance with the following formula:

$$\text{Interest payment} = (I\% \times P \times n) / 365$$

Where:

"I%" means the Australian Taxation Office sourced General Interest Charge rate current at the due date of payment of the Unpaid Sum expressed as a percentage;

"P" means the amount of the Unpaid Sum; and

"n" means the number of days after the due date for payment that the payment of the Unpaid Sum is made.

(c) Notwithstanding any of the terms of the Contract, default interest accruing under this clause 6.2 shall be immediately payable by the Guarantor on demand by the Commonwealth.

6.3 No Set-off or Counterclaim

All payments by the Guarantor under this Deed shall be without any set off or counterclaim, and the Guarantor irrevocably waives any rights of set-off or counterclaim which it may have against the Commonwealth.

6.4 Merger

If the liability of the Guarantor to make any payment under this Deed becomes merged in any judgment or order, the Guarantor shall as an independent obligation pay to the Commonwealth interest at the rate which is the higher of that payable under clause 6.2 and that fixed by or payable under the judgment or order.

6.5 No Deduction for Taxes

- (a) All payments by the Guarantor under this Deed shall be without deduction or withholding for any present or future taxes, unless the Guarantor is compelled by law to deduct or withhold the same.
- (b) If the Guarantor is compelled by law to make any deduction or withholding from any payment under this Deed on account of taxes, the Guarantor shall on demand by the Commonwealth pay to the Commonwealth any additional amounts necessary to ensure that the Commonwealth receives (after all deductions and withholdings for taxes) a net amount equal to the full amount which it would have been entitled to receive and retain had the deduction or withholding not been made.

7. EXPENSES

7.1 Reimbursement

The Guarantor shall reimburse the Commonwealth on demand for, and shall indemnify the Commonwealth against any liability, loss, damage, cost (including the cost of any settlement and legal costs and expenses on a solicitor and own client basis), compensation or expense sustained or incurred by the Commonwealth arising out of or as a consequence of the Commonwealth exercising, enforcing or preserving, or attempting to exercise, enforce or preserve, any rights under this Deed. The limitation of liability in clause 2.4 does not apply to this clause.

8. GOODS AND SERVICES TAX

8.1 Goods and Services Tax

- (a) In this clause, 'GST' means the Commonwealth tax imposed by the *A New Tax System (Goods and Services Tax) Act 1999*, and 'adjustment event', 'input tax credits', 'taxable supply' and 'tax invoice' have the respective meanings given to them by that Act.
- (b) If a party (the **Supplier**) makes a taxable supply to another party in relation to this Deed or any matter or thing occurring under this Deed (the **Recipient**), and the consideration otherwise payable for the taxable supply does not include GST, the Supplier will be entitled to recover from the Recipient the amount of any GST on the taxable supply, in addition to any other consideration recoverable for the taxable supply.
- (c) If the amount paid by the Recipient to the Supplier for GST differs from the actual amount of GST payable for the taxable supply (taking into account any adjustment events that occur in relation to the taxable supply), the following adjustments apply:
 - (i) if the amount paid by the Recipient exceeds the GST on the taxable supply, the Supplier will refund the excess to the Recipient; or
 - (ii) if the amount paid by the Recipient is less than the GST on the taxable supply, the Recipient will pay the balance to the Supplier.
- (d) If a party is entitled to recover or be compensated for all or a proportion of its costs in relation to this Deed or any matter or thing occurring under this Deed, the amount of the recovery or compensation is reduced by the amount of (or the same proportion of the amount of) any input tax credits available in relation to those costs.
- (e) A party is not required to pay any amount for GST to another party unless a valid tax invoice has been issued for that GST.

9. NO REPRESENTATION BY OR RELIANCE

The Guarantor acknowledges that:

- (a) the Commonwealth does not have any duty to supply it with information in relation to or affecting the Contractor or the Commonwealth before the date of this Deed or during the term of the Contract;
- (b) it has relied on its own inquiries as to the Contractor, the nature and extent of the entire relationship between the Contractor and the Commonwealth (whether or not recorded in the Contract) and the nature and effect of the Contract; and
- (c) it does not enter into this Deed in reliance on any representation, promise, statement, conduct or inducement by or on behalf of the Commonwealth, except for any inducement expressly set out in this Deed.

10. ASSIGNMENT AND NOVATION

Neither party may, without the prior written consent of the other party, assign, novate or otherwise transfer any of its rights or obligations under this Deed.

11. RESOLUTION OF DISPUTES

- (a) A party shall not commence court proceedings relating to any dispute arising from this Deed except when that party seeks urgent relief from a court or when dispute resolution has failed under this clause 11. If a party fails to comply with this clause 11, the other party is not required to undertake dispute resolution for the dispute in accordance with clause 11.
- (b) The parties shall negotiate in good faith to settle a dispute arising between them and, if the dispute cannot be settled by negotiation (including negotiation between senior management of the parties) within [INSERT PERIOD] days, the parties may agree to use an alternative dispute resolution process to attempt to resolve the dispute.
- (c) The parties shall at all times during the dispute continue to fulfil their obligations under this Deed.

12. MISCELLANEOUS

12.1 Notices

- (a) Unless the contrary intention appears, any notice or communication under this Deed shall be effective if it is in writing and sent from and delivered to the Commonwealth or Guarantor, as the case may be, at the following address:

[INSERT COMMONWEALTH ADDRESS AND EMAIL]

[INSERT GUARANTOR ADDRESS AND EMAIL]

- (b) A notice or communication is deemed to be delivered:
 - (i) if sent by pre-paid post, in three Business Days when sent within Australia and in eight Business Days when sent by air mail from one country to another;
 - (ii) if hand delivered, when received at the address, or by the recipient if sooner; or

- (iii) if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Business Day that the email has not been delivered to the recipient,

but if the receipt, transmission or entry into the information system is not on a Business Day or is after 5.00pm (recipient's local time) on a Business Day, the notice is taken to be received at 9.00am (recipient's local time) on the next Business Day.

12.2 **Laws**

The laws of **[INSERT RELEVANT STATE OR TERRITORY]** apply to this Deed, and the courts of that State or Territory have non-exclusive jurisdiction to decide any matter relating to this Deed.

12.3 **Entire Agreement**

This Deed represents the parties' entire agreement in relation to the subject matter and supersedes all tendered offers and prior representations, communications, agreements, statements and understandings, whether oral or in writing.

12.4 **Further Assurances**

Each party shall take the steps, sign the documents, and do all other acts and things as may be reasonably required by the other party to give effect to this Deed and to perfect the Powers afforded or created by this Deed.

12.5 **Powers Cumulative**

The Powers conferred by this Deed on the Commonwealth are cumulative and in addition to all other Powers available to the Commonwealth by law or under the Contract.

12.6 **Form of Demand**

A demand on the Guarantor for payment under this Deed may be in any form and contain any information as the Commonwealth determines.

12.7 **Severability**

If any part of this Deed is or becomes illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of the Deed shall not be affected and shall be read as if that part had been severed.

12.8 **Waiver**

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, any Power provided by law or under this Deed by the Commonwealth does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other Power provided by law or under this Deed.
- (b) A waiver or consent given by the Commonwealth under this Deed is only effective and binding if it is given or confirmed in writing by the Commonwealth.
- (c) No waiver of a breach of a term of this Deed operates as a waiver of another breach of that term or of a breach of any other term of this Deed.

12.9 Consents

A consent required under this Deed from the Commonwealth may be given or withheld, or may be given subject to any conditions, as the Commonwealth (in its discretion) thinks fit, unless this Deed expressly provides otherwise.

12.10 Moratorium Legislation

To the fullest extent permitted by law, all laws which at any time operate directly or indirectly to lessen or affect in favour of the Guarantor any obligation under this Deed, are expressly waived.

12.11 Binding on each Signatory

This Deed binds and is enforceable against the Guarantor despite:

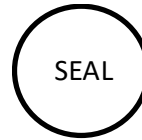
- (a) any other person not executing this Deed or its execution being defective in any way; or
- (b) any obligation or liability of any other party under this Deed not being binding or enforceable against that party for any reason.

12.12 Counterparts

This Deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the Deed of each party who has executed and delivered that counterpart.

EXECUTED as a Deed.

SIGNED, SEALED AND DELIVERED by
THE COMMONWEALTH OF AUSTRALIA,
REPRESENTED BY THE DEPARTMENT
OF DEFENCE:



Signature of authorised signatory

Name of authorised signatory

Date

[INSERT APPROPRIATE SIGNATURE BLOCK FOR GUARANTOR]

Phase 1 – Statement of Work

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Annexes

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1. General

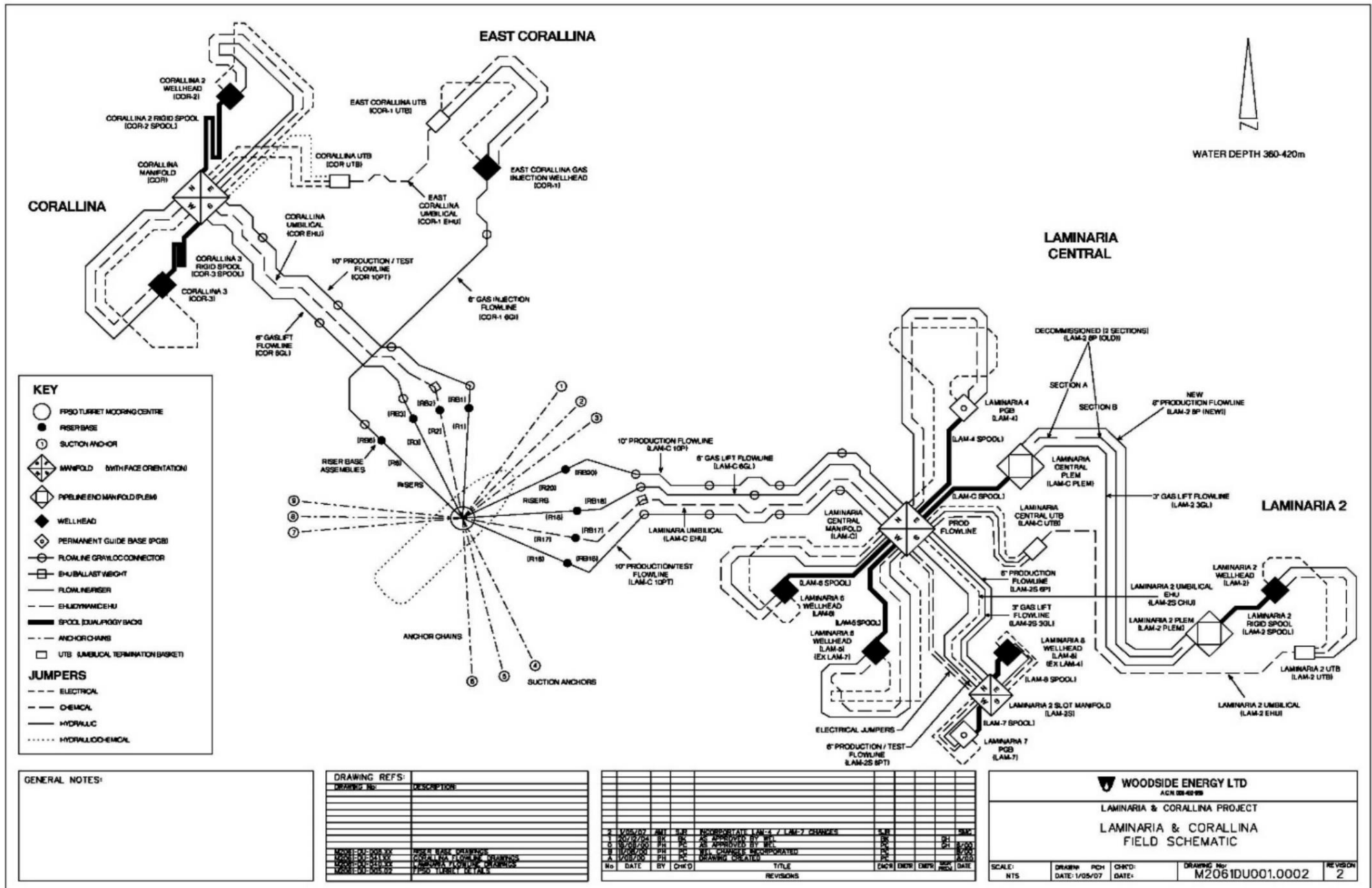
1.1. Purpose

- (a). The Department of Industry, Science, Energy and Resources (DISER) requires the disconnection and removal of the FPSO Northern Endeavour from the Laminaria-Corallina fields.
- (b). The purpose of this Statement of Work (SOW) is to communicate to the Contractor the required Work and standards of Work to be carried out under the Contract.
- (c). In relation to the required Work, the SOW also allocates particular responsibilities between the Commonwealth and the Contractor.

2. Background

2.1. Facility description

- (a). The FPSO is permanently moored in 380m of water in the Timor Sea, approximately 550km WNW from Darwin, Australia and 250km ESE from Kupang, West Timor. The FPSO is located in Block AC/L5 within the Australian Commonwealth's Territory of the Ashmore and Cartier Islands. The Universal Transverse Mercator (**UTM**) coordinates are:
 - Latitude -10°36'52.561"
 - Longitude 125°59'8.188" E.
- (b). The field is located in a water depth range between 356m at Laminaria to 410m at Corallina. This requires the use of driverless tie-in and intervention techniques for maintenance, inspection and field development.
- (c). The now redundant production system comprises a network of subsea wells tied back to the permanently moored vessel unit through a system of subsea manifolds, flowlines, umbilicals, and dynamic risers. Produced oil was stored onboard the vessel and unloaded via offtake tankers using a tandem mooring system.
- (d). The FPSO is shut in with no further production being undertaken. The Facility is depressurised and all wells are shut in with Subsurface Safety Valves (**SSSVs**) closed.
- (e). In addition to the FPSO, which can accommodate up to 66 Personnel on Board (**POB**), the Facility comprises:
 - (i). nine development wells over the two fields;
 - (ii). subsea infrastructure consisting of flexible flowlines and control umbilicals out to each of the manifolds, plus rigid spools between the manifolds and wellheads;
 - (iii). flexible flowline risers and umbilical risers with individual buoyancy modules installed on the mid-water arches; and nine mooring lines (3 sets of 3) made up of chain and plastic sheathed wires.
- (f). Figure A below provides a schematic view of the overall field layout.



3. Current Facility management

3.1. Northern Endeavour Decommissioning Readiness Project (NEDRP)

- (a). The FPSO is being operated in “lighthouse mode” whilst being prepared for the decommissioning work. This work is being conducted under the Northern Endeavour Decommissioning Readiness Project (NEDRP). DISER has contracted Upstream PS (UPS) to conduct the NEDRP scope of work. NEDRP focuses on the execution of remedial works to prepare the FPSO facility to achieve the standards required to undertake the planned decommissioning works.
- (b). The UPS scope of work includes:
 - (i). FPSO in Class certification, including:
 - (A). Ballast / Hull Repairs: as required to obtain single voyage certificate from Class to undertake tow;
 - (B). OIWS – Offshore in Water Survey (UWILD – Underwater Inspection in lieu of Dry Dock);
 - (ii). Approved Facility Safety Case for current (NEDRP) operations;
 - (iii). Approved EMP – for current (NEDRP) operations;
 - (iv). Approved WOMP – for current (NEDRP) operations;
 - (v). FPSO topsides flushed to required receiving shipyard standards;
 - (vi). FPSO tanks and vessels cleaned ‘demucked’ to required levels to meet receiving shipyard standards with no measurable NORMS. Tasks include but not limited to:
 - (A). Tank Washing by a hot water washing of tanks to clean tanks and drain fluids to a consolidation tank;
 - (B). Demuck sludge and solids;
 - (C). Topside Bulk Hydrocarbon Process Flush;
 - (D). Drain Topsides Process Vessels and Pipework;
 - (E). Bulk Hydrocarbon Freeing: Displacement of bulk crude, gas, and other pumpables from, vessels and pipework into a consolidation cargo tank;
 - (F). Nitrogen Purge of the Gas Train;
 - (G). Nitrogen Purge of the Fuel Gas Train;
 - (H). Glycol Circuit Hydrocarbon Free and Disposal;
 - (I). Chemical Inventory Removal;
 - (J). Purging: Purge gas systems not required for decommissioning to obtain gas free status;
 - (K). Waste: Backload waste/muck and surplus chemicals for disposal;
 - (L). Tanks filled with inhibited water to levels for vessel stability;
 - (M). Drain, Flush, disconnect, Tow and disposal of the Crude Oil Offtake Hose;
 - (vii). The following maintenance, repair, integrity tasks must be completed:

Northern Endeavour FPSO Decommissioning Project

- (A). Valve exercising and greasing (for valves which will be required in NEDCOM);
- (B). Subsea communications Line Testing;
- (C). Subsea Valve Function and Leak off Testing;
- (viii). All identified equipment on FPSO for disconnection and removal of risers and moorings to be operable and certified;
- (ix). FPSO certified sea fastenings for tow;
- (x). Subsea Valve Function and Leak off Testing;
- (xi). Subsea infrastructure flushed to agreed standards;
- (xii). Wells shut in; and
- (xiii). All required documentation updated to reflect current state.

4. Northern Endeavour Decommissioning Project (NEDCOM)

4.1. Project phases

- (a). The Northern Endeavour Decommissioning project (NEDCOM) will cover the physical decommissioning of the Laminaria-Corallina facilities and will be conducted in three principal phases, as follows:
 - (i). Phase One: Disconnection of the FPSO and unmanned tow, including well isolations;
 - (ii). Phase Two: Permanent plugging and abandonment (P&A) of 9 subsea wells, including removal of Xmas Trees (XT) and wellheads; and
 - (iii). Phase Three: Subsea infrastructure removal and seabed remediation campaign.
- (b). This RFP is only for Phase 1.

4.2. Phase 1 objectives

- (a). The objectives to be achieved by the Contractor (and sub-contractors) through Phase 1 of this Project include, subject to the Commonwealth's instructions under clause 2 of the Contract:
 - (i). the safe and efficient operation, maintenance and inspection of the FPSO, subsea wells and subsea facilities prior to disconnection;
 - (ii). temporary suspension of nine wells prior to FPSO disconnection;
 - (iii). expedited disconnection of the FPSO in accordance with good industry and oilfield practice and all relevant legislation;
 - (iv). sea fastening necessary for tow;
 - (v). disconnection and laydown of risers;
 - (vi). disconnection and laydown of moorings; and
 - (vii). ocean tow (unmanned) to a designated location.
- (b). The Contractor must ensure it obtains and holds all necessary licenses, permits and approvals to achieve these objectives.

Northern Endeavour FPSO Decommissioning Project

- (c). The Contractor must ensure that all activities are conducted by competent specialist personnel with relevant qualifications and experience.

4.3. Phase 1 scope of work overview

- (a). The primary scope of Work to be delivered for Phase 1 includes:
 - (i). the safe and efficient operation and basic maintenance of the Facility in accordance with all regulatory, licence and contract requirements, established and implemented maintenance system(s) and in accordance with good oilfield practice;
 - (ii). provision of onshore engineering support, maintenance planning, integrated activity planning, Health, Safety and Environment (HSE) management, human resources management, cost management, and travel management services;
 - (iii). provision of emergency response and crisis management capability and maintenance of up-to-date emergency response processes, offshore and onshore, consistent with the requirements of the Facility Safety Case, the EP and WOMP;
 - (iv). fulfilment of all regulatory and licence requirements that must be met and maintained by the Contractor in relation to the Facility, including requirements arising following inspections, audits, notifications and reporting by NOPSEMA under its Deed of Standing Offer with the Commonwealth, and payment of all necessary licences, fees and charges approved by the Commonwealth;
 - (v). preparation and implementation of new or revised versions of the Facility Safety Case, Environmental Plan and WOMP consistent with the requirements for Phase 1 activities, including post FPSO disconnection subsea well and facilities surveillance;
 - (vi). management of activities to maintain all necessary certifications, accreditations, surveys, permits, licences, and plans applying to the Facility including those regulated or maintained by a Classification Society, other Flag States, International Maritime Organization, Australian Maritime Safety Authority or other government authority;
 - (vii). provision of all logistical support services, including offshore supply vessels, tugs, helicopters, warehousing, etc;
 - (viii). planning and execution of operations to suspend existing wells prior to FPSO disconnection, for example, via the installation of wireline plugs via the utilisation of a lightweight installation vessel or MODU;
 - (ix). subsea facilities and FPSO topsides flushing and demucking in order to achieve a hydrocarbon free Facility prior to tow, including preservation of systems as required;
 - (x). disconnection, capping and laydown on the seabed of all production/injection flexible risers and umbilicals, including removal and recovery of riser buoyancy;
 - (xi). disconnection and laydown on the seabed of all mooring chains/wires;
 - (xii). ocean tow of the FPSO to a destination to be advised by Commonwealth;

Note to Respondents: For the purpose of the RFP, Respondents should assume the destination to be a South East Asian port.
 - (xiii). surveillance of the subsea wells and facilities post FPSO disconnection and removal, until such time as all wells have been permanently plugged and abandoned; and
 - (xiv). project planning and management services.

4.4. Phase 1 Work Packages

- (a). The Contractor shall deliver the scope of Work through the following Work Packages.

Work Package A: Engineering Design and Planning

- (b). This Work Package focuses on all the engineering, design, planning, and preparation activities required to be completed before any disconnection work within the field commences. Work Package A is to commence upon Contract award, will have a maximum duration of 9 calendar months, and will encompass:
- (i). an assessment of the condition of the Facility and associated infrastructure;
 - (ii). completion of engineering studies and designs;
 - (iii). development of procedures for all planned field execution activities;
 - (iv). development of contingency plans and/or procedures for activities with potential for schedule impacts/deviations on the critical path;
 - (v). preparation and approval of all regulatory requirements;
 - (vi). completion of required fabrication and refurbishment of specialised tools or components;
 - (vii). procurement of any long lead items required for Work Package C;
 - (viii). finalisation of all third-party subcontractors with confirmed mobilisation dates.

Work Package B: Operation and Maintenance

- (c). Subject to the transfer of operatorship of the Facility to the Contractor and an instruction by the Commonwealth in accordance with clause 2.4(b) of the Contract, the Contractor shall provide ongoing support to the operation of the Facility in 'lighthouse mode' and manage incidental maintenance events. Work Package B includes:
- (i). the safe and efficient operation and basic maintenance of the Facility in accordance with all regulatory, licence and Contract requirements, established and implemented maintenance system(s) and in accordance with good oilfield practice; and
 - (ii). management of activities to maintain all necessary certifications, accreditations, surveys, permits, licences, and plans applying to the Facility including those regulated or maintained by a Classification Society, other Flag States, International Maritime Organization, Australian Maritime Safety Authority or other government authority.

Work Package C: FPSO Disconnection

- (d). Work Package C is subject to an instruction by the Commonwealth in accordance with clause 2.3(c). It will commence on completion of Work Package A, will have a maximum duration of 5 calendar months, and will encompass:
- (i). all in-field activities required to ensure the completion of well suspension; and
 - (ii). FPSO Disconnection.

Work Package D: FPSO Sail Away

- (e). Work Package D is subject to an instruction by the Commonwealth in accordance with clause 2.3(c) and includes:
- (i). preparation for unmanned tow; and
 - (ii). towage of the FPSO to the designated location.

Work Package E: Monitor and Maintain

- (f). Work Package E is subject to an instruction by the Commonwealth in accordance with clause 2.3(c). It comprises monitoring the wells and undertaking any necessary maintenance of the wells.

Work Package F: Project Planning and Management

- (g). Work Package F includes:
- (i). setup of Risk and change management processes;
 - (ii). provision of project controls; and
 - (iii). development and implementation of a fully resourced and costed implementation plan (see clause 6.2 of this SOW).

5. Contract Deliverables**5.1. General requirements**

- (a). The Contractor must produce, update and deliver all Deliverables to the Commonwealth in accordance with clauses 4.4 and 4.5 of the Contract, the Contract Deliverables List (**CDL**) at Annex A to this SOW and this clause 5 of the SOW.

5.2. Instructions for Deliverables

- (a). This section outlines the relationship between Deliverables, the instructions, prescribed content and format (if any) of the Deliverables, and the CDL at Annex A to this SOW. It also sets out the processes and procedures for the preparation, delivery, management and maintenance of Deliverables by the Contractor and the Commonwealth action required.
- (b). The CDL is a consolidated list of Deliverables to be delivered during the course of the Contract and includes CDL management information. It defines the Deliverable, delivery schedule, Commonwealth action period and type, and, through reference to the associated instructions, the title, purpose, content and, if applicable, format requirements for each Deliverable.

5.3. Management of the Deliverables

- (a). The Contractor shall implement procedures for each Deliverable, as applicable, to ensure that the version or issue and amendment status of each Deliverable is identified and controlled.
- (b). The Contractor shall review, update and deliver amended or reissued Deliverables, or confirm the continuing accuracy of Deliverables.

5.4. Media

- (a). Subject to clause 5.7 and unless otherwise specified:
- (i). all electronic copies shall have margins consistent with ISO 216: A0-A4 size paper, in the following file formats:
 - (A). searchable Portable Document Format (PDF) (Acrobat 6 or later);
 - (B). Microsoft® Word (compatible with Microsoft® Office 2013 or later);
 - (C). Microsoft® Excel (compatible with Microsoft® Office 2013 or later);

- (D). Microsoft® Project (compatible with Microsoft® Office 2013 or later);
 - (E). Open Plan Professional (version 8.2 or later).
- (b). All hard copies shall be prepared and delivered on ISO 216: A0-A4 size paper unless otherwise specified.

5.5. Format instructions

- (a). When a Deliverable is to be submitted in the form of a document, it shall include the following identification information:
- (i). the document reference number;
 - (ii). the document title and date of issue;
 - (iii). the volume number (only applicable to multi-volume data items);
 - (iv). the version number/revision indicator;
 - (v). the security markings or other restrictions, which shall not contravene Contract requirements on the handling of the document;
 - (vi). the Contract number;
 - (vii). the CDL line number;
 - (viii). the organisation for which the document has been prepared; and
 - (ix). the name and address of the preparing organisation.
- (b). When a Deliverable is submitted in the form of a document, and the body of that document is greater than five pages in length, it shall contain a table of contents.
- (c). When a Deliverable is submitted in the form of a document, each page shall contain a unique page number and preferably display the document number, version, volume and date of issue, as applicable.
- (d). When a Deliverable is submitted in the form of a soft copy document (including a text, spreadsheet or presentation file), and unless otherwise specified in the Contract or agreed by the Commonwealth Representative, the document shall be in a format that is compatible with Microsoft® Office applications or, if appropriate, in PDF.
- (e). Where a Deliverable is revised or updated, and where the software used to create the Deliverable is able to produce revision marks, the Contractor shall mark all changes made since the previous release of the Deliverable to the Commonwealth with a side bar in the margin of the Deliverable to aid review.
- (f). Where the software is not able to produce revision marks, the Contractor shall accompany those affected Deliverables with revision lists containing a summary of all changes made since the previous release to the Commonwealth.
- (g). Where a Deliverable is delivered in soft copy, and unless otherwise agreed by the Commonwealth Representative, the Deliverable shall be able to be copied and saved by the Commonwealth and capable of further manipulation (including searching and printing) in the native document format.

5.6. Content instructions

- (a). Where a preliminary or draft version of a Deliverable is scheduled for submission prior to approval or acceptance of a final version, the Contractor shall comply with the following requirements:
 - (i). the preliminary version shall contain information on all of the topics pertinent to the Deliverable and shall be:
 - (A). commensurate with the status of design, development or installation of the Work at the time the Deliverable is due for submission; and
 - (B). suitable for the intended purpose as stated in the Notes column of the CDL; and
 - (ii). unless otherwise specified, the draft version shall be developed to the stage where it reflects the content of the final version of the Deliverable, but may be missing low level detail.
- (b). Where information specified for one Deliverable has also been specified for other Deliverables in the same format and at the same issue status, the Contractor may provide the information in one Deliverable only but must include cross-references to that Deliverable in the other Deliverables.
- (c). The Contractor shall ensure that all Deliverables provided to the Commonwealth are written in grammatically correct English.
- (d). Subject to the other requirements of this clause 5.6, Deliverables prepared under the Contract for submission to the Commonwealth shall contain sections providing the following information unless otherwise specified:
 - (i). identification of the project, program, plan, item, as applicable, to which the Deliverable applies;
 - (ii). background that helps to situate the Deliverable and states the intended use of the item(s) to which the Deliverable applies;
 - (iii). an overview of the Deliverable;
 - (iv). a list of referenced documents;
 - (v). a list of acronyms and abbreviations; and
 - (vi). a set of definitions.
- (e). The Contractor shall ensure that all Deliverables delivered under the Contract are marked in accordance with the IP and Confidential Information provisions in the Contract.

5.7. Use of existing data

- (a). Data required under the Contract may currently exist in a different format or use a different content structure than that specified in this clause. In such cases, the data may be acceptable providing that it contains the specified information and meets the requirement for its intended use. Where the Contractor wishes to submit existing data that does not meet the format or content structure requirements contained in this clause, then the Contractor shall seek Commonwealth Representative approval to submit the existing data, in sufficient time for the data to be reformatted or restructured prior to the required delivery date should approval be denied.

6. Project management requirements

6.1. Contractor's project management arrangements

- (a). The Contractor shall establish and maintain, within its company structure, a discrete management organisation with suitable capability and authority to perform the Contract.
- (b). The Contractor shall establish, maintain and update a management system that is applicable to, and appropriate for, the Phase 1 activities. The system shall include:
 - (i). **Financial Management System** – the Contractor's supporting process and systems to provide financial control and reporting;
 - (ii). **Subcontract Management System** – the Contractor's processes and systems to support the engagement and management of Subcontractors;
 - (iii). **Personnel Management System** – the Contractor's supporting methodology and system for identifying and managing Key Personnel;
 - (iv). **Travel Management System** – to manage allocation of resources across flights, vessels, helicopters and accommodation; and
 - (v). **Environmental Health and Safety (EHS) System** – the Contractor's EHS policies and activities to support compliance with applicable work health and safety legislation, safety performance reporting and incident management.

6.2. Phase 1 Implementation Plan

- (a). The Contractor shall develop, deliver and update a Phase 1 Implementation Plan (**IMP**) in accordance with CDL Line Number 1.
- (b). The Contractor shall manage its program of activities under the Contract in accordance with the approved IMP.
- (c). The IMP will establish Project controls that provide the following functions:
 - (i). organisational and project level governance, including details of the Contractor's company organisation structure and the Contractor's project management organisation;
 - (ii). schedule management and integration, including maintenance of the master and agreed baseline schedules;
 - (iii). cost control and interfacing with the Commonwealth for financial management, including the generation of cost reports, cost variance analysis and cost forecasting;
 - (iv). quality management;
 - (v). logistics management;
 - (vi). internal and external reporting;
 - (vii). risk and issues management;
 - (viii). change control;
 - (ix). contract management;
 - (x). document control;
 - (xi). project systems administration;

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- (xii). Business resource planning;
 - (xiii). Key Personnel management;
 - (xiv). Subcontractor management;
 - (xv). security management;
 - (xvi). communications management; and
 - (xvii). progress measurement and validation.
- (d). The IMP must:
- (i). be aligned to the Contractor's proposed approach to performing the Work and achieving the Phase 1 objectives (see clause 4.2 of this SOW);
 - (ii). provide sufficient activity detail to enable cost and schedule planning and cost efficiency management;
 - (iii). specify dates for submission of all Deliverables;
 - (iv). specify Dates for Completion for each Work Package;
 - (v). provide a critical path across the entire Phase 1;
 - (vi). identify all linked dependencies;
 - (vii). be resource loaded;
 - (viii). be available in the agreed electronic format; and
 - (ix). otherwise meet the requirements of this clause 6.2.
- (e). The IMP is to include, at a minimum:
- (i). a Contract Master Schedule detailing appropriate approval controls and in accordance with clause 6.3;
 - (ii). a Work Breakdown Structure (WBS) in accordance with clause 6.4;
 - (iii). a Project budget in accordance with clause 6.5;
 - (iv). work procedures detailing a change management process and with linkages to the Risk Management Plan to be delivered in accordance with clause 6.9;
 - (v). an issue management process;
 - (vi). a list of the plans to be used by the Contractor in the execution of the Work, showing the hierarchical relationship of the plans; and
 - (vii). reporting requirements and processes.

6.3. Contract Master Schedule

- (a). The Contractor shall develop, deliver and update a Contract Master Schedule (**CMS**) in accordance with CDL Line Number 2 and the approved IMP.
- (b). The Contractor shall use the approved CMS as the primary schedule for managing the Contract.
- (c). The Contractor shall use Microsoft® Project, Open Plan Professional or other scheduling software package approved by the Commonwealth Representative to develop the CMS.

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- (d). If the Contractor produces the CMS using a software package not held by the Commonwealth Representative, the Contractor shall provide all necessary programs, licenses and training to enable the Commonwealth Representative to efficiently access and manipulate the CMS as required.
- (e). The Contractor may amend the approved CMS without first obtaining the Commonwealth's approval under clause 4.4 of the Contract, as long as:
 - (i). payments under the Contract are not affected;
 - (ii). the Milestone Dates identified in Annex A to this SOW are not affected; and
 - (iii). the ability of the Commonwealth to meet its obligations under the Contract is not affected.
- (f). Commonwealth approval of an amendment to the approved CMS under clause 6.3(e) shall be obtained when the next update to the CMS is required as specified in the CDL.

6.4. Work Breakdown Structure

- (a). The Contractor shall develop, deliver and update a Work Breakdown Structure (**WBS**) in accordance with CDL Line Number 3 and the approved IMP.
- (b). The Contractor shall manage the Contract in accordance with the approved WBS.
- (c). The Contractor may amend the approved WBS without first obtaining the Commonwealth's approval under clause 4.4 of the Contract, as long as:
 - (i). all elements affected by the amendment are below any previously agreed reporting level;
 - (ii). the amendments are consistent with the approved WBS; and
 - (iii). the Commonwealth is notified within 30 Business Days of the changes being made.

6.5. Project Budget

- (a). The Contractor shall develop, deliver and update a Project Budget in accordance with CDL Line Number 4 and the approved IMP.
- (b). The Contractor shall use the approved Project Budget as the primary budget for managing the Contract.
- (c). The Contractor shall use a software package approved by the Commonwealth Representative to develop the Project Budget.
- (d). If the Contractor produces the Project Budget using a software package not held by the Commonwealth Representative, the Contractor shall provide all necessary programs, licenses and training to enable the Commonwealth Representative to efficiently access the Project Budget as required.
- (e). The Contractor may amend the approved Project Budget without first obtaining the Commonwealth's approval under clause 4.4 of the Contract, as long as:
 - (i). payments under the Contract are not affected;
 - (ii). the Milestone Dates are not affected; and
 - (iii). the ability of the Commonwealth to meet its obligations under the Contract is not affected.

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- (f). Commonwealth approval of an amendment to the approved Project Budget under clause 6.5(e) shall be obtained when the next update to the Project Budget is required as specified in the CDL.

6.6. Work procedures

- (a). The Contractor acknowledges that the objective of established work procedures is to ensure adherence to schedule and budget, and to appropriately manage risk, including in relation to health, safety and the environment.
- (b). The Contractor shall develop, deliver and update a series of work procedures for all field execution Work to be delivered under this Contract in accordance with CDL Line Number 5 and the approved IMP.
- (c). The work procedures shall draw direct links to the Risk Management Plan and Risk Register, and shall include a detailed change management process.

6.7. Issue management

- (a). The Contractor acknowledges that the objective of conducting issue management is to ensure that significant issues are addressed in a timely manner.
- (b). The Contractor shall manage issues in accordance with the approved IMP.
- (c). The Contractor shall develop, deliver, update, and maintain an Issue Register in accordance with CDL Line Number 6 and the approved IMP.
- (d). The Contractor shall provide all system access and other assistance reasonably required for the Commonwealth to access the Issue Register for the period of the Contract.

6.8. Quality management

- (a). The Contractor shall develop, implement and maintain a Quality Management Plan (QMP) in accordance with CDL Line Number 7, the approved IMP and clause 4.3 of the Contract.
- (b). The QMP must meet the requirements of ISO 9001:2015.
- (c). The Contractor shall manage the quality program for the Contract in accordance with the approved Quality Management Plan.

6.9. Risk management

- (a). The Contractor acknowledges that the objective of conducting risk management is to ensure that risks are appropriately recognised, mitigated, monitored, and re-assessed in a timely manner.
- (b). The Contractor shall develop, deliver and update a Risk Management Plan (**RMP**) in accordance with CDL Line Number 8 and the approved IMP. The RMP is to include detailed risk mitigation processes and is to link directly to the work procedures in the IMP.
- (c). The Risk Management Plan must meet the requirements of AS/NZS ISO 31000:2009 or other approved standard.
- (d). The Contractor shall manage risks in accordance with the approved RMP.
- (e). The Contractor shall maintain a Risk Register in accordance with the approved RMP.
- (f). The Contractor shall update the Risk Register prior to the submission of a Contract Status Report (**CSR**) to ensure that each CSR represents the current status of the Contract risks.

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- (g). The Contractor shall provide all system access and other assistance reasonably required for the Commonwealth to access the Risk Register for the period of the Contract.

6.10. Work Health and Safety management

- (a). The Contractor shall develop, implement and maintain a Work Health and Safety (**WHS**) Management Plan as part of the Facility Safety Case, and in accordance with CDL Line Numbers 9 and 23 and clause 20.3 of the Contract.
- (b). The Contractor shall ensure all Work undertaken in relation to the Contract is in accordance with the approved WHS Management Plan.

6.11. Logistics management

- (a). The Contractor shall develop, deliver and update a Logistics Management Plan (**LMP**) in accordance with CDL Line Number 10.
- (b). The Contractor shall include in the LMP the planning and arrangements for all logistical requirements to support the Phase 1 activities.
- (c). The Logistics Management Plan shall, at a minimum:
 - (i). identify Contract and non-Contract logistical services provided;
 - (ii). identify Milestones relating to third party contract negotiations and contract finalisation;
 - (iii). stipulate mobilisation and demobilisation periods;
 - (iv). specify limitations in relation to logistical services, such as helicopter availability and maximum passenger limits;
 - (v). detail the verification procedures and processes to be employed to ensure all logistic services provide the required level of service;
 - (vi). identify all assumptions tabled with clarifying comments; and
 - (vii). identify risks and appropriate mitigation strategies.

6.12. Resource management and industrial relations

- (a). The Contractor shall develop, deliver and update a Resource Management and Industrial Relations Plan (**RMIRP**) in accordance with CDL Line Number 11, the approved IMP and clause 21.3 of the Contract.
- (b). The RMIRP shall detail plans and arrangements for all resourcing matters, including at a minimum:
 - (i). Business resource planning;
 - (ii). Key Personnel management;
 - (iii). Subcontractor management; and
 - (iv). Industrial Relations management.

Business Resource Planning

- (c). The Contractor shall conduct resource planning in accordance with the approved RMIRP and IMP to demonstrate that resources are adequate to complete all current and planned work.

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- (d). The resource planning shall cover all required manpower and specialised equipment and is to provide a weekly view of:
 - (i). individual roles;
 - (ii). crew groupings;
 - (iii). crew transfers;
 - (iv). minimum manning requirements per Facility / vessel;
 - (v). shift allocations, such as in office, onshore, in field, or in rotation;
 - (vi). mobilisation and demobilisation periods; and
 - (vii). availability periods of specialised equipment, such as vessels, spreads, well intervention tools, and remotely operated vehicles / vessels (**ROV**).
- (e). The Contractor shall provide a Business Resource Planning Report as part of each CSR.
- (f). The Commonwealth may conduct reviews and audits, including at the Contractor's premises, to verify the Contractor's Business Resource Planning Report. The Contractor shall facilitate each review and audit.
- (g). If the Commonwealth considers that the Contractor has not demonstrated adequate resources to continue to maintain satisfactory progress under the Contract, the Contractor shall take immediate remedial action and report progress at the next CSR or on request of the Commonwealth.

Key Personnel Management

- (h). The Contractor shall identify, and update as required, the position / person specifications for Key Personnel positions, and the appointed Key Personnel for each of the Key Personnel positions, in accordance with the approved RMIRP, IMP and clause 5 of the Contract.
- (i). The Contractor shall provide the Commonwealth with information and documentation to support the nomination of any person by the Contractor as Key Personnel, including any proposed replacement or substitution of Key Personnel under this clause 6.12 or under clause 5.1 of the Contract. This documentation shall:
 - (i). justify the match of the nominated person to the relevant Key Personnel position;
 - (ii). describe how any capability shortfalls of the nominated person will be addressed; and
 - (iii). include an update to position / person specifications for affected Key Personnel positions to reflect any changes in duties and responsibilities that result from the replacement or substitution of Key Personnel.

Subcontractor Management

- (j). The IMP shall detail the Contractor's plan for the engagement and management of Subcontractors in the delivery of the Work. The plan should include:
 - (a). the communications, meeting and review plan for each Subcontractor;
 - (a). the method for ensuring that each Subcontractor has an integrated technical, cost and schedule control mechanism in place;
 - (b). the method for ensuring that each Subcontractor is collecting and analysing relevant metrics to enable progress and performance to be tracked against applicable schedules and plans; and
 - (c). the method for ensuring that each subcontractor is managing its own Subcontractors.

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- (k). The Contractor shall manage all Subcontractors in accordance with the approved RMIRP, IMP and clause 5 of the Contract.
- (l). The Contractor shall ensure that Subcontractors manage their contracts in accordance with their own management plans.
- (m). The Contractor shall ensure that the Subcontractors monitor progress against their own plans.
- (n). The Contractor shall ensure that the Subcontractors implement corrective actions to address any deviation from any plan.
- (o). The Contractor shall ensure that Subcontractors prepare and deliver Subcontract status reports to the Contractor at the same intervals that the Contractor reports to the Commonwealth Representative.
- (p). The Contractor shall summarise the Subcontract status reports in the CSRs.
- (q). Upon request, the Contractor shall provide the Commonwealth Representative with a copy of the Subcontract status reports within five Business Days of this request.

Industrial Relations Management

- (r). The Contractor shall manage all industrial relations matters in accordance with the approved RMIRP, IMP and clause 21.3 of the Contract.
- (s). The Contractor shall ensure that Subcontractors manage their contracts in accordance with their own management plans.
- (t). The Contractor shall ensure that the Subcontractors implement corrective actions to address any deviation from any plan.

6.13. Progress reporting

- (a). The Contractor shall prepare and deliver Contract Status Reports (**CSRs**) in accordance with CDL Line Number 12.
- (b). If the Commonwealth notifies the Contractor on the basis of any CSR that the Contractor has failed to maintain satisfactory progress under the Contract, the Contractor shall notify the Commonwealth of the measures proposed and shall reflect the results of such measures as are necessary to re-establish Contract progress in subsequent CSRs.

6.14. Progress meetings

- (a). The Contractor shall conduct progress meetings at intervals of no greater than one month unless otherwise agreed with the Commonwealth Representative.
- (b). Progress meetings shall be co-chaired with the Commonwealth Representative or nominated representative, and the Contractor Representative or nominated representative.
- (c). The Contractor shall prepare and deliver all progress meeting agendas in accordance with CDL Line Number 13.
- (d). The progress meetings shall not be conducted until the Commonwealth Representative has agreed the time and place or platform of the progress meeting.
- (e). Progress meetings shall be conducted virtually unless otherwise agreed by the Commonwealth Representative.
- (f). The Contractor shall prepare and deliver minutes for each progress meeting in accordance with CDL Line Number 14.

6.15. Extraordinary meetings

- (a). When scheduling extraordinary meetings, the party calling the meeting shall:
 - (i). provide the other party with reasonable advance notice of such meetings;
 - (ii). advise the other party of the specific requirements for the meeting, including the nature of the issues to be discussed and requirements for the preparation and delivery of associated information by the other party;
 - (iii). unless in relation to a time-critical matter, deliver an agenda to the other party before each extraordinary meeting in accordance with CDL Line Number 13; and
 - (iv). chair the meeting, unless otherwise mandated by the Commonwealth Representative.
- (b). Unless otherwise specified in the Contract or agreed by the Commonwealth Representative, the Contractor shall provide the facilities (including access to any virtual platform), materials and services reasonably required for the conduct of extraordinary meetings.
- (c). The Contractor shall ensure that Contractor representatives and, when requested by the Commonwealth Representative, Subcontractors' representatives participate in each extraordinary meeting as appropriate to the subject and objectives of the meeting.
- (d). The party that chairs an extraordinary meeting shall prepare and deliver minutes for the meeting in accordance with CDL Line Number 14.

6.16. Commonwealth Supplied Items

Note to Respondents: The Items to be supplied will be settled during ODIA and/or negotiations and will be specified in the Contract in Schedule 1 (Contract Particulars).

- (a). The Contractor shall:
 - (i). institute, maintain and apply a system for the accounting for and control, handling, preservation, protection and maintenance of Commonwealth Supplied Items (CSI); and
 - (ii). undertake regular stocktakes and other assurance checks of CSI.
- (b). The Contractor shall prepare and deliver a CSI Stocktake Report (CSTR) in accordance with CDL Line Number 15 on a half yearly basis.
- (c). The Contractor shall promptly conduct investigations into every discrepancy arising from stocktakes of CSI.
- (d). The Contractor shall notify the Commonwealth Representative of any Defects that are discovered through a stocktake of CSI in accordance with clause 7.5(h) of the Contract.

6.17. Australian industry participation

- (a). The Contractor shall develop, deliver and update an AIP Plan in accordance with CDL Line Number 16, clause 1 of Annex C to the SOW and clause 20.17 of the Contract.
- (b). The Contractor shall provide AIP reports as part of the CSR.

6.18. Indigenous Procurement Policy

- (a). The Contractor shall develop, deliver and update a final IPP Plan in accordance with CDL Line Number 17, clause 2 of Annex C to the SOW and clause 20.16 of the Contract.

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- (b). The Contractor shall comply with the Indigenous Participation Plan (IPP).
- (c). The Contractor shall provide IPP reports as part of the CSR.
- (d). Prior to, or following, the submission of the first IPP report, a review may be conducted by the Commonwealth at the Contractor's premises to assess and verify the:
 - (i). implementation of the IPP Plan; and
 - (ii). adequacy of the Contractor's financial management information system and data collection methods.
- (e). IPP progress reviews may be undertaken six-monthly by the Commonwealth to verify the nature and level of the work actually performed, and the achievement of the IPP Plan as reported by the Contractor. The Contractor shall facilitate, and shall ensure that Nominated Subcontractors facilitate, these reviews.
- (f). The Contractor shall flow down the IPP progress review requirements of this clause 5.15 to the relevant Nominated Subcontractors.

6.19. Resident Personnel

- (a). Resident Personnel (RP) may be collocated with the Contractor at the Facility at various times during the Contract.
- (b). Prior to any instance of collocation, the Contractor and the Commonwealth shall agree the terms of reference and requirements that will apply in the format of Annex D to this SOW.
- (c). The Contractor shall provide and maintain the facilities identified in the agreed Annex D, and give such assistance as is reasonably required to support the RP.
- (d). The facilities provided for RP shall be of a standard equal to that provided to the Contractor's personnel of similar status, take into account the requirements for comfort and functionality, and meet the WHS requirements of clause 20.3 of the Contract.
- (e). The Contractor shall provide all reasonable assistance to facilitate the Commonwealth arranging clearances or access to the Facility.
- (f). The Commonwealth shall comply with, and shall require RP to comply with, any relevant safety and security arrangements, regulations and codes of behaviour that apply to the Facility. The Commonwealth shall ensure RP hold the necessary certifications to obtain access to the Facility.

6.20. Maintenance of contractual documents

- (a). The Contractor shall incorporate all changes to the Contract and maintain configured copies of the Contract as well as any Subcontracts.
- (b). The Contractor shall archive all superseded versions of the Contract and Subcontracts.
- (c). The exact status of the Contract or any Subcontract at any previous time shall be able to be determined from the archived versions of the Contract or Subcontract material (as applicable).

6.21. Co-ordination and co-operation

- (a). The Contractor acknowledges that the performance of its obligations under the Contract may require interoperation and/or integration with, and consultation, co-ordination and co-operation with the Commonwealth, other Commonwealth suppliers and/or other Commonwealth agencies and regulatory bodies (together **Associated Parties**).

- (b). The Contractor shall co-operate and co-ordinate with all Associated Parties, as may be necessary or required by the Commonwealth, to ensure the timely completion of the Contract.
- (c). The Contractor shall bring any causes, or likely causes, of interruption to the performance of the work under the Contract in connection with Associated Parties to the attention of the Commonwealth Representative as soon as practicable after becoming aware of those causes.

7. Technical Requirements

Note to Respondents: This section of the SOW is dependent upon the Proposal submitted and will be finalised during ODIA and/or negotiations. When developing your Proposal, including pricing, you must consider the requirements in this section to be minimum requirements and include any other Deliverable and activities that will be required to achieve the Phase 1 outcomes and objectives. Where you have had to make assumptions as to the level of detail or effort involved in the Work activities, you must clearly state the basis of these assumptions where indicated in the Price and Delivery Schedule at Annex D-3 and in the CDL at Annex A to the SOW. Acceptance of any variations in pricing as scope is further refined will be subject to Respondents providing appropriate justifications for the change given the assumptions set out in the Proposals.

7.1. Transition-in

- (a). The Contractor shall develop, deliver and update a Transition-In Plan (**TIP**) in accordance with CDL Line Number 18.
- (b). The Contractor shall manage the transition of Operatorship for the FPSO in accordance with the Approved TIP. It is to be aligned with Contract award and acceptance of regulatory submissions (i.e. Facility Safety Case, Environmental Plan (**EP**) and Well Operational Management Plan (**WOMP**)) and must include the expected transition and/or transfer of Contractor and Subcontractor Personnel.
- (c). The Contractor shall conduct all of its Transition-In activities in accordance with the approved TIP.
- (d). At least 30 Business Days before Transition-In, or such other time as agreed between the parties in writing, the Contractor shall conduct a Transition meeting to:
 - (i). ensure that the Transition-In responsibilities of the Commonwealth, the Contractor, Subcontractors, and any party affected by the Transition-In are well understood by all parties;
 - (ii). ensure that the Transition-In activities of each party are planned in sufficient detail and progressing satisfactorily and in accordance with the approved CMS;
 - (iii). address risk-mitigation strategies for any Transition-related risks; and
 - (iv). confirm the suitability of, and identify any required changes to, Transition planning in the approved TIP; and
 - (v). identify the requirement for and scope of any subsequent Transition meetings.
- (e). Subject to clause 7.1(d) of this SOW, the Contractor shall organise and conduct the Transition meeting, and any subsequent Transition meetings, as an extraordinary meeting in accordance with clause 6.15.
- (f). The Contractor shall develop, deliver and update a Transition-In Register in accordance with CDL Line Number 19 and the approved TIP.

7.2. Transition-out

- (a). The Contractor shall develop, deliver and update a Transition-Out Plan (**TOP**) in accordance with CDL Line Number 20.
- (b). The Contractor shall manage the transition of operatorship for the FPSO on handover following tow in accordance with the Approved TOP. It must include the expected transition and/or transfer of Contractor and Subcontractor personnel.
- (c). The Contractor shall conduct all of its Transition-Out activities in accordance with the approved TOP.
- (d). At least 30 Business Days before Transition-Out, or such other time as agreed between the parties in writing, the Contractor shall conduct a Transition meeting to:
 - (i). ensure that the Transition-Out responsibilities of the Commonwealth, the Contractor, Subcontractors, and any party affected by the Transition are well understood by all parties;
 - (ii). ensure that the Transition-Out activities of each party are planned in sufficient detail and progressing satisfactorily and in accordance with the approved CMS;
 - (iii). address risk-mitigation strategies for any Transition-related risks; and
 - (iv). confirm the suitability of, and identify any required changes to, Transition planning in the approved TOP; and
 - (v). identify the requirement for and scope of any subsequent Transition meetings.
- (e). Subject to clause 7.2(d) of this SOW, the Contractor shall organise and conduct the Transition meeting, and any subsequent Transition meetings, as an extraordinary meeting in accordance with clause 6.15.
- (f). The Contractor shall develop, deliver and update a Transition-Out Register in accordance with CDL Line Number 21 and the approved TOP.

7.3. Facility Safety Case

- (a). The Contractor shall develop, deliver and update the Facility Safety Case in accordance with CDL Line Number 22.
- (b). The Facility Safety Cases shall cover Phase 1 of the Project in sufficient scope and detail to satisfy the requirements of NOPSEMA.
- (c). The Contractor shall submit the Facility Safety Cases to NOPSEMA for approval.
- (d). The Contractor shall submit the Facility Safety Cases to the Commonwealth for review no less than 10 calendar days prior to submission to NOPSEMA.

7.4. Environmental Plan (EP)

- (a). The Contractor shall develop, deliver and update an Environmental Plan (**EP**) in accordance with CDL Line Number 23.
- (b). The EMP is to cover activities across all three Phases of the Project and must comply with the Sustainable Procurement Guide produced by the Department of Water, Agriculture and the Environment. More information about the Guide can be found here: <https://www.environment.gov.au/protection/waste/publications/sustainable-procurement-guide-2020>

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- (c). The Contractor shall submit the EP to the Commonwealth for approval in accordance with clause 4.4 of the Contract.

7.5. Well Operations Management Plan (WOMP)

- (a). The Contractor shall develop, deliver and update a Well Operations Management Plan (**WOMP**) in accordance with CDL Line Number 24.
- (b). The WOMP is to be a comprehensive management plan and is to include an outline of how the wellbore will be re-accessed to achieve Phase 2 Plugging and Abandonment (**P&A**).

7.6. Vessel safety cases

- (a). The Contractor shall develop, deliver and update Vessel Safety Cases in accordance with CDL Line Number 25.
- (b). The Vessel Safety Cases shall support all Contractor vessels (including any subcontracted or hired for the purposes of the Contract).

7.7. Bridging documents

- (a). The Contractor shall develop, deliver and update all necessary bridging documents to bridge between the Vessel and Facility Safety Cases in accordance with CDL Line Number 26.

7.8. Engineering studies

- (a). The Contractor shall undertake a series of engineering studies to support technical decision making.
- (b). The Contractor shall develop, deliver and update reports on each of the engineering studies in accordance with CDL Line Number 27.
- (c). These reports shall include field work procedures, and calculations, analyses and desktop and/or physical modelling as required to meet requirements.
- (d). These studies shall include:
 - (i). Light Well Intervention;
 - (ii). Positioning of temporary well barriers;
 - (iii). Tooling;
 - (iv). Facility and Subsea flushing;
 - (v). Reservoir isolation (Note: Potential impact on reservoir if flushed volumes are injected into the reservoir);
 - (vi). Disconnection of production, gas lift, gas/LPG injection and umbilical risers;
 - (vii). Disconnection of Facility mooring;
 - (viii). Facility tow;
 - (ix). Subsea monitoring; and
 - (x). any other study required to support good technical decision making.
- (e). The reports of the engineering studies are designated as Detailed Documentation and shall be treated in accordance with clause 6 of the Contract.

7.9. Emergency management and communications

- (a). The Contractor shall develop, deliver and update an Emergency Management Plan and associated Communications Plan in accordance with CDL Line Number 28.
- (b). This Plan is to include well intervention emergency response plans.

7.10. Waste management

- (a). The Contractor shall develop, deliver and update a Waste Management Plan in accordance with CDL Line Number 29.
- (b). This Plan is for the monitoring and recording of the disposal of components and/or contaminants (by unit or volume).
- (c). The Plan shall include:
 - (i). identification of waste streams;
 - (ii). waste management procedures (including adherence to required regulations);
 - (iii). waste receptors and/or contractors;
 - (iv). waste transfer procedures; and
 - (v). monitoring, reporting and auditing.

7.11. Testing

- (a). The Contractor shall develop, deliver and update a Testing Plan in accordance with CDL Line Number 30.
- (b). This Plan is for the purpose of monitoring and verifying final hydrocarbon status. It shall include the measurement of the level of contamination of ionizing radiation and other contaminants. The resultant output from the sampling shall support any additional handling and disposal safeguards required for sail away.

7.12. Integrated activity

- (a). The Contractor shall develop, deliver and update an Integrated Activity Plan in accordance with CDL Line Number 31.
- (b). This Plan shall highlight both subsea and Facility activities and provide an integrated view to the sequence of well intervention activities for the installation of temporary well plugs and the Facility flushing activities.

7.13. Crew transfer

- (a). The Contractor shall develop, deliver and update a Crew Transfer Plan (CTP) in accordance with CDL Line Number 32.
- (b). All crew transfers shall be undertaken in accordance with the approved CTP.

7.14. Tow analysis and marine assurance

- (a). The Contractor shall conduct tow analysis to ensure the feasibility of conducting the final FPSO tow to the designated location.

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- (b). This analysis shall include:
 - (i). tow resistance analysis;
 - (ii). tow speed analysis;
 - (iii). required towing equipment;
 - (iv). stability and Integrity;
 - (v). confirmation to regulatory requirements;
 - (vi). insurance requirements; and
 - (vii). a Marine Assurance Plan (**MAP**).
- (c). The Contractor shall develop, deliver and update a Tow Analysis Report detailing the outcomes of this analysis in accordance with CDL Line Number 33.

7.15. Transit

Note to Respondents: Respondents will be advised of the designated location for tow during ODIA and/or negotiations. For the purposes of the RFP, Respondents should assume the location to be a South East Asian port.

- (a). The Contractor shall develop, deliver and update a Transit Plan in accordance with CDL Line Number 34.
- (b). This Plan shall detail ocean tow to the designated location, and shall include:
 - (i). roles and responsibilities;
 - (ii). routing with respect to adequate water depth, potential safe havens and avoidance of hazards;
 - (iii). expected weather, including extreme conditions, over the voyage route;
 - (iv). preservation of equipment on board the FPSO from extreme weather and sea conditions;
 - (v). communication procedures during the transit and reporting formats;
 - (vi). emergency scenarios, contingencies and mitigation steps;
 - (vii). fuel estimates; and
 - (viii). ballast volumes to be held and any required trim changes due to routing or port entry requirements.

7.16. Well intervention

- (a). The Contractor shall develop, deliver and update a Well Intervention Plan in accordance with CDL Line Number 35.
- (b). This Plan shall detail:
 - (i). intervention scope;
 - (ii). sequence of operations to complete the scope;
 - (iii). identification of tooling;
 - (iv). identification of potential risks; and

- (v). contingent actions related to potential risks.

7.17. Well barriers

- (a). The Contractor shall develop, deliver and update, in accordance with CDL Line Number 36:
 - (i). a design of well temporary barriers between the reservoir and the environment; and
 - (ii). a detailed method to verify the operation of installed temporary barriers.
- (b). The design shall include a detailed procedure on how the temporary barriers can be removed for future well intervention.

7.18. Disconnection

- (a). In the event that Work Package C proceeds, the Contractor shall undertake all activities necessary to safely and effectively disconnect the FPSO for tow.
- (b). These activities shall include:
 - (i). the installation of temporary well plugs and final flushing activities;
 - (ii). verification of the operation of installed temporary barriers;
 - (iii). implementation of the approved Testing Plan to monitor and verify the final hydrocarbon status of FPSO;
 - (iv). implementation of the approved Waste Management Plan to monitor and record the disposal of components and/or other contaminants (by unit or volume);
 - (v). disconnection of production, gas lift, gas/LPG injection and umbilical risers from the FPSO to facilitate tow from the field;
 - (vi). fitment of flowline end caps;
 - (vii). removal, transport and disposal of buoyancy modules from the risers;
 - (viii). laydown of risers onto the seabed; and
 - (ix). disconnection of the mooring chains/wire and lay down onto the seabed.
- (c). The Contractor shall develop, deliver and update a Disconnection Management Plan in accordance with CDL Line Number 37.
- (d). The Disconnection Management Plan is to be a comprehensive management plan.
- (e). The Contractor shall manage disconnection activities under the Contract in accordance with the approved Disconnection Management Plan.
- (f). The Contractor must perform such maintenance, repairs and other works as may be required for the FPSO to be towed to the Delivery Location and obtain all necessary consents, certifications and approvals for towing to the Delivery Location and maintain them in effect at the time of delivery in accordance with regulatory and other requirements and standards of its Classification Society, relevant insurers and their marine warranty surveyors.
- (g). The Contractor must:
 - (i). keep the Commonwealth reasonably informed of the disconnection process;
 - (ii). promptly inform the Commonwealth if it anticipates any change to the Date for Completion for Work Package C;

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- (iii). provide the Commonwealth with a quarterly update on the status of the disconnection of the FPSO including its best estimate at that time of the anticipated Date of Completion; and
 - (iv). inform the Commonwealth (in all cases) prior to undertaking any works to remove, dismantle, disable or impair any material components of the FPSO and must not undertake any such works without the Commonwealth's prior written consent (such consent not to be unreasonably withheld, and to be given within [5] days of any request).
- (h). The obligation in paragraph clause 7.18(g)(iv) not to undertake such works without the Commonwealth's prior written consent does not apply where the FPSO operator or marine warranty surveyor referred to in paragraph clause 7.18(f) above determines (acting reasonably and in good faith and consistent with internationally accepted standards) that such works are absolutely necessary to avoid imminent harm to individuals or the FPSO, or determines that such works are necessary to obtain the Approvals including obtaining the necessary Lloyd's class and approvals for towing.

7.19. NOPSEMA engagement

- (a). The Contractor shall prepare responses to any NOPSEMA queries within 10 calendar days of receipt of the query.
- (b). The Contractor shall engage directly with NOPSEMA but must copy the Commonwealth Representative into all such engagement.

7.20. Materials and tooling

Note to Respondents: There are some field specific tools and equipment that will be required to execute the full scope of work. The Contractor should prepare a full inventory of the tools and equipment and confirm current state as early as possible. Schedule allowance should be made in order to prepare the tools and equipment for field operation.

- (a). The Contractor shall obtain all necessary Facility and field-specific materials and tooling to complete the Phase 1 activities in accordance with the Contract.
- (b). The Contractor shall develop all necessary technical specifications for fabrication or refurbishment of specialised tools.

7.21. Operation and maintenance

- (a). Subject to an instruction by the Commonwealth in accordance with clause 2.4(b) of the Contract, the Contractor shall be responsible for:
 - (i). the maintenance of the FPSO in lighthouse mode;
 - (ii). the safe and efficient operation and basic maintenance of the Facility in accordance with all regulatory, licence and contract requirements, established and implemented maintenance system(s) and in accordance with good oilfield practice; and
 - (iii). management of activities to maintain all necessary certifications, accreditations, surveys, permits, licences, and plans applying to the Facility including those regulated or maintained by a Classification Society, other Flag States, International Maritime Organization, Australian Maritime Safety Authority or other government authority.

7.22. FPSO sail away

- (a). Subject to an instruction by the Commonwealth in accordance with clause 2.3(c) of the Contract, the Contractor shall be required to undertake all activities necessary to safely effect FPSO sail away.
- (b). These activities shall include:
 - (i). removal of the FPSO from the field in accordance with good industry practice; and
 - (ii). delivery of FPSO to the designated location.

7.23. Monitor and maintain

- (a). Subject to an instruction by the Commonwealth in accordance with clause 2.3(c) of the Contract, the Contractor shall be required to undertake all activities necessary to monitor and maintain the subsea infrastructure following FPSO sail away and the temporary plugging of the wells until the commencement of Phase 2 activities.
- (b). These activities are to be undertaken at a frequency and in a manner approved by NOPSEMA, and include the provision of a well intervention plan (see clause 7.16 of this SOW) for use in case any deviation from the pre-agreed sail away well state condition is identified.

7.24. Phase 1 close-out report

- (a). The Contractor shall develop and deliver a Phase 1 Close-Out Report in accordance with CDL Line Number 38.
- (b). This Report shall detail all activities completed and all relevant documents provided to the Commonwealth.

Annex A – Contract Deliverables List (CDL)

Explanation of the Contract Deliverables List

An explanation of each column in the Contract Deliverables List at clause 2 in this Annex is detailed below and applies to each Deliverable:

Deliverable: This field identifies the title of the Deliverable.

SOW reference: This field shows the major clause in the SOW where the Deliverable is identified. There may be multiple references to the Deliverable in the SOW but generally only the first (or one) reference is shown in the Deliverables List.

Delivery Schedule: This field specifies the date(s) and/or events by which the Deliverable is required to be delivered to the Commonwealth. The Deliverables shall be delivered before 1700 hrs (local time) on the date specified, or the last Business Day before the specified date if the specified day is not a Business Day. Following are some of the abbreviations and symbols used with this column:

- (i). "CD" means Commencement Date;
- (ii). numerals indicate the number of Business Days unless specified otherwise;
- (iii). "+" means after the specified date or event; and
- (iv). "-" means before the specified date or event.

If a Deliverable is required to be delivered before an event having a duration of greater than one day, the Deliverable delivery date shall be calculated from the first day of that event. If a Deliverable is required to be delivered after an event having a duration of greater than one day, the Deliverable delivery date shall be calculated from the last day of that event.

Commonwealth Action Period: This field defines the number of Business Days available to the Commonwealth to action the Deliverable and respond to the Contractor, if that action requires a response. The period begins upon the date the copy of the Deliverable is received for action. The action period applies to all deliveries, including first deliveries, amendments and reissues. If a Deliverable is delivered earlier than the first delivery date shown in the Deliverables List, the Commonwealth is not obliged to action it until after that date. If the action period states "by CD", with "approval" as the "Commonwealth Action Required", this means that, prior to CD, the Contractor had developed the Deliverable, the Commonwealth had reviewed the Deliverable, and the parties have agreed a version of the Deliverable that would be approved by the Commonwealth.

Commonwealth Action Required: This field indicates the purpose for which the Deliverable is being submitted to the Commonwealth. This will either be review or approval.

Notes: Where necessary, additional explanatory information relating to a Deliverable is provided in this column.

Contract Deliverables List

Line No	Deliverable	SOW reference	Work Package	Delivery Schedule	Commonwealth Action Period	Commonwealth Action Required	Notes	Milestone Status
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
1	Phase 1 Implementation Plan	Clause 5.2	F	[Respondent to insert]	[To be advised]	Review Approval	Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
2	Contract Master Schedule	Clause 5.3	F	[Respondent to insert]	[To be advised]	Review Approval	Part of IMP Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
3	Work Breakdown Structure	Clause 5.4	F	[Respondent to insert]	[To be advised]	Review Approval	Part of IMP Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
4	Project Budget	Clause 5.5	F	[Respondent to insert]	[To be advised]	Review Approval	Part of IMP Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
5	Work procedures	Clause 5.6	F	[Respondent to insert]	[To be advised]	Review Approval	Part of IMP Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
6	Issue Register	Clause 5.7	F	[Respondent to insert]	[To be advised]	Review Approval	Part of IMP Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
7	Quality Management Plan	Clause 5.8	F	[Respondent to insert]	[To be advised]	Review Approval	Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐

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Line No	Deliverable	SOW reference	Work Package	Delivery Schedule	Commonwealth Action Period	Commonwealth Action Required	Notes	Milestone Status
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
8	Risk Management Plan & Risk Register	Clause 5.9	F	[Respondent to insert]	[To be advised]	Review Approval	Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
9	Work Health and Safety Management Plan	Clause 5.10	A	For Commonwealth review: No more than CD + 40 calendar days For submission for NOPSEMA approval: No more than CD + 50 calendar days	No more than 10 calendar days	Review	Part of Facility Safety Case Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
10	Logistics Management Plan	Clause 5.11	F	[Respondent to insert]	[To be advised]	Review Approval	Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
11	Resource Management and Industrial Relations Plan	Clause 5.12	F	[Respondent to insert]	[To be advised]	Review Approval	Updates required [insert frequency]	Milestone ☐ Stop Payment ☐ N/A ☐
12	Contract Status Reports, including: - Business Resource Planning Reports - AIP reports - IPP reports	Clauses 5.13, 6.12, 6.17, 6.18	F	Monthly	[To be advised]	Review Approval	Due on or before 10 th day of every month.	Milestone ☐ Stop Payment ☐ N/A ☐
13	Meeting agenda	Clause 5.14	F	Weekly	[To be advised]	Review	Due no less than 5 Business Days prior to meeting	Milestone ☐

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Line No (a)	Deliverable (b)	SOW reference (c)	Work Package (d)	Delivery Schedule (e)	Commonwealth Action Period (f)	Commonwealth Action Required (g)	Notes (h)	Milestone Status (i)
		Clause 5.15						Stop Payment ☐ N/A ☐
14	Meeting minutes	Clause 5.14 Clause 5.15	F	Weekly	[To be advised]	Review Approval	Due no more than 5 Business Days after meeting	Milestone ☐ Stop Payment ☐ N/A ☐
15	CSI Stocktake Report	Clause 5.16	F	6 monthly	[To be advised]	Review Approval	Update required every 6 months from Commencement Date	Milestone ☐ Stop Payment ☐ N/A ☐
16	Australian Industry Participation (AIP) Plan	Clause 5.17	F	Final: CD + 20 Business Days	[To be advised]	Review Approval	Performance reviewed quarterly at progress meetings	Milestone ☐ Stop Payment ☐ N/A ☐
17	Indigenous Participation Plan (IPP)	Clause 5.18	F	Final: CD + 20 Business Days	[To be advised]	Review Approval	Performance reviewed quarterly at progress meetings	Milestone ☐ Stop Payment ☐ N/A ☐
18	Transition-In Plan	Clause 7.1	A	CD	[To be advised]	Review	Performance reviewed at progress meetings	Milestone ☐ Stop Payment ☐ N/A ☐
19	Transition-In Register	Clause 7.1	A	CD	[To be advised]	Approval	Performance reviewed at progress meetings	Milestone ☐ Stop Payment ☐ N/A ☐
20	Transition-Out Plan	Clause 7.2	A	[Respondent to insert]	[To be advised]	Review	Performance reviewed at subsequent progress meetings	Milestone ☐ Stop Payment ☐ N/A ☐

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Line No	Deliverable	SOW reference	Work Package	Delivery Schedule	Commonwealth Action Period	Commonwealth Action Required	Notes	Milestone Status
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
21	Transition-Out Register	Clause 7.2	A	[Respondent to insert]	[To be advised]	Approval	Performance reviewed at subsequent progress meetings	Milestone ☐ Stop Payment ☐ N/A ☐
22	Facility Safety Case	Clause 7.3	A	For Commonwealth review: No more than CD + 40 calendar days For submission for NOPSEMA approval: No more than CD + 50 calendar days	No more than 10 calendar days	Review	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
23	Environmental Plan (EMP)	Clause 7.4	A	No more than CD + 50 calendar days	No more than 10 Business Days	Review Approval	Date for Commonwealth submission to NOPSEMA: [To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
24	Well Operations Management Plan (WOMP)	Clause 7.5	A	No more than CD + 50 calendar days	No more than 10 Business Days	Review Approval	Date for Commonwealth submission to NOPSEMA: [To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
25	Vessel Safety Cases	Clause 7.6	A	For Commonwealth review: No more than CD + 40 calendar days For submission for NOPSEMA approval: No more than CD + 50 calendar days	[To be advised]	Review	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
26	Bridging documents	Clause 7.7	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐

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Line No	Deliverable	SOW reference	Work Package	Delivery Schedule	Commonwealth Action Period	Commonwealth Action Required	Notes	Milestone Status
(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
								N/A ☐
27	Engineering studies	Clause 7.8	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
28	Emergency Management and Communications Plan	Clause 7.9	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
29	Waste Management Plan	Clause 7.10	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
30	Testing Plan	Clause 7.11	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
31	Integrated Activity Plan	Clause 7.12	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
32	Crew Transfer Plan	Clause 7.13	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
33	Tow Analysis Report (including Marine Assurance Plan)	Clause 7.14	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
34	Transit Plan	Clause 7.15	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐

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Line No (a)	Deliverable (b)	SOW reference (c)	Work Package (d)	Delivery Schedule (e)	Commonwealth Action Period (f)	Commonwealth Action Required (g)	Notes (h)	Milestone Status (i)
								N/A ☐
35	Well Intervention Plan	Clause 7.16	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
36	Well Barriers designs and methodology	Clause 7.17	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
37	Disconnection Management Plan	Clause 7.18	A	[Respondent to insert]	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐
38	Phase 1 Close-Out Report	Clause 7.24	F	No more than FPSO Sail Away date + 50 calendar days	[To be advised]	Review Approval	[To be advised]	Milestone ☐ Stop Payment ☐ N/A ☐

Annex B – Applicable Standards

Note to Respondents: The complete list of standards will be finalised during ODIA and negotiations.

The Australian and international standards that apply to the Phase 1 Work are set out in the table below.

SOW Ref	Standard Identifier	Standard Name / Description
Clause 4.5	ISO 216: A0-A4	Paper size
Clause 5.8	ISO 9001.2015	Quality assurance
Clause 6.9	AS/NZS ISO 31000:2009	Risk management

Annex C – Draft Plans

1. Australian Industry Participation Plan

1.1. Requirement

- (a). It is Government policy that all Respondents deliver, as part of their Proposal, a draft Australian Industry Participation (AIP) Plan. A final AIP Plan must then be delivered to the Commonwealth **prior to** the commencement of any resultant Contract.
- (b). Draft AIP Plans **must** be approved by the AIP Authority **before** they are submitted with your Proposal. The approvals process is set out below.
- (c). Ensure you leave sufficient time for the AIP Authority to review and approve your plan, and for you to make any necessary modifications and resubmit, prior to the RFP Closing Time.

1.2. AIP Policy Framework

- (a). The AIP Policy is founded on the following principles:

- 1. Full, fair and reasonable opportunity:

Respondents are encouraged to maximise Australian industry participation in the Project by providing industry full, fair and reasonable opportunity to participate.

Full means Australian industry has the same opportunity afforded to other global supply chain partners to participate in all aspects of an investment project (eg. design, engineering, project management, professional services, IT architecture).

Fair means Australian industry is provided the same opportunity as global suppliers to compete on investment projects on an equal and transparent basis, including being given reasonable time in which to tender.

Reasonable means tenders are free from non-market burdens that might rule out Australian industry and are structured in such a way as to provide Australian industries the opportunity to participate in investment projects.

- 2. Free of interstate preferences
- 3. Regional development policies
- 4. Competitive neutrality
- 5. Value for money

When considering sources of supply for the Project, Respondents should consider Australian industry in terms of the value for money it offers over the life cycle of the Project, including supply chain partnerships, access to a technologically literate, skilled and talented workforce supporting superior business infrastructure.

- 6. Transparency of process
- 7. Policy consistency
- 8. Consistent with international obligations.

- (b). It is intended to:

- (i). encourage industry to meet world's best practice through capability building;
- (ii). permit the early identification of opportunities for Australian industry participation, both domestically and overseas;
- (iii). promote Australian capability and integrate industry into global supply chains;

- (iv). enhance project facilitation and Australian industry participation.
- (c). Respondents are asked to articulate their approach towards Australian industry participation in the Project in an AIP Plan.

1.3. Purpose of the AIP Plan

- (a). The AIP Plan is intended to support the Contractor to manage, coordinate and monitor Australian industry involvement in the Project.
- (b). The Commonwealth uses the AIP Plan to evaluate the Contractor's performance in achieving the objectives and for reporting purposes.
- (c). The AIP Plan inter-relates with other key Project documents, including:
 - (i). Project Management Plan;
 - (ii). Contract Work Breakdown Structure (CWBS);
 - (iii). Contract Master Schedule (CMS).
- (d). The AIP Plan should not replicate content of these documents but summarise key points and identify the location of the detailed information.

1.4. Drafting the AIP Plan

- (a). The AIP Plan provides the opportunity for you to describe the actions you will take to provide full, fair and reasonable opportunity to Australian industry. The draft Plan does not require extensive detail – a few short sentences will be sufficient.
- (b). Without limiting or prescribing the content, your AIP Plan could include:
 - (i). a recognition of the importance of Australian participation in local and overseas projects and an acknowledgement of the value of exploring ongoing opportunities for Australian industry participation in investment projects;
 - (ii). a commitment to work constructively with Australian industry and the Industrial Supplies Office network to identify and develop options for increasing Australian industry participation in projects;
 - (iii). a communication strategy that provides for early identification of opportunities for Australian participation and effective transfer of information regarding opportunities for Australian industry participation through all tiers of supply;
 - (iv). a commitment to develop and structure tenders to provide full, fair and reasonable opportunity for Australian industry participation;
 - (v). support for the integration of Australian industry into global supply chains; and
 - (vi). a recognition of the economic impacts of an investment project on Australian industry (eg. employment, skills transfer, strategic alliances, and regional development) and the need for communication of these impacts.
- (c). Your draft AIP Plan does not need to be signed.
- (d). Read the [User Guide for Developing an AIP Plan](#) for detailed instructions.
- (e). Use the [Template for Developing an AIP Plan](#) (replicated below) to prepare a draft.
- (f). Email your draft AIP Plan to aip@industry.gov.au.

- (g). Make any necessary changes to your draft AIP Plan based on the feedback of the AIP Authority. This may take multiple submissions.

1.5. Drafting the Executive Summary

- (a). Once your AIP Plan has been drafted, reviewed by the AIP Authority, and all necessary changes are made, you will need to prepare an Executive Summary based on this final version of your AIP Plan. Use the AIP Plan Executive Summary Template ([PDF](#) or [Word](#)) to assist you.
- (b). Have your AIP Plan signed by your authorised representative.

1.6. Obtaining approval

- (a). Once your AIP Plan has been signed by your authorised representative, it is ready for you to submit for AIP Authority approval.
- (b). Send the final, signed AIP Plan together with the Executive Summary to aip@industry.gov.au for approval.
- (c). Once your AIP Plan is approved, you will receive a Certificate of Approval. This approval process may take up to ten (10) business days.

1.7. Submitting your AIP Plan

- (a). Once the AIP Authority has approved your AIP Plan, you must submit, as part of this RFP process, a copy of:
 - (i). the Approved AIP Plan (including the Executive Summary); and
 - (ii). the Certificate of Approval.
- (b). We have not requested the AIP Plan as part of the Proposal. However, you will be required to work on the document during this RFP Stage and provide a Plan prior to the execution of any Contract.
- (c). The AIP Authority will publish your Executive Summary once it has received confirmation that the Contract, if any, has been executed.

1.8. Implementing your AIP Plan

- (a). If you are awarded a Contract as a result of this RFP Process, you will need to submit an Implementation Report within an agreed timeframe. This is generally 14 months from the date of Contract signature.
- (b). This Report provides evidence of the implementation and outcomes of your AIP Plan. For multi-year projects, you will need to submit annual Implementation Reports until the completion of the Project.
- (c). You must keep records to demonstrate that you have implemented the actions in your AIP Plan. The records should show how you are providing competitive opportunities to Australian industry. In your Report, include:
 - (i). observations;
 - (ii). feedback;
 - (iii). case studies;

- (iv). evidence of actions such as information session attendee lists and website screenshots of supply opportunities.
- (d). These Reports are deliverables under any resultant Contract. The Commonwealth may request additional detail if the Reports are incomplete or there is insufficient evidence. The Report may be deemed non-compliant if it does not meet the requisite standards.

1.9. More information and guidance

- (a). Further information and guidance in developing your AIP Plan can be found at <https://www.industry.gov.au/regulations-and-standards/commonwealth-government-procurement>.
- (b). You can read more at the following links:
 - (i). [AIP Plan Summaries for Current Government Procurements, Grants and Investments](#);
 - (ii). User Guide for Developing an AIP Plan ([PDF](#) or [Word](#));
 - (iii). [Australian Industry Participation](#).
- (c). Alternatively, you can email aip@industry.gov.au or telephone +61 2 6213 6404.



Australian Government
**Department of Industry, Science,
Energy and Resources**

Template for developing an Australian Industry Participation (AIP) Plan

March 2020

E-mail: aip@industry.gov.au

Website: www.industry.gov.au/aip

Phone: +61 2 6213 6404

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1. Before beginning

Organisations should familiarise themselves with the *Australian Industry Participation Plans: User Guide for developing an AIP Plan* (AIP Plans: User Guide) before completing this template. The AIP Plans: User Guide is available from www.industry.gov.au/aip.

1.1. Disclaimer

Where an organisation is uncertain of how to develop an AIP Plan they are encouraged to seek further information from the Department of Industry, Science, Energy and Resources (Department).

Any guidance or information provided by Department staff is intended to assist an organisation to develop an AIP Plan. The Department is not thereby expressly or implicitly representing that an organisation shall be successful, and expressly disclaims all and any liability to any person for any loss flowing from any act, error or omission of Department staff in providing guidance or information/assistance in relation to an AIP Plan.

1.2. Contact the Department of Industry, Science, Energy and Resources

It is recommended that organisations hold meetings and/or discussions with the Department on their AIP Plan as early as possible before submitting their draft AIP Plan for feedback or approval. The Department may be contacted by:

E-mail: aip@industry.gov.au

Phone: +61 2 6213 6404

1.3. Who should submit an AIP Plan

An AIP Plan should be completed by successful tenderers, panellists, grantees or loan recipients where an AIP Plan is a requirement of an Australian Government tender/grant/loan of \$20 million or more.

1.4. When to submit an AIP Plan

An AIP Plan must be approved by the Department by the time specified by the Commonwealth procuring, granting or lending agency.

Please Note: The Department requires at least 10 working days from the date of receipt of an applicant's draft AIP Plan to assess and approve the AIP Plan and provide the approval documents. The assessment process may include providing feedback where AIP Plans require further development or clarification. Where feedback is provided, the timeframe for the approval process is dependent on how long an organisation takes to incorporate the feedback.

It is the sole responsibility of the organisation to manage the timeframes around the approval of the AIP Plan and ensure the minimum timeframe is provided to the Department.

1.5. How to submit an AIP Plan

Draft AIP Plans can be submitted to the Department for feedback and approval by:

E-mail: aip@industry.gov.au

1.6. Publication of AIP Plan executive summaries and outcomes

Since 1 July 2012, executive summaries of AIP Plans have been required to be published, including information regarding the company, the project, expected opportunities for Australian industry and a summary of the actions outlined in the AIP Plan. The executive summary will be prepared by the organisation in conjunction with the Department and must be an accurate summary of the AIP Plan.

Once the organisation has been awarded a contract, the summary AIP Plan will be published by the Department on the www.industry.gov.au/aip website and can also be published by the organisation on its website. For more information on publishing AIP Plan executive summaries and Implementation Report outcomes please refer to the AIP Plans: User Guide available at www.industry.gov.au/aip.

1.7. Need more information?

Contact the Department at aip@industry.gov.au.



Australian Industry Participation (AIP) Plan

Organisation Details

Business Name of Organisation	Provide company name
ABN of Company (if applicable)	Provide the ABN of the company
Contact Person	Provide the contact person details
Contact Phone Number	Provide a contact number
Contact E-mail Address	Provide an e-mail address
Postal Address	Provide the company postal address

Tender, Grant or Loan Details

Tender number/Grant round number/Loan details	Provide the tender, grant or loan details
Tender/Grant/Loan Name	Provide the tender, grant or loan name
Tendering/Granting/Lending Agency	Provide the tendering, granting or lending agency name
Closing Date of Tender/Grant/Loan	Provide the closing date of tender, grant or loan

March 2020

E-mail: aip@industry.gov.au

Website: www.industry.gov.au/aip

Phone: +61 2 6213 6404

1. Organisation and project details

Please outline your project details in the tables below. Refer to the *AIP Plans: User Guide, Section 5.1*.

Organisation name, project name and project location

Provide the organisation name, project name and project location

If you are awarded a contract, a link to your organisation's website will be published on www.industry.gov.au/aip. Please provide a website address which will link to your organisation's website.

Provide a link to the organisation's website

If you are awarded a contract, please outline the project information which will be included in the executive summary of the AIP Plan.

Provide the project information which will be included in the executive summary of the AIP Plan

Project/procurement officer's contact details (alternatively, general procurement contact details may be provided)

Project/procurement officer's name	Provide the project/procurement officer's name
Project/procurement officer's phone number	Provide the project/procurement officer's phone number
Project/procurement officer's e-mail address	Provide the project/procurement officer's e-mail address

2. Opportunities for Australian industry involvement

2.1 Expected opportunities for industry involvement in the provision of key goods and services

Please provide the list of key goods and services and where these may be sourced from in the table below. Refer to the *AIP Plans: User Guide, Section 5.2.1*.

Table 1 List of goods and services expected to be procured for the project and the expected opportunity for industry participation (to be completed)

List of goods and services to be procured for the project and the expected opportunity for industry participation	Opportunities for Australian suppliers*	Opportunities for overseas suppliers
Provide the good or service to be procured	Yes/No	Yes/No
Provide the good or service to be procured	Yes/No	Yes/No
Provide the good or service to be procured	Yes/No	Yes/No
Provide the good or service to be procured	Yes/No	Yes/No
Provide the good or service to be procured	Yes/No	Yes/No
Provide the good or service to be procured – Please add more rows as required	Yes/No	Yes/No

*An Australian supplier means an entity that has an ABN or an ACN.

Please provide an explanation for each item in the list where you have indicated No opportunities for Australian suppliers.

For goods and services that cannot be procured in Australia or via an Australian supplier, please provide a short explanation as to why the organisation made this assessment

2.2 Estimated Australian industry value added in purchased goods and services

Please provide an estimate of Australian industry value added for goods and services you will purchase for your project in the table below. Refer to the *AIP Plans: User Guide, Section 5.2.2*.

Table 2 Estimated calculation of Australian industry value added in purchased goods and services for your project

		\$	Per cent
Estimated total value of purchased goods and services		Enter value	Enter %
Estimated imported goods and services	less	Enter value	Enter %
Estimated total Australian industry value added in purchased goods and services for the project	equals	Enter value	Enter %

3. Communication strategy

The communication strategy is essential in demonstrating the early identification of opportunities for Australian industry, and effective transfer of information on opportunities for Australian industry, through all tiers of supply (e.g. along sub-contracting chains). This must include detail on how the organisation will actively seek information on Australian industry capability and communicate opportunities to Australian industry.

Please outline your actions/strategies in the tables below. Refer to the *AIP Plans: User Guide, Section 5.3*.

Action 1	Provide details of the communication strategy action 1 here

Action 2	Provide details of the communication strategy action 2 here

Action 3	Provide details of the communication strategy action 3 here

Action 4	Provide details of the communication strategy action 4 here

Action 5	Provide details of the communication strategy action 5 here

4. Opportunities through all tiers of supply and in all stages of the project

This criterion should indicate what actions are proposed to be taken to provide Australian industry with *full, fair and reasonable opportunity*. This can be achieved by providing access to opportunities through the entire supply chain (from prime contractors to second and third tier suppliers) and the measures they propose to encourage this in all stages of the project (i.e. through design, procurement, construction, operation and whole-of-life support).

Please outline your actions/strategies in the tables below. Refer to the *AIP Plans: User Guide, Section 5.4*.

4.1 Mandatory Actions

Action 1	What standards will you use in your project? Can these standards be met by Australian suppliers?
	Provide details of the standards to be used in the project and if these can be met by Australian suppliers
	If you are not using Australian standards please explain what standards you will use and why. What impact will this have on the ability for Australian industry to participate? Are these equivalent standards that Australian industry can meet?
	Provide details of the standards to be used in the project and if these can be met by Australian suppliers

Action 2	Please describe the process/criteria your company will use to assess potential suppliers.
	Provide the process/criteria used by the company to assess potential suppliers

Action 3	Please describe how the company will flow-down the AIP requirements to contractors and subcontractors.
	Provide details on how the AIP requirements will flow down to contractors and subcontractors

4.2 Other Actions (a minimum of 1-2 actions required)

Action 4	Provide details of the opportunities through all tiers of supply action 4 here

Action 5	Provide details of the opportunities through all tiers of supply action 5 here

5. Opportunities for longer-term participation

This criterion should provide detail on how the organisation's actions will assist longer-term participation by Australian industry, including how the organisation will work with suppliers (and government programmes where applicable) to encourage capability development and integration into global supply chains. Organisations can undertake the proposed activities at any stage of the project, for example, prior to approaching the market, once suitable suppliers are identified, or if Australian suppliers are unsuccessful.

Please outline your actions/strategies in the tables below. Refer to the *AIP Plans: User Guide*, Section 5.5.

5.1 Mandatory Action

Action 1	Please describe how the company will work with suppliers (and government programmes where applicable) to encourage capability development and integration into global supply chains.
	Provide details on how the company will work with suppliers to encourage capability development and integration into global supply chains

5.2 Other Actions (a minimum of 3-4 actions required)

Action 2	Provide details of the opportunities for longer term participation action 2 here

Action 3	Provide details of the opportunities for longer term participation action 3 here

Action 4	Provide details of the opportunities for longer term participation action 4 here

Action 5	Provide details of the opportunities for longer term participation action 5 here

6. Procedures and resources

The intent of this criterion is to ensure that organisations have appropriate procedures and resources in place within their organisation to effectively implement the actions they have outlined throughout the AIP Plan. By having such resources and procedures in place, organisations will also find collecting evidence for the Implementation Report simpler.

Please outline your actions/strategies in the tables below. Refer to the *AIP Plans: User Guide*, Section 5.6.

Details of person responsible for implementing the AIP Plan

Name:	Provide the details of the person responsible for implementing the AIP Plan
Title:	Provide their position title
Contact Phone Number:	Provide their contact phone number

Action 1	Provide details of the procedure and resources action 1 here

Action 2	Provide details of the procedure and resources action 2 here

Action 3	Provide details of the procedure and resources action 3 here

7. AIP Plan authorised person declaration

(Authorised person should be someone who is authorised to sign contracts or otherwise bind the entity submitting the AIP Plan)

I, ..., being an authorised person, declare that:

- The information contained in this AIP Plan together with any statement attached is, to the best of my knowledge, true, accurate and complete in all material particulars.

I understand that:

- The Department may ask me (or my nominated contact listed on the cover page) to provide clarification, further information or documentation in order to verify the information supplied in this form.
- The executive summary of an AIP Plan will be published once a contract is executed. The executive summary of the AIP Plan and outcomes will be published on www.industry.gov.au/aip with a link through to our company website.
- I understand the Commonwealth collects information to track the performance of its policies. I understand that I may be contacted at a future date by the Department staff to assist with this.

Signature:	
Position:	Provide position title
Date:	Click here to enter a date.

2. Indigenous Procurement Policy Plan

2.1. Requirement

- (a). It is Commonwealth policy that a final IPP Plan is delivered to the Commonwealth **prior to** the commencement of any resultant Contract.

2.2. IP Policy Framework

- (a). The Australian Government's Indigenous Procurement Policy requires that, for this Project, the contract sets targets for Indigenous employment or supply. These targets are referred to as the 'mandatory minimum requirements for Indigenous participation' or MMRs.
- (b). The MMRs are designed to increase the level of Indigenous participation in the delivery of government contracts through Indigenous employment, the use of Indigenous enterprises or a combination of both.
- (c). They require Contractors to achieve a minimum percentage of Indigenous engagement on average over the term of the Contract. The Contractor, in consultation with the Commonwealth, can elect to apply a target of 4 (four) per cent Indigenous employment or supplier use at the contract level, or a target of 3 (three) per cent at the organisational level (see Table IPP-1 below).
- (d). Contractors may elect to meet the MMRs directly or through subcontract.

Table IPP-1: MMR Targets

	Employment	Supplier	Combined
Non-remote contract-level target	4 per cent Indigenous employment (on average) of the full time equivalent Australian-based workforce deployed on the Project (by the end of the Contract term).	4 per cent of the value of the goods and services provided under the contract must be awarded to Indigenous enterprises (by the end of the Contract term).	The Employment and Supplier target total 4 per cent (by the end of the Contract term). For example: a 1 per cent Indigenous employment outcome and a 3 per cent Indigenous supplier-use outcome delivers a combined outcome of 4 per cent.
Remote contract-level target	Greater than 4 per cent Indigenous employment (on average) of the full time equivalent Australian-based workforce deployed on the Project (by the end of the Contract term). Setting the target should have regard to the local Indigenous employment market, the nature of the goods and services to be delivered, availability of support services and any	Greater than 4 per cent of the value of the goods and services provided under the Contract must be awarded to Indigenous enterprises (by the end of the Contract term). Setting the target should have regard to the local Indigenous business sector, the nature of goods and services to be delivered, availability of support services and any other relevant government targets.	The Employment and Supplier target in total is greater than 4 per cent (by the end of the Contract term). Setting the target should have regard to the local Indigenous business sector and employment market, the nature of goods and services to be delivered, availability of support services and any other relevant government targets.

	other relevant government targets.		
Organisation-level target	3 per cent Indigenous employment (on average) of the full time equivalent Australian-based workforce of the Contractor (by the end of the Contract term).	3 per cent of the value of the Contractor's Australian supply chain must be awarded to Indigenous enterprises (by the end of the Contract term).	Employment and Supplier total in value to 3 per cent (by the end of the Contract term). For example: a 2 per cent Indigenous employment outcome and a 1 per cent Indigenous supplier-use outcome delivers a combined outcome of 3 per cent.

- (e). Respondents are asked to articulate their approach towards Indigenous procurement in the Project in an IPP Plan.

2.3. Purpose of the IPP Plan

- (a). The IP Plan is intended to support the Contractor to manage, coordinate and monitor procurement from Indigenous enterprise over the course of the Project.
- (b). The Commonwealth uses the IPP Plan to evaluate the Contractor's performance in achieving the objectives and for reporting purposes.
- (c). The IPP Plan inter-relates with other key Project documents, including:
- (i). Project Management Plan;
 - (ii). Contract Work Breakdown Structure (CWBS);
 - (iii). Contract Master Schedule (CMS)
 - (iv). Australian Industry Participation Plan (AIP Plan).
- (d). The IPP Plan should not replicate content of these documents but summarise key points and identify the location of the detailed information.

2.4. Drafting the IPP Plan

- (a). The IPP Plan provides the opportunity for you to describe the actions you will take to ensuring you meet the MMR targets. The draft Plan does not require extensive detail – a few short sentences will be sufficient. The final Plan will require greater detail.
- (b). Your IPP Plan must:
- (i). identify how the MMR targets will be achieved over the life of the Contract;
 - (ii). indicate if you have previously been subject to MMR targets and, if so, your performance against these targets;
 - (iii). describe your commitment to Indigenous participation;
 - (iv). declare your organisation's current levels of Indigenous employment and supply use; and
 - (v). state the targets your intend to meet in order to comply with the MMRs and the strategy you will use to meet or exceed these targets.

2.5. Implementing your IP Plan

- (a). If you are awarded a Contract as a result of this RFP Process, you will need to report your progress against your IPP Plan, through an IPP Implementation Report, as part of your quarterly reporting. This Report provides evidence of the implementation and outcomes of your IPP Plan, and will feed into the performance management framework built into the Contract.
- (b). In particular, you will need to report the following:
 - (i). for employment targets:
 - (A). full time equivalent (FTE) total workforce;
 - (B). FTE Indigenous workforce;
 - (ii). for supply targets:
 - (A). ABN and name of Indigenous enterprise;
 - (B). value of contract / purchase;
 - (C). date of contract / purchase;
 - (D). description of good / service purchased;
 - (E). whether the contract / purchase was awarded by you, the Contractor, or by one of your subcontractors within their supply chain (direct or indirect contract / purchase).
- (c). You must keep records to demonstrate that you have implemented the actions in your IPP Plan.
- (d). These Reports are deliverables under any resultant Contract. The Commonwealth may request additional detail if the Reports are incomplete or there is insufficient evidence. The Report may be deemed non-compliant if it does not meet the requisite standards.

2.6. More information and guidance

- (a). Further information about the Indigenous Procurement Policy can be found at <https://www.niaa.gov.au/indigenous-affairs/economic-development/indigenous-procurement-policy-ipp>.
- (b). Further guidance in developing your IP Plan can be found at https://www.niaa.gov.au/sites/default/files/publications/guide2-suppliers_0.pdf.
- (c). Alternatively, you can email indigenousprocurement@niaa.gov.au or telephone +61 2 6271 5111.
- (d). You can read more at the following links:
 - [Mandatory Minimum Requirements](#);
 - [Supporting Indigenous Business Project](#);
 - [Supply Nation](#).

Annex D – Resident Personnel

Note to drafters: This document is a template for use over the course of the Disconnection Agreement. You do not need to complete or respond to any part of this Annex in your Proposal. If you wish to propose a variation or amendment, please record the details in Annex B-10 (Statement of Variation).

1. Introduction

1.1. Purpose

- (a). The purpose of this Annex to the SOW is to detail the roles of Resident Personnel (RP) and to define the resources required to be provided by the Contractor to enable the RP to efficiently undertake those roles.
- (b). 'Resident Personnel' means the Commonwealth Personnel, Commonwealth service providers and/or other persons authorised by the Commonwealth who will be located at the Facility and/or the Contractor's or Subcontractor's premises from time to time for the purposes of the Contract.

1.2. Objectives

- (a). The parties acknowledge that the objectives of locating RP at Contractor Premises are:
 - (i). [details to be inserted to suit the nature of the collocation];
 - (ii). [details to be inserted to suit the nature of the collocation]; and
 - (iii). [details to be inserted to suit the nature of the collocation].

2. Resident Personnel

2.1. RP Team

- (a). Table 1 identifies the positions in the RP team and the expected duration of collocation.

Table 1: Resident Personnel

Ref	Position Title	Grade / Rank	Start	Completion
(a)	(b)	(c)	(d)	(e)
Location 1				
1	[Example – RP Team Leader]		ED + 20	
2	[Example – Engineering Manager]		OD - 20	
3	[Example – Logistics Manager]			
4	[Example – Commercial Manager]		OD + 20	
5	[Example – Contract Support]			
Location 2				
6	[Example – Technical Representative]			

2.2. Role of Resident Personnel

Note to drafters: If the RP team is small, details of the roles may be inserted here. Alternatively, an annex for duty statements or terms of reference may be added.

- (a). [Insert details of RP team and member roles and terms of reference].

3. Facilities

3.1. Contractor-Provided Facilities for Resident Personnel

Note to drafters: Insert details and amend the following suggested clauses as required.

- (a). Unless otherwise agreed by the Commonwealth Representative, the facilities provided by the Contractor for the RP shall:
- (i). accommodate all members of the RP within a single area (ie, RP team members should not be physically isolated unless otherwise agreed); and
 - (ii). include berthing, catering and such other accommodations as is reasonably required under clause 6.18 of the SOW.
- (b). The Contractor shall provide the RP with a secure storage facility for classified matter up to and including [insert].

3.2. Work Health and Safety

Note to drafters: The following clauses should be reviewed, amended and expanded as necessary to address WHS requirements for the RP.

- (a). The Contractor shall provide, and shall ensure that the Subcontractors provide, the RP with:
- (i). a safe working environment in accordance with clause 20.3 of the Contract;
 - (ii). access to all safety-related training and briefings as may be reasonably required to ensure the health and safety of the RP when located at the Contractor's or Subcontractor's workplace(s) or the Facility (as the case may be); and
 - (iii). access to all WHS procedures, safety risk assessments and other WHS-related information applicable to the RP when located at the Contractor's or Subcontractor's workplace(s) or the Facility (as the case may be).
- (b). In the event of a Notifiable Incident involving RP, the Contractor shall:
- (i). immediately notify any other RP currently collocated; and
 - (ii). report the Notifiable Incident in accordance with clause 20.3 of the Contract.

3.3. Information and Communications Technology Requirements

Note to drafters: The following clauses should be drafted as necessary. Note the reduced capacity to provide such facilities for RP collocated at the Facility.

- (a). [Insert].

4. Annexes

- (a). [Insert].

Attachment H – RFP Glossary

Acronyms and Abbreviations

Unless the context otherwise requires, acronyms and abbreviations have the following meanings in this RFP.

ABBREVIATION	DESCRIPTION
ABEX	Abandonment expenditure
ABN	Australian Business Number
ACN	Australian Company Number
AEDT	Australian Eastern Daylight Time
AIP	Australian industry participation
AIP Plan	Australian Industry Participation Plan
CCMA	Castleton Commodities Merchant Asia Pte Ltd
CD	Commencement Date
CDL	Contract Deliverables List
CMS	Contract Master Schedule
COI	Conflict of Interest
CPRs	Commonwealth Procurement Rules
CSI	Commonwealth Supplied Items
CSR	Contract Status Report
CTP	Crew Transfer Plan
Cth	Commonwealth of Australia
DAWE	Department of Agriculture, Water and the Environment
DISER	Department of Industry, Science, Energy and Resources
EHS	Environmental Health and Safety
EOI	Expression of Interest
EP	Environmental Plan
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
FPSO	The Northern Endeavour floating production storage and offtake facility located in the Laminaria Corallina oil fields.
GST	Australian Goods and Services Tax
HSEQ	Health Safety, Environment and Quality
IMP	Phase 1 Implementation Plan
IP	Intellectual Property
IPP	Indigenous Participation Plan
IRG	Independent Review Group
KPI	The Key Performance Indicator requirements to be specified in the Disconnection Agreement
LMP	Logistics Management Plan

ABBREVIATION	DESCRIPTION
LPG	Liquefied petroleum gas
MAP	Marine Assurance Plan
NEDCOM	Northern Endeavour Decommissioning Project (also known as the Project)
NEDRP	Northern Endeavour Decommissioning Readiness Project
NOGA	Northern Oil and Gas Australia Pty Ltd
NOPSEMA	The National Offshore Petroleum Safety and Environmental Management Authority
NSW	New South Wales
ODIA	Offer definition and improvement activity
OIWS	Offshore in Water Survey
OPEX	Operating expenditure
OPGGS	Offshore Petroleum and Greenhouse Gas Storage regulatory framework
OPGGS Act	<i>Offshore Petroleum and Greenhouse Gas Storage Act 2006</i> (Cth)
P&A	Plugging and Abandonment
PDF	Portable Document Format
PMF	Performance Management Framework
POB	Personnel on Board
QMP	Quality Management Plan
RFP	Request for Proposal
RMIRP	Resource Management and Industrial Relations Plan
RMP	Risk Management Plan
ROV	Remotely Operated Vehicle / Vessel
SOW	Statement of Work
SSSV	Subsurface Safety Valve
STR	Statement of Tax Record
TIP	Transition-In Plan
TOP	Transition-Out Plan
UPS	Upstream Production Solutions Pty Ltd
UTM	Universal Transverse Mercator
UWILD	Underwater Inspection in lieu of Dry Dock
V&A	Verification and Assurance
WBS	Work Breakdown Structure
WGE Act	<i>Workplace Gender Equality Act 2012</i> (Cth)
WGEA	Workplace Gender Equality Agency
WHS	Work Health and Safety
WOMP	Well Operations Management Plan
XT	Xmas Tree

Definitions

Unless the context otherwise requires, terms have the following meanings in this RFP.

TERM	DEFINITION
AIP Authority	means that business area of the Department of Industry, Science, Energy and Resources whose purpose it is to provide guidance in relation to, and approve, AIP Plans, as detailed at https://www.industry.gov.au/regulations-and-standards/australian-industry-participation#about .
Australian Industry Participation (AIP)	means the Commonwealth's Australian Industry Participation policy administered by the Department of Industry, Science, Energy and Resources.
AusTender	means the Australian Government's procurement information system.
Authorised Person	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Base Date	means 1 September 2021.
Black Economy Procurement Connected Policy (or Black Economy Policy)	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Business Day	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Clarification Closing Time	has the meaning given in Part 3, clause 1 of the RFP.
Closing Time	has the meaning given in has the meaning given in Part 3, clause 1 of the RFP and clause 3.1(c) of the Conditions.
Commonwealth	means the Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources (ABN 74 599 608 295).
Conditions	means the conditions at Part 5 of this RFP.
Confidential Information	has the meaning given in clause 15.4 of the draft Contract.
Consolidated Group	means a Consolidated Group or a MEC group as those terms are defined in section 995-1 of the <i>Income Tax Assessment Act 1997</i> (Cth).
Contact Officer	means the point of contact for this RFP, as set out in clause 2.5 of the Conditions.
Contractor	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Data Room	means the virtual data room in which materials relating to the Project are made available to Shortlisted Respondents.
Deliverable	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Disclaimer	means the disclaimer located on page ii of this RFP.
Disconnection Agreement	means the proposed contract with the Commonwealth under which the Contractor must deliver the Phase 1 services. In this Invitation, the terms "Disconnection Agreement" and "Contract" are used interchangeably
Document	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
EOI Stage	means the stage of the Project commencing upon release of the Invitation for Expressions of Interest (Invitation) and ending upon

OFFICIAL

Northern Endeavour FPSO Decommissioning Project

TERM	DEFINITION
	notification to the Shortlisted Respondents that they have been down-selected by the Commonwealth in accordance with the Invitation.
Expression of Interest (or EOI)	means a response to the Invitation for Expressions of Interest submitted during the EOI Stage of this procurement.
Facility	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Government Agency	means any government or any public, statutory, government, semi-government, local government, or judicial body or authority.
GST Act	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) and associated taxation legislation.
GST Group	means a GST group formed in accordance with Division 48 of the GST Act.
Indigenous Procurement Policy	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Insolvency Event	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Invitation	means the invitation for Expressions of Interest published by the Commonwealth on 1 July 2021.
Key Personnel	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
LamCor	means the Laminaria Corallina oil fields situated in the Western Timor Sea about 550km West North West of Darwin, Northern Territory, Australia.
Law	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Licences	Means the licences, accreditations, certifications, permits, and approvals as described in Part 2, paragraph 4 of the RFP.
Loss	means any liability, loss (including economic loss), damage, compensation, costs and expenses, including the cost of settling any Claim.
Material Subcontractor	means a Subcontractor having a work share of greater than 10 percent of the total Contract value.
Modern Slavery Act	means the <i>Modern Slavery Act 2018</i> (Cth).
Onshore Assets	means those items listed on the document titled '210819-TIMOSEA01-Stock on Hand – IH', available in the Data Room.
Personal Information	has the meaning given by section 6(1) of the <i>Privacy Act 1988</i> (Cth).
Personnel	means any officer, employee, adviser or agent of the Respondent or the Commonwealth (as applicable).
Phase 1	has the meaning given by Part 1, paragraph 3 of this RFP.
Phase 2	has the meaning given by Part 1, paragraph 3 of this RFP.
Phase 3	has the meaning given by Part 1, paragraph 3 of this RFP.
Preferred Contractor	means the Respondent selected by the Commonwealth (if any) in accordance with clause 5.10 of the Conditions.
Project	has the meaning given by Part 1, paragraph 3 of this RFP.
Proposal	means a proposal in relation to the Project to be submitted by a Respondent to the RFP.
Related Body Corporate	has the meaning given by section 9 of the <i>Corporations Act 2001</i> (Cth).

TERM	DEFINITION
Relevant Employer	means an employer who has been a Relevant Employer under the Workplace Gender Equality Procurement Principles for a period of not less than 6 months. The Contractor will continue to be obligated as a Relevant Employer until the number of its employees falls below 80.
Request for Proposal (RFP)	means this request to Respondents to submit a Proposal.
Respondent	means an entity, or group of entities, that submits a Proposal in response to this RFP.
RFP Stage	means the stage of the Project commencing upon notification to the Shortlisted Respondents that they have been down-selected by the Commonwealth in accordance with the Invitation, and ending upon the earlier of: (a). execution of any resulting contract in connection with the Project; (b). notification from the Commonwealth to Shortlisted Respondents that the Commonwealth does not intend to proceed with the RFP process; or (c). termination of the RFP process.
RFP Stage Deed	means the Deed located at Attachment I to this RFP.
Statement of Tax Record (STR)	has the meaning given in Schedule 2 (Glossary) to the draft Contract.
Shortlisted Respondents	means the respondents that were down-selected by the Commonwealth in accordance with the Invitation.
WBS Dictionary	means the Dictionary to be provided to aid interpretation of the Work Breakdown Structure (WBS) at Annex E-7 to Attachment E.

Attachment I – RFP Stage Deed

Northern Endeavour Decommissioning Project

RFP Stage Deed

This Deed Poll is made on **[INSERT DATE]** by:

[INSERT NAME OF SHORTLISTED RESPONDENT AND ACN/ARBN AND ABN AS APPLICABLE] (**Respondent**) in favour of the Commonwealth of Australia as represented by the Department of Industry, Science, Energy and Resources ABN 74 599 608 295 (**Commonwealth**).

RECITALS:

- A. The Commonwealth is undertaking a multi-stage procurement process to identify a contractor to disconnect, decommission and remediate the Northern Endeavour floating production storage and offtake facility (**FPSO**), subsea infrastructure, and the wells in the Laminaria Corallina oil fields in the West Timor Sea (**Project**).
- B. The Commonwealth invited Expressions of Interest (**EOIs**) from suitably qualified suppliers to undertake Phase 1 of the Project. Following evaluation of the EOIs, the Commonwealth has identified Shortlisted Respondents that the Commonwealth intends to invite to submit a proposal as part of a Request for Proposal (**RFP**) process.
- C. During the RFP Stage, the Commonwealth intends to:
 1. conduct Engagement Activities with Shortlisted Respondents;
 2. issue the RFP to Shortlisted Respondents; and
 3. disclose information in relation to the Project to Shortlisted Respondents, including through the Data Room and as part of Engagement Activities.
- D. As a result of the Respondent's participation during the RFP Stage, the Respondent may become aware of, receive or have access to Confidential Information belonging to the Commonwealth or a third party.
- E. The Respondent has agreed:
 1. to take all necessary steps to ensure that the Confidential Information is kept confidential, is not disclosed to any party that is not authorised to receive it and is only used for the Permitted Purposes; and
 2. to be bound by the terms and conditions that apply during the RFP Stage between the Commonwealth and the Respondent.

Agreed Terms

1. DEFINITIONS

- 1.1 In the interpretation of this Deed, unless the contrary intention appears:

Term	Definition
Claim	means a claim, demand, suit or proceeding of any kind, including by way of court proceedings, proceedings in the nature of arbitration, mediation or other methods of dispute resolution and administrative claims and proceedings (whether or not before a tribunal).
Confidential Information	means:

Term	Definition
	a. any information that is identified at Schedule 1 to this Deed; and b. any other information: (i) that is commercially sensitive (not generally known or ascertainable); (ii) the disclosure of which would cause unreasonable detriment to the owner of the information or another party; and (iii) that was provided with an express or implied understanding that it would remain confidential; but does not include information which: c. is or becomes public knowledge other than by breach of this Deed; d. is in the possession of the party without restriction in relation to disclosure before the date of receipt; or e. has been independently developed or acquired by the receiving party.
Data Room	means the virtual data room in which materials relating to the Project are made available to Shortlisted Respondents.
Document	includes: a. any paper or other materials on which there are writing, marks, figures, symbols or perforations, having meaning for persons qualified to interpret them; and b. any article or material from which sound, images or writings are capable of being reproduced with or without the aid of any other article or device.
Engagement Activities	has the meaning given in clause 4.1 of this Deed.
Facility	means, collectively, the Northern Endeavour floating production storage and offtake facility and associated petroleum licences, subsea infrastructure and wells.
Invitation	means the invitation for Expressions of Interest published by the Commonwealth on 1 July 2021.
Loss	means any liability, loss (including economic loss), damage, compensation, costs and expenses, including the cost of settling any Claim.
Permitted Purposes	means: a. to participate in the RFP Stage of the Project, including the Engagement Activities; or b. any other purpose that is approved in writing by the Commonwealth from time to time.
Personnel	means any officer, employee, adviser or agent of the Respondent or the Commonwealth (as applicable).
Related Body Corporate	has the meaning given by section 9 of the <i>Corporations Act 2001</i> (Cth).
RFP Stage	means the stage of the Project commencing upon notification to the Shortlisted Respondents that they have been down-selected by the

Term	Definition
	Commonwealth in accordance with the Invitation, and ending upon the earlier of: - execution of any resulting contract in connection with the Project; - notification from the Commonwealth to Shortlisted Respondents that the Commonwealth does not intend to proceed with the RFP process; or - termination of the RFP process.
Shortlisted Respondents	means the respondents that were down-selected by the Commonwealth in accordance with the Invitation.
Working Day	in relation to the doing of an action in a place, means any day in that place other than: - a Saturday, Sunday or public holiday; and - any day within the two-week period that starts on: - the Saturday before Christmas Day; or - if Christmas Day falls on a Saturday, Christmas Day.

2. INTERPRETATION

2.1 In this Deed, unless the contrary intention appears:

- headings are for the purpose of convenient reference only and do not form part of this Deed;
- the singular includes the plural and vice versa;
- a reference to one gender includes the other;
- a reference to a person includes a body politic, body corporate or a partnership;
- if the last day of any period prescribed for the doing of an action falls on a day which is not a Working Day, the action will be done no later than the next Working Day;
- a reference to an Act is a reference to an Act of the Commonwealth, State or Territory of Australia, as amended from time to time, and includes a reference to any subordinate legislation made under the Act;
- a reference to a clause includes a reference to a subclause of that clause;
- a reference to a “dollar”, “\$”, “\$A” or “AUD” means the Australian dollar unless otherwise stated;
- a reference to a specification, publication, Commonwealth policy or other document is a reference to that specification, publication, Commonwealth policy or document, in effect on date of entering into the Deed, or alternatively, a reference to another version of the Document if agreed in writing between the parties;
- the word “includes” in any form is not a word of limitation; and
- a reference to a party includes that party’s administrators, successors, and permitted assigns, including any person to whom that party novates any part of this Deed.

3. RFP STAGE

3.1 During the RFP Stage, the Commonwealth may (but is not obliged to) issue a RFP to Shortlisted Respondents seeking a proposal in connection with Phase 1 of the Project.

3.2 The Commonwealth does not make any representation that it will release or issue, nor in any way binds itself to releasing or issuing, any RFP to the Respondent. Nothing in this Deed will be taken as providing the Respondent with a right to receive any RFP issued in relation to Phase 1 of the Project.

- 3.3 If and when any RFP process commences, the conditions of proposal or similar applicable document for the RFP process will apply to that RFP process in addition to the terms of this Deed.
- 3.4 If there is any inconsistency between this Deed and the RFP, the RFP will prevail over the terms of this Deed to the extent of the inconsistency.
- 3.5 The Respondent acknowledges and agrees that the probity requirements as detailed in the Invitation (including in relation to collusive bidding, unlawful inducements, improper assistance and conflicts of interest) and in any RFP issued to the Respondent will apply to the Respondent during the RFP Stage.
- 3.6 Unless and until a formal contract is executed by the Commonwealth and the Respondent following the conduct of a RFP process, there is no binding contract (including a process contract) or other understanding (including, without limitation, any form of contractual, quasi-contractual, restitutionary or promissory estoppel rights, or rights based upon similar legal or equitable grounds) between the Commonwealth and the Respondent in relation to the Project, other than the obligations of the Respondent under this Deed.

4. **ENGAGEMENT ACTIVITIES**

- 4.1 Without limiting any activities or processes that may be specified in an RFP issued in relation to the Project, the Commonwealth may, at any point in the RFP Stage, conduct engagement activities (**Engagement Activities**) with Shortlisted Respondents, including:
 - a. briefings, workshops or other meetings with Shortlisted Respondents;
 - b. provision by the Commonwealth to Shortlisted Respondents of information through a Data Room in accordance with this Deed;
 - c. site visits by the Shortlisted Respondents (potentially including site visits to the Facility) in accordance with the requirements of this Deed;
 - d. requesting information from Shortlisted Respondents in relation to their responses to the RFP;
 - e. obtaining feedback and other information from Shortlisted Respondents that may be used to assist the Commonwealth to develop the scope of services for Phase 1 of the Project or the contractual arrangements for the Project; and
 - f. any other activities considered necessary or appropriate by the Commonwealth, including other engagement between the Commonwealth and Shortlisted Respondents in connection with the RFP Stage.
- 4.2 In conducting the Engagement Activities, the Commonwealth is seeking to:
 - a. inform the development of any scope of services for Phase 1 of the Project and any contractual arrangements for the Project;
 - b. provide to Shortlisted Respondents:
 - (i) information relating to the Facility to assist in the preparation of their responses to the RFP;
 - (ii) an opportunity to participate in briefings, workshops or other meetings with the Commonwealth; and
 - c. obtain feedback and other information from Shortlisted Respondents that may assist the Commonwealth to develop the scope of services for Phase 1 of the Project or the contractual arrangements for the Project.
- 4.3 The Commonwealth may issue a process document to Shortlisted Respondents which provides specific terms and conditions governing the relevant Engagement Activity. The Commonwealth may cease or refuse to conduct engagement activities with the Respondent if the Respondent fails to comply with the requirements of the process document.
- 4.4 Participation in the Engagement Activities is optional. Participation or non-participation in the Engagement Activities will not impact or affect a Shortlisted Respondent's participation in the RFP process or the evaluation of any Shortlisted Respondent's response to any RFP.

- 4.5 Information or material provided for, or discussions in connection with, Engagement Activities prior to the issue of any RFP will not be evaluated as part of any RFP process, but may be considered by the Commonwealth in planning or implementing other aspects of the RFP Stage or the Project.
- 4.6 The Respondent must, unless otherwise approved by the Commonwealth in writing, treat any information provided to the Respondent by or on behalf of the Commonwealth in connection with the Engagement Activities, including the information made available through the Data Room, as Confidential Information that is subject to the confidentiality undertakings under this Deed (including clause 9).
- 4.7 The Respondent acknowledges and agrees that information provided by the Commonwealth to the Respondent during the Engagement Activities, including information provided through the Data Room:
 - a. is provided subject to the conditions in this Deed;
 - b. is provided solely for the purposes of providing Shortlisted Respondents with information regarding the Project and the Commonwealth's current intentions with respect to the RFP Stage;
 - c. must only be used by the Respondent for the Permitted Purposes;
 - d. may be modified, varied (including materially varied) or replaced entirely or in part by the Commonwealth, in its absolute discretion, at any time; and
 - e. is for the purpose of providing background information only and must not be relied on by the Respondent for any purpose.
- 4.8 The Respondent acknowledges and agrees that the conduct of any Engagement Activities does not oblige the Commonwealth to proceed with the RFP Stage or conduct any other procurement process in relation to the Project.
- 4.9 The Respondent acknowledges that, as a Commonwealth agency, the Department of Industry, Science, Energy and Resources is subject to legislative and administrative accountability and transparency requirements of the Commonwealth, including disclosures to Ministers and other Government representatives, Parliament and its Committees and the publication of information in respect of the Engagement Activities.
- 4.10 Without limiting any other rights, in conducting the Engagement Activities, the Commonwealth may, at its discretion, do all or any of the following at any time without giving reasons:
 - a. change the type, nature or number of any Engagement Activities;
 - b. change the date, time and place for any Engagement Activities;
 - c. exclude a Shortlisted Respondent from further participation in the Engagement Activities;
 - d. conduct Engagement Activities and/or additional activities with one or more Shortlisted Respondents and not with other Shortlisted Respondents;
 - e. decline to discuss any matter or answer any question asked by a Shortlisted Respondent at any time during the Engagement Activities;
 - f. decline to respond to a request for clarification or a request for additional information submitted by a Shortlisted Respondent at any time during the Engagement Activities;
 - g. take any question asked by a Shortlisted Respondent during an Engagement Activity on notice and provide a written answer following the activity;
 - h. ask a Shortlisted Respondent to provide questions or comments in writing;
 - i. limit the number of Shortlisted Respondent representatives entitled to attend or participate in an Engagement Activity;
 - j. provide other Shortlisted Respondents with details of any question submitted by a Shortlisted Respondent and the Commonwealth's response without disclosing the source of the question or revealing the Shortlisted Respondent's confidential information (which must be clearly identified by the Respondent as confidential information);
 - k. not proceed with the RFP Stage or any other process in connection with the Project; or

- I. take any other action as it considers, in its discretion, appropriate in relation to the Engagement Activities.

5. DATA ROOM

- 5.1 The Respondent acknowledges that it will receive access to the Data Room which will contain further information in relation to the Facility and the Project.
- 5.2 The Respondent must nominate up to a maximum of 5 of its Personnel who will require access to the Data Room (each a "**Data Room User**"). Each Data Room User will receive an invitation to join the Data Room via email.
- 5.3 The Data Room will be hosted by HighQ Collaborate and will be managed by the Commonwealth's legal adviser, Ashurst. The use of the Data Room is governed by the *User Terms and Conditions* provided at Schedule 2 to this Deed.
- 5.4 The Respondent must comply (and must ensure each Data Room User complies) with any terms and conditions of use made available by Ashurst and HighQ Collaborate, in addition to the terms of use specified in this Deed.
- 5.5 The Commonwealth reserves the right to change the access arrangements for the Data Room and to deny access to any individual or the Respondent without prior notice to the Respondent.
- 5.6 The Data Room contents comprise materials supplied by or on behalf of the Commonwealth. The intellectual property in those materials is owned by the Commonwealth or the third parties who provided those materials to the Commonwealth. Copies of materials contained in the Data Room are to be treated as Confidential Information.
- 5.7 The Respondent must not reproduce or use the Data Room contents for any purpose other than the Permitted Purposes, except with the prior written consent of the Commonwealth.
- 5.8 The Commonwealth is not liable to any person or the Respondent if the Data Room contents are not received on time, are corrupted or altered or otherwise not received as sent, cannot be read or decrypted or have compromised security or integrity.
- 5.9 No representation or warranty (express or implied, oral or in writing) is made by or on behalf of the Commonwealth that the information referred to or contained in or provided in the Data Room is, or will be, accurate, current or complete.
- 5.10 The Commonwealth does not accept:
 - a. any responsibility to update or revise any information, address any omission or correct any inaccuracy in the information contained in or provided through the Data Room;
 - b. any liability for any loss or damage suffered or incurred by the Respondent or any other person as a result of or arising out of the Respondent or other person placing any reliance on the information referred to or contained in or provided through the Data Room; and
 - c. any liability for any cost and expense incurred by the Respondent or any other person as a result of accessing or using the Data Room.
- 5.11 The Respondent acknowledges and agrees that:
 - a. the Data Room contents are not, and do not purport to be, all-inclusive or to contain all the information that the Respondent may require for participating in any RFP process, including for the purposes of preparing a response to any RFP;
 - b. the Data Room contents have not been independently verified by the Commonwealth or any of the Commonwealth's Personnel; and
 - c. to the maximum extent permitted by law, the Commonwealth is not liable to any person (including the Respondent) as a consequence of the use of, or reliance on, or error, inaccuracy, incompleteness or other similar defect in, the Data Room contents or the operation and hosting of the Data Room.

6. SITE VISIT

- 6.1 The Respondent acknowledges and agrees that the Commonwealth may (but is not obliged to) arrange for the Respondent's Personnel to access the Facility or another site relevant to the Project (**Site**) during the RFP Stage.

- 6.2 If the Respondent is provided access to the Site, in addition to any other requirements or directions made by the Commonwealth, the Respondent must:
- a. nominate the Personnel to be provided with access to the Site (**Nominated Personnel**);
 - b. ensure that the Nominated Personnel:
 - (i) comply with all relevant safety, security or operational requirements, regulations, standing orders, or codes of behaviour for the Site;
 - (ii) comply with any directions (including verbal directions) of the Commonwealth (or its contractors or other representatives) or any Commonwealth Personnel;
 - (iii) do not enter any areas of the Site without approval from the Commonwealth (or its contractors or other representatives); and
 - (iv) do not touch, operate or adjust any equipment, facility or system at the Site;
 - (v) do not damage or interfere with the Site (including any property on the Site) or injure any person in or around the Site; and
 - c. effect and maintain all appropriate insurances covering the risks arising from travelling to and accessing the Site, including workers compensation insurance, public liability insurance and travel insurance.
- 6.3 The Commonwealth may, for any reason, grant, or refuse to grant, any of the Nominated Personnel access to a Site.
- 6.4 The Respondent acknowledges and agrees:
- a. the Commonwealth accepts no liability or responsibility for the Nominated Personnel travelling to or accessing any Site;
 - b. the Commonwealth will not be liable for any Loss suffered or incurred by the Respondent or any of Nominated Personnel, whether to themselves (including personal injury and death) or their property, arising from the Nominated Personnel travelling to or accessing any Site;
 - c. the Respondent indemnifies and releases the Commonwealth and the Commonwealth's Personnel against any Loss arising out of or in connection with the Nominated Personnel travelling to or accessing any Site.

7. RESPONDENT TO INFORM ITSELF

- 7.1 The Respondent acknowledges and agrees that the Commonwealth makes no representations or warranties that the information in this Deed or any information communicated or provided to the Respondent during the Engagement Activities, including any information accessed or obtained through the Data Room is, or will be, accurate, current or complete.
- 7.2 The Respondent is responsible for:
- a. examining the conditions on which any Engagement Activities are to be conducted under this Deed, any documents referenced in or attached to this Deed and any other information made available to the Respondent in connection with the RFP Stage;
 - b. obtaining and examining all further information which is obtainable by the making of reasonable inquiries relevant to the risks, contingencies, and other circumstances having an effect on its participation in the RFP Stage; and
 - c. satisfying itself as to the accuracy and completeness of information or material provided as part of the Engagement Activities.
- 7.3 The Respondent acknowledges and agrees that it participates in the Engagement Activities on the basis that:
- a. it does not rely on any representation, letter, document or arrangement, whether oral or in writing, or other conduct as adding to or amending the conditions in this Deed other than as expressly stated by the Commonwealth in writing;

- b. it has relied entirely upon its own inquiries and inspection in respect of the subject of its participation in, or provision of any information or material in connection with, the RFP Stage;
 - c. it will not rely on any information provided or made available during meetings with the Commonwealth or site visits (if any), obtained during the Engagement Activities; and
 - d. it is aware of the provisions of the *Australian Consumer Law* (Schedule 2 of the *Competition and Consumer Act 2010*), and Division 137 of the *Criminal Code* under which giving false or misleading information is a serious offence.
- 7.4 If the Respondent is found to have made a false, misleading or deceptive claim or statement, the Commonwealth may, at any time, exclude the Respondent from participation in the Engagement Activities or any RFP process.

8. RESPONSIBILITY FOR COSTS

- 8.1 The Respondent's participation in any Engagement Activities and the RFP Stage is at the Respondent's sole risk, cost and expense.
- 8.2 Neither the Commonwealth nor any Commonwealth Personnel:
- a. will be responsible for any costs or expenses incurred by the Respondent or any other person arising from, or in connection with any aspect of the RFP Stage;
 - b. accepts any liability or responsibility if the Respondent fails to receive information made available by the Commonwealth; and
 - c. accepts any liability or responsibility for loss or damage suffered by any person either to itself (including personal injury and death) or its property arising from its participation in the RFP Stage.

9. CONFIDENTIALITY UNDERTAKINGS

- 9.1 The Respondent:
- a. acknowledges and agrees that this Deed is for the benefit of the Commonwealth and is directly enforceable by the Commonwealth, even though it is not a party to this Deed;
 - b. must ensure that the Confidential Information is kept confidential and secure from disclosure;
 - c. must only use the Confidential Information for the Permitted Purposes;
 - d. must not, without the prior written consent of the Commonwealth, disclose or permit any person to disclose any of the Confidential Information to any person, other than as permitted under clause 9.2; and
 - e. must promptly notify the Commonwealth of any unauthorised possession, disclosure or use of the Confidential Information contrary to this Deed, and take all steps necessary to prevent the recurrence of such possession, disclosure or use.
- 9.2 Clause 9.1 does not apply to a disclosure of any Confidential Information to the extent that the disclosure is for any of the following purposes:
- a. as required or authorised by law;
 - b. as necessary for the conduct of any legal proceedings; or
 - c. to any of the following persons:
 - (i) a legal adviser, insurer, financier, auditor or accountant of a party to the extent required to enable them to perform those roles;
 - (ii) a Related Body Corporate for internal management purposes; or
 - (iii) any of the Respondent's Personnel who need to know the information to enable the Respondent to carry out the Permitted Purposes.
- 9.3 The Respondent must ensure that its Personnel (whether or not still employed or engaged in that capacity) do not do or omit to do anything which, if done or omitted to be done by the Respondent, would be a breach of the Respondent's obligations under this Deed.

- 9.4 The Respondent must give the Commonwealth all assistance it reasonably requires to take any action or bring any proceedings for breach of the undertaking contained in clause 9.3.
- 9.5 Without limiting the Respondent's obligations at law, the Respondent must deliver to the Commonwealth, or destroy or erase, as required by the Commonwealth, all Documents and any other material (including electronically stored or otherwise) in its possession, power or control which contain or relate to the Confidential Information on the earlier of:
- a. the date specified in a notice given by the Commonwealth (acting reasonably); and
 - b. the time the Documents and any other material are no longer required for the Permitted Purposes.
- 9.6 The Respondent may retain, and will not be required to return or destroy, any documents containing or relating to Confidential Information, where such documents are:
- a. retained in order to comply with any legal, professional or insurance obligations; or
 - b. stored in electronic backups or records that are produced in the normal course of business where it is not reasonably practicable to destroy such backups or records.
- 9.7 If the Commonwealth gives a notice under clause 9.5, and the Respondent has placed or is aware that Documents containing the Confidential Information are beyond its possession or control, then the Respondent must provide full particulars of the whereabouts of the Documents containing the Confidential Information, and the identity of the person in whose custody or control they lie.
- 9.8 The Respondent must ensure that its Personnel and each person to whom it (or its Personnel) has disclosed any Confidential Information comply with the requirements of this clause 9 as if personally bound by it.
- 9.9 Return or destruction of any Confidential Information does not release the Respondent from its obligations under this Deed.
- 10. SURVIVAL**
- 10.1 This Deed will survive the termination or expiry of any procurement process, contract or agreement between the Respondent and the Commonwealth.
- 11. INDEMNITY**
- 11.1 The Respondent indemnifies the Commonwealth and the Commonwealth's Personnel against any Loss arising out of or in connection with:
- a. any breach by the Respondent of this Deed;
 - b. any unlawful or negligent act by the Respondent in connection with this Deed; or
 - c. any act or omission by any of the Respondent's Personnel which, if done or omitted to be done by the Respondent, would breach the Respondent's obligations under this Deed.
- 12. ENFORCEMENT OF THIS DEED**
- 12.1 Without limiting the Commonwealth's rights under this Deed or otherwise at law, the Respondent agrees that if it fails to comply with its obligations under this Deed, the Commonwealth may, in its discretion, do any one or more of the following:
- a. immediately suspend or cease the conduct of any activities with the Respondent in relation to the Engagement Activities, including terminating access to the Data Room;
 - b. exclude the Respondent from further participation in any Engagement Activities and any RFP process; or
 - c. require the Respondent to take such further steps (including the provision of further undertakings) as the Commonwealth reasonably considers necessary to seek to avoid, or minimise, the impacts on the Commonwealth of the Respondent's breach of this Deed.
- 12.2 The Respondent acknowledges that damages may not be a sufficient remedy for the Commonwealth for any breach of this Deed and that the Commonwealth is entitled to

injunctive relief (as appropriate) as a remedy for any breach or threatened breach by the Respondent, in addition to any other remedies available at law or in equity.

- 12.3 Failure by the Commonwealth to enforce a provision of this Deed will not be construed as in any way affecting the enforceability of that provision or this Deed as a whole.
- 12.4 The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law, in equity or any other such right or remedy.
- 12.5 Subject to the other covenants of this Deed, the rights and obligations of the Commonwealth and the Respondent pursuant to this Deed are in addition to and not in derogation of any other right or obligation between the Commonwealth and the Respondent under any other deed or agreement to which they are parties.

13. VARIATIONS AND AMENDMENTS

- 13.1 No term or provision of this Deed will be amended or varied unless such amendment or variation is agreed by the Commonwealth in writing.

14. APPLICABLE LAW

- 14.1 The laws of Western Australia will apply to this Deed. The courts of that State will have non-exclusive jurisdiction to decide any matter arising out of this Deed.

15. NOTICES

- 15.1 Unless the contrary intention appears, any notice under this Deed will be effective if it is in writing and sent from and delivered to the Commonwealth or the Respondent, as the case may be, as detailed below:

- a. **[INSERT COMMONWEALTH ADDRESS AND EMAIL]**; or
- b. **[INSERT RESPONDENT'S ADDRESS AND EMAIL]**.

- 15.2 A notice given in accordance with this clause 15 is deemed to be delivered:

- a. if hand delivered, when received at the address;
- b. if sent by pre-paid post, in three Working Days when sent within Australia and in eight Working Days when sent by air mail from one country to another; or
- c. if sent as an email, when the email enters the recipient's information system, unless the sender's information system receives a message within one Working Day that the email has not been delivered to the recipient,

but if the receipt, transmission or entry into the information system is not on a Working Day or is after 5.00pm (recipient's local time) on a Working Day, the notice is deemed to be delivered at 9.00am (recipient's local time) on the next Working Day.

Executed as a Deed Poll

[Company (Australian) Execution Clauses]

Executed as a deed poll by **[Insert corporation name]** ACN **[Insert ACN]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of director

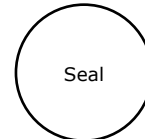
Signature of director/secretary

Name

Name

[Company (Foreign) Execution Clauses]

Signed, sealed and delivered by **[Insert authorised representative's name]** as authorised representative for **[insert corporation name]** who warrants that they are duly authorised to execute this document on behalf of **[insert corporation name]** in the presence of:



Signature of witness

Signature of authorised signatory

Name of witness

Name of authorised signatory

SCHEDULE 1

16. CONFIDENTIAL INFORMATION

- 16.1 Any information made available to the Respondent through the Data Room.
- 16.2 Any information provided to or obtained by the Respondent in connection with any Engagement Activities, including in connection with any site visit to the Facility.
- 16.3 Any information provided to the Respondent in relation to the Facility, including the proposed disconnection and decommissioning and remediation of the FPSO, subsea infrastructure and the wells.
- 16.4 Any information provided to the Respondent in relation to the RFP process or any contractual arrangements for the Project.
- 16.5 Any other information provided to the Respondent in relation to the Project.

SCHEDULE 2

User Terms and Conditions

These terms and conditions of use (these "Conditions") regulate the manner in which authorised persons ("Users") may access and use the Data Room and any information, documents and other materials made available via or in relation to the Data Room (the "Information"), including any information provided pursuant to a request made via the Extranet or in circumstances where the Extranet is not made available.

BY CLICKING THE "CONTINUE" BUTTON ON THE LOG-IN PAGE AND ENTERING THE EXTRANET, USERS WILL CONFIRM THAT THEY HAVE READ AND ACCEPTED, AND WILL ONLY ACCESS AND USE THE EXTRANET AND THE INFORMATION IN ACCORDANCE WITH, THESE CONDITIONS.

1. SECURITY AND CONFIDENTIALITY

1.1 You warrant that the username and password you have used to access the Extranet have been allocated to you and shall ensure that you keep the same strictly confidential. Sharing of logon credentials with third parties or otherwise allowing third parties to use the Extranet under the name of the User is not permitted. If you become aware that your password has been lost, stolen, misused or known to others, you agree to notify the Ashurst Contact immediately.

1.2 You agree to ensure that at no time will the computer resources you use to access the Extranet be left unattended while you are logged in.

2. ACCESS TO THE EXTRANET

2.1 Ashurst may make available Guidelines on how to access and use the Extranet from time to time.

2.2 While Ashurst will seek to ensure that the Extranet is generally available on a 24/7 basis (save for periods of scheduled downtime or emergency maintenance), the Extranet is provided on an "as is" and "as available" basis and Ashurst makes no representation or warranty in relation to service availability. You agree and acknowledge that the Extranet will at times be unavailable due to scheduled maintenance, service upgrades or other mechanical or electronic failures. If you find the Extranet not to be available, or have difficulties accessing the Extranet, you should contact the Ashurst Contact.

2.3 Ashurst, in its sole discretion, reserves the right to suspend or terminate your access to the Extranet without cause, prior notice or liability, for any reason, including if technical problems, irregularities, or misuse occurs or if other service providers engaged in the operation of the Extranet terminate or suspend any of their services to Ashurst, and at any time, discontinue the Extranet or any part of it, or limit or terminate a User's access, or temporarily suspend or permanently cancel your or any User's right to access or use the Extranet.

2.4 Save as expressly provided, all rights in the Extranet, including in its design, structure and underlying code, are reserved to Ashurst and its licensors.

2.5 Ashurst grants you a non-exclusive, personal licence to access and use the Extranet solely to access the Information and subject to these Conditions. You may use the Extranet only within the scope of the access rights granted to you. You must not otherwise access or use the Extranet and, in particular (without limitation), you agree that the following activities are not permitted:

- Unauthorised, illegal or fraudulent access to the Extranet;
- Uploading or downloading or otherwise using content in breach of third party intellectual property rights;

- Uploading, storing, distributing or transmitting any unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive material;
- Circumvention, disabling or otherwise compromising security features of the Extranet;
- Manipulating access rights that have been assigned to you;
- Knowingly or recklessly uploading, sharing or transmitting any data or material that contains viruses, spyware, adware, trojan horses, worms, corrupt files, or other malicious software code designed to adversely affect the operation of the Extranet or Ashurst's software, hardware or networks;
- Copying, modifying, duplicating, reverse compiling or engineering, transmitting, republishing or otherwise exploiting or manipulating the Extranet software or source code;
- Attempting to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Extranet or any content made available on the Extranet in any form or media or by any means;
- Attempting to reverse compile, disassemble, reverse engineer or otherwise reduce to human perceivable form all or any part of the Extranet;
- Accessing all or any part of the Extranet in order to build a product or service which competes with the Extranet;
- Licensing, selling, renting, leasing, transferring, assigning, distributing, displaying, disclosing or otherwise commercially exploiting or otherwise making the Extranet available to any third party except to authorised Users; or
- Attempting to obtain or assisting third parties in obtaining, access to the Extranet, other than as permitted under these Conditions.

Any use of the Extranet in breach of these terms may immediately lead to termination or suspension of your access to the Extranet.

3. INFORMATION

3.1 You agree to keep all Information made available to you strictly confidential.

3.2 You shall only access and use the Information to the extent reasonably necessary for your personal involvement in the Project. You may not otherwise use the Information and, in particular (without limitation), you agree not in any circumstances:

- (a) to copy any part of the Information, including by taking screen shots, storing electronic copies or otherwise;

- (b) to download or print the Information;
- (c) to redistribute or otherwise make available to any other person any part of the Information,
- in each case, directly or indirectly, nor to authorise, enable or assist any other person to do so, save to the extent expressly permitted in writing by the Ashurst Contact, but at all times only to the extent reasonably necessary for your personal involvement in the Project.
- 3.3 You shall destroy all copies you make of any part of the Information upon the earlier of the end of your involvement in the Project and its completion.
- 3.4 The Parties (as defined below) shall not be liable for any loss, claim, damage, expense or cost whatsoever, whether direct or indirect, howsoever arising, whether by negligence or otherwise, in connection with the Information, including (without limitation) any course of action taken on the basis of the Information.
- 3.5 If you find any errors or discrepancies in the arrangement of the Information within the Extranet, you should contact the Ashurst Contact as soon as reasonably practicable.
4. **GENERAL DISCLAIMER**
- 4.1 The Information is provided "as is" and "as available" and may be supplemented, superseded and updated during the course of the Project. The Information is being provided for information only and any reliance placed on the whole or any part of it is done entirely at the risk of the person placing such reliance.
- 4.2 No part of the Information should be considered investment or other advice or any form of recommendation to buy, sell or subscribe for any asset referred to in the Information or otherwise.
- 4.3 Neither Ashurst nor any other person or entity, nor any of their directors, employees, partners, members, agents or representatives (the "Parties"), makes any representation, warranty, condition or guarantee of any kind, whether express, implied statutory or of other kind, in connection with the Information, or owes or accepts any duty to any person in connection with the Information. Without prejudice to the generality of the foregoing, none of the Parties warrants or represents that the Information is correct, complete, up to date, authentic, or fit for any particular purpose.
5. **LIABILITY OF ASHURST**
- 5.1 Ashurst gives no warranty that the Extranet will be free of defects or faults. To the maximum extent permitted by law, Ashurst provides no warranties (express or implied) of fitness for a particular purpose, accuracy of information, compatibility and satisfactory quality. Ashurst shall not be responsible for any error, omission, interruption, deletion, defect, delay, in operation or transmission, communications line failure, theft or destruction, unauthorised access to or non-availability of the Extranet resulting from external caused including, but not limited to, internet service provider equipment failure, host equipment failure, communications network failure, power failure, natural events, acts of war or legal restrictions and censorship, including any injury or damage to your computer or peripherals related to downloading any materials from the Extranet.
- 5.2 Ashurst shall not be liable for any loss, claim, damage, expense or cost whatsoever, howsoever arising, whether in contract, tort (including negligence) or otherwise, arising from or in connection with the subject matter of these Conditions, the Extranet or the Information. Without prejudice to the generality of the foregoing, Ashurst shall not be liable to any person for any loss of revenue, profits or opportunity; or consequential or indirect loss.
- 5.3 You agree that the limitations and exclusions set out these Conditions are reasonable having regard to the relevant circumstances, and in particular the limited use you are permitted to make of the Extranet and the fact that Ashurst is not in the business of providing services such as those envisaged to be provided by these Conditions.
- 5.4 Nothing in these Conditions purports to limit or exclude any person's liability for fraud or fraudulent misrepresentation or exclude or limit liability for death or personal injury caused by a person's negligence or to the extent otherwise not permitted by law and the other provisions of these Conditions shall be construed accordingly.
6. **PERSONAL DATA**
- 6.1 You may be required to provide personal data, including your name, email address and telephone number, in connection with your access to and use of the Extranet. This personal data will be processed by Ashurst and third party service providers whom Ashurst engages in connection with the Extranet, (including HighQ Solutions Limited and its sub-contractors and cloud service providers) in order to provide you with access to the Extranet in accordance with the instructions of, Ashurst's client for the purposes of the Project, and may be shared with other third parties where necessary to meet Ashurst's legal and regulatory obligations.
- 6.2 Ashurst will store and process any personal data uploaded or otherwise disclosed by you in connection with your access to and use of the Extranet in compliance with applicable data protection laws and as required for the operation of the Extranet in accordance with these conditions.
- 6.3 For further information on how your personal data will be processed by Ashurst and your related rights, please refer to the Ashurst Data Privacy Notice which is available here <https://www.ashurst.com/en/privacy-policy/> which is hereby incorporated into these terms
7. **ABOUT ASHURST**
- 7.1 Ashurst Australia (ABN 75 304 286 095) is a general partnership formed under the laws of the Australian Capital Territory.
- 7.2 Any rights, protections (including exclusions and limitations of liability) and benefits expressed to be granted in favour of Ashurst shall be deemed to be granted in favour of each of its affiliates, which shall be deemed to include Ashurst LLP, incorporated as a limited liability partnership in England and Wales (No. OC330252), with registered office at London Fruit & Wool Exchange, 1 Duval Square, London E1 6PW, any person (including a trust) owned or controlled by, or affiliated with, either of them, any person authorised to use the name "Ashurst" and each of their respective successors and assigns.
8. **GENERAL**
- 8.1 Ashurst reserves the right to change or amend these Conditions at any time at its discretion.
- 8.2 If any of these Conditions are held to be invalid, unenforceable or illegal for any reason, the remaining Conditions shall nevertheless continue in full force.
- 8.3 These Conditions are governed by the laws of the Australian Capital Territory, Australia.